



SECOND SECTION

**CASE OF CRAVCIȘIN v. THE REPUBLIC OF MOLDOVA AND  
RUSSIA**

*(Application no. 43176/13)*

JUDGMENT

STRASBOURG

28 September 2021

*This judgment is final but it may be subject to editorial revision.*



**In the case of Cravcișin v. the Republic of Moldova and Russia,**

The European Court of Human Rights (Second Section), sitting as a Committee composed of:

Carlo Ranzoni, *President*,

Egidijus Kūris,

Pauliine Koskelo, *judges*,

and Hasan Bakırcı, *Deputy Section Registrar*,

Having regard to:

the application (no. 43176/13) against the Republic of Moldova and Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two Russian nationals, Ms Liubovi Cravcișin and Snejana Cravcișin (“the applicants”), on 28 May 2013;

the decision to give notice of the application to the Moldovan and the Russian Governments (“the Governments”);

the Russian Government’s objection to the examination of the application by a Committee and to the Court’s decision to reject it;

the parties’ observations;

Having deliberated in private on 7 September 2021,

Delivers the following judgment, which was adopted on that date:

## INTRODUCTION

1. The case is about alleged unfair civil proceedings concerning the applicants’ eviction from socially owned housing in the Transdnestrian region of Moldova and the consequences thereof on the applicants’ rights guaranteed by Articles 6 and 8 of the Convention and Article 1 of Protocol No. 1 to the Convention.

## THE FACTS

2. The applicants are mother and daughter, who were born in 1958 and 1978, respectively, and live in Tiraspol. The applicants were represented by Mr S.G. Popovschi, a lawyer practising in Tiraspol.

3. The Moldovan Government (“the Government”) were represented by their Agent, Mr O. Rotari, and the Russian Government were represented by Mr M. Galperin, the Representative of the Russian Federation at the European Court of Human Rights.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

5. The background to the case, including the Transdnestrian armed conflict of 1991-1992 and the subsequent events, is set out in *Ilașcu and Others v. Moldova and Russia* ([GC], no. 48787/99, §§ 28-185,

ECHR 2004-VII) and *Catan and Others v. the Republic of Moldova and Russia* ([GC], nos. 43370/04, 8252/05 and 18454/06, §§ 8-42, ECHR 2012).

6. In 1986 the applicants' family received social housing on account of the husband/father being a member of the Soviet military. Later he was moved to Briansk, in Russia, where he was provided with new social housing. In 2009 the first applicant divorced from her husband.

7. In 2010 the applicants applied to have the contract concerning their social apartment in Tiraspol re-registered on their own name. However, the authorities refused to do so on account of the fact that the apartment in question had been rented to the first applicant's former husband and that he had already been provided with another social accommodation in Briansk, Russia. The applicants were invited to leave their apartment in Tiraspol. The applicants challenged the refusal in the courts of the self-proclaimed Moldovan Republic of Transnistria ("the MRT") but their action was finally dismissed by the MRT Supreme Court on 29 November 2012. By the same judgment the court ordered the applicants' eviction from the disputed apartment.

8. On 10 February 2013 the applicants wrote to the embassy of the Russian Federation in Moldova seeking assistance. In a letter dated 22 May 2013 they received a reply according to which the embassy had contacted the MRT authorities and had learned that the applicants had to give up their apartment in Tiraspol because their family had been provided with social housing in Briansk, Russia.

9. It does not appear from the materials of the case that the applicants contacted the constitutional authorities of the Republic of Moldova in respect of the facts giving rise to the present case.

## RELEVANT LEGAL FRAMEWORK

10. Reports by inter-governmental and non-governmental organisations, the relevant domestic law and practice of the Republic of Moldova, and other pertinent documents were summarised in *Mozer v. the Republic of Moldova and Russia* ([GC], no. 11138/10, §§ 61-77, 23 February 2016).

## THE LAW

### I. JURISDICTION

11. The Court must first determine whether the applicants fall within the jurisdiction of the respondent States for the purposes of the matters complained of, within the meaning of Article 1 of the Convention.

**A. The parties' submissions**

12. The applicants submitted that both respondent Governments had jurisdiction.

13. The Moldovan Government submitted that they had positive obligations to secure the applicants' rights.

14. For their part, the Russian Government argued that the applicants did not fall within their jurisdiction and that, consequently, the application should be declared inadmissible *ratione personae* and *ratione loci* in respect of the Russian Federation.

**B. The Court's assessment**

15. The Court notes that the parties in the present case maintain views on the issue of jurisdiction which are similar to those expressed by the parties in *Catan and Others* (cited above, §§ 83-101) and in *Mozer* (cited above, §§ 81-95). In particular, the applicants and the Moldovan Government submitted that both respondent Governments had jurisdiction, while the Russian Government submitted that they had no jurisdiction.

16. The Court recalls that the general principles concerning the issue of jurisdiction under Article 1 of the Convention in respect of actions and facts pertaining to the Transdniestrian region of Moldova were set out in *Ilașcu and Others* (cited above, §§ 311-319), *Catan and Others* (cited above, §§ 103-107) and *Mozer* (cited above, §§ 97-98).

17. In so far as the Republic of Moldova is concerned, the Court notes that in *Ilașcu*, *Catan* and *Mozer* it found that although Moldova had no effective control over the Transdniestrian region, it followed from the fact that Moldova was the territorial State that persons within that territory fell within its jurisdiction. However, its obligation, under Article 1 of the Convention, to secure to everyone within its jurisdiction the rights and freedoms defined in the Convention was limited to that of taking the diplomatic, economic, judicial and other measures that were both in its power and in accordance with international law (see *Ilașcu and Others*, cited above, § 333; *Catan and Others*, cited above, § 109; and *Mozer*, cited above, § 100). Moldova's obligations under Article 1 of the Convention were found to be positive obligations (see *Ilașcu and Others*, cited above, §§ 322 and 330-331; *Catan and Others*, cited above, §§ 109-110; and *Mozer*, cited above, § 99).

18. The Court sees no reason to distinguish the present case from the above-mentioned cases. Besides, it notes that the Moldovan Government do not object to applying a similar approach in the present case. Therefore, it finds that Moldova has jurisdiction for the purposes of Article 1 of the Convention, but that its responsibility for the acts complained of is to be

assessed in the light of the above-mentioned positive obligations (see *Ilașcu and Others*, cited above, § 335).

19. In so far as the Russian Federation is concerned, the Court notes that in *Ilașcu and Others* it found that the Russian Federation contributed both militarily and politically to the creation of a separatist regime in the region of Transdniestria in 1991 and 1992 (see *Ilașcu and Others*, cited above, § 382). The Court also found in subsequent cases concerning the Transdniestrian region that up until September 2016 (*Eriomenco v. the Republic of Moldova and Russia*, no. 42224/11, § 72, 9 May 2017), the “MRT” was only able to continue to exist, and to resist Moldovan and international efforts to resolve the conflict and bring democracy and the rule of law to the region, because of Russian military, economic and political support (see *Ivanțoc and Others v. Moldova and Russia* no. 23687/05, §§ 116-120, 15 November 2011; *Catan and Others*, cited above, §§ 121-122; and *Mozer*, cited above, §§ 108 and 110). The Court concluded in *Mozer* that the “MRT”’s high level of dependency on Russian support provided a strong indication that the Russian Federation continued to exercise effective control and a decisive influence over the Transdniestrian authorities and that, therefore, the applicant fell within that State’s jurisdiction under Article 1 of the Convention (see *Mozer*, cited above, §§ 110-111).

20. The Court sees no grounds on which to distinguish the present case from *Ilașcu and Others*, *Ivanțoc and Others*, *Catan and Others*, *Mozer* and *Eriomenco* (all cited above).

21. Consequently, it dismisses the Russian Government’s objections *ratione personae* and *ratione loci* and holds that the applicants in the present case fall within the jurisdiction of the Russian Federation under Article 1 of the Convention.

22. The Court will hereafter determine whether there has been any violation of the applicants’ rights under the Convention such as to engage the responsibility of either respondent State (see *Mozer*, cited above, § 112).

## II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

23. The applicants complained that there had been a violation of Article 6 § 1 since their case had been determined by courts that could not qualify as “independent tribunals established by law” and that moreover those tribunals had not afforded them a fair trial. The relevant parts of Article 6 of the Convention read as follows:

### Article 6

“1. In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...”

### A. Admissibility

24. The respondent Governments submitted that the application should be rejected for failure to exhaust domestic remedies before the Moldovan courts. The Court recalls that it has already examined and dismissed a similar objection in the cases of *Mozer* (cited above, §§ 115-121) and *Boboico and Others v. the Republic of Moldova and Russia* (no. 30003/04, § 39, 23 October 2018). Since no new arguments have been adduced by the respondent Governments, the Court sees no reason to reach a different conclusion in this case. It follows that the respondent Governments' objection of non-exhaustion of domestic remedies must be dismissed.

25. The Court notes that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and that it is not inadmissible on any other ground. The Court therefore declares it admissible.

### B. Merits

26. The applicants argued that the "MRT" courts that had decided their case could not be considered as "independent tribunals established by law" within the meaning of Article 6 § 1. They also argued that the proceedings were unfair.

27. The Moldovan Government submitted that the "MRT" courts could not be considered "tribunals established by law" for the purposes of Article 6 of the Convention. However, that was not attributable to the Republic of Moldova.

28. The Russian Government made a brief summary of the legislation and international law applicable in the MRT and described the judicial system and the law enforcement authorities of the region. They pointed to the existence of an MRT Ombudsman and Constitutional Court and gave a description of the linguistic situation and the foreign policy of the MRT. They finally mentioned the MRT's cooperation with the United Nations, the Organisation for Security and Co-operation in Europe and the Human Rights Commissioner of the Council of Europe.

29. The Court reiterates that in certain circumstances, a court belonging to the judicial system of an entity not recognised under international law may be regarded as a "tribunal established by law" provided that it forms part of a judicial system operating on a "constitutional and legal basis" reflecting a judicial tradition compatible with the Convention, in order to enable individuals to enjoy the Convention guarantees (see *Ilașcu and Others*, cited above, § 460). It further recalls that in *Mozer* it held that the judicial system of the "MRT" was not a system reflecting a judicial tradition compatible with the Convention (see *Mozer*, cited above, §§ 148-149). It made a similar finding in respect of facts going up to September 2016 in the

case of *Eriomenco v. the Republic of Moldova and Russia* (no. 42224/11, § 72, 9 May 2017).

30. In the light of the above, the Court considers that the conclusions reached in *Mozer* and *Eriomenco* are valid in the present case too and that the “MRT” courts could not qualify as a “tribunal established by law” for the purposes of Article 6 § 1 of the Convention (see *Vardanean*, cited above, § 39, and *Apcov v. the Republic of Moldova and Russia*, no. 13463/07, § 57, 30 May 2017). The Court therefore finds that there has been a breach of Article 6 § 1 of the Convention in the present case.

31. The Court must next determine whether the Republic of Moldova fulfilled its positive obligation to take appropriate and sufficient measures to secure the applicants’ rights (see paragraph 17 above). In *Mozer*, the Court held that Moldova’s positive obligations related both to measures needed to re-establish its control over the Transdniestrian territory, as an expression of its jurisdiction, and to measures to ensure respect for individual applicants’ rights (see *Mozer*, cited above, § 151).

32. As regards the first aspect of Moldova’s obligation, to re-establish control, the Court found in *Mozer* that, from the onset of the hostilities in 1991-1992 until July 2010, Moldova had taken all the measures in its power (see *Mozer*, cited above, § 152). Since the parties did not adduce any evidence to show that the Moldovan Government has changed its position concerning the Transdniestrian region in the years preceding the facts of the present case, the Court sees no reason to reach a different conclusion (*ibid.*).

33. Turning to the second part of the positive obligations, namely to ensure respect for the applicants’ rights, the Court notes that the applicants adduced no evidence to the effect that they had informed the Moldovan authorities of their problem. In such circumstances, the non-involvement of the Moldovan authorities in the case cannot be held against them.

34. In the light of the foregoing, the Court concludes that the Republic of Moldova did not fail to fulfil its positive obligations in respect of the applicants. There has therefore been no violation of Article 6 § 1 of the Convention by the Republic of Moldova.

35. In so far as the responsibility of the Russian Federation is concerned, the Court has established that Russia exercised effective control over the “MRT” during the period in question (see paragraphs 19-20 above). In the light of this conclusion, and in accordance with its case-law, it is not necessary to determine whether or not Russia exercised detailed control over the policies and actions of the subordinate local administration (see *Mozer*, cited above, § 157). By virtue of its continued military, economic and political support for the “MRT”, which could not otherwise survive, Russia’s responsibility under the Convention is engaged as regards the violation of the applicants’ rights.

36. In conclusion, and after having found that the applicants’ rights guaranteed by Article 6 § 1 have been breached (see paragraph 30 above),



the Court holds that there has been a violation of that provision by the Russian Federation.

37. In view of the above, the Court does not consider it necessary to examine separately any other issues under Article 6 § 1 of the Convention.

### III. ALLEGED VIOLATION OF ARTICLES 8 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

38. The applicants also complained under Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention that they had lost their apartment, which was also their home, as a result of the impugned proceedings. The Articles in question read as follows:

#### **Article 8. (Right to respect for private and family life)**

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

#### **Article 1 of Protocol No. 1 (protection of property)**

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

#### **A. Admissibility**

39. Having examined and dismissed the respondent Governments’ objection concerning non-exhaustion of domestic remedies (see paragraph 24 above), the Court notes that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and that they are not inadmissible on any other ground. The Court therefore declares them admissible.

#### **B. Merits**

40. The applicants argued that there had been a breach of their right to respect for their home under Article 8 of the Convention and of their right to

the peaceful enjoyment of their possessions under Article 1 of Protocol No. 1 to the Convention.

41. The Moldovan Government submitted that the interference with the applicants' rights had not been lawful because it had not been provided for by the domestic laws of the Republic of Moldova and that there has been no violation of the applicants' rights by the Republic of Moldova.

42. The Russian Government did not make any submissions on the merits of this complaint. Their position was that they did not have "jurisdiction" in the territory of the "MRT" and that they were therefore not in a position to make any observations on the merits of the case.

43. It is undisputed that the applicants' eviction from their apartment constituted an interference with their right to respect for their home. An interference will contravene Article 8 unless it is "in accordance with the law", pursues one or more of the legitimate aims referred to in paragraph 2, and is "necessary in a democratic society" in order to achieve the aim or aims (see *Labita v. Italy* [GC], no. 26772/95, § 179, ECHR 2000-IV; and *Idalov v. Russia* [GC], no. 5826/03, § 200, 22 May 2012).

44. The Court notes that the parties did not dispute the fact that the apartment in which the applicants used to live for more than twenty years constituted a possession for the purposes of Article 1 of Protocol No. 1 to the Convention. It further notes that it is similarly undisputed that the applicants' eviction from that apartment amounted to an interference with their right to the peaceful enjoyment of their possessions for the purposes of Article 1 of Protocol No. 1 to the Convention. According to the Court's case-law (see among other authorities, *Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ireland* [GC], no. 45036/98, § 142, ECHR 2005-VI), such interference constitutes a measure of control of the use of property which falls to be examined under the second paragraph of that Article. For a measure constituting control of use to be justified, it must be lawful (see *Katsaros v. Greece*, no. 51473/99, § 43, 6 June 2002; *Herrmann v. Germany* [GC], no. 9300/07, § 74, 26 June 2012; *Centro Europa 7 S.R.L. and Di Stefano v. Italy* [GC], no. 38433/09, § 187, ECHR 2012) and "in accordance with the general interest". The measure must also be proportionate to the aim pursued; however, it is only necessary to examine the proportionality of an interference once its lawfulness has been established (see *Katsaros*, cited above, § 43).

45. In so far as the lawfulness of the above interferences with the applicants' rights under both Article 8 and Article 1 of Protocol No. 1 is concerned, no elements in the present case allow the Court to consider that there was a legal basis for evicting the applicants from their apartment. Given the circumstances, the Court concludes that the interferences in question were not lawful under domestic law. Accordingly, there has been a violation of Article 8 of the Convention and of Article 1 of Protocol No. 1 to the Convention.

46. For the same reasons as those given in respect of the complaint under Article 6 § 1 of the Convention (see paragraphs 32-33 above), the Court finds that there has been no violation of Article 8 of the Convention and of Article 1 of Protocol No. 1 to the Convention by the Republic of Moldova.

47. For the same reasons as those given in the same context (see paragraph 35), the Court finds that there has been a violation of Article 8 of the Convention and of Article 1 of Protocol No. 1 to the Convention by the Russian Federation.

#### IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

48. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

##### **A. Damage**

49. The applicants claimed 25,000 euros (EUR) in respect of pecuniary damage, the amount representing the price of the apartment from which they had been evicted. They also claimed EUR 20,000 for non-pecuniary damage.

50. The respondent Governments argued that they were not responsible and should not be ordered to pay any damages to the applicants.

51. The Court notes that the applicants did not own the apartment in dispute and therefore considers that they are not entitled to its value; it therefore rejects the applicants' claim for pecuniary damage. On the other hand, it awards the applicants EUR 12,500 in respect of non-pecuniary damage, plus any tax that may be chargeable, to be paid by the Russian Federation.

##### **B. Costs and expenses**

52. The applicants also claimed EUR 9,824 for the costs and expenses incurred before the Court.

53. The respondent Governments considered the above claim to be excessive.

54. Regard being had to the documents in its possession such as the contract between the applicants and their lawyer and the detailed time-sheet, the Court considers it reasonable to award the sum of EUR 3,000 for costs and expenses, to be paid by the Russian Federation.

**C. Default interest**

55. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

**FOR THESE REASONS, THE COURT**

1. *Declares* the application admissible in respect of the Republic of Moldova;
2. *Declares* the application admissible in respect of the Russian Federation;
3. *Holds* that there has been no violation of Articles 6 § 1 and 8 of the Convention and Article 1 of Protocol No. 1 to the Convention by the Republic of Moldova.
4. *Holds* that there has been a violation of Article 6 § 1 of the Convention by the Russian Federation;
5. *Holds* that there has been a violation of Article 8 of the Convention by the Russian Federation;
6. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention by the Russian Federation;
7. *Holds*
  - (a) that the Russian Federation is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
    - (i) EUR 12,500 (twelve thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
    - (ii) EUR 3,000 (three thousand euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses;
  - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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8. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 28 September 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı  
Deputy Registrar

Carlo Ranzoni  
President