CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 9190/03
by Constantin BECCIEV
against Moldova

The European Court of Human Rights (Fourth Section), sitting on 5 April 2005 as a Chamber composed of:

Sir Nicolas BRATZA, *President*,
Mr J. CASADEVALL,
Mr G. BONELLO,
Mr R. MARUSTE,
Mr S. PAVLOVSCHI,
Mr L. GARLICKI,
Mr J. BORREGO BORREGO, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having regard to the above application lodged with the European Commission of Human Rights on 7 March 2003,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Constantin Becciev, is a Moldovan national who was born in 1955 and lives in Chişinău. He was represented before the Court by Mr V. Nagacevschi and Mr V. Constantinov, on behalf of "Lawyers for Human Rights", a non-governmental organisation based in Chişinău. The Government were represented by Mr V. Pârlog, their Agent.

A. The circumstances of the case

The facts of the case, as submitted by the parties, may be summarised as follows.

1. Background

The applicant is the head of the Chişinău Public Water Company. On 21 February 2003 he was arrested by the Department of Criminal Investigation of the Ministry of Internal Affairs on charges of embezzlement.

On 23 February 2003 a criminal investigator in charge of the case applied to the Centru District Court for an order of remand for a period of thirty days. The reasons invoked by the investigator were: "Becciev committed a serious offence, he might abscond from the investigation authorities and from the court, he might influence the participants in the investigation and the discovery of the truth and the sanction provided by law for the offence is imprisonment for more than one year".

2. Hearings regarding the detention on remand before the Centru District Court and before the Chişinău Regional Court

On 24 February 2003, following a hearing where the applicant and his lawyers were present, the Centru District Court issued an order of remand for a period of twenty-five days. The court's reasoning was the following: "the suspect has reached the age at which he may be criminally prosecuted, he is suspected of having committed a serious offence, he might abscond from the investigation authorities and from the court and he might influence the witnesses and the discovery of the truth".

The applicant's lawyers lodged an appeal against the order of remand. In their appeal the lawyers argued *inter alia* that the decision to remand the applicant was groundless. They stated that the proceedings had been pending since 2001 and that during that time the applicant had never obstructed in any way the investigation. He had travelled abroad on many occasions and returned every time and he had always behaved irreproachably as regards the investigation. He was a well-known and respectable man and he had a family and a house and many respectable people were ready personally to stand surety for him if released in accordance with the provisions of the Code of Criminal Procedure. The Chişinău Municipal Council and the leader of a parliamentary opposition party also declared their intention to stand surety for him in order to secure his release. The lawyers also stated that the applicant was ready to give up his passport. They finally alleged that the applicant's detention was politically motivated and had been implemented to coincide with the approaching local elections.

They requested that the applicant be present in person at the hearing, but the request was dismissed, together with the applicant's appeal following a hearing on 4 March 2003 by the Chişinău Regional Court. In dismissing the appeal, the court did not rely on any other arguments than those relied upon by the first instance court.

3. The applicant's conditions of detention between 23 February 2003 and 1 April 2003

Meanwhile the applicant was detained in the remand centre of the Ministry of Internal Affairs.

(a) The applicant's submissions

According to the applicant, the conditions of detention were inhuman. The cell was damp, the window was closed by metal plates and the electric light was always on. The cells were not provided with ventilation. As a result of the humidity, the inmates' clothes were wet and rotted on their bodies. Instead of a toilet, there was a bucket which was not separated from the rest of the cell. Instead of beds, there were wooden shelves with no mattresses, pillows, blankets or bed linen. The inmates were denied the opportunity of a daily walk. There were no means of maintaining hygiene in the cell. There was no shower and the applicant was constantly running the risk of getting infected with tuberculosis, skin infections and other infectious diseases.

The applicant submits that the food was not edible. The daily amount spent by the State for a detainee's food was 3.5 Moldovan Lei (MDL) (0.23 euros (EUR)). Because of the State's incapacity to provide adequate food, the prisoners were exceptionally allowed to receive food from their families. However, in the applicant's case the legal provisions were applied very strictly and he was not allowed to receive parcels from his family more than once a month.

(b) The Government's submissions

The applicant was detained in cell no. 6 of the remand centre of the Ministry of Internal Affairs. The surface of the cell was 12 square metres and usually four-five persons were detained in the cell.

There was a window in the cell and daylight was available. The ventilation of the cells was effected by the common ventilation system. The cells were provided with water closets. In 2002 the premises of the remand centre were refurbished and the toilets were separated from the rest of the cell by a wall in order to ensure the privacy of the detainees. The cells were permanently provided with tap water, and accordingly the inmates enjoyed an adequate level of hygiene. The cells were permanently disinfected and the detainees had access to a shower once a week.

During his detention the applicant had the possibility to play chess, draughts and dominos and to read books and magazines. He also had the possibility to pray and to use religious literature.

The Government also stated that the applicant had the possibility to receive food from his family in exactly the same conditions as the rest of the detainees.

According to the Government, the CPT report of 2001 is not relevant since during the summer of 2002 the prison was refurbished.

The detainees were provided with free food in accordance with the norms provided by the Government and the quality of food was satisfactory. The prison was provided on a daily basis with bread, vegetable oil, vegetables, tea and sugar. Because of insufficient funding, the detainees were not served meat and fish; however they were given an increased quantity of cereals and lipids. Moreover, the detainees had the right to receive food from their families.

4. Alleged telephone tapping

The remand centre was not provided with facilities for private meetings with lawyers. The applicant and his lawyers were separated by a glass wall and had to communicate on a telephone. In the applicant's submission, there was no guarantee that that telephone was not tapped.

5. Hearings regarding the first extension of remand before the Centru District Court and before the Chişinău Regional Court

On 18 March 2003 the Centru District Court granted the investigator's request to prolong the applicant's detention on remand for another thirty days. The court's reasoning was exactly the same as that relied upon when the detention on remand was ordered. According to the applicant, the court refused to provide him with the evidence used against him. The applicant appealed against that decision but the appeal was dismissed by the Chişinău Regional Court on 21 March 2003 in a hearing where the applicant was not allowed to be present, although his lawyers were present. No new arguments were given by the Chişinău Regional Court.

6. The applicant's transfer to another detention facility

On 1 April 2003 the applicant was transferred from the remand centre of the Ministry of Internal Affairs to the remand centre of the Ministry of Justice.

7. Hearings regarding the second extension of remand before the Centru District Court and before the Chişinău Regional Court and the interview of C.B.

On 17 April 2003 the Centru District Court again prolonged the applicant's detention on remand for thirty days. No new reasons were given. The applicant appealed against this decision.

On 18 April 2003 the independent weekly newspaper "Timpul" published an interview with the police colonel "C.B." who worked as a Superior Inspector of the Cross-Border Financial Crimes Directorate within the Inspectorate General of the Ministry of Internal Affairs and who allegedly used to be in charge of the case for a long period of time and had arrested the applicant on 21 February 2003. He stated *inter alia* that:

> "I declare with full responsibility that the Becciev file has been fabricated, on the orders of the heads of the Ministry of Internal Affairs for political reasons. The real target of this fabrication is the Mayor S.U. and his team...
>
> Mr Becciev has provided the investigation organs with all the requested information, he appeared personally before the investigators every time he was asked to, and he never gave any reason to believe that he intended to abscond. As a matter of fact, he travelled abroad on many occasions since the investigation started and returned every time. No other suspects, even those who are clearly involved, have ever been arrested...
>
> The file does not contain and has never contained any evidence that would prove Becciev's guilt... Many, if not all the witness declarations from the file have been falsified or obtained through pressure and blackmail. Even the graphological survey did not prove that it was Becciev's signature on the documents, on the basis of which the criminal investigation commenced.... The heads of the Ministry of Internal Affairs have put great pressure on me to obtain a favourable conclusion from the graphological experts...
>
> I can say that the Vice-Ministers U. and B. have put pressure on the president of the Centru District Court. Judge D.V. told me personally that he has been called by the Vice-Minister B. – his former University friend. In my turn, I told him that the file is being supervised by the President of the country, and that a decision other than one of detention could cost any judge his or her job...
>
> In May 2002 I was invited to see the Vice-Minister A.U., who asked me if I could find some evidence to compromise the Mayor.... In September he called on me again, this time to tell me that I had been included in the investigating group for the Becciev case. He also told me that my target should be the Municipality of Chişinău and the arrest of Becciev and of the Vice-Mayor A.T... And that I would be promoted in case of success....
>
> I have been asked explicitly to obtain a confession by any means, because 'there was no time to waste, since the elections were approaching'. Then I understood the gravity of the situation....

> The decision that I could no longer work with them came to me when they started to pressurise me and to blame me when I could not obtain the necessary confession....
>
> Nobody can or will demonstrate that Becciev was a part of that 'deal'... The investigators know very well who was involved....
>
> They thought that I came too close to the truth and got rid of me."

On 25 April 2003 the Chişinău Regional Court held a hearing and dismissed the applicant's appeal, relying on exactly the same reasons as before. The applicant's request to be present was denied; however his lawyers were present. The court also denied the applicant's request to see all the documents of the investigation and to have "C.B." examined as a witness. It did not give any reasons for this refusal.

8. Subsequent developments

On 12 June 2003 the investigators concluded their work on the case and the file was sent to the competent court.

On 27 July 2003 the first hearing in the criminal proceedings took place before the Râşcani District Court.

The applicant was released from detention on 12 August 2003 and the criminal proceedings against him are still pending.

B. Relevant non-Convention material

1. Acts of the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT)

Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment concerning the visit to Moldova between 11 and 21 October 1998

> 55. In Chişinău, the EDP had 23 cells; with an official capacity of 79 places, it was accommodating 40 remand prisoners and 20 administrative detainees at the time of the visit. As in Bălţi, the delegation met in that establishment minors who had been sharing cells with adults during prolonged periods.
>
> The size of the cells varied approximately from 7 m² to 15 m². At the time of the visit, the small cells held up to two detainees, and the larger cells up to four or five. Such a rate of occupancy may be considered as approaching tolerable norms. The cells were equipped with a wooden platform approximately two metres long, generally covering the whole width of the cell, and an Asian toilet. Like the other establishments visited, the detainees were given neither mattresses nor blankets. In addition, ventilation in the cells was mediocre, access to natural light virtually non-existent and artificial lighting, above the door, was permanently on; this disturbed the detainees at night.

The delegation noted that the cell block had a shower area; however, the detainees claimed they did not know that it existed. There were no facilities for outdoor exercise.

The Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment concerning the visit to Moldova between 10 and 22 June 2001

56. Regarding the EDP visited throughout Moldova, the delegation made approximately similar findings, with minor exceptions, on the disastrous and unwholesome material conditions. In order to avoid a detailed description, please see for further information paragraphs 53-55 of the report on the visit of 1998.

At the EDP of Chisinau these conditions were aggravated by severe overcrowding. At the time of the visit, 248 of detainees were kept in a facility with a maximum capacity of 80 detainees, and thus 9 persons had to live in a 7m² cell, while 11 to 14 persons had to stay in cells of 10 to 15m².

57. In the visited EDP, the delegation collected numerous complaints on the quantity of food. It basically included: a cup of tea without sugar and a slice of bread in the morning, cereal porridge in the afternoon and a cup of warm water in the evening. In some places the food was distributed only once a day and included a soup and a slice of bread.

2. Relevant domestic law

The Code of Criminal Procedure

Article 73 § 1

"If there are serious grounds for believing that a suspect, a person charged with an offence or an accused will abscond, obstruct the establishment of the truth during the criminal proceedings or reoffend [...], one of the following preventive measures may be imposed: a written undertaking not to leave the district, bail, a guarantee by a public organisation or detention on remand.

...

When deciding on the necessity to impose a preventive measure, as well as on the choice of the preventive measure, ... the court shall pay attention, besides the circumstances indicated in the first paragraph of this article, to such circumstances as the seriousness of the imputed offence, the personality of the suspect or of the accused, his or her occupation, age, state of health, family status and other circumstances. "

Article 76. Personal Guarantee

The personal guarantee consists of a written commitment made by trustworthy persons in order to guarantee the appropriate behaviour of the suspect or accused and his appearance before the investigating organ, prosecutor or court, when need be. The number of guarantors cannot be less than two.

At the moment of making the written commitment, the guarantor shall be acquainted with the merits of the case in relation to which the detention was ordered and shall be warned about his liability in case the suspect or accused should breach the rules. In this case, the court may fine each guarantor one hundred minimal wages, in accordance with the provisions of Article 294 of the present Code.

Article 78 § 1

"Detention on remand may be imposed [...] in cases concerning offences in respect of which the law provides for custodial sentences for a period exceeding one year. In exceptional cases, where the court has gathered evidence that a suspect, a person charged with an offence or an accused committed the acts mentioned in Article 73 § 1, detention on remand may be imposed [...] in cases concerning offences in respect of which the law provides for custodial sentences for a period of less than one year."

The Code of Criminal Procedure

Article 156/1. Grounds for intercepting telephone and other conversations

"The interception of telephone conversations or other means of communication used by a suspect, defendant or other person involved in a criminal offence may be carried out in connection with criminal proceedings instituted in accordance with a decision of the authority conducting the preliminary investigation or the criminal investigator with the authorisation of the prosecutor, or in accordance with a court decision, where such a measure is deemed necessary in a democratic society in the interests of national security, public order, the economic welfare of the country, the maintenance of order and the prevention of crimes, or the protection of the health, morals, rights and liberties of others. The interception of telephone or other conversations cannot last more than six months. ... Conversations held over the telephone or other means of communication may be recorded."

Article 156/2. Manner of interception and recording

"The interception and recording of telephone conversations or other means of communication shall be carried out by the criminal investigator unless the task is entrusted to the authority in charge of the preliminary investigation. In this case, the criminal investigator shall draw up a warrant and a decision concerning the interception, which shall be sent to the authority in charge of the preliminary investigation. At the same time the criminal investigator shall liaise with the authority in charge of the preliminary investigation or specify in the warrant the circumstances and manner of interception of the conversations and recording, modification and disposal of the information obtained. ..."

Article 156/3. Record of the interception and recording

"Following the interception and recording, a record shall be drawn up giving a summary of the content of the taped conversations relevant to the case. The tape shall be attached to the record and the part which does not relate to the case shall be destroyed once the judgment becomes final."

The Code for the Execution of Criminal Sentences

Article 73

"1. A convicted prisoner shall be entitled to receive and send an unlimited number of letters and telegrams.

2. All prisoners' correspondence ... shall be verified or censored, except correspondence with their lawyers and with the national and international bodies charged with the protection of human rights. Correspondence shall be delivered within 24 hours."

COMPLAINTS

1. The applicant complains under Article 3 of the Convention that the conditions of detention in the remand centre of the Ministry of Internal Affairs amounted to inhuman and degrading treatment.

2. He also complains, under Article 5 § 3 of the Convention, that the decision of the Centru District Court of 24 February 2003 upheld by the decision of the Chişinău Regional Court of 4 March 2003, to remand him, was not based on relevant and sufficient reasons to justify his continued detention.

3. The applicant alleges that the Chişinău Regional Court did not allow his presence in person at the hearings of his appeals and thus his right provided by Article 5 § 3 was violated.

4. The applicant also complains under Article 6 § 1 of the Convention that at the hearings of 18 and 21 March 2003, he was refused the right to know the evidence that served as a basis for his remand.

5. He complains that, in breach of his right under Article 6 § 2 of the Convention to be presumed innocent until proved guilty of an offence, the courts stated in their decisions concerning the remand that he might try to obstruct the proper conduct of the proceedings. According to article 194 of the Criminal Code the obstruction of the proper conduct of the proceedings is classified as a criminal offence.

6. The applicant alleges that his right provided for by Article 5 § 4 was breached by the Chişinău Regional Court's refusal to examine a witness (C.B.).

7. The applicant complains under Article 8 of the Convention, about the interference by the prison authorities with his right to respect for his correspondence with his lawyers. In particular he complains that he was only able to communicate with his lawyers by telephone (of the internal prison phone system) while being separated from them by a glass wall, without having any guarantees that the telephone was not tapped by the prison authorities.

THE LAW

A. The Government's Objection

The Government submit that the applicant has not exhausted remedies available to him under Moldovan Law, as required by Article 35 § 1 of the Convention. In particular they submit that the applicant could have made use of the provisions of Article 6 of the old Code of Criminal Procedure, Article 7 of the Code of Civil Procedure and Article 38 of the Law on Pre-Trial Detention (see above) in respect of his complaints under Articles 3 and 8 of the Convention. In any event, if the domestic law did not provide for relief, the applicant was entitled to rely directly on the provisions of the Convention.

The applicant submits that the remedies invoked by the Government were not effective.

The Court notes that the Government's non-exhaustion objection in the present case does not differ in any way from that in *Ostrovar v. Moldova* (dec.), no. 35207/03, 22 March 2005. Since in that case the Court found the remedies suggested by the Government to be ineffective, the Government's objection must be dismissed in the present case too.

B. Alleged violation of Article 3 of the Convention

The applicant complains under Article 3 of the Convention about his conditions of detention in the Remand Centre No. 3 of the Ministry of Justice *(Izolatorul Anchetei Preliminare Nr. 3)*, between 18 October 2002 and 15 November 2002, and between 4 April 2003 and 13 December 2003.

Article 3 provides:

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

The applicant considers that the conditions of detention in the remand centre amounted to inhuman and degrading treatment.

The Government contest this.

In the light of the parties' observations, the Court considers that this part of application raises serious questions of fact and law which are of such complexity that their determination should depend on an examination on the merits. It cannot, therefore, be considered manifestly ill-founded within the meaning of Article 35 § 3 of the Convention, and no other ground for declaring it inadmissible has been established.

C. Alleged violation of the right to be released pending trial guaranteed under Article 5 § 3 of the Convention

The applicant further complains that his detention on remand was not based on any "relevant and sufficient" reasons.

The relevant part of Article 5 § 3 reads:

> "Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be ... entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial."

The Government submit that the applicant's detention was necessary because he was suspected of having committed a serious offence; the facts were not entirely elucidated and proved to be very complex; the applicant was suspected of having played a very important role in the impugned deeds and accordingly his possible flight was of serious concern; the proceedings concerning the applicant's case were pending not since 2001 but since 1 June 2003; there was a possibility that the applicant possessed large sums of money abroad which would have facilitated his flight; the risk of flight was not minimised by his family ties in Chişinău; it is possible that there were other reasons in favour of his detention which were not expressly invoked by the courts in their judgments in order not to prejudice the investigation.

The applicant submits that the reasons invoked by the Government are different from those given by the domestic courts in their judgments and should therefore be disregarded. The applicant submits that the courts did not give any reasons in support of their belief that he might flee or abscond or that he might influence the other participants in the proceedings. The only reasoned argument invoked by the courts was that he was suspected of having committed a serious offence. However, this reason was not enough to justify his detention.

In the light of the parties' observations, the Court considers that this part of application raises serious questions of fact and law which are of such complexity that their determination should depend on an examination on the merits. It cannot, therefore, be considered manifestly ill-founded within the meaning of Article 35 § 3 of the Convention, and no other ground for declaring it inadmissible has been established.

D. The refusal to hear a witness (Article 5 § 4)

The applicant complains under Article 5 § 4 that the Chişinău Regional Court refused to hear his former investigator as a witness after the former gave an interview to a newspaper in which serious doubt was cast on the applicant's guilt. Article 5 § 4 provides as follows:

> "Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful."

The Government submit that the examination of the necessity to apply the measure of detention on remand does not include an examination of the substance of the criminal case and of the evidence that relates to the substance of the case. The applicant had the possibility to request the hearing of any witness during the proceedings concerning the substance of the case and not during those regarding his detention on remand. Accordingly the refusal to hear C.B. as a witness was perfectly legal. Moreover, in accordance with Article 73 of the Code of Criminal Procedure, the courts have to examine the gravity, *in abstracto,* of the incriminated facts, the personality of the accused, his or her occupation, age, state of health, family status and other circumstances but never declarations made by witnesses and other evidence.

The applicant submits that the statements of C.B. could have cast doubt on the lawfulness of his detention. The refusal to hear a witness was justified only if the court considered that he or she was not aware of the circumstances relevant to the case and to the conditions of lawfulness of the detention. In such circumstances the court should have issued a motivated decision stating the reasons for refusal to hear the witness. However, the refusal was not accompanied by any reasoning. The Government's statement that the courts should examine the reasons for detention *in abstracto* is inconsistent since a person cannot be deprived of his or her liberty on the basis of abstract reasons.

In the light of the parties' observations, the Court considers that this part of application raises serious questions of fact and law which are of such complexity that their determination should depend on an examination on the merits. It cannot, therefore, be considered manifestly ill-founded within the meaning of Article 35 § 3 of the Convention, and no other ground for declaring it inadmissible has been established.

E. Alleged breach of the right to be present in person at the hearing of the appeals under Article 5 § 4 of the Convention

The applicant alleges that he was not allowed to be present in person at the hearings of his appeals before the Chişinău Regional Court on 4 March and on 21 March 2003 and that his rights provided by Article 5 § 3 of the Convention were breached. The Court considers that this complaint falls to be examined under Article 5 § 4 of the Convention rather than under Article 5 § 3.

The Government argue that in the case of *Neumeister v. Austria* (cited above), neither the applicant not his lawyer was present and that that was not found by the Court to be contrary to Article 5 § 4.

The applicant submits that in the more recent case of *Toth v. Austria*, judgment of 12 December 1991, Series A no. 224, the Court found that the principle of equality of arms also applied to Article 5 § 4 review.

The Court reiterates that, according to its case-law, a measure depriving a person of his liberty does not afford the fundamental guarantees against arbitrariness if it is taken following proceedings in which neither the person concerned himself nor a person representing him has participated (see, *Keus v. the Netherlands*, judgment of 25 October 1990, Series A no. 185-C, § 27).

The Court further notes that the applicant was always present at the hearings before the first instance courts. He was refused leave to appear only at the hearings of his appeals on points of law before the Chişinău Regional Court. However, the applicant's lawyers were able to attend those hearings.

In *Kremzow v. Austria* (judgment of 21 September 1993, Series A no. 268-B) and in *Kamasinski v. Austria* (judgment of 19 December 1989, Series A no. 168), the Court held that the presence in person of the accused at a hearing of an appeal where only points of law were considered was not crucial.

Accordingly this complaint is manifestly ill-founded and it must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

F. Alleged breach of the presumption of innocence (Article 6 § 2)

In his initial application the applicant submitted a complaint under Articles 6 § 2 of the Convention about his right to be presumed innocent; however, in his observations of 15 November 2004 he informed the Court that he did not want to pursue that complaint. Accordingly the Court will not examine it.

G. The breach of the right to have confidential communication with the lawyer (Article 8)

The applicant complains that he was only able to communicate with his lawyers by telephone (of the internal prison phone system) while being separated from them by a glass wall, without having any guarantees that the telephone was not tapped by the prison authorities.

Article 8 of the Convention provides:

> "1. Everyone has the right to respect for his ... correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, 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."

The Government submit that in the present case the applicant has not substantiated his allegations that his communications were intercepted, or that this would have been technically possible. They further submit that in the prison in which the applicant was detained there were two rooms dedicated for meetings between the detainees and their lawyers where discussions could take place in conditions of full confidentiality, without being separated by any glass wall.

The applicant submits that in the conditions, in which the Government denies the existence of a glass wall and a telephone line for lawyer-client communications in the prison, he finds himself in the impossibility of proving the contrary and therefore he prefers to withdraw this complaint. He submits, however, that the interference with the confidentiality of the lawyer-client communications is a usual practice in Moldova and argues that the Moldovan Bar Association has raised this problem with the Government on many occasions.

The Court takes note of the applicant's intention to withdraw this complaint and accordingly decides not to examine it.

For these reasons, the Court, without prejudging the merits,

Declares admissible, unanimously, the applicant's complaint concerning his conditions of detention;

Declares admissible, unanimously, the applicant's complaint concerning his detention on remand;

Declares admissible, by a majority, the applicant's complaint concerning the refusal to hear C.B. as a witness;

Declares inadmissible, unanimously, the remainder of the application.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President