



Court finds Russia responsible for violation of property rights of more than 1,600 applicants with land in separatist “MRT”

In today’s Chamber judgment¹ in the case of [Sandu and Others v. the Republic of Moldova and Russia](#) (application no. 21034/05) the European Court of Human Rights held, by six votes to one, that there had been:

a violation of Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights by Russia, and,

a violation of Article 13 (right to a remedy) of the European Convention by Russia.

It found **no violation** of either Article by the Republic of Moldova.

The case concerned complaints by 1,646 individual Moldovan applicants and three companies that they had not been able to access land in the separatist region of the “Moldovan Transdniestrian Republic” (“the MRT”) or had suffered other restrictions.

The Court found in particular that there had been no legal basis for the “MRT” to deprive the applicants of access to their land and there had been a violation of their property rights. Given Russia’s effective control over “the MRT”, it had to take responsibility for the violations the applicants had suffered. For its part, Moldova had fulfilled its duty to help the applicants by negotiating their access to the land and granting them compensation for losses.

Principal facts

The case originated in eight applications by 1,646 individuals and three companies, Posedo-Agro S.R.L., Agro-Tiras S.R.L. and Agro-S.A.V.V.A. S.R.L.

The individual applicants live in five villages on the left bank of the River Dniester and are under Moldovan control. They own land which is on the other side of a road which has been claimed by “the MRT” as its territory.

They worked the land without hindrance between 1992 and 1998, when “the MRT authorities” set up “border” checkpoints and the applicants had to pay various taxes and fees. In 2004 “the MRT” declared that the land in question was its property and demanded rent from the applicants.

The applicants refused to sign rental contracts for property that was already theirs and as a result they no longer had access to their land. The 2004 harvest was lost and some agricultural machinery was seized. The applicants complained to “the MRT authorities”, the Moldovan authorities, the Russian Embassy in Moldova and to the Organisation for Security and Co-operation in Europe.

The three applicant companies rented land from individuals in the same five villages. The issues they had with “the MRT” authorities included being fined for taking equipment across the road without declaring it to “the MRT”, having equipment seized or being denied access to the land.

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.

The Moldovan authorities took various measures to help people affected by various actions of the “MRT”. The measures included compensation for lack of access to the land in question and the negotiation in 2006 of a temporary “MRT” registration system for its owners, which allowed them to cultivate the land and be exempt from making payments to the “MRT”. The temporary registration system is renewed each year in negotiations between Moldova and the “MRT”.

Complaints, procedure and composition of the Court

Relying on Article 1 of Protocol No. 1 to the European Convention, the applicants complained that by not allowing them access to their land or by making it conditional on them paying rent, the “MRT” authorities had breached their rights. Under Article 13, they also complained that they had no effective remedy to resolve the alleged breach of Article 1 of Protocol No. 1.

The eight applications (nos. 21034/05, 41569/04, 41573/04, 41574/04, 7105/06, 9713/06, 18327/06 and 38649/06) were lodged against the Republic of Moldova and the Russian Federation with the European Court of Human Rights on 25, 26 and 28 October 2004, 24 May 2005, 20 January, 8 February, 14 April and 6 September 2006 respectively.

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

Robert Spano (Iceland), *President*,
Paul Lemmens (Belgium),
Ledi Bianku (Albania),
Işıl Karakaş (Turkey),
Valeriu Griţco (the Republic of Moldova),
Dmitry Dedov (Russia),
Jon Fridrik Kjølbro (Denmark),

and also Stanley Naismith, *Section Registrar*.

Decision of the Court

Article 1 of Protocol No. 1

The Court struck out 172 applications owing to a lack of detailed information on those cases.

Basing itself on earlier applications involving “the MRT”, such as [Ilaşcu and Others v. Moldova and Russia](#), and [Catan and Others v. the Republic of Moldova and Russia](#), it found that both Moldova and Russia had jurisdiction in the case and could therefore be made answerable for the complaints.

The Court held that the applicants’ property rights had been breached as there had been no legal basis for “the MRT authorities” to demand that they conclude rental agreements for the land, which they already owned, or to deny them access to that land.

In determining each respondent country’s responsibility for the breach, it held that Moldova, although it had no effective control over “the MRT”, still had a “positive obligation” to take the diplomatic, economic, judicial and other measures that were both in its power and in accordance with international law.

Looking at Moldova’s actions, the Court found that it had taken such measures, [both generally aimed at seeking to re-establish control over the region](#) and at compensating those affected by the restrictions imposed by the “MRT”. Moldova had therefore fulfilled its obligations under the Convention.

As far as Russia was concerned, the Court found that it provided vital help to “the MRT”, both militarily and financially, such that “the MRT” could not survive without such support. That fact

engaged Russia's responsibility under the Convention and that State was therefore responsible for the violation of the applicants' property rights that had been found in this case.

Article 13

The Court first found that there had been a violation of the applicants' rights under this provision as they had had no effective legal remedy for their problem.

For its part, Moldova had not been responsible for the violation as it had created a set of judicial, investigative and civil service authorities which worked in parallel with those created by the "MRT". The Moldovan authorities had also negotiated various methods of protecting the rights of the applicants and had obtained an improvement in their situation in 2006.

The Court rejected an objection raised by the Russian Government that the applicants had not exhausted the legal remedies available to them in Russia. It noted that the Government had not stated which of its courts had jurisdiction over the "MRT" or what the legal basis would be for examining such complaints. In addition, it had continued to deny that it had any direct involvement in the conflict in the region.

The Court therefore concluded that the Russian Federation was also responsible for a violation of Article 13 taken in conjunction with Article 1 of Protocol No. 1.

Just satisfaction (Article 41)

The Court held that Russia was to pay each individual applicant 1,500 euros (EUR) in respect of non-pecuniary damage, except for three applicants who withdrew their applications.

It awarded EUR 115,300 to Agro-Tiras S.R.L. and EUR 80,500 to Agro-S.A.V.V.A. S.R.L. in respect of pecuniary damage and EUR 50,000 under the same head to Posedo-Agro S.R.L., to be paid to its successor, Serghei Popa FP. It also awarded each applicant company EUR 5,000 in respect of non-pecuniary damage.

It ordered that Russia was to pay costs and expenses of EUR 20,000 for all the applicants.

Separate opinion

Judge Dedov expressed a dissenting opinion, which is annexed to the judgment.

The judgment is available only in English.

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Press contacts

echrpress@echr.coe.int | tel.: +33 3 90 21 42 08

Patrick Lannin (tel: + 33 3 90 21 44 18)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

Somi Nikol (tel: + 33 3 90 21 64 25)

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.