



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

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SECOND SECTION

Application no. 33519/15
Ruslan URUSBIEV
against the Republic of Moldova and Russia
lodged on 23 June 2015
communicated on 19 April 2021

SUBJECT MATTER OF THE CASE

The applicant fired a weapon in a bar situated in the self-proclaimed “Moldavian Republic of Transdnistria” (MRT). Several days later he was arrested by MRT authorities and subsequently convicted of illegal possession of weapons and ammunition.

The applicant complains that his arrest and conviction were not “in accordance with the law”, contrary to Articles 5 § 1 and 6 § 1 of the Convention (in particular, not being tried by “a tribunal established by law”). Moreover, the rights of the defence (Article 6 §§ 1 and 3) were not observed, such as being unable to question witnesses for the prosecution (equality of arms), as well as being unable to obtain copies of various documents in the file. The applicant also alleges that he did not have an effective remedy in respect of the complaints mentioned above (Article 13).

QUESTIONS TO THE PARTIES

As to the admissibility

1. Did the applicant come within the jurisdiction of the Republic of Moldova and/or the Russian Federation within the meaning of Article 1 of the Convention as interpreted by the Court, inter alia, in the cases of *Ilașcu and Others v. Moldova and Russia* [GC], (no. 48787/99, ECHR 2004-VII), *Catan and Others v. Moldova and Russia* [GC] (nos. 43370/04, 8252/05 and 18454/06, §§ 102-123, 19 October 2012; and *Mozer v. the Republic of Moldova and Russia* [GC], no. 11138/10, ECHR 2016) on account of the circumstances of the present case?

In that connection, bearing in mind that up until now the Grand Chamber's conclusions have generally been based on a lack of convincing and new information from the Governments concerned, the Court again invites the latter to reply to the question whether there has been any development following the period under consideration in the case of *Mozer* (cited above) – that is, after July 2010 – which might have an effect on their respective responsibilities. In this context, the Governments, in particular the Government of Russia, are asked:

a) to provide the Court with any tangible information and any relevant argument capable of establishing that, since July 2010, Russia has no longer been exercising effective control and/or decisive influence over the authorities of the self-proclaimed Moldavian Republic of Transdniestria (the “MRT”),

b) to express their opinion – with supporting documents and referring specifically to the rules governing the courts' structure and to the existing body of case-law – on the question whether, since that date, the “MRT” courts, including the Constitutional Court set up on 12 June 2002, can be regarded as independent and impartial and deemed to have become part of a judicial system operating on a constitutional and legal basis reflecting a judicial tradition that conforms to the Convention and respects the rule of law. In order to answer this question, the Court invites the Governments concerned, particularly Russia, to use, as appropriate, the diplomatic channels and means available to them for the purposes of gathering the required information from the Transdniestrian judicial authorities and to communicate it to the Court.

As to the merits

2. Has there been a violation of Article 5 § 1 of the Convention? In particular, was the applicant's detention lawful within the meaning of that provision (see *Mozer*, cited above, §§ 122-159)?

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3. Has there been a violation of Article 6 § 1 of the Convention? In particular, was the applicant convicted by a tribunal established by law, within the meaning of that provision (see *Vardanean v. the Republic of Moldova and Russia*, no. 22200/10, §§ 34-47, 30 May 2017)?

4. Has there been a violation of Article 6 §§ 1 and 3 of the Convention? In particular, was the applicant able to question witnesses for the prosecution and to obtain copies of all the materials in the file (see *Al-Khawaja and Tahery v. the United Kingdom* [GC], nos. 26766/05 and 22228/06, §§ 118-165, ECHR 2011, *Schatschaschwili v. Germany* [GC], no. 9154/10, §§ 100-165, ECHR 2015, and *Abdullayev v. Azerbaijan*, no. 6005/08, § 58-66, 7 March 2019)?

5. Has there been a violation of Article 13 of the Convention, taken in conjunction with Articles 5 and 6 (see *Mozer*, cited above, §§ 202-218)?