

Press release issued by the Registrar

CHAMBER JUDGMENT
IORDACHI AND OTHERS v. MOLDOVA

The European Court of Human Rights has today notified in writing its Chamber judgment¹ in the case of *Iordachi and Others v. Moldova* (application no. 25198/02).

The Court held unanimously that there had been:

- a **violation of Article 8** (right to respect for private and family life) of the European Convention on Human Rights, on account of Moldovan law not providing adequate protection against abuse of state power in the field of interception of telephone communications; and,
- **no violation of Article 13** (right to an effective remedy) of the Convention taken together with **Article 8**.

Under Article 41 (just satisfaction), the Court awarded the applicants 3,500 euros (EUR), jointly, for costs and expenses. (The judgment is available only in English.)

1. Principal facts

The applicants, Vitalie Iordachi, Vitalie Nagacevschi, Snejana Chitic, Victor Constantinov and Vlad Gribincea, are Moldovan nationals who were born in 1972, 1965, 1980, 1961 and 1980, respectively, and live in Chişinău. They are members of “Lawyers for Human Rights”, a Chişinău-based non-governmental organisation specialised in the representation of applicants before the European Court of Human Rights.

The applicants considered that, in view of the legislation currently in force, they ran a serious risk of having their telecommunications tapped as, having brought numerous cases to the European Court of Human Rights against Moldova in which a violation of the Convention had been found, they had caused significant financial loss for and damage to the image of the Moldovan Government.

Upon a request by the applicants, the Supreme Court provided them with statistics concerning the number of applications for interception lodged by the investigating authorities and

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

authorised by judges. The statistics showed that, in 2007 alone, 99,24% of the applications for interception had been authorised.

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 23 May 2002 and declared admissible on 5 April 2005.

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

Nicolas **Bratza** (the United Kingdom), *President*,
Lech **Garlicki** (Poland),
Ljiljana **Mijović** (Bosnia and Herzegovina),
David Thór **Björgvinsson** (Iceland),
Ján **Šikuta** (Slovakia),
Päivi **Hirvelä** (Finland),
Mihai **Poalelungi** (Moldova), *judges*,

and also Lawrence **Early**, *Section Registrar*.

3. Summary of the judgment¹

Complaints

Relying on Articles 8 (right to respect for private and family life) and 13 (right to an effective remedy) of the Convention, the applicants allege that, given the current legislation in force, they are at a serious risk of having their telephones tapped, on account of their bringing cases to the European Court of Human Rights.

Decision of the Court

Article 8

The Court first noted that, as regards the initial stage of the procedure for telephone surveillance, the relevant legislation did not define clearly the nature of the offences for which interception might be sought or the categories of persons who might be liable to have their telephones tapped. Further, the law did not provide for a clear time-limit on the interception warrants and was not clear enough on what constituted a reasonable suspicion which could justify telephone interception.

In respect of the second stage of the surveillance system, when the tapping actually takes place, the Court observed that the investigating judge plays a rather limited role. In addition, no clear rules existed about how the screening, preserving and destroying of the data collected on the basis of secret surveillance, were to be carried out.

In light of the fact that the Moldovan courts had authorised virtually all requests for interception made by the prosecuting authorities in 2007, the Court concluded that the system

¹ This summary by the Registry does not bind the Court.

of secret telephone surveillance was largely overused. The Court therefore held that the law in force did not provide protection against abuse of State power, in violation of Article 8.

Article 13

Noting that the Convention could not be interpreted to require a general remedy against the current state of domestic law, the Court found no violation of this Article.

The Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.