



Insufficient compensation awarded for endangered health after drinking infested tap water

In today's Chamber judgment¹ in the case of [Otgon v. the Republic of Moldova](#) (application no. 22743/07) the European Court of Human Rights held, by six votes to one, that there had been:

a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

The case concerned Ms Otgon's complaint about the amount of damages awarded to her by the courts after she drank infested tap water. As a result, she had spent two weeks in hospital with dysentery.

The Court came to the conclusion that even though the domestic courts had established responsibility and awarded compensation in the proceedings brought against the State-owned local utilities provider, the sum awarded was insufficient for the degree of harm that had been caused to her health.

Principal facts

The applicant, Svetlana Otgon, is a Moldovan national who was born in 1963 and lives in Călărași (the Republic of Moldova).

Ms Otgon and her 12-year-old daughter were admitted to hospital in October 2005 with "serious acute dysentery" after drinking tap water.

She was discharged two weeks later and soon after filed a lawsuit against the State-owned local utilities provider claiming the equivalent of 6,700 euros compensation for the harm caused to her health.

In March 2006 the Călărași District Court ruled in her favour since various technical and sanitary reports revealed that sewage water had infiltrated the drinking water pipe in the vicinity of Ms Otgon's apartment.

The district court awarded her the equivalent of 648 euros, basing its decision on the amount of physical and mental suffering caused. Relying on the same elements (degree of harm), the higher courts then confirmed the findings of the first-instance court, but reduced the award to the equivalent of 310 euros.

Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for private and family life and the home), Ms Otgon complained that her health had been endangered after having drunk infested tap water and that the amount of compensation awarded to her had been insufficient.

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 application was lodged with the European Court of Human Rights on 20 April 2007.

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

Işıl Karakaş (Turkey), *President*,
Nebojša Vučinić (Montenegro),
Paul Lemmens (Belgium),
Valeriu Griţco (the Republic of Moldova),
Jon Fridrik Kjølbro (Denmark),
Stéphanie Mourou-Vikström (Monaco),
Georges Ravarani (Luxembourg),
and also Stanley Naismith, *Section Registrar*.

Decision of the Court

Article 8 (right to respect for private and family life)

The Court noted that the violation of Ms Otgon's rights under Article 8 by the State-owned company was not a matter of dispute between the parties, as confirmed by the domestic courts' findings establishing responsibility and awarding compensation. What was at issue was the amount of compensation awarded.

While the first-instance court had awarded Ms Otgon the equivalent of 648 euros in respect of non-pecuniary damage, the higher court had halved that amount and the Supreme Court had upheld that decision. No specific reasons had been given for that reduction. Indeed, the higher courts had arrived at a different conclusion concerning the amount of compensation to be awarded even though they had relied on the same elements (degree of harm).

Moreover, Ms Otgon had sustained a certain degree of mental and physical suffering as she had been kept in hospital for two weeks. Lastly, the sum awarded by the domestic courts was considerably below the minimum awarded by the European Court in similar cases. Accordingly, the Court held that there had been a violation of Article 8 of the Convention.

Article 41 (just satisfaction)

The Court held that the Republic of Moldova was to pay Ms Otgon 4,000 euros (EUR) in respect of non-pecuniary damage.

Separate Opinion

Judge Lemmens expressed a separate opinion, which is annexed to the judgment.

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.