CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

DECISION

Application no. 67517/01
by Alexandru VOLGHIN
against Moldova

The European Court of Human Rights (Fourth Section), sitting on 27 March 2007 as a Chamber composed of:

Sir Nicolas BRATZA, *President*,
Mr J. CASADEVALL,
Mr G. BONELLO,
Mr K. TRAJA,
Mr S. PAVLOVSCHI,
Mr J. ŠIKUTA,
Mrs P. HIRVELÄ, *judges*
and Mr T.L. EARLY, *Section Registrar*,

Having regard to the above application lodged on 14 December 2000,

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 parties' formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Alexandru Volghin, is a Moldovan national who was born in 1961 and lives in Chişinău. The Moldovan Government ("the Government") were represented by their Agent, Mr Vladimir Grosu.

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

The applicant is a lawyer and a member of the Moldovan Bar Association. On 10 October 1998 the police were conducting a search at the

home of one of his clients. The applicant protested against certain allegedly unlawful procedural acts and the police charged him with an administrative offence. He was taken into custody, where he was held for approximately thirteen hours. By a final judgment of 13 October 1998 the Bălţi District Court acquitted him.

On 25 December 1998 the applicant brought an action against the Ministry of Finance (the Ministry) seeking payment of 650,000 Moldovan lei (MDL, the equivalent of 63,286 euros (EUR) at the time) in compensation for non-pecuniary damage arising from his alleged illegal detention by the police.

On 26 April 1999 the Ciocana District Court ruled in his favour and awarded him MDL 60,000 (EUR 5,841). Both parties appealed.

On 29 June 1999 the Chişinău Regional Court dismissed the appeals and upheld the judgment of 26 April 1999. Both parties lodged appeals on points of law.

By a final judgment of 15 February 2000 the Court of Appeal dismissed the appeals on points of law and upheld the judgments of the first and second-instance courts.

In June 2000 the Prosecutor General lodged with the Supreme Court of Justice a request for annulment of the final judgment in favour of the applicant and asked for the re-opening of the proceedings.

On 5 July 2000 the Supreme Court of Justice upheld the Prosecutor General's request for annulment, quashed the final judgment and reduced the award of non-pecuniary damage to MDL 5,000 (EUR 422).

Following the communication of the present case to the Government, on 5 July 2004, the applicant received MDL 5,000 from the Ministry. On 19 January 2005 the Supreme Court of Justice quashed its judgment of 5 July 2000 and discontinued the annulment proceedings. The Supreme Court upheld the judgment by which the applicant had been awarded MDL 60,000 and on 18 April 2005 he received the outstanding MDL 55,000 from the Ministry.

COMPLAINTS

The applicant complained under Article 5 § 5 of the Convention about the impossibility to receive compensation for his unlawful detention.

He also complained under Article 6 § 1 and under Article 1 of Protocol No. 1 to the Convention about the quashing by the Supreme Court of the final judgment of 15 February 2000 as a result of the Prosecutor General's request for annulment.

THE LAW

On 14 February 2007 the Government informed the Court that on 13 February 2007 the parties had signed a friendly settlement agreement. They submitted to the Court a copy of the agreement according to which the Government had acknowledged that there had been a breach of the applicant's rights under the Convention and had undertaken to pay him, within three months from the adoption of a strike-out decision by the Court, EUR 4,000 in respect of any damage suffered by the applicant. In return, the applicant would request the Court to strike the application out of its list of cases. The Government requested the Court to strike out the present application.

On 20 February 2007 the applicant also informed the Court that the parties had signed a friendly settlement agreement along the above-mentioned lines and stated he did not wish to pursue his case.

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.

T.L. EARLY
Registrar

Nicolas BRATZA
President