



Multiple violations in case concerning intellectually disabled woman and her allegations of labour exploitation and sexual abuse after she had been taken out of State care

The case [I.C. v. the Republic of Moldova](#) (application no. 36436/22) concerned an intellectually disabled woman and her allegations that she had been forced to work for free and sexually abused after she had been removed in 2013 from State care to live on a farm (following a “deinstitutionalisation” procedure). She ran away after five years and, with the help of an NGO, lodged a complaint with the police against the couple who owned the farm. The ensuing court proceedings led to the couple’s acquittal.

In today’s **Chamber** judgment¹ in the case, the European Court of Human Rights held, unanimously, that there had been:

violations of Articles 3 (prohibition of inhuman or degrading treatment), 4 (prohibition of forced labour/investigation), 8 (right to respect for private and family life) and 14 (prohibition of discrimination) of the European Convention on Human Rights.

The Court noted that there were laws in force in the Republic of Moldova prohibiting trafficking, slavery and forced labour and criminalising sexual violence. While the criminal laws were adequate, the legal and administrative framework concerning the removal from State care of persons with intellectual disabilities had flaws, particularly due to the lack of support services and monitoring. In the applicant’s case this had led to the authorities’ failure to take measures to protect her and/or to adequately investigate her allegations, as concerned either the labour exploitation or the rape. It found that the authorities had had a discriminatory attitude towards the applicant because she was a woman with an intellectual disability. They had notably not factored in overlapping elements of her vulnerability, failing to provide her with the possibility to obtain justice, despite her explicit and coherent grievances.

Principal facts

The applicant, I.C., is a Moldovan national who was born in 1974 and lives in Soroca (Moldova). She is intellectually disabled and was deprived of her legal capacity in 2011.

The applicant was abandoned at birth and has no known relatives. She had always lived in State care until she was taken by a couple to live on their farm in January 2013. As part of a policy of “deinstitutionalising” long-term patients, the couple had contacted the neuropsychiatric institution – where she had been living for the last 24 years – explaining that she would be a suitable “bride” (*mireasă*) for one of their employees, G.B.

She initially went to stay with the couple for a “holiday”. The couple subsequently made the necessary arrangements, complying with a mandatory legal procedure, to have the applicant taken out of the institution and placed in their family.

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.

In October 2018, however, the applicant ran away from the farm and rang a hotline operated by a non-governmental organisation, the Alliance of Organisations for Persons with Disabilities. She complained that she was not paid for her work at the farm and the man of the couple, I.P., had been raping and sexually abusing her.

The NGO immediately contacted the police and the applicant lodged a criminal complaint with them, which initially focused on the sexual abuse. The applicant's lawyer subsequently also requested that the police look into human trafficking.

At the same time the local authorities called a meeting and decided to place the applicant temporarily in alternative accommodation.

During the ensuing investigation and trial, the applicant gave a number of statements with detailed descriptions of the various acts of sexual intercourse with I.P. She had stated each time that she did not wish to have sex with him and had only given in because he had talked her into it with "nice words". She also referred to her unpaid work at the farm, which had been combined with threats that she would be chased away if she claimed payment. She said that she had escaped several times, but returned to the farm because she was cold and starving, and had nowhere else to go.

The Moldovan courts ultimately acquitted the couple of the charges brought against them of trafficking in human beings. The courts found that there was no evidence that the applicant had been threatened or forced to work. She had stayed at the farm legally and had been able to leave whenever she had wanted. Any dispute concerning salary was a civil matter. They also found no evidence that the applicant had been sexually abused by I.P. They did not believe that she had had sexual intercourse with him because he did not have a sexually transmitted disease, whereas she did.

The courts relied on a number of witness statements, mostly by former workers at the farm, G.B. and the local social worker. The farm workers confirmed that they had seen the applicant mucking out the stalls, and cooking and cleaning the farmhouse, and that she had repeatedly complained to them about rape and sexual abuse at the hands of I.P. However, they personally doubted whether this was true. G.B. stated that he had lived and worked with the applicant at the farm for five years. In an initial statement to the police, he said he had witnessed I.P. raping the applicant. He subsequently changed his statement during the investigation and trial, explaining that it was the applicant who had asked him to lie to the police. The social worker stated that she had gone to the farm once to inspect the living conditions, which were good, and that she had bumped into the applicant occasionally at the local village shop. As concerned the rape allegation, she said that it was possible that the applicant was not telling the truth "because, as a person with disabilities, she enjoyed drawing attention to herself".

The courts dismissed statements by a psychologist, who had reported that the applicant was able to reflect reality as it was without exaggeration or fantasy and was traumatised. They considered that her views were contradicted by "all witnesses" and were "nothing more than [her] personal conclusions".

Complaints, procedure and composition of the Court

Relying on Articles 3 (prohibition of inhuman or degrading treatment), 4 (prohibition of forced labour), 6 (right to a fair trial), 8 (right to respect for private and family life), 13 (right to an effective remedy) and 14 (prohibition of discrimination), I.C. complained, in particular, that she had been transferred from State care and placed with a family, where she had been forced to work without payment, that the investigation into her allegations of labour exploitation, rape and sexual abuse had been ineffective, and that a proper investigation had been prevented owing to stigma towards women with an intellectual disability.

The application was lodged with the European Court of Human Rights on 15 July 2022.

The Council of Europe Group of Experts on Action against Trafficking in Human Beings and the AIRE Centre were granted leave to intervene in the proceedings as third parties.

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

Mattias **Guyomar** (France), *President*,
Armen **Harutyunyan** (Armenia),
Stéphanie **Mourou-Vikström** (Monaco),
Gilberto **Felici** (San Marino),
Diana **Sârcu** (the Republic of Moldova),
Kateřina **Šimáčková** (the Czech Republic),
Mykola **Gnatovskyy** (Ukraine),

and also Victor **Soloveytschik**, *Section Registrar*.

Decision of the Court

Article 4

Firstly, the Court found that the applicant had made an arguable claim, backed up by prima facie evidence, that she had been subjected to human trafficking and/or servitude. In particular, witnesses had confirmed that they had seen her working at the farm and, during the proceedings on the case, the Labour Inspectorate had confirmed that any work she had done there had not been declared. Her disability, gender and institutionalisation meant, moreover, that she belonged to a group which could be vulnerable to abuse. The couple who ran the farm had selected (“recruited”) her from an asylum as a housewife for another employee, and they had used subtle forms of coercion to make her do various chores in exchange for food and shelter.

While the legislation prohibiting trafficking, slavery and forced labour in force in the Republic of Moldova was generally adequate, the Court found that the framework concerning the removal from State care of people with intellectual disabilities who had been deprived of their legal capacity and its implementation in practice had failed to effectively protect them at the time from trafficking and/or other forms of treatment contrary to Article 4. The Court identified a number of flaws in the relevant legal framework and the Moldovan “deinstitutionalisation” policy, particularly due to a lack of support services and monitoring mechanisms, in violation of Article 4.

Those deficiencies had been borne out in the applicant’s specific situation, as concerned the placement process and the support provided before and after it. In particular, no risk assessment had been carried out when the couple had contacted the asylum explicitly requesting a woman to work at the farm and/or be another employee’s housewife or bride. Such a request should have been a red flag for the authorities. Nor was there any evidence to show that the applicant had subsequently been supported and monitored by the social services, apart from a one-off visit to the farm from a social worker and her subsequent occasional encounters with her in the local village. Such a situation had resulted in the applicant’s further isolation.

The Court was of the opinion that, in such circumstances, the authorities had to have been aware that the applicant had been at real or immediate risk of being trafficked or exploited, but they had failed to take measures to protect her, in violation of Article 4.

It also held that there had been a further violation of Article 4 as concerned the investigation into her allegations. It found that the prosecuting authorities’ conduct in the case had been marred by multiple shortcomings, in particular a failure to follow up on some obvious lines of inquiry. They had made no effort to investigate the asylum administration’s role in facilitating the applicant’s placement. Nor had they addressed the social services’ failure to monitor her situation afterwards.

Most notably they had not taken into consideration her vulnerability, including finding out whether she had been appointed a legal guardian or had had access to a support network or community services during her stay at the farm. Thus no account had been taken of the coercive environment in which she had found herself and the fact that her intellectual disability reduced her capacity to assess the choices she had.

It did not appear that the investigation had looked into the alternative offences of servitude or forced labour, which were specific offences, distinct from trafficking and exploitation. The Court considered, without expressing an opinion as to the guilt of the defendants, that the authorities had failed to provide an adequate procedural response to the arguable claim and *prima facie* evidence that the applicant had been subjected to treatment contrary to Article 4 of the Convention.

Articles 3 and 8

There was no dispute over the adequacy of the Moldovan legal framework criminalising sexual violence, either separately or in the context of human trafficking. What was at issue was whether the criminal-law provisions that punished rape and sexual abuse had been applied in practice through effective investigation and prosecution, as required under Articles 3 and 8 of the Convention.

The Court considered, without expressing an opinion as to I.P.'s guilt, that the investigation into the applicant's allegations had fallen short of that requirement. It pointed out a number of deficiencies in the authorities' approach to the applicant's credibility, including a lack of sensitivity to the context and her vulnerability.

The courts had concluded that no sexual acts had occurred at all based on the fact that I.P. did not have a sexually transmitted disease. They had not assessed whether sexual relations not resulting in infection could have occurred or, as explained by the applicant, condoms had been used.

Each time the applicant had been interviewed she had provided a detailed and mostly coherent description of the sexual acts with I.P., explicitly stating that they had been non-consensual. In her initial statement, the police had asked her whether she had enjoyed having sex with I.P., a clearly inappropriate and harmful line of questioning. It had also been legally irrelevant; the investigation should have focused on the absence of consent. The social worker who had been present at that interview had not only been unsupportive, she had also apparently had a prejudiced view (she believed that the applicant "enjoyed drawing attention to herself").

It was particularly striking that the courts had dismissed a psychologist's statements on the applicant as "personal conclusions", relying instead on the opinions of witnesses, mostly former farm workers who knew little or nothing about the applicant, without ever questioning their credibility. Indeed, they had never analysed why a crucial witness, G.B., had changed his statements, despite the applicant arguing that he had been under pressure from the defendants, on whom he depended for shelter and food.

There had therefore been a violation of Articles 3 and 8 of the Convention.

Article 14 in conjunction with Articles 3, 4 and 8

The Moldovan courts' view that it was lawful to take a woman with intellectual disabilities out of State care to be a housewife or partner for a man working on a family farm reflected preconceived beliefs that people with disabilities lacked agency, that a woman's role was that of a housewife who attended to the needs of a man and the family, and that domestic work carried out by women lacked any economic value. It also showed a general institutional passivity and/or lack of awareness of the phenomenon of violence against women with disabilities in Moldova.

The Court found, overall, that the authorities had clearly had a discriminatory attitude towards the applicant as a woman with an intellectual disability. They had notably not properly factored in her

vulnerability – due to her gender, intellectual disability and institutionalisation – when interpreting her perception of what she had experienced, despite her explicit grievances. They had thus failed to provide the necessary procedural adjustments (“reasonable accommodation”) which might have given her the possibility of obtaining justice.

There had been a violation of Article 14 in conjunction with Articles 3, 4 and 8.

Other Articles

The Court considered that it was not necessary to examine separately the applicant’s complaints under Articles 6 and 13 of the Convention.

Article 41 (just satisfaction)

The Court held that the Republic of Moldova was to pay the applicant 35,000 euros (EUR) in respect of non-pecuniary damage and EUR 8,587 in respect of 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.