



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

FOURTH SECTION

CASE OF DUCA v. MOLDOVA

(Application no. 1579/02)

JUDGMENT
(Striking out)

STRASBOURG

10 June 2008

FINAL

10/09/2008

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Duca v. Moldova,

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

Nicolas Bratza, *President*,

Giovanni Bonello,

David Thór Björgvinsson,

Ján Šikuta,

Päivi Hirvelä,

Ledi Bianku,

Mihai Poalelungi, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 20 May 2008,

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

PROCEDURE

1. The case originated in an application (no. 1579/02) 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 Eugenia Duca (“the applicant”) on 14 January 2002.

2. The applicant was represented by Mr A. Tănase, a lawyer practising in Chişinău. The Moldovan Government (“the Government”) were represented by their Agent at the time, Mr V. Pârlog.

3. The applicant complained, *inter alia*, invoking Article 8 of the Convention, about the interference by the prison authorities with her right to respect for her correspondence with her lawyers.

4. By a decision of 11 April 2006, the Court declared this complaint admissible and the remainder of the application inadmissible.

5. The Government, but not the applicant, filed further written observations (Rule 59 § 1), the Chamber having decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 3 *in fine*).

THE FACTS

6. The applicant was born in 1953 and lives in Chişinău.

7. During the period with which the application is concerned, Ms Duca was the manager of a private company. In 1998 two employees of the company applied to the Chişinău District Court for a declaration of their status as founders of the company. In 2000 the Supreme Court of Justice, in a final decision, dismissed their application.

8. In 1999 the plaintiffs in the above proceedings lodged a criminal complaint against the applicant on charges of large-scale theft and forgery of public documents. On 11 August 1999 the Chişinău District Police Department instituted criminal proceedings against the applicant on the above charges.

9. On 1 November 2002 the applicant was convicted and sentenced to five years' imprisonment. On 12 December 2002 the Chişinău Regional Court partially quashed the judgment of the first instance court. The proceedings ended with the final judgment of the Court of Appeal of 18 February 2003, acquitting the applicant.

10. During the proceedings the applicant was detained twice: first, on remand, between 21 December 2001 and 24 April 2002 and secondly, after being convicted, between 1 November 2002 and 12 December 2002.

11. According to the applicant, during her first detention the prison authorities interfered constantly with her correspondence with her lawyers.

12. Following her acquittal, the applicant introduced a civil action against the Government in accordance with Law No. 1545 (see the "Relevant Domestic Law"), claiming compensation of 461,800 euros (EUR) for the illegal acts of the investigation organs, the prosecution and the courts.

13. On 1 September 2004 the Râşcani District Court found in favour of the applicant and awarded her a lump sum of 150,000 Moldovan lei (the equivalent of EUR 10,289 at the time). It stated *inter alia* that:

"On 11 August 1999 criminal proceedings were instituted against the applicant....

...

[account of the proceedings]

...

On 18 February 2003 the Court of Appeal acquitted her on the ground that no criminal offence was ever committed. Thus, the applicant was illegally charged on four occasions. She was under an obligation not to leave the city, being thus limited in her freedom of movement for 778 days. She was illegally detained in prison for 169 days and 7 hours, of which 111 days were spent in the Remand Centre of the Ministry of Internal Affairs.

It is obvious that while being charged illegally with a criminal offence, the applicant and her family endured mental suffering.

Moreover, the applicant's lawyer declared that she was detained in inhuman conditions in the Remand Centre of the Ministry of Internal Affairs, which was confirmed by the CPT report of 2001.

There is no doubt that these circumstances intensified her moral suffering."

14. On 1 December 2004 the Supreme Court of Justice confirmed the judgment.

COMPLAINT

The applicant complained under Article 8 of the Convention about the interference by the prison authorities with her right to respect for her correspondence with her lawyers.

THE LAW

By a letter of 29 January 2008 the applicant informed the Court that she decided not to pursue this complaint before the Court. Following the Court's inquiry about the reasons for her decision, on 22 April 2008 the applicant wrote that she had received sufficient compensation from the domestic courts and that, moreover, she had failed to present any observations on the merits of the case and on just satisfaction.

15. The Court takes note of the applicant's lack of intention to pursue her petition and of her request to strike the application out of the list of cases (Article 37 § 1 (a) of the Convention). It is satisfied that respect for human rights as defined in the Convention and its Protocols does not require the continued examination of the application (Article 37 § 1 *in fine* of the Convention). Accordingly, the remainder of the application should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the remainder of the application out of its list of cases.

Done in English, and notified in writing on 10 June 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President