



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

Communicated on 19 May 2014

THIRD SECTION

Application no. 3020/13  
Vadim POGORLETCHI  
against the Republic of Moldova and Russia  
lodged on 24 December 2012

**STATEMENT OF FACTS**

1. The applicant, Mr Vadim Pogorletchi, is a Russian national who was born in 1968 and lives in Tiraspol. He is represented before the Court by Mr A. Postica, Mr A. Zubco, Mr P. Postica and Ms N. Hriplivîi, lawyers practising in Chişinău.

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

3. According to the applicant, from 2000 to 2008 he acted as administrator of several publications in the “Moldovan Republic of Transdnistria” (“the ‘MRT’”), which would regularly criticise the “MRT regime”.

4. In 2008 the “MRT police” initiated an investigation in respect of him on charges of attempted murder. The applicant fled the “MRT” and was put on the list of wanted persons.

5. On 3 May 2010 the applicant returned and was arrested by “MRT” customs officials at the Pervomaïsk border point for carrying a hunting rifle, two knives and ammunition. The “MRT customs committee” initiated a criminal investigation in respect of the applicant on charges of illegally storing and possessing firearms, close-combat weapons and ammunition.

6. The applicant was brought to the pre-trial detention facility of Tiraspol police station and held there for approximately five months in conditions which, in his submission, were inhuman and degrading. The applicant described in the following manner the conditions in that facility: the 4 sq.m cell accommodated eight to ten other inmates and had no access to natural light; the toilet consisted of a hole in the floor and was a constant source of foul smells; the situation was aggravated by the lack of any ventilation or access to fresh air and by the constant smoking of the other detainees. No disinfection was carried out during his entire stay. No hygiene items were available and he had no bed linen. Apart from bread and hot

water, the food and drink provided were not fit for consumption. The applicant was not offered any medical assistance.

7. The case was referred to the court on 28 June 2010, the applicant being charged with attempted murder and the illegal storage and possession of firearms, close-combat weapons and ammunition.

8. On an unspecified date, the applicant was transferred to Tiraspol pre-trial detention facility and then to Hlinaia pre-trial detention facility. He spent short periods of time in these detention facilities, being transferred from one to another between two and three times per month. He alleges that the detention conditions did not improve and the conditions of his transfer were also inhuman and degrading.

9. On 3 April 2012 the applicant was convicted on all charges by the “Tiraspol city court” and sentenced to seven years’ imprisonment. The “MRT Supreme Court” reduced the sentence to six years and ten months on 26 June 2012.

10. On 26 June 2012 the applicant was transferred to prison no. 1 in Hlinaia to serve his sentence, which runs until 2018. He described the conditions there as follows: the prison was over sixty years old and no serious repair had ever been carried out. It was very cold in the cell during the winter as there was no heating. There was no running water in the cell but the detainees had to wash and dry clothes there. The food was inedible; he survived thanks to food brought to him by his relatives. The applicant has had no access to medical services.

11. On an unspecified date the applicant’s mother complained to various Russian authorities – including the Prosecutor General’s Office and the Russian Embassy – asking that a criminal investigation be instigated into the persons who had unlawfully deprived the applicant of his liberty.

12. On 23 March 2012 the Russian Prosecutor General’s Office forwarded the complaint to the Moldovan Prosecutor General’s Office which in turn forwarded it to the Bender Prosecutor’s Office. On 25 May 2012 the latter started a criminal investigation into the applicant’s abduction. The outcome of that investigation is currently unknown.

13. In October 2011 and in January 2012 the applicant was visited in detention by representatives of the Russian Embassy in Moldova.

## COMPLAINTS

14. The applicant complains under Article 3 of the Convention that he is being detained in inhuman conditions.

15. The applicant complains under Article 5 § 1 of the Convention that his detention was not ordered by a lawfully constituted court.

16. Lastly, he complains under Article 13 of the Convention that he did not have at his disposal effective remedies in respect of his complaints under Articles 3 and 5 of the Convention.

### **QUESTIONS TO THE PARTIES**

1. Does the applicant's case come within the jurisdiction of the Republic of Moldova and/or the Russian Federation within the meaning of Article 1 of the Convention as interpreted by the Court in the cases of *Ilaşcu and Others v. Moldova and Russia* [GC] (no. 48787/99, ECHR 2004-VII) and *Catan and Others v. Moldova and Russia* [GC] (nos. 43370/04, 8252/05 and 18454/06, §§ 102-123, 19 October 2012) on account of the circumstances of the present case?

2. Has there been a violation of Article 3 of the Convention? In particular, is the applicant detained in inhuman and/or degrading conditions?

3. Do the facts of the case disclose a violation of Article 5 § 1 of the Convention? In particular, is the applicant's detention by the MRT authorities "lawful" within the meaning of Article 5 § 1 of the Convention?

4. Did the applicant have at his disposal effective remedies in respect of his complaints under Article 3 and Article 5 § 1 of the Convention, as required under Article 13 of the Convention?