CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

DECISION

Application no. 32911/03
by Ion COREIBA
against Moldova

The European Court of Human Rights (Fourth Section), sitting on 12 February 2008 as a Chamber composed of:

Nicolas Bratza, *President,*
Lech Garlicki,
Stanislav Pavlovschi,
David Thór Björgvinsson,
Ljiljana Mijović,
Ján Šikuta,
Päivi Hirvelä, *judges,*

and Lawrence Early, *Section Registrar*,

Having regard to the above application lodged on 14 July 2003,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having regard to the friendly settlement agreement reached by the parties,

Having deliberated, decides as follows:

## THE FACTS

The applicant, Mr Ion Coreiba, is a Moldovan national who was born in 1936 and lives in Chişinău. He was represented before the Court by Mr V. Constantinov, a lawyer practising in Chişinău. The Moldovan Government ("the Government") were represented by their Agent, Mr V. Grosu.

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

In 1994 the applicant concluded a contract with ASITO (an insurance company incorporated in Moldova), according to which he paid an insurance premium in exchange for an annuity. The applicant started receiving his annuity of 100 Moldovan lei (MDL) (approximately 21 United States Dollars (USD) as of 1 February 1997. In January 1999 ASITO stopped paying the pension, invoking a change in the interest rate of the National Bank of Moldova and calling for the cancellation of the contract.

On an unspecified date in 2001, the applicant brought a civil action against ASITO, seeking the payment of the pension to date and requiring the company to abide by the contract.

On 11 December 2001, the Râşcani District Court found in favour of the applicant and ordered ASITO to pay the amount of the pension due and to resume the execution of the contract.

ASITO appealed against this judgment asking, *inter alia*, for the cancellation of the contract concluded with the applicant in 1994 on the ground that the economic situation of the country had worsened and that the interest rate of the National Bank of Moldova had changed.

On 29 May 2002, the Chişinău Regional Court dismissed the appeal arguing that the contract of 1994 was legal and valid.

ASITO did not appeal. The judgment became final and enforceable.

On an unspecified date the Prosecutor General lodged an "appeal in the interest of the law" with the Supreme Court of Justice. According to the Prosecutor General, the appeal was intended to clarify the controversy surrounding such contracts and to set a uniform practice for all courts.

On 11 March 2002, the Plenary Supreme Court issued a judgment deciding the dispute between ASITO and the pension beneficiaries in favour of the former. It also ruled that its judgment could not affect already existing judgments and that it could not be used against the parties to those proceedings.

On an unspecified date, ASITO brought an action against the applicant seeking the cancellation of the contract concluded in 1994.

On 3 September 2002 the Râşcani District Court found in favour of the applicant.

ASITO appealed against this judgment.

On 18 December 2002 the Chişinău Regional Court upheld the appeal and cancelled the contract of 1994. It relied on the same arguments used by the Plenary Supreme Court in its judgment of 11 March 2002.

The applicant lodged an appeal in cassation with the Court of Appeal; however, it was dismissed on 22 April 2003.

## COMPLAINTS

1. The applicant complained of a breach of the principle of legal certainty provided for in Article 6 § 1 of the Convention. He argued that the validity of his pension contract had been confirmed by final judgments in his favour; however, it had been called into question later, when the courts upheld ASITO's action against him and ordered the cancellation of the contract.

2. The applicant submitted that his right, as guaranteed by Article 1 of Protocol No. 1 to the Convention, to the peaceful enjoyment of possessions (namely his pension rights) had been breached by the State, in particular by the judgments of the courts which cancelled his annuity contract.

## THE LAW

On 22 November 2007 the Government informed the Court that on the same date the parties had signed a friendly-settlement agreement. They submitted to the Court a copy of the agreement, signed by the Government Agent and the applicant's representative, according to which the Government acknowledged a breach of Article 6 § 1 of the Convention and of Article 1 of Protocol No. 1 to the Convention and undertook to pay the applicant, within three months from the date of the adoption of a strike-out decision by the Court, 600 euros (EUR) in respect of pecuniary damage, EUR 2,000 in respect of non-pecuniary damage and EUR 500 in respect of costs and expenses. They also undertook to request the Prosecutor General to apply to the Supreme Court of Justice for a revision of the court decisions which generated the breach of the applicant's rights. In return, the applicant accepted to withdraw his application and abandon any further claims against the Government in connection with the present case. The parties requested the Court to strike out the present application.

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention). Accordingly, Article 29 § 3 of the Convention should no longer apply to the case and it should be struck out of the list.

For these reasons, the Court unanimously

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

Lawrence Early
Registrar

Nicolas Bratza
President