



Failure to deal with treatment sustained by “outcast” prisoner revealed structural issue requiring State-level response

The case of [Petrov v. the Republic of Moldova](#) (application no. 38066/18) concerned the applicant’s complaint about the “caste” system in place in Moldovan prisons, which was linked to an informal prisoner hierarchy. The applicant had been downgraded to the “lowest outcast group” and subjected to humiliating treatment and forced labour by fellow prisoners.

In today’s **Chamber judgment**¹, the European Court of Human Rights held, unanimously, that there had been two violations:

a violation of Article 3 (prohibition of degrading treatment) taken together with Article 14 (prohibition of discrimination) of the European Convention on Human Rights, and

a violation of Article 4 § 2 (prohibition of forced labour).

The Court noted that the prison system in the Republic of Moldova was faced with a structural issue linked to the existence of an informal prisoner hierarchy.

It found that the applicant had endured degrading treatment at the hands of fellow prisoners over a period of years, and that the authorities, who had been fully aware of the situation, had failed to take any appropriate measures to protect him. In the Court’s view, the combination of several factors clearly demonstrated that the authorities’ inaction had not constituted a mere failure to protect him against degrading treatment in prison, but indeed a tolerance, or even condoning, of such treatment, reflecting a discriminatory attitude towards him motivated by his status in the informal prisoner hierarchy. It noted, furthermore, that the work required of the applicant by the other prisoners on account of his status amounted to “forced or compulsory labour”. Lastly, it considered that the impact of the present case went beyond the applicant’s individual situation and, under **Article 46 of the Convention (binding force and enforcement of judgments)**, invited the Government to take appropriate general measures to resolve the systemic issue which had led to the present findings of violation.

A legal summary of this case will be available in the Court’s database HUDOC ([link](#)).

Principal facts

The applicant is a Moldovan national who was born in 1983. Between 2006 and 2021, he served a prison sentence for murder and, at the time of lodging his application, he was detained in Prison no. 9 in Pruncul.

The applicant complained about the “caste” system in place in Moldovan prisons, which was linked to an informal prisoner hierarchy. The system was based on three “castes”: the caste at the top of the informal hierarchy, the middle caste (to which the vast majority of prisoners belonged) and the “lowest caste”, the so-called “outcasts”.

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.

The applicant submitted that in 2009 he had been downgraded to the “outcast group” and that, on account of this status, he had been subjected to restrictions, humiliating treatment and forced labour.

In particular, “outcast” prisoners were forbidden from touching prisoners from other “castes” under threat of physical retaliation; they had to walk as close as possible to the walls and fences; and they were constantly chased away by other prisoners who feared that they would be touched and then downgraded themselves. “Outcast” prisoners’ meals were served separately, after all the others, and their plates were placed on the floor; they ate in their cells in unsanitary conditions. In addition, they were seen last by doctors and were obliged to leave the consultation room if a prisoner from a higher caste came in. They were forbidden from attending the prison church, using the laundry and gym, and attending vocational training. They also had to carry out menial and arduous tasks which other prisoners were not required to perform: renovation work – including carrying heavy loads –, cleaning toilets, and collecting dustbins and refuse within the prison, without pay (other prisoners were paid for the work instead of them).

Lastly, the applicant provided several unofficial video-recordings in support of his claims. He submitted that he had lodged complaints on several occasions and approached various competent authorities, without success.

Complaints, procedure and composition of the Court

The applicant alleged that he had been discriminated against, subjected to humiliating treatment and prohibited from taking part in certain activities in prison on account of his belonging to the “outcast” group. He relied on Article 3 (prohibition of inhuman or degrading treatment) taken together with Article 14 (prohibition of discrimination).

Relying on Article 4 (prohibition of forced labour), he alleged that, on account of his “outcast” status, he had been obliged to perform forced labour.

The application was lodged with the European Court of Human Rights on 8 June 2017.

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

Kateřina Šimáčková (the Czech Republic), *President*,
María Elósegui (Spain),
Gilberto Felici (San Marino),
Andreas Zünd (Switzerland),
Diana Sârcu (the Republic of Moldova),
Mykola Gnatovskyy (Ukraine),
Vahe Grigoryan (Armenia),

and also Martina Keller, *Deputy Section Registrar*.

Decision of the Court

[Article 3 \(degrading treatment\)/Article 14 \(prohibition of discrimination\)](#)

The Court noted that the existence of informal prisoner hierarchies in Moldovan prisons was a well-known fact, as highlighted, for example, by the CPT², and that in all likelihood this practice had existed during the applicant’s detention.

In the Court’s view, the applicant had provided sufficient evidence to conclude that he had belonged to the “outcast group” and that he had indeed been subjected to at least some of the treatment of

² European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

which he had complained, including physical and social segregation, denial of access to certain basic prison resources and assignment to menial labour, and that that treatment had been imposed on him by other prisoners on account of his “outcast” status.

The Court considered that the treatment the applicant had suffered on account of his belonging to the “outcast” group of prisoners had exposed him to mental anxiety and physical suffering that had to have exceeded the unavoidable level of suffering inherent in detention, even in the absence of physical violence. That situation, which the applicant had endured over a period of years, had amounted to degrading treatment. The threshold of severity required to fall within the scope of Article 3 taken together with Article 14 had therefore been reached.

Furthermore, the applicant had repeatedly informed the prison authorities, the courts and other State authorities that he belonged to the “outcast group”. Given that the phenomenon of informal prisoner hierarchies was widespread and well-documented within Moldovan prisons and that the Government had not denied its existence, the Court considered that the State authorities, having been alerted to the applicant’s subordinate position, could not have been unaware of the risks to which his vulnerable situation exposed him. They had nevertheless failed to take appropriate measures to protect him from the treatment associated with his belonging to the “outcast” group.

However, in a contemporary democratic society built on respect for human dignity, no difference in treatment based on compulsory membership of the lowest “caste”, whose members were dehumanised and denied recognition of their very existence as human beings, was capable of being objectively justified.

In the Court’s view, the combination of several factors clearly demonstrated that the authorities’ inaction had not constituted a mere failure to protect the applicant against degrading treatment in prison, but indeed a tolerance, or even condoning, of such treatment, reflecting a discriminatory attitude towards him motivated by his status in the informal prisoner hierarchy.

The present case also demonstrated that the authorities had been fully aware of the seriousness and scale of the issue of informal prisoner hierarchies in Moldovan prisons and its discriminatory effect on prisoners categorised as “outcasts” yet had taken no steps to address it.

In consequence, the State’s failure to provide the applicant with protection against the degrading treatment he had suffered in prison on account of his belonging to the “outcast” group had amounted to a violation of his right to the equal protection of the law.

There had accordingly been a violation of Article 3 of the Convention, taken together with Article 14, on account of the failure by the State authorities to comply with their obligation to protect the applicant – without discrimination – against treatment prohibited by that provision.

Article 4 (prohibition of forced labour)

The Court considered it established that, during his detention, the applicant had performed arduous and menial tasks which he had been required to do on account of his “outcast” status within the informal prisoner hierarchy. It considered that this work had been imposed on the applicant with the agreement of the prison administration, whose responsibilities included the supervision of prisoners and who could not have been unaware of the situation.

The work performed by the applicant had been assigned to him in accordance with the informal “code of conduct”, to which he had been subject on account of his “outcast” status, and failure to comply with that “code” would have resulted in retaliation by fellow prisoners. In the light of this physical and mental coercion, the Court was therefore satisfied that the applicant had been performing work “under the menace of [a] penalty and for which [he had] not offered himself voluntarily”.

The following factors were sufficient for the Court to consider that the work in question fell outside the “normal” limits in this area: the fact that the aim of the work imposed on the applicant on account

of his status within the informal prisoner hierarchy was to punish and humiliate him; the fact that there was no evidence that the work had been appropriate to his state of health and physical capacities; and the fact that the work was distributed in a discriminatory manner.

It therefore concluded that the work performed by the applicant could not be regarded as “work required to be done in the ordinary course of detention” and that it amounted to “forced or compulsory labour” within the meaning of Article 4 § 2 of the Convention.

Lastly, the Court noted that the authorities had been fully aware of the applicant’s situation and had not taken any measures to protect him from the “forced or compulsory labour” associated with his belonging to the “outcast” group.

There had accordingly been a violation of Article 4 § 2 of the Convention on account of the respondent State’s failure to comply with its positive obligations to protect the applicant from treatment prohibited by that provision.

Article 41 (just satisfaction)

The applicant had not submitted a claim for just satisfaction. The Court made no award under this head.

Article 46 (binding force and enforcement of judgments)

The Court considered that, in order to prevent future similar violations, the domestic authorities had to address the issue of informal prisoner hierarchies highlighted in the judgment in a manner that went beyond the circumstances of the present case. It was for the competent authorities, in accordance with the respondent State’s obligations under Article 46 of the Convention, to draw the necessary conclusions from the present judgment and to take appropriate general measures to resolve the systemic issue which had led to the present findings of violation. Any system they put in place would have to be consistent with the principles of the Convention, as set out in the judgment.

The judgment is available only in French.

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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.