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The Protection of Human Rights under the ECHR in Central and Eastern Europe: The Case of the Republic of Moldova**

ABSTRACT: The present study is dedicated to evaluating the participation of the Republic of Moldova in the Convention for the Protection of Human Rights and Fundamental Freedoms, better known as the European Convention on Human Rights. This convention established the most effective regional mechanism for the protection of human rights. The state granted its citizens the possibility of exercising the right to individual application before the European Court of Human Rights by ratifying the European Convention on Human Rights in July 1997. Since then, more than 17,000 applications have been submitted to the ECHR alleging that the Moldovan authorities have failed to comply with the provisions of the European Convention on Human Rights. In over 600 cases, the European Court of Human Rights has found violations of the obligations assumed by the Republic of Moldova upon ratifying the European Convention on Human Rights.

In this article, we aim to address the Republic of Moldova's participation in the European Convention on Human Rights in an evolutive manner. Thus, after establishing the historical context in which this regional treaty was ratified, we will describe the actions of the Council of Europe in the Republic of Moldova, identify the most important human rights treaties developed under the auspices of the Council of Europe that have been ratified by the Republic of Moldova, and strive to provide a comprehensive overview of the implementation of the European Convention on Human Rights within the national legal order. Finally, this study explores several landmark cases in which the European Court of Human Rights has established general principles. These cases have led to substantive changes in the legal system of the Republic of Moldova. They illustrate how the

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Court's jurisprudence has influenced national law-making and institutional reform, contributing to the consolidation of the rule of law and the alignment of domestic norms with European human rights standards.

KEYWORDS: case-law, European Convention on Human Rights, European Court of Human Rights, implementation, Republic of Moldova.

1. Introduction

The collapse of the USSR, whose seeds of emergence are attributed to the rise of new reformist leaders in the Central Committee of the Communist Party of the Soviet Union after 1985, generated the possibility of involving the people of Republic of Moldova in the struggle for the national movement. Although this momentum faced a series of political attacks and attempts to undermine the situation in the state from both internal and external pro-imperial forces, the colossal effort of pro-democratic and national political forces resulted in the adoption of the Declaration of Independence by the Parliament on August 27, 1991, a moment appreciated by the newspaper "Moldova Suverană" as the "high point of Moldova's history".

The text of the Declaration of Independence of the Republic of Moldova, adopted on August 27, 1991, expressly contains provisions guaranteeing the exercise of social, economic, and cultural rights, and political freedoms for all the citizens of the Republic of Moldova, including those belonging to national, ethnic, linguistic, and religious groups, in accordance with the provisions of the Helsinki Final Act and subsequent documents, such as the Charter of Paris for a New Europe.

The dissolution of the USSR triggered the emergence of secessionist movements with aggressive messages and actions in several former socialist republics, leading to armed conflicts. One of these was the armed conflict of a non-international character, which later became internationalised in 1992 in the Republic of Moldova (the Transnistrian conflict). Consequently, the central authorities are unable to exercise effective control over the left bank of the Dniester River.

In these circumstances, in 1993, the OSCE established a Special Mission in the territory of the Republic of Moldova with the objective of facilitating the achievement of a lasting comprehensive political settlement based on CSCE principles and commitments, of the conflict in the Left-

Bank Dniester areas of the Republic of Moldova in all its aspects. To achieve this objective, the Mission, *inter alia*, provides advice and expertise, as well as a framework for other contributions, on such parts of a political settlement as the effective observance of international obligations and commitments regarding human and minority rights, democratic transformation, repatriation of refugees, definition of a special status of the Trans-Dniester region etc.

On February 8, 1995, the Parliament approved the Concept of the foreign policy of the Republic of Moldova,¹ which established that the main direction of foreign policy would be for the Republic of Moldova to make efforts to join the Council of Europe as soon as possible and to accede to the most important international conventions developed under the auspices of this highly authoritative institution. This would constitute an important moment in the achievement of European standards in the field of establishing the rule of law in the Republic of Moldova.

The Republic of Moldova became a member of the Council of Europe on July 13, 1995. The Parliament of the Republic of Moldova ratified the European Convention on Human Rights on July 24, 1997.

Since its accession to the Council of Europe, the organisation has supported the reforms launched in the Republic of Moldova, guided by the principles of democracy, human rights, and the rule of law. In this context, it is worth mentioning the Joint Programs of the Council of Europe and the European Union aimed at promoting and ensuring respect for fundamental human rights and freedoms: CoE and EU Joint Program “Partnership for Good Governance,” Phase I (2015-2018), Phase II (2019-2021); CoE Action Plan for Supporting Democratic Reforms in the Republic of Moldova (2013-2016); Program for Supporting Democracy in the Republic of Moldova (2010-2012); Program on Combating Ill-Treatment and Impunity in the South Caucasus, Moldova, and Ukraine (2009-2011); Peer-to-Peer II Program – Promoting National Non-Judicial Mechanisms for the Protection of Human Rights, especially the Prevention of Torture (2010-2012); Moldova-JU Program – Strengthening the Independence, Transparency, and Efficiency of the Judicial System in the Republic of Moldova (2006-2010); Program for Strengthening National Capacities for Reviewing, Implementing, Monitoring, and Promoting National Policies on Roma, as well as Combating Negative Stereotypes against Roma – EIDHR (2008-

¹ Hotărârea Parlamentului Nr. 368 din 08-02-1995 pentru aprobarea Concepției politicii externe a Republicii Moldova. In: Monitorul Oficial Nr. 20 art. 187 din 06-04-1995.

2009); Peer Project – Establishing and Activating a Network of Independent Human Rights Structures in CoE Member States That Are Not EU Members (2008-2009)

The Council of Europe Action Plan for the Republic of Moldova (2021-2024) is the third Council of Europe Action Plan for the country. The previous ones covered the periods 2013-2016 and 2017-2020. The current Action Plan² in the chapter on Human Rights provides for technical co-operation aiming to achieve the effective and timely execution of European Court of Human Rights (ECtHR) judgments, creation of a mechanism to monitor the implementation of Ombudsperson institution recommendations in the field of protection of persons deprived of their liberty from torture and ill-treatment, enhancing the effectiveness of the ECHR system at the national level, promoting human rights and dignity, anti-discrimination, hate speech and hate crime, children's rights, ensuring social rights etc.

Distinct areas of cooperation between the Republic of Moldova and the Council of Europe in the field of human rights protection include: Prevention of Torture (the visits of the European Committee for the Prevention of Torture to places of detention in order to assess how persons deprived of their liberty are treated); Fight against Racism (monitoring by the European Commission against Racism and Intolerance (ECRI)); Protection of Social Rights (the work of the European Committee of Social Rights based on the European Social Charter); Protection of Minorities (under the Framework Convention for the Protection of National Minorities, which provides for a monitoring system to evaluate how the treaty is implemented); Fight against Trafficking in Human Beings (the work of the Group of Experts on Action against Trafficking in Human Beings (GRETA) in monitoring the implementation of the Convention on Action against Trafficking in Human Beings), etc.

Since 2004, the Republic of Moldova has developed and implemented four National Human Rights Action Plans aimed at achieving national policy goals in the field of human rights, including the implementation of recommendations from international, regional, and national human rights mechanisms. The objective is to enhance the level of respect and enjoyment of each individual's rights and to effectively minimise the risks of human rights violations in the Republic of Moldova. In the latest National Program

² Action Plan for the Republic of Moldova 2021-2024. Council of Europe. CM(2020)161. 19 November 2020.

for Ensuring Human Rights Respect for the years 2024-2027,³ it is noted that:

From 1997 to 2023, the European Court of Human Rights (hereinafter “ECtHR”) found at least one violation in 516 (86%) of the 599 judgments in Moldovan cases, resulting in a total of 786 violations of human rights. In this regard, the Republic of Moldova surpasses countries like the United Kingdom, Germany, Portugal, Spain, and the Netherlands, which joined the European Convention on Human Rights (hereinafter “ECHR”) long before the Republic of Moldova has, as well as having populations significantly larger than Moldova’s. In 2023, the Republic of Moldova ranked 5th out of the 46 member countries of the Council of Europe in terms of the number of applications submitted per capita. Moldovan citizens turned to the ECtHR 6.5 times more frequently than the European average. Among the most frequent types of violations in Moldovan cases are: non-execution of national court judgments, inadequate investigation of ill-treatment and deaths, poor detention conditions, unlawful detention, irregular quashing of final judgments, and ill-treatment/excessive use of force by state agents.

Based on the aforementioned arguments, the National Program for 2024-2027 is centred on two priorities: general and specific objectives aimed at realizing human rights, prioritised through a consensus among public authorities, civil society, and national human rights protection institutions.

Every year, the National Human Rights Institution of the Republic of Moldova—the Ombudsman’s Office—publishes a report on the respect of human rights and freedoms in the Republic of Moldova. The report also addresses the implementation of the commitments assumed under the European Convention on Human Rights by the authorities. Thus, the 2023⁴

³ Hotărârea Guvernului Republicii Moldova Nr. 164 din 06-03-2024 cu privire la aprobarea Programului național privind asigurarea respectării drepturilor omului pentru anii 2024-2027. In: Monitorul Oficial Nr. 144-147 art. 313 din 11-04-2024.

⁴ Raport anual privind respectarea drepturilor și libertăților omului în Republica Moldova în anul 2023. [Online] Available at: <https://ombudsman.md/post-document/raport-anual->

report highlights deficiencies in the full implementation of the ECHR provisions, particularly in the areas of the right to a fair trial, the right to liberty and security, and others.

The realisation of rights guaranteed by the European Convention on Human Rights, as well as the nature and scope of state obligations under this international treaty, are subjects of ongoing interest within the academic community in the Republic of Moldova. In this context, author collectives, with the support of the Council of Europe, have successfully developed commentaries and thematic indexes on cases versus the Republic of Moldova that have been decided by the ECtHR. Noteworthy among these are the works “The European Convention on Human Rights. Commentary on the Judgments of the European Court of Human Rights versus the Republic of Moldova. Conclusions and Recommendations.”⁵ The content of this work presents each article of the Convention according to a structure comprising generalities, content, and recommendations. The general considerations with which each article begins define its scope of applicability, while the content is determined by the nature of the violations committed by national authorities and found by the Strasbourg Court. The analysis of each article pertains specifically to the judgments of the European Court versus the Republic of Moldova. The analysis reflects how the Court’s general principles were applicable to the particular circumstances of the cases against Moldova.

Another work developed by Moldovan scholars on this subject is “Table Index. Judgments of the European Court of Human Rights versus the Republic of Moldova. December 13, 2001 - December 31, 2018.”⁶ This work provides a synthesis of the ECtHR’s jurisprudence on cases versus the Republic of Moldova from the moment the state acceded to the European Convention on Human Rights until the end of 2018.

2. Human rights treaties concluded under the auspices of the Council of Europe to which the Republic of Moldova is a party

The Republic of Moldova is a party to more than 200 international treaties (including additional instruments) concluded under the auspices of the

privind-respectarea-drepturilor-si-libertatilor-omului-in-republica-moldova-in-anul-2023/
(Accessed: 22 August 2025).

⁵ Poalelungi et al., 2017.

⁶ Poalelungi et al., 2018.

Council of Europe. Among the most important human rights conventions to which the Republic of Moldova is a party, we mention the following:

- Council of Europe Convention against Trafficking in Human Organs adopted on 25/03/2015, entered into force 01/03/2018;
- Council of Europe Convention on preventing and combating violence against women and domestic violence 11/05/2011, 01/08/2014;
- European Convention on the Adoption of Children (Revised) 27/11/2008, 01/09/2011;
- Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse 25/10/2007, 01/07/2010;
- Council of Europe Convention on the avoidance of statelessness in relation to State succession 19/05/2006, 01/05/2009;
- Council of Europe Convention on Action against Trafficking in Human Beings 16/05/2005, 01/02/2008;
- European Convention on Nationality 06/11/1997, 01/03/2000;
- Convention for the protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine 04/04/1997, 01/12/1999;
- European Social Charter (revised) 03/05/1996, 01/07/1999;
- European Agreement relating to persons participating in proceedings of the European Court of Human Rights 05/03/1996, 01/01/1999;
- European Convention on the Exercise of Children's Rights 25/01/1996, 01/07/2000;
- Framework Convention for the Protection of National Minorities 01/02/1995, 01/02/1998;
- European Charter for Regional or Minority Languages 05/11/1992, 01/03/1998;
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 26/11/1987, 01/02/1989;
- European Convention on the Compensation of Victims of Violent Crimes 24/11/1983, 01/02/1988;
- European Agreement on Transfer of Responsibility for Refugees 16/10/1980, 01/12/1980;

- European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children 20/05/1980, 01/09/1983;
- European Convention on the Legal Status of Children born out of Wedlock 15/10/1975, 11/08/1978;
- European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes 25/01/1974, 27/06/2003.
- European Convention on the Repatriation of Minors 28/05/1970, 28/07/2015;
- European Convention on the Adoption of Children 24/04/1967, 26/04/1968.

Among the most recent treaties in the field of human rights protection, we mention the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law concluded on 05/09/2024, and also signed by the Republic of Moldova at that time.

3. Implementation of the European Convention on Human Rights into the legal order of the Republic Moldova

Moldova became a member of the Council of Europe on July 13, 1995. On July 24, 1997, the Parliament of the Republic of Moldova ratified⁷ The Convention for the Protection of Human Rights and Fundamental Freedoms was concluded in Rome on November 4, 1950. The Convention entered into force for the Republic of Moldova on September 12, 1997. To date, the Republic of Moldova has ratified the additional protocols to the Convention, with the exception of Protocol No. 12 and Protocol No. 14bis, which have only been signed.

In this context, it is necessary to point out that at the time of ratification of the ECHR, the Republic of Moldova made several reservations:

The Republic of Moldova declares that it will not be able to ensure compliance with the provisions of the Convention regarding omissions and acts committed by the authorities of the self-proclaimed Transnistrian

⁷ Hotărâre Nr. 1298 din 24-07-1997 privind ratificarea Convenției pentru apărarea drepturilor omului și a libertăților fundamentale, precum și a unor protocoale adiționale la această Publicat : 21-08-1997 în Monitorul Oficial Nr. 54-55 art. 502.

Republic on the territory effectively controlled by them until a definitive resolution of the dispute in that area is achieved.

Under Article 64 of the Convention, the Republic of Moldova formulates a reservation to Article 4, resulting in the possibility of applying penal sanctions in the form of correctional labour without deprivation of liberty, as provided for in Article 27 of the Penal Code, and, respectively, administrative penalties in the form of correctional labour, as provided for in Article 30 of the Code on Administrative Offenses. This reservation will take effect for one year from the date the Convention enters into force for the Republic of Moldova.

Under Article 64 of the Convention, the Republic of Moldova formulates a reservation to Article 5, paragraph 3, resulting in the continued issuance of arrest warrants by prosecutors, as provided for in Article 25 of the Constitution of the Republic of Moldova, Article 78 of the Criminal Procedure Code, and Article 25 of Law No. 902-XII of January 29, 1992, on the Prosecutor's Office. This reservation will take effect for six months from the date the Convention enters into force for the Republic of Moldova.

Under Article 64 of the Convention, the Republic of Moldova formulates a reservation to Article 5, resulting in the possibility of applying disciplinary sanctions against military personnel in the form of arrest by superior commanders, as provided for in Articles 46, 51-55, 57-61, and 63-66 of the Disciplinary Regulation of the Armed Forces, approved by Law No. 776-XIII of March 13, 1996.

The Republic of Moldova interprets the provisions of the second sentence of Article 2 of the first Additional Protocol to the Convention as not imposing additional financial obligations on the state regarding educational institutions with philosophical or religious orientation, other than those provided for by domestic legislation.

It is important to note that in examining the "jurisdiction" of the Republic of Moldova in terms of Article 1 of the ECHR during the admissibility stage of the *case of Ilie Ilașcu and Others vs. Moldova and the Russian Federation*,⁸ The European Court of Human Rights (ECHR) had the opportunity to rule on the effect of the reservation made by the Republic of Moldova, stating that it would not be able to ensure compliance with the provisions of the Convention regarding the omissions and acts committed

⁸ Grand Chamber Decision as to the Admissibility Of Application no. 48787/99 by Ilie Ilașcu and Others against Moldova and the Russian Federation, 4 July 2001. [Online]. Available at: <https://hudoc.echr.coe.int/eng?i=001-5948> (Accessed: 22 August 2025).

by the authorities of the self-proclaimed Transnistrian Republic on the territory effectively controlled by them until a definitive resolution of the conflict in that area. The Court clearly established: “... firstly, Moldova’s declaration does not refer to any particular provision of the Convention. [...] Secondly, the Court notes that the declaration does not refer to a specific law in force in Moldova. The words used by the Moldovan Government – “omissions and acts committed ... within the territory actually controlled by such organs, until the conflict in the region is finally definitively resolved” – rather indicate that the declaration in question is of general scope, unlimited as to the provisions of the Convention but limited in space and time, whose effect would be that persons on that “territory” would be wholly deprived of the protection of the Convention for an indefinite period.”

In view of the foregoing, the Court considers that the aforementioned declaration cannot be equated with a reservation within the meaning of the Convention, so that it must be deemed invalid. The Court consequently dismisses the Moldovan Government’s preliminary objection based on the existence of the declaration.

With reference to the national implementation of the provisions of the European Convention on Human Rights, it is necessary to mention that in 1999, the Constitutional Court had the opportunity to express its general view on the implementation of international human rights treaties ratified within the legal system of the Republic of Moldova,⁹ in the terms of Article 4 of the Constitution of the Republic of Moldova, adopted on July 29, 1994, which provides:

(1) Constitutional provisions on human rights and freedoms shall be interpreted and are enforced in accordance with the Universal Declaration of Human Rights, with the conventions and other treaties to which the Republic of Moldova is a party.

(2) Wherever disagreements appear between the conventions and treaties on fundamental human rights to which the Republic of Moldova is a party and its domestic laws, priority shall be given to international regulations.

⁹ Hotărîrea Curții Constituționale nr.55 din 14.10.1999 privind interpretarea unor prevederi ale art.4 din Constituția Republicii Moldova. In: Monitorul Oficial 118-119/64, 28.10.1999. [Online] Available at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=273&l=ro> (Accessed: 22 August 2025).

The Constitutional Court of the Republic of Moldova was addressed with the following questions:

What is the meaning of the terms “covenants” and “other treaties”? Which international acts, from a constitutional point of view, fall under the category of covenants and which fall under treaties? What is the distinction between these acts?

Since when is the Republic of Moldova a party to covenants and international treaties: from the date of signing or from the date of ratification?

Which public authority is empowered to determine if a specific law of the Republic of Moldova is not in accordance with the provisions of covenants and international treaties?

Ruling on the aforementioned questions, the Constitutional Court of the Republic of Moldova found the following:

Article 4 of the Constitution guarantees not only the fundamental human rights and freedoms enshrined in the Constitution but also the universally recognised principles and norms of international law.

The term “other treaties to which the Republic of Moldova is a party,” as stated in Article 4 (1) of the Constitution, refers to the international treaties ratified by the Republic of Moldova, including international treaties to which the Republic of Moldova has acceded, which are enforceable for the Republic of Moldova.

The universally recognised principles and norms of international law, the ratified international treaties, and those to which the Republic of Moldova has acceded are an integral part of the legal framework of the Republic of Moldova and become norms of its domestic law.

If there are discrepancies between international covenants and treaties on fundamental human rights and the domestic laws of the Republic of Moldova, according to the provisions of Article 4 (2) of the Constitution, legal authorities are obliged to apply the international regulations.

These reasoning principles also govern the application of the European Convention on Human Rights within the domestic legal order of the Republic of Moldova, as it is an integral part of the legal framework of the Republic of Moldova and constitutes the norms of its domestic law.

On July 9, 2014, the Plenum of the Supreme Court of Justice adopted the Decision on the application of certain provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms by the courts. The Decision explicitly states that, in accordance with the

principle of subsidiarity, the primary responsibility for ensuring the respect of the fundamental rights and freedoms provided by the European Convention lies with the State. This principle presumes that, before resorting to the Convention's institutions, any claimant must have brought their complaint to all national institutions that could provide an effective and adequate remedy in the circumstances of the case, as the respondent State "must first be given the opportunity to remedy the situation referred to by its own means and within the framework of the national legal system."

Moreover, this principle not only reflects the existence of redress mechanisms, but also the primary obligation of all the authorities, especially the courts, to prevent violations by directly applying the European Convention in their decisions.

The European Convention and its Additional Protocols constitute international treaties to which the Republic of Moldova is a party. When applying them, the courts must consider the provisions of Article 4 (2) of the Constitution of the Republic of Moldova and the provisions of the Constitutional Court's Decision No. 55 of October 14, 1999, "On the Interpretation of Certain Provisions of Article 4 of the Constitution of the Republic of Moldova," which establishes that the European Convention is an integral part of the national legal system and, therefore, its provisions must be applied directly as any other law of the Republic of Moldova, having priority over other domestic laws that conflict with it.

In this regard, the primary responsibility for applying the provisions of the European Convention rests with the national courts. Thus, when adjudicating cases, the courts must verify whether the law or act that is to be applied and that provides for rights and freedoms proclaimed by the European Convention is compatible with its provisions. In case of incompatibility, the courts shall directly apply the provisions of the European Convention, as noted in the operative part of the judicial decisions issued.

Furthermore, the Decision indicates that the courts must consider that decisions, actions (or inactions) of state authorities, local public administration authorities, persons in positions of responsibility, judges, including criminal investigators and prosecutors, as well as state or municipal officials, must comply not only with the legislation of the Republic of Moldova but also with the universally recognised general principles, norms of international law, and international treaties ratified by

the Republic of Moldova, including the European Convention and its Protocols, as interpreted by the European Court.

When adjudicating cases, the courts must justify, in all instances, based on the established factual circumstances, the necessity of limiting human rights and freedoms. It should be taken into account that the limitation of human rights and freedoms is allowed only when there are sufficient and admissible grounds for such limitation, and when there is a balance between the legitimate interests of the person whose rights or freedoms are limited and the legitimate interests of other persons, the state, or society. The circumstances established by the court, which demonstrate the need to limit the rights and freedoms of the person, must be justified and reflected in the judicial acts.

Additionally, the Decision provides a series of explanations regarding how national courts should understand, in light of the ECHR's case law, the principle of legal certainty, the presumption of innocence, the reasonable time requirement, the burden of proof in establishing the guilt of the accused, and the determination of compensation for moral damage suffered, among others.

4. The impact of the judgments of the European Court of Human Rights (ECtHR) on the legal order of the Republic of Moldova

In 25 years of exercising the individual application by the citizens of the Republic of Moldova to the ECtHR (1997-2022), 568 judgments have been delivered, in which 730 violations of the European Convention on Human Rights (ECHR) by the Republic of Moldova have been found. The most frequently violated rights in the Republic of Moldova are:

- Right to a fair trial (Art. 6 ECHR) - 229 violations (31.4%);
- Prohibition of torture (Art. 3 ECHR) - 171 violations (23.4%);
- Right to liberty and security (Art. 5 ECHR) - 106 violations (14.5%);
- Right to an effective remedy (Art. 13 ECHR) - 65 violations (8.9%);
- Right to respect for private and family life (Art. 8 ECHR) - 43 violations (5.8%);
- Freedom of expression (Art. 10 ECHR) - 21 violations (2.8%).

The most common types of violations are:

- Non-enforcement of court judgments - 81 violations (11.1%);
- Deficient investigation of ill-treatment and deaths - 59 violations (8.1%);

- Annulment of irrevocable court decisions - 56 violations (7.7%);
- Detention in poor conditions - 48 violations (6.6%);
- Ill-treatment - 39 violations (5.4%);
- Unjustified arrest - 30 violations (4.1%);
- Deprivation of liberty contrary to national legislation - 28 violations (3.9%).¹⁰

Under Moldovan law, parties in ordinary court proceedings and ordinary courts of their own motion may raise an exception of unconstitutionality to question the constitutionality of laws and normative acts applicable to that particular case and to seek the staying of those proceedings until the Constitutional Court of Moldova rules on that question of constitutionality. The concept of a complaint filter is based on the idea that violations of human rights resulting from:

- legislation contrary to the Convention standards; both in terms of quality of law and its foreseeability as well as substantive and procedural provisions; or
- lack of adequate protection of human rights provided for by law could have been removed by the CCM if it had the chance to review them and followed the Convention standards. This concept of a complaint filter is substantively different from the proposal of the Ministry of Justice to introduce the “normative framework to create a national mechanism to filter the high amount of applications” addressed to the ECtHR.¹¹

In sum, it should be emphasised that the potential violations of human rights resulting either from “bad law” (legislation non-conforming to the Convention standards) or the lack of adequate and effective protection provided for by law (absence of legislation conforming to the Convention standards) could be dealt with by the CCM in the same way. The exception of unconstitutionality raised by parties to the judicial proceedings or trial courts on their own motion could challenge laws or the established practice of their application in relation to the Convention standards. In this sense, the exception of unconstitutionality raised in the course of judicial proceedings could improve the state of human rights protection without the need to seek

¹⁰ Goinic and Gribincea, 2022.

¹¹ Comparative Report of the Jurisprudence of the Constitutional Court of Moldova and of the European Court of Human Rights, 2017. p. 8 [Online] Available at: https://www.constcourt.md/public/files/file/suport_ue_cc/Com_Rep_ENG.pdf (Accessed: 22 August 2025).

recourse to the international human rights courts.¹²

When the European Court of Human Rights finds a violation, the country in question often has to take compliance measures and amend parts of its legislation. The Court's judgments also lead to frequent evolutions of national tribunals' case-law. For example, there is a single case against the Republic of Moldova stated on the ECtHR page: *Case of Metropolitan Church of Bessarabia and others v. Moldova*¹³ was established a violation of Article 9 of the ECHR, considering the arbitrary refusal of the Government to register the Metropolitan Church of Bessarabia (the applicant), which was to replace the church of the same name that existed until 1944. The founding act clearly stated that the applicant has no and will have no political aspirations, as it is subordinate to the Romanian Patriarchate. In Moldova, 117 parishes of this church were registered, with approximately one million believers. According to the former law on cults, the applicant had to follow the recognition procedure through a government decision. For eight years, the applicant submitted requests for recognition multiple times, without success. In its final decision, the Supreme Court of Justice argued that the dispute over the recognition of the applicant's cult was an administrative matter to be resolved by the Metropolitan Church of Moldova (a church subordinate to the Russian Patriarchate). After a subsequent request for recognition, the Prime Minister stated that the Metropolitan Church of Bessarabia does not represent a cult but rather a schismatic group within the Metropolitan Church of Moldova, and the recognition of the applicant depended on resolving the internal conflict between the Patriarchates of Bucharest and Moscow. Furthermore, several politicians and institutions expressed negative views regarding the opportunity for the applicant's recognition. Meanwhile, the parishioners and clergy of the Metropolitan Church of Bessarabia (MCB) have been subjected to persecution, including by law enforcement agencies.

The Strasbourg court ruled that, whilst the government had shown some tolerance to the MCB, this could not substitute for full recognition. For example, on several occasions, members of the MCB had been subjected to intimidation. The authorities did not protect MCB members because they had ruled that the MCB's activities were unlawful. In the circumstances, the refusal to recognise the MCB was disproportionate and

¹² *Ibid.* p. 14

¹³ *Case of Metropolitan Church of Bessarabia and others v. Moldova*, App. No. 45701/99, 13 December 2001.

violated the applicants' right to freedom of religion. In July 2002, the Law on Religious Denominations was changed. This allowed the Metropolitan Church of Bessarabia to be legally registered two weeks later. By 2006, the church had registered 86 parishes, 9 monasteries, 2 social missions with 73 sub-divisions, 2 seminaries and a school of ecclesiastical arts. In May 2007 a new Law on Religious Denominations was passed, which included further protections for religious freedom. In October 2007 the government authority responsible for registering religious denominations was dissolved, and full responsibility for the issue was passed to the Ministry of Justice. Further legal reforms to protect religious freedom followed in 2008 and 2009.¹⁴

We consider it appropriate to address in the context of this study other cases in which the ECtHR established the existence of a legal framework that does not meet the requirements of the ECHR provisions.

4.1. Institutional and Legislative Reform in the Republic of Moldova in Response to Inhuman and Degrading Treatment in State Custody

The Corsacov v. Republic of Moldova case¹⁵ (2006) was a landmark case in the jurisprudence of the European Court of Human Rights concerning inhuman and degrading treatment inflicted by state authorities. The applicant, a minor at the time of the events, was detained by the police and subjected to severe physical violence, including repeated beatings on the soles of his feet—a practice known as falaka. These abuses caused him serious injuries and required an extended period of hospitalisation. The Court qualified the treatment as torture within the meaning of Article 3 of the Convention. Moreover, the authorities failed to conduct a prompt and effective investigation into the complaints submitted, thereby breaching the procedural obligations associated with that article.

In response to this judgment, the Republic of Moldova was required to undertake a series of general reforms aimed at preventing similar future incidents and ensuring that the national system aligns with European standards regarding the protection of individuals in state custody. One of the first measures adopted was the creation of a specialised structure within the

¹⁴ Themes: Freedom of religion and belief Republic of Moldova. Metropolitan Church of Bessarabia v. Republic of Moldova 2001. Protection for religious freedom after church banned from existence. [Online] Available at: <https://www.coe.int/en/web/impact-convention-human-rights/-/protection-for-religious-freedom-after-church-banned-from-existence> (Accessed: 22 August 2025).

¹⁵ Case of Corsacov v. Republic of Moldova, App. No. 18944/02, 4 April 2006.

Prosecutor General's Office—an anti-torture unit—responsible exclusively for investigating cases of torture and inhuman treatment. This was followed by the designation of a network of prosecutors with special duties in the field, whose work was supported by methodological guidelines developed with the assistance of the Council of Europe.

On the legislative front, the Moldovan authorities introduced several essential amendments. The Criminal Code was amended in 2018 to toughen the punitive regime for acts of torture, removing the possibility of fines and mandating custodial sentences. The Code of Execution of Sentences was amended in 2012 and later supplemented in 2014 to require a comprehensive and confidential medical examination of persons upon both admission to and release from detention, with detainees also granted the right to be examined by an independent physician at their own request. These amendments were accompanied by a National Action Plan adopted in 2017, aimed at preventing ill-treatment and strengthening institutional capacity to respond effectively to abuse.

Institutional reform continued with the reorganisation of the Ministry of Internal Affairs, the introduction of new internal rules for identifying and reporting abusive practices, and the systematic professional training of operational personnel. Additionally, in 2018, a Professional Intervention Guide was adopted, establishing strict conditions under which force may be used by law enforcement officials, emphasizing the need for proportionality and limiting physical intervention to cases of absolute necessity.

In case of *Cosovan v. Republic of Moldova*¹⁶ the European Court of Human Rights determined that Moldova had violated Article 3 of the European Convention on Human Rights by failing to provide adequate medical treatment to a severely ill detainee, and by maintaining a lack of independence within prison medical services. The Court emphasised that having prison medical units subordinate to the prison administration compromised the patient-doctor relationship—posing serious systemic threats to detainee health care. In response to the Court's finding of systemic failures in the prison healthcare system—including inadequate medical care for seriously ill detainees and a lack of independent medical services—the Moldovan authorities adopted several comprehensive measures.

A key reform was the issuance of Order no. 343 by the Ministry of Justice on 29 December 2022, which restructured medical assistance in

¹⁶ *Ibid.*

prisons. The Order established obligations such as providing nursing services, appropriate nutritional support following medical protocols, and ensuring the confidentiality of medical data through ethical provisions.

Complementing this, the authorities developed an Action Plan (2023) that targeted staffing enhancements by increasing salaries, permitting the filling of vacant medical positions, and setting minimum standards for medical personnel in prisons. The plan also introduced accreditation initiatives for penitentiary hospital units, aligned health policies with national standards, migrated medical record systems to a digital platform, and expanded dental services for inmates.

Moreover, the Committee of Ministers of the Council of Europe, during its December 2024 session, reiterated the urgency of addressing key deficiencies such as the absence of accreditation for prison hospitals and specialist doctor shortages. It demanded clear strategic timelines to resolve these deficits and encouraged consideration of a transfer of medical service oversight from the Ministry of Justice to the Ministry of Health.

4.2. Judicial Reforms in the Republic of Moldova Influenced by ECtHR Jurisprudence on the Protection of Liberty and Security in the Custody of the State

Starting in the mid-2000s, the European Court of Human Rights (ECtHR) delivered a series of judgments against the Republic of Moldova that systematically addressed violations of Article 5 of the European Convention on Human Rights, concerning the right to liberty and security. These decisions progressively recognised flawed judicial practices in the application of coercive measures, gradually leading to significant legislative and institutional reforms.

The Sarban v. Republic of Moldova judgment¹⁷ (2005) was one of the first decisions to highlight the lack of genuine and concrete reasoning in pre-trial detention orders. The Court found that national courts had relied on stereotyped formulas in maintaining detention and criticised the failure to assess the specific risks cited by the prosecution. This judgment contributed to raising awareness of the need to revise the Code of Criminal Procedure and to establish clear obligations regarding the justification of custodial measures.

¹⁷ *Case of Sarban v. Republic of Moldova*, App. No. 3456/05, 4 October 2005.

The Musuc group of cases (2008–2010),¹⁸ including Musuc, Efros, Josan, and Gavrilovici, had a significant impact. In these cases, the ECtHR found that prosecutors and courts invoked stereotypical reasons such as the risk of absconding or influencing witnesses, without demonstrating these risks in a concrete manner. These judgments led to adjustments in the training methodology for judges and prosecutors and to the development of internal judicial policies focused on the proportional application of detention. Additionally, one of the legislative consequences was the introduction of the possibility for witnesses to be summoned to court hearings concerning the issue of pre-trial detention, thereby enhancing procedural guarantees and aligning national law more closely with European human rights standards.

Following the judgments delivered in the cases of Șarban, Cebotari, and Mușuc, amendments were initiated to the Criminal Procedure Code of the Republic of Moldova. These reforms aimed to refine the elements of the proportionality test and to eliminate stigmatizing reasoning that relied solely on references to the Criminal Code or assessed the application of preventive measures exclusively through the lens of potential criminal liability.

Colibaba v. Moldova (2007) reiterated the deficiencies in the practice of national courts, particularly the use of pre-trial detention without real and individualised justification. The Court again underscored the State's obligation to apply detention only as a last resort, which led to modest institutional efforts to encourage the use of alternative measures. However, what set this case apart was the troubling conduct of the Prosecutor General, who sent a letter to the applicant's lawyer accusing him of undermining the authority of the state and cooperating with foreign human rights organisations to discredit national institutions. The European Court of Human Rights found that this amounted to intimidation and an attempt to obstruct the applicant's right to individual petition under Article 34 of the Convention. This unprecedented action by a high-ranking state official highlighted not only the systemic misuse of pre-trial detention but also institutional hostility toward international human rights mechanisms and legal representation, revealing deeper structural resistance within the prosecutorial system to European standards of accountability and transparency. In the aftermath of the European Court of Human Rights decision in Colibaba v. Republic of Moldova, significant reforms were

¹⁸ *Case of Mușuc v. Republic of Moldova*, App. No. 42440/06, 6 November 2007.

implemented to strengthen the right of individual petition. The Council of Europe assessed these general measures through an extended monitoring framework and concluded that the Republic of Moldova has made substantial progress in aligning its practices and institutions with the standards of the European Convention.

A pivotal reform came in 2016 with the adoption of the Law on the Prosecutor's Office, which introduced a transparent selection process for the Prosecutor General via a public competition, followed by appointment by the President upon the recommendation of the Superior Prosecutorial Council. Simultaneously, an Ethical Code for Prosecutors was enacted, mandating prosecutors to comply with ECHR jurisprudence and uphold the rights of all parties involved in judicial proceedings.

Furthermore, to prevent abuses during detention, amendments were made in 2012 to the Code of Execution of Sentences. These amendments ensured that detained individuals receive a comprehensive medical examination upon admission as well as upon release. Crucially, detainees were also granted the right to be examined by an independent physician at their own request.

The *Buzadji v. Republic of Moldova*¹⁹ judgment, delivered by the Grand Chamber of the European Court of Human Rights (ECtHR) in 2016, marked a significant development in the Court's jurisprudence regarding the right to liberty under Article 5 § 3 of the European Convention on Human Rights (ECHR). At the heart of the case was the recurrent and prolonged use of pre-trial detention in Moldova, a practice that had drawn increasing criticism both domestically and internationally.

Tudor Buzadji, the applicant, was a former public official who had been arrested in 2007 on suspicion of committing economic offences during his time in office. While the initial arrest was deemed lawful, the case raised serious concerns about the repeated and seemingly automatic extensions of his pre-trial detention. The Moldovan courts justified these extensions using formulaic reasoning, without sufficient individualisation or critical assessment of Mr. Buzadji's specific situation. In its analysis, the Grand Chamber reiterated that pre-trial detention must be the exception, not the rule, and that once a person has been detained based on reasonable suspicion, any continuation of that detention must be justified by additional, relevant, and sufficient reasons. These may include the risk of absconding,

¹⁹ *Case of Buzadji v. Republic of Moldova*, App. No. 23755/07, 5 July 2016.

interference with the investigation, or the risk of reoffending, but such risks must be substantiated with concrete facts rather than presumed.

A critical failure identified by the Court was the domestic authorities' lack of consideration of alternative measures to detention, such as bail or house arrest. This omission constituted a direct breach of the state's positive obligation to explore less intrusive means of ensuring the proper conduct of criminal proceedings. Most notably, the Grand Chamber strongly criticised the generic and stereotypical reasoning employed by the Moldovan judiciary, emphasizing the need for consistency, clarity, and individual analysis when a person's fundamental right to liberty is at stake. This criticism was crystallised in the Court's own words:

The Court considers that the reasons given by the national courts for the applicant's detention and its extension were abstract and stereotyped. The judges merely cited the grounds for detention without attempting to show how they applied concretely to the specific circumstances of the case. Moreover, the national courts did not act consistently. Thus, those arguments — including the prosecutor's allegations of a risk that the applicant might abscond, influence witnesses, or destroy evidence — were rejected as unfounded and implausible. In other instances, the same arguments were repeated without any apparent change and without offering any explanation for this. The Court considers that, where such an important issue as the right to liberty is at stake, it is the duty of the national authorities to convincingly demonstrate that detention is necessary — something which was omitted in the present case. In light of the above, the Court concludes that there were no relevant and sufficient reasons to order and later prolong the applicant's detention. It follows that there has been a violation of Article 5 § 3 of the Convention.

This case has since become a key reference in ECHR case law concerning arbitrary detention, serving as a precedent in reinforcing the individualised justification requirement for continued deprivation of liberty and underscoring the subsidiarity principle, whereby national courts must diligently protect Convention rights before the ECtHR steps in.

Following the judgment in the Buzadji case, the Moldovan authorities concluded that the Republic of Moldova faces a variety of issues leading to

violations of Article 5 of the Convention. One of these issues is the improper implementation of the existing legislation by national authorities, as in many cases the Court does not find any defect in the national legislation itself — i.e., from the perspective of the quality of the law — but rather notes the failure of prosecutors and national courts to comply with the applicable rules through their proper application. This failure is, for example, due to a lack of diligence, manifested on one hand by the submission of unmotivated and unjustified requests for pre-trial detention, and on the other hand by the issuance of rulings and decisions lacking plausible reasoning to admit such requests. Nevertheless, situations in which the Court finds imperfections in the existing legislation should not be overlooked, especially concerning the absence of effective remedies for violations of Article 5 §§ 1–4 of the Convention. It is imperative that national authorities consider the Court’s jurisprudence in the process of drafting or adjusting legislation. Furthermore, in the absence of specific rules regulating a given situation, courts should apply directly the standards of the European Convention on Human Rights as developed by the Court’s case law, regardless of whether the cases concern the Republic of Moldova or other States Parties to the Convention.²⁰

In conclusion, the cumulative impact of these rulings pushed the Republic of Moldova from isolated, reactive responses toward a more structural approach in addressing pre-trial detention and safeguarding the right to liberty. From targeted legislative amendments to the development of public policies and professional training initiatives, the influence of ECtHR jurisprudence on the Moldovan justice system is both clear and ongoing.

4.3. The Impact of ECtHR Jurisprudence on Strengthening Legal Safeguards and the Oversight of Telephone Interceptions in Moldova

In the case of Iordachi and Others v. the Republic of Moldova,²¹ the applicants, members of the non-governmental organisation “Lawyers for Human Rights,” specialised in representing claimants before the Court, argued under Article 8 of the Convention that their right to freedom of

²⁰ Ministerul Justiției al Republicii Moldova. Studiu privind respectarea Articolului 5 din Convenția pentru apărarea drepturilor omului și a libertăților fundamentale de către Republica Moldova. Chișinău: Ministerul Justiției al Republicii Moldova, 2018. [Online] Available at: https://www.justice.gov.md/public/files/agent_guvernamental/A5_MDA.pdf. (Accessed: 22 August 2025).

²¹ *Case of Iordachi and Others v. Moldova*, App. No. 25198/02, 10 February 2009.

correspondence was not respected. They claimed that the national legislation regulating the interception of telephone communications lacked adequate safeguards against potential abuse by national authorities. The applicants did not allege that they had been directly subjected to specific instances of telephone or postal communication interceptions, nor did they initiate national-level proceedings in this regard. Telephone conversations fall within the scope of the notions of “private life” and “correspondence” as defined under Article 8. The mere existence of such legislation poses the risk of being monitored for those subject to it. This risk inevitably impacts the freedom of communication between users of postal and telecommunications services and constitutes “an interference by a public authority” with the applicants’ right to respect for correspondence.

The European Court of Human Rights (ECtHR) found that the Moldovan legislation did not clearly define the scope of offenses justifying interception warrants, as over half of the Criminal Code’s offenses were eligible, leading to overly broad application. The law also lacked clarity on which individuals could be targeted, particularly concerning the vague category of “other persons involved in a criminal offense.”

Furthermore, the legislation failed to set clear time limits on interception measures, allowing authorities to repeatedly obtain warrants after the six-month statutory period. The role of the investigating judge in authorizing interceptions was limited, raising concerns about judicial oversight. Additionally, there were no precise regulations on how intercepted data should be screened, preserved, or destroyed to ensure confidentiality and integrity.

The Parliament was nominally responsible for overseeing secret surveillance, but the law did not specify the procedures or mechanisms for this control, and no evidence that effective parliamentary oversight existed was presented.

Statistics revealed that in 2007, Moldovan courts approved nearly all interception requests, with thousands of warrants issued annually between 2005 and 2007, indicating potential overuse. The Court emphasised that telephone tapping is a serious interference with privacy rights and should only be authorised on the basis of strong and reasonable suspicion of serious criminal activity—a standard not clearly defined in Moldovan law.

Overall, the Court concluded that Moldova’s legal framework did not provide adequate safeguards against abuse of power in phone interceptions, rendering the interference with the applicants’ privacy rights under Article 8

of the European Convention on Human Rights unlawful. Consequently, a violation of Article 8 was found.

This ECtHR judgment served as the basis for amending the legislation of the Republic of Moldova regarding special investigative activities to ensure the protection of the secrecy of correspondence, as stipulated by Article 8 of the ECHR.

4.4. Protection for victims of domestic violence

Having ratified a multitude of international instruments in the area of human rights and fundamental freedoms, the Republic of Moldova has undertaken a series of commitments, among which is the development of a domestic normative framework in line with protected fundamental values. It is worth mentioning that the adoption of national laws inspired from the texts of the international and regional acts does not imply the automatic implementation of the international standards, in particular, in the area of non-discrimination. Quite often, the proper enforcement of the legal provisions is hindered by a series of sometimes concealed barriers, which remain unnoticed by the state authorities. Therefore, Moldova, which displays the traits of a patriarchal society, is knowledgeable about the multiple socio-economic, procedural and cultural barriers.

In recent years, the Republic of Moldova has strengthened its legal and regulatory framework on gender equality, equal treatment of women and men with regard to employment, education, health and other areas. Despite progress with regard to ensuring gender equality, the authorities still have to resolve many issues standing in the way of completely eliminating the differences between men and women and strengthening gender balance.

In this regard, we find it useful to present the case-law of the European Court of Human Rights (ECtHR) in cases against the Republic of Moldova in which the ECtHR had the occasion to rule on matters of violence against women. In all court cases, the Court found non-compliance with the provisions of Article 3 (prohibition of torture) and, selectively, Article 8 (right to respect for private and family life), or Article 14 (prohibition of discrimination) taken together with Article 3.

The first judgment regarding the Republic of Moldova in which the Court examined the issue of domestic violence as a form of discrimination on grounds of gender is in the case of *Eremia v. Moldova*.²² The case concerned an application by the applicants — a mother and her two

²² Case of Cauza Eremia v. Republicii Moldova, App. No. 3564/11, 28 august 2013.

daughters — in which they alleged a violation of their rights under the Convention due to the Moldovan authorities failing to undertake the necessary measures to protect them from the violent and abusive behaviour of her husband, that is, the children's father, a police officer. In particular, the applicants complained that the authorities had failed to take appropriate action to prevent domestic violence, safeguard them from its effects, examine their complaints, and sanction the perpetrator. They argued that the violence was gender-based and led to discrimination contrary to Art. 14 of the Convention.

In this particular case, the manner in which the authorities handled the case, in particular their knowledge of the danger of further domestic violence and their failure to apply effective measures against the perpetrator, the Court found that the State had failed to fulfil its positive obligations under Article 3 of the Convention and that there has therefore been a violation of this provision in respect of the first applicant.

Regarding the complaint about the alleged discrimination on grounds of gender, the Court referred to its findings that the first applicant was subjected to violence by her husband several times and that the authorities were aware of this. Additionally, the Court also noted that, having repeatedly been the victim of domestic violence, the first applicant requested an urgent examination of her application for divorce. Nevertheless, the judge apparently refused to consider such application as a matter of urgency and the president of the domestic court has not undertaken any official action with regard to the complaint filed in this regard. Furthermore, the first applicant was summoned to the local police commissariat and was persuaded to withdraw her complaint against the aggressor. Moreover, the complaint submitted by her lawyer regarding this fact was apparently left unanswered. It is also evident that the Department of Social Assistance and Family Protection failed to enforce the protective order on behalf of the applicant until 15 March 2011 and, allegedly, had repeatedly insulted the applicant by suggesting a reconciliation, because, at any rate, “she was neither the first nor the last woman beaten by her husband”.²³ Finally, having recognised that he had beaten his wife, the aggressor was, in principle, exempted from any responsibility as a result of the prosecutor's order on the conditional suspension of proceedings.

²³ Aforementioned judgment., par. 87.

In the opinion of the Court, the combination of the above factors clearly shows that the authorities' actions were not a mere omission or delaying of the case regarding violence against the applicant; rather, these led to a repeated show of tolerance for violence and reflected a discriminatory attitude towards the first applicant as a woman.

This case illustrates the difficulties for victims of domestic violence in upholding their rights and obtaining protection and remedies. It includes several elements recurring in cases of domestic violence. For instance, lack of effective protection measures, not charging the perpetrator, dealing with the case as a private matter and discouraging the woman to file a complaint, applying gender stereotypes (this attitude undermines the victim's trust in the justice system and discourages them from upholding their rights).

In the case of *B. v. the Republic of Moldova* the applicant complained that she was subjected to repeated domestic violence by her former husband; however, the State authorities had not undertaken all the required measures to stop and prevent similar situations.

Despite multiple forensic reports confirming physical abuse and several court rulings imposing minor fines on the aggressor, these sanctions proved ineffective. The victim sought the eviction of her abuser from their shared apartment, but after initial favourable decisions, the Supreme Court overturned these rulings, dismissing evidence of systematic violence and prioritizing the husband's property rights over the applicant's safety. Subsequent violent incidents continued, leading to a limited protection order that prohibited contact but did not evict the husband, as the courts found no proven danger to their children and no alternative housing for him. The applicant appealed without success.

The European Court of Human Rights found violations of Articles 3 and 8 of the Convention, emphasizing the State's positive obligations to protect individuals from ill-treatment by private parties. It held that the national authorities' response—characterised by insufficient sanctions, failure to investigate serious allegations fully, and neglecting the impact of the ongoing shared living situation—was inadequate. The victim's ongoing fear and distress due to continuous abuse and forced cohabitation constituted inhuman treatment and interference with her private life. The Court concluded that Moldova failed to balance property rights against the applicant's right to protection and security, violating her Convention rights by not preventing further violence or ensuring her effective protection.

The Court found the practices of discrimination on grounds of gender in the cases of *Mudric versus Moldova*,²⁴ *T.M .and C.M. versus Moldova*.²⁵ Thus, in all the aforementioned cases, the Court found violations of Article 14 of the Convention in conjunction with Articles 3 and 8, on the grounds that the authorities had displayed a discriminatory attitude and failed to apply the national legislation adopted in order to provide protection against domestic violence due to preconceived ideas on the role of women in the family.

Following the adoption of the European Court of Human Rights judgments, a series of reforms were initiated, among which were the adoption and enhancement of the legislative framework on domestic violence, including Law no. 45/2007 on the Prevention and Combating of Domestic Violence. This law was subsequently amended and supplemented to provide stronger support for victims, such as the introduction of provisional protection orders and special measures aimed at safeguarding the physical and psychological integrity of victims.

Additionally, intervention mechanisms within the police and social institutions were strengthened to ensure a prompt and coordinated response to domestic violence cases. Specialised training programs were also established for law enforcement, judicial, and social assistance personnel to enhance their capacity to respond effectively and protect victims.

The monitoring system for domestic violence cases was improved through the creation of inter-institutional coordination structures tasked with overseeing the protection of victims' rights and ensuring the proper implementation of preventive measures.

In 2017, the Republic of Moldova signed the Council of Europe convention on preventing and combating violence against women and domestic violence ("Istanbul Convention"). Subsequently Moldova changed its laws on domestic violence. These changes, which have been in force since 2016, provide better support to victims of domestic violence and tougher sanctions against perpetrators, including criminal penalties for breaching a restraining order. The Moldovan authorities organised training courses for judges, prosecutors, and the police on preventing domestic violence as well as awareness and public information campaigns. Although initial progress has been achieved, systemic issues relating to domestic violence in Moldova have not yet been fully resolved and remain under the

²⁴ Case of Cauza Mudric v. Republica Moldova, App. No. 74839/10, 16 October 2013.

²⁵ Case of Cauza T. M. Si C.M. v. Republicii Moldova, App. No. 26608/11, 28 Január 2014.

supervision of the Council of Europe's Committee of Ministers. The Moldovan authorities are expected to take further action in due course.²⁶

4.5 The European Court of Human Rights' Reasoning and the Impact of Its Judgment on Moldova's Ethnic Identity Legislation

In the case of Ciubotaru v. the Republic of Moldova,²⁷ the applicant argued, *inter alia*, that there was a violation of his right to respect for private life due to the authorities' refusal to register his ethnicity as declared by him. In the case at hand, the applicant, whose parents were originally from Bălți, Bessarabia, Romania, claimed that at the time of collecting and recording information about his identity, the authorities refused to register his Romanian identity and imposed on him an ethnicity with which he did not identify.

Given that the notion of private life is a broad one, encompassing the physical and psychological integrity of a person, the protection under Article 8 extends to the private sphere of each individual, including the right to establish the details of their identity, such as ethnic identity, which is inherent to a human being.

Considering the highly sensitive nature of the issues raised in the present case, the Court distanced itself from the existing disputes within the Moldovan society regarding the ethnic identity of the main social group and focused primarily on the legislation of the Republic of Moldova and the official position of the respondent Government concerning Romanians and Moldovans.

The Court did not dispute the Government's right to require objective evidence of the claimed ethnicity. In the same context, it may be acceptable for the authorities to reject a request for official registration of belonging to a specific ethnic group when such a request is exclusively subjective and unsubstantiated. In the present case, the applicant apparently faced a legislative provision that made it impossible for him to provide any evidence to support his request. This is evident since the Law on Civil Status Acts, as well as current registration practices of ethnic identity, create insurmountable barriers for all those who wish to register an ethnicity different from that recorded by the Soviet authorities in the case of their parents.

²⁶ *Case of Eremia v. Moldova*, App. No. 3564/11, 28 May 2013.

²⁷ *Case of Ciubotaru v. Moldova*, App. No. 27138/04, 27 April 2010.

According to this article, the applicant could only change his ethnicity if he could prove that at least one of his parents was of Romanian ethnicity and was registered as such. This requirement represented a disproportionate condition in relation to the historical realities of the Republic of Moldova. Additionally, it was noted that Mr. Ciubotaru's claim was based, in principle, on his own subjective perception of his ethnicity. It is evident that he could have provided objective evidence to demonstrate his ties to the Romanian ethnicity, such as language, name, cultural affection, and others. However, no such evidence was required by the legislation in force in the Republic of Moldova.

Given the totality of the circumstances of the case, it cannot be argued that the entire procedure established for the applicant to change the designation of his ethnicity met the positive obligations of the Republic of Moldova to ensure his right to respect for private life. The state's omission actually led to the applicant's inability to have his claim to belong to a distinct ethnic group reviewed based on objective and corroborated evidence brought in support of this claim. Therefore, since the authorities did not comply with the positive obligation to ensure the applicant's right to respect for private life, there was a violation of Article 8 of the Convention.

Subsequently, in 2012 the Moldovan Parliament changed the law. It decided that, when someone reaches sixteen years of age, their ethnicity is registered at their request according to their own wishes. Information on birth certificates and other documents can also be altered at the request of an individual. Mihai's legal proceedings were re-opened, and the Moldovan courts found in his favour. They ordered the authorities to change the ethnicity on his birth certificate to Romanian.²⁸

4.6. The European Court of Human Rights' Ruling and Its Transformative Impact on Moldova's Legal Framework for Religious Freedom

The European Court of Human Rights' judgment in the case of Metropolitan Church of Bessarabia vs. the Republic of Moldova²⁹ was the first case in which the Court rendered a decision against the Republic of Moldova. This judgment marked a defining moment for Moldova's legal system, having a significant impact on the protection of religious freedom and subsequent

²⁸ *Ibid.*

²⁹ *Case of Metropolitan Church of Bessarabia and others v. Moldova*, App. No. 45701/99, 13 December 2001.

legislative reforms. In this case, the Court found that the refusal of Moldovan authorities to officially recognise the Metropolitan Church of Bessarabia, affiliated with the Romanian Patriarchate, violated the rights guaranteed under Article 9 concerning freedom of religion, as well as the right to an effective remedy under Article 13 of the European Convention on Human Rights. This decision compelled the national authorities to register this religious community.

Subsequently, in July 2002, the Metropolitan Church of Bessarabia was officially registered, acquiring legal personality and the capacity to defend its interests before national courts. The ECHR ruling spurred changes to the national legal framework, specifically leading to the revision of the Law on Religious Denominations, which aimed to facilitate the legal recognition of religious communities and align Moldovan legislation with the European standards set forth by the Court's decision. However, the Council of Europe's Committee of Ministers considered these amendments insufficient, urging authorities to clarify recognition procedures and improve judicial protection mechanisms for religious freedom. Several versions of a new law on religious denominations were also proposed and debated.

Beyond these legislative measures, the judgment had a profound effect on Moldova's legal and institutional culture. The ECHR decision was widely disseminated within the judiciary and national institutions, becoming a normative and doctrinal precedent that fostered a more neutral, pluralistic, and respectful approach toward religious diversity.

4.7. Protection of Freedom of Expression

The case of *Guja v. Republic of Moldova*³⁰ represents a landmark for the protection of freedom of expression and the rights of whistleblowers in the Republic of Moldova. The applicant, a journalist and civic activist, was dismissed after making public a critical report against a public official, exposing alleged irregularities in the management of public funds.

The European Court of Human Rights found that the measures taken against the applicant constituted a violation of his right to freedom of expression, guaranteed by Article 10 of the Convention. The judges emphasised the essential role of the media and whistleblowers in exposing corruption and abuses, as fundamental pillars of a democratic society.

³⁰ *Case of Guja v. Republic of Moldova*, App. No. 14277/04, 12 February 2007.

The Court also established that to justify a restriction on freedom of expression, the State must demonstrate that the measures are proportionate, necessary, and do not disproportionately affect the applicant's rights. In this case, the dismissal was deemed excessive and unjustified, having a deterrent effect on other potential whistleblowers.

The Guja judgment prompted a reassessment of national policies and practices regarding whistleblower protection. Subsequently, legislative amendments were promoted to strengthen the legal framework protecting individuals who report wrongdoing, including the adoption of mechanisms against retaliation.

The reforms included clarifying internal procedures for receiving and investigating complaints related to corruption and other misconduct, as well as guaranteeing the anonymity of whistleblowers. Furthermore, the judgment fostered a cultural shift within Moldova's institutional environment, promoting a more open attitude toward transparency and public accountability.

The case of NIT S.R.L.,³¹ examined by the European Court of Human Rights, is among the few in its case law in which the Court ruled in favour of the state, emphasizing that freedom of expression is not absolute and that maintaining balance in the media landscape is a legitimate interest in a democratic society. In the years following 2009, the private television station NIT S.R.L. became one of the most vocal media outlets in the Republic of Moldova, widely seen as sympathetic to the opposition Communist Party. In a politically tense climate, NIT regularly broadcast content critical of the pro-European government, particularly through its news bulletins. This editorial stance drew the attention of the Broadcasting Coordinating Council (CCA) – the national media regulatory authority.

The CCA began sanctioning the station for what it described as a lack of pluralism and objectivity, arguing that NIT violated broadcasting laws by presenting politically biased content. Over time, the penalties became increasingly severe, ultimately culminating in April 2012 with a drastic decision: the revocation of NIT's broadcasting license. The station was taken off the air, and the case was brought before the European Court of Human Rights (ECtHR).

NIT claimed that the actions of the Moldovan authorities were politically motivated, that it was the victim of an abuse of power, and that

³¹ *Case of NIT S.R.L. v. The Republic of Moldova*, App. No. 28470/12, 5 April 2022.

its right to freedom of expression – guaranteed under Article 10 of the European Convention on Human Rights – had been violated. It further argued that the sanctions were arbitrary and that it had been denied a fair process.

However, after ten years of legal proceedings, the Strasbourg Court found no violation of Article 10. The Court was convinced that the decision to restrict the applicant company's freedom of expression was based on relevant and sufficient reasons for the purposes of the “necessity” test under Article 10 § 2 of the Convention. The national authorities had acted within their margin of appreciation, striking a reasonable balance between the need to protect pluralism and the rights of others, on the one hand, and the need to protect the applicant company's right to freedom of expression, on the other. Therefore, the interference was deemed “necessary in a democratic society” within the meaning of Article 10 of the Convention, and no violation of that Article was found in the present case.

Likewise, the Court also found no violation of Article 6 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property), as claimed by the applicant.

Other cases examined by the European Court of Human Rights that resulted in changes to the national framework addressed: *the right to freedom of peaceful assembly*,³² *protection of private life of a person in a pre-trial detention*³³, *protection of property (equal compensation for the breach of intellectual property rights)*³⁴, *the right to a fair trial (breach of the principles of equality of arms and legal certainty expressed through allowing the state to lodge a lawsuit against the company despite the expiry of the general limitation period)*³⁵, *right to free elections (prohibition of public officials to hold dual citizenship)*³⁶.

With reference to *pilot judgments in cases against the Republic of Moldova*, it is worth mentioning the case of Olaru and Others v. the

³² *Case of Christian Democratic Peoples Party v. Moldova*, App. No. 28793/02, 14 February 2009; *Case of Hyde Park and Others v. Moldova*, App. No. 33482/06, 31 March 2009; *Case of Hyde Park and Others v. Moldova*, App. No. 45094/06, 31 March 2009; *Case of Hyde Park and Others v. Moldova*, App. No. 45095/06, 31 March 2009; *Case of Genderdoc-M v. Moldova*, App. No. 9106/06, 12 June 2012.

³³ *Case of Ostrovar v. Moldova*, App. No. 35207/03, 13 September 2005; *Ciorap v. Moldova*, App. No. 12066/02, 19 June 2007.

³⁴ *Case of Balan v. Moldova*, App. No. 19247/03, 28 January 2008.

³⁵ *Case of Dacia S.R.L. v. Moldova*, App. No. 3052/04, 18 March 2008.

³⁶ *Case of Tănase v. Moldova*, App. No. 7/08, 27 April 2010.

Republic of Moldova, where the applicants complained that court decisions awarding them social housing had not been enforced. In this case, the Court identified the existence of a structural problem: Moldovan social housing legislation granted privileges to a very wide category of persons. However, due to a chronic lack of funds available to local governments, final judgments awarding social housing were rarely enforced.

The Court, deciding to adjourn all similar cases, held that, within six months from the date on which the judgment became final, the Moldovan State had to set up an effective domestic remedy for nonenforcement or delayed enforcement of final domestic judgments concerning social housing and, within one year from the date on which the judgment became final, grant redress to all victims of non-enforcement in cases lodged with the Court before the delivery of the present judgment. Following this pilot judgment, the Moldovan Government reformed its legislation by introducing a new domestic remedy in July 2011 against non-enforcement of final domestic judgments and unreasonable length of proceedings.

Subsequently, in the case of Balan v. the Republic of Moldova, 24.01.2012 the new domestic remedy introduced in Moldova against non-enforcement of final domestic judgments and unreasonable length of proceedings, following the Court's pilot judgment in the above-mentioned case Olaru and Others v. Moldova. The Court concluded that Mr Balan had not instituted the new domestic remedy in Moldova, as he had been required, and therefore rejected his application for non-exhaustion of domestic remedies.³⁷

Finally, we find it appropriate to express our views on a category of *cases initiated at the ECtHR by applicants from the Republic of Moldova against the actions of the self-proclaimed authorities in the Transnistrian region*. Starting with the first case examined by the ECtHR, we follow how the High Court in Strasbourg admits the applications submitted against the governments of the Russian Federation and the Republic of Moldova, declaring them admissible, as they concern violations of the rights guaranteed by the Convention. Simultaneously, in establishing the jurisdiction of the Republic of Moldova under Article 1 of the Convention, the reasoning established in the case of Ilașco and Others v. Moldova and

³⁷ Press Country Profile. Republic of Moldova. July 2024, [Online]. Available at: https://www.echr.coe.int/documents/d/echr/cp_republic_of_moldova_eng (Accessed: 22 August 2025).

Russia³⁸ is repeated, namely: the Court considers that the Moldovan Government, the only legitimate government of the Republic of Moldova under international law, does not exercise authority over part of its territory, namely that part which is under the effective control of the “Moldavian Republic of Transdniestria”.

Specifically, in the spirit of this finding, the Russian Federation was held responsible both in the case of Ilașcu and Others and in the cases subsequently submitted to the jurisdiction of the ECtHR, where the applicants invoked violations on the left bank of the Dniester River of the *right to education*,³⁹ *the right to life*,⁴⁰ *protection of property*,⁴¹ etc.

In the case of Mozer,⁴² the applicant complained, among other things, that he was arrested and detained illegally by the “authorities of the Transnistrian Moldovan Republic (TMR)”. He also alleged that he was not provided with the medical assistance necessary for his health condition, as he suffered from bronchial asthma. He further claimed that he was held in inhuman detention conditions and was denied visits from his parents and his pastor. He argued that both states, Moldova and Russia, exercised jurisdiction and were therefore responsible for the alleged violations. The Russian Government asserted that the applicant was not within its jurisdiction, and therefore his application should be declared inadmissible *ratione personae* and *ratione loci* with respect to the Russian Federation. From the perspective of the Moldovan Government, the Republic of Moldova did not deny that it holds jurisdiction over the territory de facto controlled by the “TMR” but claimed that the applicant had failed to exhaust domestic remedies available in Moldova. In determining jurisdiction, the European Court of Human Rights (ECtHR) found no reason to distinguish this case from Ivanțoc and Others, Catan and Others v. Republic of Moldova and Russia, ultimately holding the Russian Federation responsible for violations of Articles 3, 5 §1, 5 §4, 8, 9, and Article 13 taken

³⁸ *Case of Ilașcu and Others v. Moldova and Russia*, App. No. 48787/99, 8 July 2004.

³⁹ *Case of Catan and Others v. the Republic of Moldova and Russia*, App. Nos. 43370/04, 8252/05 and 18454/06 19 October 2012.

⁴⁰ *Case of Pisari v. the Republic of Moldova and Russia*, App. No. 42139/12, 21 April 2015.

⁴¹ *Case of Turturica and Casian v. Moldova and Russia*, App. Nos. 28648/06, 18832/07, 30 January 2017; *Case of Pădureț v. Moldova and Russia*, App. No. 26626/11, 13 November 2017.

⁴² *Case of Mozer v. the Republic of Moldova and Russia*, App. No. 11138/10, 23 February 2016.

together with Articles 3, 8, and 9 of the European Convention on Human Rights.

5. Execution of ECtHR judgments by the Republic of Moldova

In 2023, the Committee of Ministers received 29 cases against the Republic of Moldova from the European Court for supervision of their execution (compared to 37 in 2022 and 54 in 2021). The cases in which the Russian Federation was held responsible for human rights violations in the Transnistrian region (in particular, *Catan and Others, Mozer*) have not been executed by that state, and the situation is being monitored by the Committee of Ministers of the Council of Europe.

In 2024, the Committee of Ministers decided to close its supervision of the execution of the *Catana v. the Republic of Moldova* judgment, concerning two disciplinary proceedings in 2012 against an investigating judge. The Court found a violation of the right to a fair trial on account of the lack of independence and impartiality of the Superior Council of Magistracy, which examined the disciplinary proceedings, due to the presence of the Prosecutor General and the Minister of Justice as ex officio members as well as the flawed procedure of selecting professors of law as members of this body. Following constitutional amendments in 2022, the Minister of Justice, the Prosecutor General, and the President of the Supreme Court of Justice were excluded from the Superior Council of Magistracy. The Council now comprises six judges, elected through a secret ballot by the General Assembly of Judges, and six lay members appointed by Parliament with a qualified majority, thus ensuring an open and transparent process. The Disciplinary Board of the Superior Council of Magistracy comprises four judges with at least two years' experience and three lay members from civil society, all of whom must have an impeccable reputation and at least seven years of experience in the field of law. Additionally, the Law on the Superior Council of Magistracy was amended in 2018, granting the Supreme Court of Justice the authority to examine both the admissibility and merits of decisions made by the Superior Council of Magistracy in disciplinary cases against judges. The Committee of Ministers also decided to close its examination of the case *A.C. v. the Republic of Moldova*, examined in the group *I.D. v. the Republic of Moldova*, concerning the breach of the applicant's right to file an individual application under Article 34 of the Convention due to the prison

administration's actions to intimidate or dissuade him from pursuing his case before the Court. To prevent such intimidation of detainees in the future the National Prison Administration (NPA), in 2022, issued a circular reflecting the Court's findings in the A.C. case. Additionally, regular inspections of penitentiary institutions are conducted to ensure compliance with the circular. Prisoners are interviewed, and their complaints are promptly investigated, enabling the NPA to take swift action if there are reasonable grounds to believe that intimidation has occurred.⁴³

In the context of examining the execution of judgments delivered by the European Court of Human Rights, the case of Ozdil and Others v. the Republic of Moldova (Application No. 42305/18, judgment of 11 June 2019) warrants particular attention. It exemplifies a serious breach by the State of Moldova in safeguarding fundamental legal protections under the European Convention on Human Rights, especially regarding arbitrary detention and expulsion.

In this case, five Turkish nationals – employed as teachers in private schools in Moldova – were detained and immediately deported to Turkey without being informed, provided legal representation, or afforded the opportunity to contest the decision. Their removal occurred before their asylum applications were adjudicated, raising significant concerns about due process and protection from arbitrary deprivation of liberty.

The European Court of Human Rights found that this operation violated Article 5 § 1, holding that the detention and transfer were neither lawful nor necessary and constituted arbitrary removal that contravened both national and international legal safeguards. Moreover, the Court determined that Article 8 was breached, as the applicants had established family and private life in Moldova, which was disrupted without lawful justification.

Despite the gravity of these violations, the Republic of Moldova has taken only limited steps towards implementation. A criminal case was opened, resulting in the ex-head of the Intelligence Service being fined for abuse of power. However, broader systemic remedies – such as the declassification of documents, a fully independent investigation, and

⁴³ Committee of Ministers. Supervision of the Execution of Judgments and Decisions of the European Court of Human Rights. 18th Annual Report, 2024. [Online] Available at: <https://rm.coe.int/gbr-2001-18e-rapport-annuel-2024/1680b4d77d> (Accessed: 22 August 2025).

accountability for all officials involved – have been assessed as insufficient by organisations like Amnesty International.

On 13 November 2020, the Moldovan Constitutional Court declared unconstitutional several provisions of the Status of Aliens Act. This decision concerns notably provisions that do not provide for the notification of the reasons for which a third country national is declared an undesirable person on grounds of national security and do not allow the taking into account of justified concerns of ill-treatment in case of a forced return. The Constitutional Court sent a notification to the Parliament and set up provisional rules until the relevant legislative amendments are made. Under these rules, the aforementioned administrative decisions should contain a summary of the reasons, in a manner compatible with the legitimate interest of national security, which will be notified to the person concerned. Moreover, the Constitutional Court declared the Administrative Code's provision which limits the courts' competence to control the proportionality of administrative acts, as unconstitutional.⁴⁴

6. Conclusions

The general conclusions drawn from the study are that the Republic of Moldova has been and remains committed to democratic values and the ideals of human rights protection. The accession to the European Convention on Human Rights has enabled a thorough revision of the legal institutions inherited from the Soviet period, which were characterised by outdated concepts, rigid provisions, and burdened by an ideology, stereotypes, and prejudices that lagged behind those characteristics of European society at the end of the 1990s.

The cases analysed in this paper and the presented statistical data lead us to the conclusion that, despite the reforms undertaken – largely inspired by the objective of European integration pursued by the Republic of Moldova since its appearance on the political map of the world – systemic issues persist within the national legal system that severely impact the implementation of the provisions of the European Convention on Human

⁴⁴ Moldova: Constitutional Court's decision sparks review of law concerning expulsions and national security. [Online] Available at: <https://www.coe.int/el/web/execution-/moldova-constitutional-court-s-decision-sparks-review-of-law-concerning-expulsions-and-national-security> (Accessed: 22 August 2025).

Rights. This has a negative effect both on the state's image and on the public perception of justice by the litigants.

Particularly in the realm of safeguarding the rights of individuals detained by the state, the jurisprudential developments of the European Court of Human Rights concerning cases against the Republic of Moldova have catalysed a significant transformation in both legal frameworks and institutional practices. These rulings have propelled the Moldovan authorities to move beyond reactive, ad hoc responses toward implementing comprehensive and systematic reforms. This gradual yet crucial shift reflects an ongoing alignment of the national criminal justice system with established European human rights standards governing the treatment and protection of persons deprived of liberty.

The cases examined by the High Court in Strasbourg against the Republic of Moldova have led to the establishment of general principles and have generated changes in the national legal framework through the general measures established by the Court or through the adoption of pilot judgments. Most of these decisions have been executed by the Republic of Moldova. However, the question of executing the judgments related to human rights violations in Transnistria – attributable to the Russian Federation – remains open, as does the uncertain effect of the European Convention on Human Rights in this part of the territory of the Republic of Moldova.

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