



SECOND SECTION

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

*(Application no. 33583/14)*

JUDGMENT

STRASBOURG

28 September 2021

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



**In the case of Drovorub 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. 33583/14) 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 a Russian national, Ms Valentina Drovorub (“the applicant”), on 30 April 2014;

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

the parties’ observations;

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

Having deliberated in private on 7 September 2021,

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

## INTRODUCTION

1. The case concerns the applicant’s son’s detention and demise while in detention in the self-proclaimed “Moldovan Republic of Transdniestria” (the “MRT” – see for more details *Ilaşcu and Others v. Moldova and Russia* [GC], no. 48787/99, §§ 28-185, ECHR 2004-II). She complains under Article 2 and 3 of the Convention about the death of her son due to inadequate medical assistance in prison, the lack of an effective investigation into his death, and the lack of effective remedies in respect of her other complaints.

## THE FACTS

2. The applicant was born in 1939 and lives in Tiraspol. The applicant was represented by Mr A. Postică, lawyer practising in Chişinău.

3. The Governments were represented by their Agents.

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

### I. THE APPLICANT’S SON’S DEATH

5. The applicant’s son, R., was arrested on 11 December 2012 by the “MRT” authorities and held in detention in several facilities: from 11 to

23 December 2012 in the Tiraspol police station (IVS); from 24 December 2012 to 6 October 2013 in prison no. 1 in Hlinaia (SIZO UIN-1), and from 7 to 28 October 2013 in prison no. 3 in Tiraspol (SIZO UIN-3).

6. On 29 October 2013 R. was placed in the medical section of prison no. 3 and on 30 October 2013 he was transferred to the Clinical hospital in Tiraspol, where he died on 1 November 2013.

7. The medical death certificate dated 2 November 2013 listed “tuberculosis infection” as cause of death and “disseminated tuberculosis of the lungs” and HIV as R.’s underlying medical condition.

## II. THE APPLICANT’S REQUESTS FOR INFORMATION IN THE “MRT”

8. The applicant was informed on 1 November 2013 over the phone about R.’s death. The same day she went to the medical section of prison no. 3 to find out what had happened to no avail. According to her, R. seemed fine when she last saw him on 23 August 2013 and when she brought him a parcel on 31 October 2013 she was told that he was well.

9. From November 2013 to March 2014 she sought information about the circumstances of his death from the “MRT” Ministry of Justice, the “MRT” Prison administration, and the “MRT” Ministry of Health. She repeatedly requested copies of R.’s autopsy report, prison personal file, medical files while in detention and in the hospital, and additional information related to his health condition while in prison, the treatment protocol for his tuberculosis, the circumstances prior to his death, such as whether he had been in intensive care and why he had been brought to the prison hospital. She noted that the “MRT” law allowed her to receive personal information about her deceased son, being his next of kin.

10. On 15 January 2014 the “MRT” Prison administration replied:

“... R. had been diagnosed with primary tuberculosis and HIV in 2006, during his detention in [prison no. 2]. ... He arrived in [prison no. 3] on 7 October 2013 already in a rather serious condition and was placed in the tuberculosis section of the prison hospital. On 30 October 2013 3.00 p.m. he fell in a pre-coma and was transported ...to the Intensive care of the Republican clinical hospital where he was diagnosed with “Disseminated tuberculosis of the lungs. Tuberculous meningitis. Late stage of HIV infection [AIDS]”. On 1 November 2013 he died in the intensive care section of the [hospital]. Cause of death upon autopsy: “Severe cerebral oedema due to tuberculosis infection”.

We also inform you that the medical file of a convict is an inseparable part of his personal file, and all information therein, including the personal file can be provided exclusively based on an official request of competent state authorities.”

11. On 19 March 2014 the “MRT” Prison administration additionally informed the applicant:

“... [R.] arrived in [prison no. 1] from the Tiraspol IVS on 24 December 2012 and did not complain about his health. ... Clear signs of disease progression were

identified in [prison no. 3] during a medical examination on 8 July 2013. Subsequently, R. was repeatedly transferred to the IVS and other prisons, and while in prisons he was provided with the requisite medical treatment, which is confirmed by the records in his medical file dated 11 July 2013, 9 October 2013, 18 October 2013, 25 October 2013, 27 October 2013.

He arrived in [prison no. 3] on 7 October 2013 already in a rather serious condition but had no body injuries. He was placed in the surgery section of the prison hospital and then on 29 October 2013 transferred to the tuberculosis section of the prison hospital. ... R. made no written requests for medical assistance. ...

R.'s death occurred in the Republican clinical hospital of the "MRT" Ministry of Health and according to the medical death certificate from 2 November 2013 it was natural (as a result of disease).

... The treatment protocol R. received, the name of the prescribed medication, their dose and other specific medical details do not fall within your competency and, therefore, cannot be provided to you."

12. On 25 February 2014 the "MRT" Ministry of Health denied the applicant access to R.'s medical file arguing that under the "MRT" law information about one's health and provided medical assistance were covered by medical secret and could be provided only to the person concerned or to his legal representative, duly authorised. Such information could be revealed in the absence of consent from the person concerned or from his legal representative only at the request of law enforcement authorities and of courts.

13. On 22 March 2014 the applicant requested the "MRT" Investigation Committee to initiate an investigation into R.'s death, to acknowledge her as aggrieved party in those proceedings and to keep her informed about progress made. She also requested the Committee to obtain R.'s medical files with the prison administration and information about his treatment protocol in various prisons. Her request remained unanswered.

### III. THE APPLICANT'S COMPLAINTS BEFORE RUSSIAN AND MOLDOVAN AUTHORITIES

14. On 24 December 2013 the applicant complained to the Russian and Moldovan Prosecutor General's Offices about R.'s death in "MRT" prisons as a result of inadequate medical assistance. She sought an investigation into his death with the identification and punishment of perpetrators. She also complained to the Moldovan Ombudsperson and requested his intervention for an effective investigation into R.'s death.

15. On 20 January 2014 the Russian Prosecutor General's Office redirected the applicant's letter to the Moldovan authorities arguing that Russia had no jurisdiction over the events in the "MRT".

16. On 28 January 2014 the Moldovan authorities initiated a criminal investigation into R.'s unlawful deprivation of liberty which resulted in his

demise. The applicant was acknowledged the procedural standing of an aggrieved party.

17. On 28 May 2014 the Moldovan authorities initiated a second criminal investigation into R.'s kidnapping and unlawful deprivation of liberty. The applicant was acknowledged as R.'s heir. She was interviewed on 5 December 2014.

18. On 28 October 2014 the Moldovan Prosecutor General's Office sought the assistance of the Reintegration Bureau in obtaining from the "MRT" authorities information about R.'s health condition, such as his medical records and autopsy report. Although the request was forwarded to the "MRT" authorities, it remained unanswered.

19. The two criminal investigations were subsequently joined and on 14 December 2014 were suspended until the identification of perpetrators. The following day the applicant was informed about this decision and about her right to appeal it.

## RELEVANT MATERIALS

20. The relevant materials have been summarised in *Mozer v. the Republic of Moldova and Russia* [GC] (no. 11138/10, §§ 61-77, 23 February 2016).

21. The relevant parts of the "Report on Human Rights in the Transnistrian Region of the Republic of Moldova" (by UN Senior Expert Thomas Hammarberg, 14 February 2013) read as follows.

"... The tuberculosis (TB) and HIV infection situation is of grave concern.

...The resources are limited and the Expert found the health situation, in particular in the Glinnoe prison, to be alarming and the care services substandard. There is limited communication with the civilian health system which results in low coverage with testing and treatment. ...

The TB situation in the prisons is very serious. Though steps have been taken to isolate those infected from other inmates, they are not isolated from one another, which increases the risk of further cases of [multi-drug resistance]. ...

Another major health problem in the prisons is HIV/AIDS. ... Harm Reduction Programmes and antiretroviral treatment (ARV) are available in prisons, including in remand facilities. Access to ARV and treatment of opportunistic infections is contingent on people disclosing their HIV status. This requires the possibility of confidential and voluntary testing for HIV, also in prisons.

Few human resources and limited capacities of existing medical personnel create barriers to enjoying access to quality medical services in penitentiaries. The standard of health care in the Glinnoe prison appeared to the Expert to be especially bad on all accounts, including on record keeping and preventive measures such as diet control. ...

When authorities deprive someone of his/her liberty they also take on the responsibility for protecting this person's health. It seems obvious that the Transnistrian Ministry of Health should have a greater influence on health care in the penitentiary institutions. In fact, UNAIDS has noted that cooperation between the

prison administration and the Tiraspol TB Institute and the Transnistrian Ministry of Health is limited. The consequence is substandard treatment and care while in prisons and poor referrals upon release....”

## THE LAW

### I. ADMISSIBILITY

#### A. *Locus standi*

22. The Court notes at the outset that the applicant may claim to be a victim within the meaning of Article 34 of the Convention of the violations alleged by and on behalf of her late son under Articles 2 and 3 of the Convention (see *Renolde v. France*, no. 5608/05, § 69, 16 October 2008).

#### B. Jurisdiction

23. The Court must determine whether the applicant falls within the jurisdiction of the respondent States for the purposes of the matters complained of, within the meaning of Article 1 of the Convention.

24. The applicant submitted that in light of the Court’s constant case-law both respondent Governments had jurisdiction.

25. The Moldovan Government submitted that they had positive obligations to secure the applicant’s rights and the Russian Federation had jurisdiction due to their continuous military presence in the region.

26. For their part, the Russian Government argued that the applicant did not fall within their jurisdiction.

27. 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 v. the Republic of Moldova and Russia* ([GC], nos. 43370/04 and 2 others, §§ 83-101, ECHR 2012 (extracts)) and in *Mozer* (cited above, §§ 81-95). In particular, the applicant and the Moldovan Government submitted that both respondent Governments had jurisdiction, while the Russian Government submitted that they had no jurisdiction.

28. 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 *Ilaşcu and Others* (cited above, §§ 311-319), *Catan and Others* (cited above, §§ 103-107) and *Mozer* (cited above, §§ 97-98).

29. In so far as the Republic of Moldova is concerned, the Court notes that in *Ilaşcu*, *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 and 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).

30. 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).

31. The Court notes that in *Ilașcu and Others* it has already found that the Russian Federation contributed both militarily and politically to the creation of a separatist regime in the region of Transdniestria in 1991-1992 (see *Ilașcu and Others*, cited above, § 382). The Court also found in subsequent cases concerning the Transdniestrian region that up until at least September 2016 (*Eriomenko 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 (*Mozer*, cited above, §§ 110-111).

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

33. It follows that the applicant in the present case fell within the jurisdiction of the Russian Federation under Article 1 of the Convention.

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



### **C. Exhaustion of domestic remedies**

35. The Moldovan Government submitted that the applicant had failed to exhaust all the remedies available to her in Moldova such as complaining to the Reintegration Bureau or appealing the decision from 14 December 2014 to suspend the criminal investigation. They argued therefore that the part of the application concerning Moldova should be declared inadmissible for failure to exhaust domestic remedies in Moldova.

36. The applicant contended that there were no effective remedies which needed to be exhausted in Moldova.

37. The Court notes that a similar objection was raised by the Moldovan Government and dismissed by the Court in *Mozer* (cited above, §§ 115-121), in *Vardanean v. the Republic of Moldova and Russia* (no. 22200/10, §§ 27 and 31, 30 May 2017) and in *Bobenco and Others v. the Republic of Moldova and Russia* (no. 30003/04, § 39, 23 October 2018). Since no new arguments have been adduced, the Court sees no reason to reach a different conclusion in this case. It follows that the Moldovan Government's objections on non-exhaustion of domestic remedies must be dismissed.

## **II. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION**

38. The applicant complained about the inadequacy of the medical assistance provided to R. in prison, which resulted in his death, and the absence of an effective investigation into the circumstances of his death contrary to Article 2 of the Convention, which reads as follows:

“1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.”

### **A. Admissibility**

39. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

## B. Merits

40. The applicant asserted that the prison authorities were aware of R.'s health condition (tuberculosis and HIV/AIDS) but failed to provide him with the requisite treatment and, therefore, were responsible for his death. Although signs of R.'s condition worsening were seen already on 8 July 2013, R. was moved to the medical section of the prison only on 29 October 2013. As to the provided treatment, the applicant submitted that adequate treatment for disseminated tuberculosis and HIV was not available in the "MRT" prisons. For this reason and in the absence of information about R.'s treatment protocol, she concluded that R. had not been provided with the medication necessary for his health condition. In addition, she was unable to obtain an investigation into the circumstances of R.'s death and possible negligent conduct of the prison administration; she was denied access to his medical and prison files.

41. The Moldovan Government submitted that they had made consistent efforts to investigate the circumstances of R.'s death in the framework of two criminal investigations and repeated requests for information in the "MRT". However, they were unable to advance due to the lack of cooperation of the "MRT" authorities which withheld evidence. Even so, the Moldovan Government argued that they had fulfilled their positive obligations and that there had been no violation of Article 2 of the Convention in their respect.

42. The Russian Government made no specific submissions.

### 1. *Alleged failure to protect R.'s right to life*

43. The obligation to protect the life of individuals in custody also implies an obligation for the authorities to provide them with the medical care necessary to safeguard their life (see *Tais v. France*, no. 39922/03, § 98, 1 June 2006; and *Huylu v. Turkey*, no. 52955/99, § 58, 16 November 2006).

44. Furthermore, the authorities must account for the treatment of persons deprived of their liberty. A sharp deterioration in a person's state of health in detention facilities inevitably raises serious doubts as to the adequacy of medical treatment there (see *Farbtuhs v. Latvia*, no. 4672/02, § 57, 2 December 2004; and *Khudobin v. Russia*, no. 59696/00, § 84, ECHR 2006-XII (extracts)). Thus, where a detainee dies as a result of a health problem, the State must offer a reasonable explanation as to the cause of death and the treatment administered to the person concerned prior to his or her death (see *Kats and Others v. Ukraine*, no. 29971/04, § 104, 18 December 2008).

45. The Court notes that R. died in a civil hospital two days after being transferred from a prison, from complications of tuberculous meningitis, disseminated pulmonary tuberculosis and HIV/AIDS. In order to establish

whether or not the respondent State complied with its obligation of protection of life under Article 2 of the Convention, the Court must examine whether the relevant domestic authorities did everything reasonably possible, in good faith and in a timely manner, to try to avert the fatal outcome (see *Makharadze and Sikharulidze v. Georgia*, no. 35254/07, § 74, 22 November 2011).

46. The Court observes that R. appears to have contracted tuberculosis and HIV possibly in prison in 2006. Although this aspect is not within the scope of the case, it is relevant to the extent that R. was already suffering from these diseases for more than five years at the time of his arrest and detention in 2011 and the prison authorities were aware of this. Even so, despite his serious medical condition, according to the documents provided to the applicant by the Prison administration, R. was allegedly offered treatment once in July 2013, that is more than 19 months after his arrest in December 2011, and subsequently on four occasions in October 2013. Furthermore, although the prison authorities had noted the deterioration in R.'s state of health in July 2013, they admitted him to the prison medical section only in early October 2013 and transferred him to a civil hospital only in late October 2013 shortly before his death (see paragraphs 10-11).

47. The applicant disputes the availability in the "MRT" prisons of adequate treatment for R.'s condition and, therefore, its provision on the dates indicated by the "MRT" prison administration (see paragraph 11). Other sources refer to the existence of treatment for tuberculosis and HIV in the "MRT" prisons, even if substandard (see paragraph 21). The Court was not presented R.'s medical file to ascertain if he had indeed been provided medical assistance nor with information about the used medical protocol to assess if the administered treatment was adequate to his particular condition (see *Holomiov v. Moldova*, no. 30649/05, §§ 115 and 121, 7 November 2006). Even assuming that the requisite treatment was available and that R. had been administered such treatment on the dates indicated by the Prison administration, it cannot be said that those measures were sufficient and undertaken in a timely manner in order to prevent the lethal outcome.

48. In particular, R.'s cause of death appears to be a foreseeable complication of his medical condition, if left untreated or treated incorrectly or in an untimely manner. Assuming that treatment was provided as of July 2013 on a total of five occasions, the above-mentioned delays alone are sufficient to have rendered it inefficient and to allow for a finding of inadequate discharge of positive obligations to protect R.'s health and life in prison. Such omissions could have been prevented by proper medical screening and timely treatment and placement in a medical section or a hospital specialised in the treatment of tuberculosis and HIV co-infections.

49. It follows that there has been a violation of Article 2 of the Convention.

## 2. *Procedural obligations under Article 2 of the Convention*

50. The Court notes that no adequate enquiry was conducted into the cause of R.'s death. However, it is one of the cornerstone principles under Article 2 of the Convention with respect to such similar medical cases that, when a detainee dies from an illness, the authorities must of their own motion and with due expedition open an official probe in order to establish whether medical negligence might have been at stake (see, amongst many other authorities, *Tarariyeva v. Russia*, no. 4353/03, §§ 74-75 and 103, ECHR 2006-XV (extracts); *Gagiu v. Romania*, no. 63258/00, § 68, 24 February 2009; and *Kats and Others*, cited above, §§ 116 and 120). This obligation does not mean that recourse to the criminal law is always required; under certain circumstances, an investigation conducted in the course of disciplinary proceedings would suffice (see *Mastromatteo v. Italy* [GC], no. 37703/97, § 90, ECHR 2002-VIII).

51. However, in the present case, despite the fact that the applicant died in a civil hospital one day after being transferred from a prison hospital, which is a public institution directly engaging the State's responsibility, the issue of the individual responsibility of the clinicians in charge of the applicant's treatment was never, according to the case file, subjected to an independent, impartial and comprehensive enquiry. In particular, because R.'s death was not violent, but a consequence of his illnesses (see paragraph 11), there was no attempt to examine how he had been treated right before his hospitalisation, the critical condition in which he had been brought to the clinical hospital directly from the prison. There was no investigation if the persons tasked to supervise his health in prison had been eventually responsible of medical negligence.

52. Furthermore, the applicant, as R.'s next of kin, was refused access to all medical and other personal information about R. held by the prison administration and the civil hospital (see paragraphs 10-12).

53. Instead of submitting the results of a meaningful probe, the applicant was provided with the explanatory memos from the "MRT" Prison administration, which authority was directly in charge of the prison hospital, and of the doctor who had been treating the applicant in that hospital. However, since those very persons were, by virtue of their functions, directly responsible for the quality of the treatment provided to the applicant in prison, their memos, in which the cause of death was attributed to the applicant's previous medical condition, clearly cannot be accepted by the Court as a reliable and sufficient account of R.'s death.

54. In other words, in addition to all the above-mentioned deficiencies in R.'s treatment, there is also a failure to account sufficiently for his death. This is a serious omission as, apart from the concern for the respect of the rights inherent in Article 2 of the Convention in each individual case, important public interests are at stake. Notably, the knowledge of the facts and of possible errors committed in the course of medical care are essential

to enable the institutions concerned and medical staff to remedy the potential deficiencies and prevent similar errors (see *Byrzykowski v. Poland*, no. 11562/05, § 117, 27 June 2006).

55. It follows that there has also been a violation of Article 2 of the Convention on account of the failure to conduct an independent and comprehensive probe, for the cause of R.'s death.

### 3. *Responsibility of the respondent Governments*

56. The Court must next determine whether the Republic of Moldova fulfilled its positive obligations to take appropriate and sufficient measures to secure the applicant's rights (see paragraphs 29-30 above). In *Mozer*, the Court held that Moldova's positive obligations related both to measures needed to re-establish its control over the Transdnestrian territory, as an expression of its jurisdiction, and to measures to ensure respect for the individual applicant's rights (see *Mozer*, cited above, § 151).

57. As regards the first aspect of Moldova's obligations, 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). The events complained of in the present case took place in 2011-2013. The Court notes that none of the parties submitted any evidence that the Republic of Moldova had changed its position towards the Transdnestrian issue during this period of time and it therefore sees no reason to reach a different conclusion from that reached in *Mozer* (*ibid.*).

58. Turning to the second aspect of the positive obligations, namely to ensure respect for the applicant's individual rights, the Court found in *Ilaşcu and Others* (cited above, §§ 348-352) that the Republic of Moldova had failed to fully comply with its positive obligations, to the extent that from May 2001 it had failed to take all the measures available to it in the course of negotiations with the "MRT" and Russian authorities to bring an end to the violation of the applicants' rights. In the present case, the applicant submitted that the Republic of Moldova had not discharged its positive obligations because the initiated criminal investigation had not been efficient to protect R.'s rights and because since March 2017 the position of the Moldovan president had been ambiguous in respect of the "MRT" authorities.

59. The Court considers that Moldovan authorities did not have any real means of guaranteeing R.'s and, indirectly, the applicant's rights in the "MRT" territory (see, *a contrario*, *Pocasovschi and Mihaila v. the Republic of Moldova and Russia*, no. 1089/09, § 46, 29 May 2018). Moreover, they could not properly investigate the allegations of deprivation of liberty resulting into R.'s death.

60. The Court notes that the facts of the case go up to 2013 and, therefore, it was not necessary to consider the applicant's arguments concerning the conduct of the Moldovan authorities beyond that date.

61. 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 applicant. There has therefore been no violation of Article 2 of the Convention by the Republic of Moldova.

62. 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 31-33 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 applicant's rights.

63. In conclusion, and after having found that the applicant's rights guaranteed by Article 2 of the Convention have been breached (see paragraphs 49 and 55 above), the Court holds that there has been a violation of that provision by the Russian Federation.

### III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

64. The applicant also complained under Article 3 of the Convention about R.'s detention conditions, and in particular about the lack of adequate medical assistance in detention, as well as under Article 13 of the Convention read in conjunction with her other complaints.

65. The Court notes that these complaints are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

66. The Court notes that these complaints arise out of the same facts as those considered under Article 2 of the Convention. In the light of its conclusions with respect to that Article (see paragraphs 49 and 55 above), the Court does not consider it necessary to examine these complaints separately.

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

67. 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."

68. The applicant claimed 80,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,680 in respect of costs and expenses. The applicant submitted a copy of the contract with his representative and an itemized timesheet of his work. The applicant requested that the amount of the costs and expenses be paid directly to his representative's bank account.

69. The Governments contended that the claims were excessive and invited the Court to make an award on equitable basis.

70. The Court awards the applicant EUR 26,000 in respect of non-pecuniary damage, plus any tax that may be chargeable on the applicant and EUR 4,000 in respect of costs and expenses, plus any tax that may be chargeable, to be paid directly to the applicant's representative's bank account.

71. 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, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been no violation of Article 2 of the Convention by the Republic of Moldova;
3. *Holds* that there has been a violation of Article 2 of the Convention under its substantive and procedural limbs by the Russian Federation;
4. *Holds* that there is no need to examine separately the complaints under Articles 3 and 13 of the Convention;
5. *Holds*
  - (a) that the Russian Federation is to pay the applicant, within three months, the following:
    - (i) EUR 26,000 (twenty-six thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
    - (ii) EUR 4,000 (four thousand euros), plus any tax that may be chargeable, in respect of costs and expenses, to be paid directly to the applicant's representative's bank account;
  - (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;

6. *Dismisses* the remainder of the applicant's 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