



Compensation awarded to victims of police violence was insufficient

In today's Chamber judgment in the case of [Gavriliță v. the Republic of Moldova](#) (application no. 22741/06), which is not final¹, the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, and

a violation of Article 5 § 1 (right to liberty and security) in respect of Victor Gavriliță.

The case concerned police violence and unlawful detention, as complained of by the two applicants.

The Court found that, even though the violence had been acknowledged by the domestic courts, and compensation had been awarded to the applicants, the amount of the compensation (900 euros) was considerably lower than that which the Court normally awarded in similar cases. It therefore concluded that, contrary to the Government's claims, the applicants had not lost their victim status, and recognised, in the light of the facts, that there had been a breach of the prohibition of inhuman or degrading treatment. As regards the applicants' detention, the Court noted that according to the domestic courts' own finding, Victor Gavriliță had been arrested and detained a few days before he was officially taken into police custody, and his detention had thus been unlawful.

Principal facts

The applicants, Vasile and Victor Gavriliță, are brothers who were born in 1978 and 1984 respectively. They are both Moldovan nationals and live in Chișinău.

Vasile Gavriliță was arrested on 8 April 2003 by two police officers on suspicion of rape. According to the officers, he resisted and stabbed one of them, who retaliated by shooting him in the leg. He claimed that he was not given medical treatment until six hours later. In his submission, he was then confined for one month at the headquarters of the special forces, where he was subjected to ill-treatment, including electrocution and suspension from an iron bar. He was also allegedly kept in a cell without drinking water, a bed, a mattress, a toilet or other facilities.

On 22 September 2004 Vasile Gavriliță was released and, on 8 February 2006, was again remanded in custody. In May 2006 he complained to the public prosecutor's office about ill-treatment by police officers, but his complaint was dismissed on 1 August 2006. After being acquitted at first instance, he was convicted on appeal and sentenced to twelve years' imprisonment for aggravated rape and for attempting to murder a police officer – a sentence ultimately upheld on 24 June 2009 by the Supreme Court of Justice.

In the meantime, during a period when Vasile Gavriliță had been released, the brothers had committed a burglary, on 1 and 2 November 2005. According to Victor Gavriliță, he was arrested on 28 December 2005 in Ukraine by the Moldovan police who had forced him into the boot of a car and

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

taken him to Moldova. He was allegedly ill-treated during his arrest and during the journey – the police had shot at him with rubber bullets, stubbed cigarettes against his body, and had attached him to a car and dragged him along the ground, to make him confess. The applicant added that he had been taken on the same day to the police station where he was ill-treated again, being electrocuted and hung from an iron bar.

An interlocutory judgment dated 6 January 2006 granted a request by the public prosecutor to place Victor Gavriliță in custody. Although he had been arrested on 28 December, the judgment indicated that the length of his detention ran from 5 January 2006.

On 23 May 2006 Victor Gavriliță complained, in a letter addressed to a number of authorities, including the Parliament, about ill-treatment and unlawful detention. On 22 June 2006 the public prosecutor responsible for the case decided to discontinue the proceedings on account of a lack of any reprehensible act on the part of public officers. In a final order the investigating judge confirmed the discontinuance.

Vasile and Victor Gavriliță were ultimately sentenced by a Court of Appeal to prison terms of seven years and three months, and seven and a half years, respectively, for burglary.

They brought a civil action for compensation against the State on account of the ill-treatment that they claimed to have sustained. In a final decision the Supreme Court of Justice upheld their claim and awarded each of them MDL 15,000 (about 900 euros (EUR)).

Complaints, procedure and composition of the Court

Under Article 3 (prohibition of inhuman or degrading treatment) the applicants complained that they had been ill-treated by the police during their arrest and detention and that there had been no investigation into their complaints. Under Article 5 § 1 (right to liberty and security), Victor Gavriliță also complained that his detention from 28 December 2005 to 5 January 2006, without legal endorsement, had been illegal.

The application was lodged with the European Court of Human Rights on 19 May 2006.

Judgment was given by a Chamber of seven judges, composed as follows:

Josep **Casadevall** (Andorra), *President*,
 Alvina **Gyulumyan** (Armenia),
 Dragoljub **Popović** (Serbia),
 Luis **López Guerra** (Spain),
 Johannes **Silvis** (the Netherlands),
 Valeriu **Grițco** (the Republic of Moldova),
 Iulia Antoanella **Motoc** (Romania),

and also Santiago **Quesada**, *Section Registrar*.

Decision of the Court

Article 3

The Government claimed that the applicants had lost their victim status because the Supreme Court had acknowledged the violations and had awarded them compensation.

Moreover, the parties had not disputed the findings of the domestic courts. The Court thus accepted the conclusions of those courts to the effect that, first, the applicants had been ill-treated by the police officers and, second, the investigations into those allegations had been ineffective.

The Court noted that the Supreme Court of Justice had awarded the applicants the equivalent of EUR 900 in respect of non-pecuniary damage, and that this amount was considerably lower than that awarded by the Court in similar cases against the Republic of Moldova. It inferred that the applicants had not lost their victim status within the meaning of the European Convention on Human Rights, contrary to the Government's argument.

Accordingly, the Court found that there had been a violation of Article 3 of the Convention in respect of the two applicants.

Article 5 § 1

The Court noted that, in the case of Victor Gavrilă, the national courts had found that he had probably been arrested and detained several days before the official beginning of his police custody, on 5 January 2006. The same courts had not recognised explicitly or in substance that there had been a violation of Article 5 § 1.

However, the unrecognised detention of an individual constituted a total negation of the fundamental guarantees enshrined by Article 5 and an extremely serious violation of that provision.

Having regard to the findings of the domestic courts, the Court found that there had been a violation of Article 5 § 1 of the Convention in respect of the second applicant as regards his detention prior to 5 January 2006.

Just satisfaction (Article 41)

The court held that the Republic of Moldova was to pay Vasile Gavrilă EUR 9,000 and Victor Gavrilă EUR 10,000 in respect of non-pecuniary damage, and EUR 140 to both applicants jointly in respect of costs and expenses.

The judgment is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.