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

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21-year old demonstrator and many others subjected to police brutality during protests about electoral fraud

In today's Chamber judgment in the case **Taraburca v. Moldova** (application no. 18919/10), which is not final[1], 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 concerning the ill-treatment of Mr Taraburca by the police; and,
A violation of Article 3 concerning the lack of an effective investigation.

The case concerned systematic and large-scale police ill-treatment of demonstrators who had gathered in the Moldovan capital, Chişinău, to protest about the 2009 general elections.

Principal facts

The applicant, Andrei Taraburca, is a Moldovan national who was born in 1988 and lives in Chişinău.

Growing discontent – amidst allegations of electoral fraud – about the 2009 general elections in Moldova led thousands of young people to demonstrate in the centre of Chişinău on 6 and 7 April 2009. A relatively small number of demonstrations turned violent and 250 protestors took over and looted the lower floors of the Presidential Palace and Parliament buildings, setting parts of the buildings alight. The special forces were called in to restore order. Mass arrests were made over the following days with the media reporting on and showing video footage of young people being arrested and beaten by the police. A subsequent public inquiry into the incident established that excessive force had been used against demonstrators.

Mr Taraburca participated in those protests on 7 April 2009 with a friend, S., and, about to take a taxi to return home, was bundled into the vehicle by three plain-clothed officers and taken to Botancia police station. He alleges that, while there, three police officers came into his cell in the early hours of the morning of 8 April and beat him until he fainted. He woke up with blood running from his nose and upper lip. Transferred later that day to the General Police Directorate, he was examined by a prison doctor who recorded no signs of ill-treatment. Appointed a legal-aid lawyer, on 10 April he was brought before an investigating judge who ordered his detention pending trial for 30 days. That night he was transferred to prison no. 13. On the way there he alleged that he was made to walk through a corridor of police officers (known as the "death

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

corridor") each of whom hit him as he went past. The decision to detain him pending trial was quashed on 16 April 2009 and he was immediately released.

On 14 April (while still in detention and having met with a lawyer hired by his parents) and on 15 May 2009 Mr Taraburca addressed two complaints to the prosecuting authorities, alleging that he had been ill-treated.

He was immediately examined by a doctor on 14 April 2009 who recorded scratches and bruising to his face.

Mr Taraburca's first complaint was received by the military prosecutor on 21 April 2009 and, after waiting for the initial internal inquiry by the Ministry of Internal Affairs to be completed, that prosecutor devised an action plan to verify what exactly had happened. Having interviewed all those concerned, the prosecutor decided on 12 June 2009 not to launch a criminal investigation, essentially on the basis of a statement by S. that he had not been ill-treated or seen his friend being ill-treated. The prosecutor suggested that the injuries to Mr Taraburca's face could have been caused when he participated in the Chişinău riots.

Mr Taraburca, informed of that decision on 16 July 2009, further complained, requesting that an identity parade be carried out so that he could pick out those who had ill-treated him. He also suggested that those detained with him between 8 to 10 April 2009 be identified and questioned as to whether they had seen his injuries.

The criminal proceedings against Mr Taraburca were eventually discontinued due to lack of evidence.

According to the Moldovan Government, Mr Taraburca was not ill-treated during his detention or on being transferred between detention facilities. Despite being assisted by a lawyer, he had only complained about police brutality a week into his detention, on 14 April 2009.

Mr Taraburca has had both physicall and psychological after-effects from his head injury: a series of extensive medical examinations diagnosed him with intracranial hypertension syndrome and post-traumatic stress disorder.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Taraburca alleged that he had been beaten in police custody and that the ensuing investigation into his allegation had been inadequate. He further claimed that he had not been allowed to contact his parents during his custody or hire a lawyer of his own choice and that that had intimidated him, preventing him from complaining about his ill-treatment until 14 April 2009 (when the lawyer hired by his parents met him in detention).

The application was lodged with the European Court of Human Rights on 29 March 2010.

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

Josep **Casadevall** (Andorra), *President*,
Corneliu **Bîrsan** (Romania),
Alvina **Gyulumyan** (Armenia),
Ján **Šikuta** (Slovakia),
Luis **López Guerra** (Spain),
Nona **Tsotsoria** (Georgia),
Mihai **Poalelungi** (Moldova)*, Judges*,

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

Decision of the Court

Article 3

Police brutality

The Court underlined the overall background to this case, notably the systematic, large-scale ill-treatment of demonstrators by the police in a relatively short period of time. In particular, following visits to Moldova very soon after the events, both the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (the "CPT") as well as the Council of Europe's Commissioner for Human Rights confirmed that they had collated a large number of credible and consistent allegations indicating that there had been a pattern of police ill-treating detainees following the April 2009 general elections.

As concerned Mr Taraburca himself, the Court observed that, when taken into detention, he had been in good health, without any signs of ill-treatment being noted by the prison doctor, but that a week later – on 14 April 2009 - another prison doctor had recorded injuries to his face. The fact that Mr Taraburca had not complained of police brutality until that date did not, as suggested by the Government, prove that he had not been ill-treated. On the contrary, it was perfectly understandable that he had only made his complaint when he had seen a lawyer he felt he could trust, given the state of insecurity at the time: many people being openly ill-treated and humiliated, judges examining cases in police stations in a summary manner and legal-aid lawyers ignoring their clients' visible injuries, as was the case for Mr Taraburca. The fear and helplessness he had felt had indeed been shared by a majority of the alleged victims, as corroborated in the CPT report which noted that most complaints had emerged after a release or a transfer to an establishment under the Ministry of Justice. The Court therefore concluded that there had been a violation of Article 3 concerning Mr Taraburca's ill-treatment by the police.

Investigation

The Court considered that the initial inquiry into Mr Taraburca's complaint, carried out by the authority which employed most of those who stood accused, had been somewhat compromised. Furthermore, the inquiry had been plagued by unexplained delays: the complaint took one week to reach the military prosecutor who then sat on it for a further 38 days while he waited for the results of the Ministry of Internal Affairs' initial inquiry. Once the prosecutor had finally made his decision, it then took over a month to inform Mr Taraburca. Moreover, none of the officials who had seen Mr Taraburca prior to 14 April 2009 – neither the police officers at any of the establishments where he had been held, nor the legal-aid lawyer or judge – had reacted to Mr Taraburca's clearly visible injuries and informed the prosecuting authorities of possible ill-treatment. Nor had any further evidence been obtained through identifying Mr Taraburca's co-detainees or carrying out an identity parade. The Court therefore held that the investigation into Mr Taraburca's allegations of ill-treatment had been thouroughly inadequate, in further violation of Article 3.

Article 41 (just satisfaction)

The Court held that Moldova was to pay Mr Taraburca 15,000 euros (EUR) in respect of non-pecuniary damage and EUR 1,500 for costs and expenses.

The judgment is available only in English.

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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.