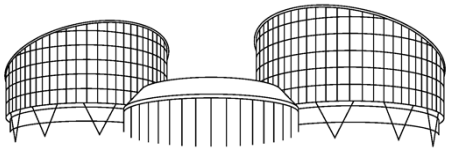

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF CANTARAGIU v. THE REPUBLIC OF MOLDOVA

(Application no. 13013/11)

JUDGMENT

STRASBOURG

24 March 2020

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Cantaragiu v. the Republic of Moldova,

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

Robert Spano, *President,*
Valeriu Griţco,
Egidijus Kūris,
Ivana Jelić,
Darian Pavli,
Saadet Yüksel,
Peeter Roosma, *judges,*

and Hasan Bakırcı, *Deputy Section Registrar,*

Having deliberated in private on 3 March 2020,

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

PROCEDURE

1. The case originated in an application (no. 13013/11) against the Republic of Moldova lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Moldovan national, Mr Vasile Cantaragiu ("the applicant"), on 15 February 2011.

2. The applicant, who had been granted legal aid, was represented by Mr A. Beruceaşvili, a lawyer practising in Chişinău. The Moldovan Government ("the Government") were represented by their Agent, Mr L. Apostol.

3. The applicant alleged, in particular, that he and his brother had been ill-treated while in detention, as a result of which his brother had died.

4. On 16 December 2014 the Government were given notice of the complaints under Articles 2, 3 and 13 of the Convention and the remainder of the application was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1986 and was detained in Cahul at the time of the last observations made by the parties.

6. On 29 April 2005 the applicant and his brother were arrested and detained on suspicion of murder. In May 2005 their father was also arrested.

A. The applicant's alleged ill-treatment and the investigation of that allegation

7. During his detention, on 1 November 2005 the applicant was admitted to a hospital with a diagnosis of "decompensated post-contusion syndrome". He subsequently complained of having been ill-treated by the police while in detention.

8. On 17 May 2007 a prosecutor decided not to initiate a criminal investigation into his allegations, finding that no offence had been committed.

9. According to the Government, on 10 May 2007 the prosecution created a "verification file" (no. 78pr/07) in order to look into the applicant's allegations of ill-treatment. After the expiry of five years from the date of the review of those allegations and the refusal to initiate an investigation on 17 May 2007, the verification file was destroyed on 16 September 2013 in accordance with the relevant regulations.

B. The death of the applicant's brother and the investigation into that fact

10. On 30 October 2005 the applicant's brother (a former junior judo champion of Moldova, who was 21 at the time) complained to the prison staff of headaches and pain in the epigastric region. During the night of 30 to 31 October 2005 urgent medical treatment was given to the applicant's brother on several occasions.

11. At around 5 a.m. on 1 November 2005 an emergency medical team transported the applicant's brother to a hospital in a comatose state. He died at the hospital on 3 November 2005.

12. On 29 November 2005 the prosecution initiated a criminal investigation into the possibility of medical malpractice, such as a breach of established methods and procedures, resulting in the applicant's brother's death. An autopsy was carried out. The resulting autopsy report indicated that he had suffered trauma to his abdomen, leading to a rupture of his duodenum. The prosecutor interviewed the medical personnel who had been in contact with the applicant's brother in the prison and the hospital, as well as the prison staff who had transported him to the hospital on 1 November 2005. The doctors on the emergency team that had transported him declared that they had not seen any signs of ill-treatment on his body. Finally, the prosecutor interviewed the applicant's brother's co-detainees. He mentioned that, as a result of the various investigative actions, no facts had been discovered confirming the applicant's brother's ill-treatment.

13. On 25 September 2008 the prosecutor in charge of the case suspended the investigation on the basis that it was impossible to determine the cause of the rupture of the applicant's brother's duodenum. All the

possibilities considered (medical malpractice, ill-treatment, self-mutilation or an accident) had been rejected as unsupported by evidence.

14. On 24 September 2012 the applicant's father challenged the decision of 25 September 2008 before a higher-ranking prosecutor, who rejected the complaint on 21 April 2011. He then challenged both decisions before an investigating judge, who rejected the complaint as unfounded on 12 December 2012.

15. In the meantime, on an unknown date the applicant also made a complaint about his brother's death, which was rejected by the prosecutor in charge of the case on 26 October 2011.

C. The criminal proceedings against the applicant, his brother and their father

16. On 22 December 2006 the Ciocana District Court found the applicant, his brother and their father guilty of murder. In respect of the applicant's brother the proceedings were discontinued due to his death. The judgment was upheld by the Chişinău Court of Appeal on 18 May 2007 and by the Supreme Court of Justice on 26 February 2008.

17. On 1 March 2010 the Plenary Supreme Court of Justice accepted an extraordinary appeal and ordered the re-examination of the case by the Supreme Court of Justice.

18. On 14 December 2010 the Supreme Court of Justice quashed the judgment of 26 February 2008 and ordered a rehearing by the Chişinău Court of Appeal. In its decision the court found that the applicant, his brother and their father had been ill-treated during their detention, contrary to Article 3 of the Convention. It relied on the strong presumption that all injuries caused to a detainee, in the absence of an acceptable explanation by the authorities of the origin of such injuries, were the result of ill-treatment. The court also found that the prosecution had not carried out an effective investigation into the allegations of ill-treatment made by the applicant, his brother and their father, and noted that the use of any evidence obtained as a result of ill-treatment was contrary to Article 6 of the Convention.

19. On 19 June 2012 the Chişinău Court of Appeal found the applicant and his brother guilty of murder. It discontinued the proceedings against the applicant's brother due to his death and sentenced the applicant to twelve years of imprisonment. The court found the applicant's allegations of ill-treatment unfounded, referring to the results of the investigation (see paragraph 13 above). The applicant appealed.

20. In its final judgment of 9 April 2013 the Supreme Court of Justice upheld the conviction. However, it added that the material in the case file proved the ill-treatment to which the applicant, his brother and their father had been subjected and that an effective investigation into the allegations of ill-treatment had not been carried out. Accordingly, the self-incriminating

statements obtained from them could not be relied on in the criminal proceedings against them.

THE LAW

I. *LOCUS STANDI*

21. The Court reiterates that, in accordance with its practice and with Article 34 of the Convention, applications can only be lodged by, or in the name of, individuals who are alive (see *Varnava and Others v. Turkey* [GC], nos. 16064/90 and 8 others, § 111, ECHR 2009, and *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 96, ECHR 2014).

22. As an exception, where the direct victim died before the application was lodged, the Court has been prepared, with reference to an autonomous interpretation of the concept of "victim", to recognise the standing of a relative either when the complaints raised an issue of general interest pertaining to "respect for human rights" (Article 37 § 1 *in fine* of the Convention) and the applicants as heirs had a legitimate interest in pursuing the application, or on the basis of a direct effect on the applicant's own rights (see *Micallef v. Malta* [GC], no. 17056/06, §§ 44-51, ECHR 2009, and *Marie-Louise Loyen and Bruneel v. France*, no. 55929/00, §§ 21-31, 5 July 2005). Thus, the Court has recognised the standing of the victim's next of kin to submit an application where the victim has died or disappeared in circumstances allegedly engaging the responsibility of the State (see *Çakıcı v. Turkey* [GC], no. 23657/94, § 92, ECHR 1999-IV, *Bazorkina v. Russia* (dec.), no. 69481/01, 15 September 2005 and *Centre for Legal Resources on behalf of Valentin Câmpeanu*, cited above, § 98).

23. In the present case, the applicant's brother died before the application was lodged. The Court considers that the case falls into the last category mentioned in the preceding paragraph, namely where the direct victim has died in circumstances allegedly engaging the responsibility of the State (see *Centre for Legal Resources on behalf of Valentin Câmpeanu*, cited above, § 98). Therefore, the applicant has standing to submit the application in his deceased brother's name.

II. ALLEGED VIOLATION OF ARTICLES 2 AND 3 OF THE CONVENTION IN RESPECT OF THE APPLICANT'S BROTHER

24. The applicant complained about his brother's ill-treatment and death in detention and of the subsequent ineffective investigation. He relied on Article 2 of the Convention, which reads as follows:

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

..."

Article 3 reads as follows:

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. Admissibility

25. The Court notes that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

26. The applicant argued that the authorities were responsible for his brother's death in detention as a result of the violence to which he had been subjected. The investigation that had been initiated had been deficient from the start. For instance, it had been started under a legal provision concerning medical malpractice, despite clear signs of ill-treatment on his body. Accordingly, instead of determining the circumstances under which he had suffered injuries so serious that they had resulted in his death, the investigation had focused on the quality of the medical assistance given to him. At no point had there been an investigation into the allegations of torture or abuse of power, the provisions of the Criminal Code most applicable to the case, even after the Supreme Court of Justice had expressly found that both the applicant and his brother had been ill-treated.

27. The Government argued that a criminal investigation had been initiated into possible medical malpractice and that numerous steps had been taken as part of that investigation, including obtaining expert reports and interviewing witnesses at the prison and in the hospital. The authorities had not simply dismissed the case after a short period of time, which would have suggested an examination in form only with the ultimate aim of dismissing the complaint. On the contrary, they had carried out a thorough investigation that had lasted for several years owing to the complexity of the case. The Government preferred not to comment on the possible identities of the persons responsible for causing the injuries to the applicant's brother, since the Supreme Court of Justice had already found that he had been ill-treated.

28. The Court reiterates that Article 2 ranks as one of the most fundamental provisions in the Convention, one which, in peace time, admits of no derogation under Article 15. Together with Article 3, it enshrines one

of the basic values of the democratic societies making up the Council of Europe (see, among many other authorities, *Andronicou and Constantinou v. Cyprus*, 9 October 1997, § 171, *Reports of Judgments and Decisions* 1997-VI; *Solomou and Others v. Turkey*, no. 36832/97, § 63, 24 June 2008; and *Giuliani and Gaggio v. Italy* [GC], no. 23458/02, § 174, ECHR 2011 (extracts)). Having regard to the fundamental importance of the right to life, the Court must subject any possible interferences with Article 2 of the Convention to the most careful and thorough scrutiny, taking into account not only the actions of State agents but also all the surrounding circumstances (see *McCann and Others v. the United Kingdom*, 27 September 1995, § 150, Series A no. 324; and *Tekın and Arslan v. Belgium*, no. 37795/13, § 83, 5 September 2017). Persons in custody are in a vulnerable position and the authorities are under a duty to protect them (*Salman v. Turkey* [GC], no. 21986/93, § 99, ECHR 2000-VII). Consequently, where an individual is taken into police custody in good health but is found to be injured at the time of release, it is incumbent on the State to provide a plausible explanation of how those injuries were caused (see, among other authorities, *Selmouni v. France* [GC], no. 25803/94, § 87, ECHR 1999-V). The obligation on the authorities to account for the treatment of an individual in custody is particularly stringent where that individual dies (see *Salman*, cited above, § 99 and *Tekın and Arslan*, cited above, § 83).

29. In the present case, the Court notes that the applicant's brother, a former judo champion and aged only 21 at the time, was in good health when he was taken into the custody of the police. However, during his detention he died as a result of a rupture of his duodenum, a clear sign of ill-treatment. In such circumstances there is a strong presumption that the death occurred as a result of the actions of the authorities, which must provide an adequate explanation of those actions in order to refute the presumption. No such explanation was given either at the domestic level, or by the Government in the present case.

30. The foregoing considerations are sufficient to enable the Court to conclude that the State is responsible for the applicant's brother's death.

There has accordingly been a violation of Article 2 of the Convention in its substantive limb.

31. As for the procedural limb, the Court notes that the parties did not inform it of any investigation in respect of the applicant's brother's death and ill-treatment other than the one concerning medical malpractice. It also notes that the Supreme Court of Justice found that investigation ineffective (see paragraphs 18 and 20 above).

32. Indeed, the investigation into the death of the applicant's brother started almost a month after the event (see paragraph 12 above), without any reasons being given for this delay during the crucial first days. It focused on the possibility of medical malpractice rather than ill-treatment being the

cause of the death. It appears that during the investigation a number of persons were interviewed, but that did not include any of the persons handling the criminal case against the applicant, and who obtained a procedural benefit from the self-incriminating statements made by the applicant's brother. The Court thus agrees with the Supreme Court of Justice in finding that the investigation into the applicant brother's death was ineffective.

33. The Court therefore finds a breach of Article 2 in its procedural limb.

34. In view of the grounds on which it has found a violation of Article 2 (see paragraphs 29-33 above), the Court considers that no separate issue arises under Article 3 in respect of the applicant's brother (see, for instance, *Makaratzis v. Greece* [GC], no. 50385/99, § 83, ECHR 2004-XI, and *Timus and Tarus v. the Republic of Moldova*, no. 70077/11, § 58, 15 October 2013).

III. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION IN RESPECT OF THE APPLICANT

35. Relying on Article 6 of the Convention, the applicant complained in essence of the ill-treatment to which he had been subjected by the police during his detention and the ineffective investigation into that ill-treatment. Being the master of characterisation to be given in law to the facts of the case, the Court is not bound by the characterisation given by the applicant or a Government (see *Rõigas v. Estonia*, no. 49045/13, § 65, 12 September 2017). The Court considers that the applicant's complaints should be examined from the standpoint of Article 3 of the Convention (see, for instance, *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 110-127, 20 March 2018).

Article 3 reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. Admissibility

36. The Government pointed out that in its final judgment of 9 April 2013 the Supreme Court of Justice had expressly found a breach of Article 3 in respect of the applicant, his brother and their father. The Supreme Court of Justice had been unable to award any compensation in the absence of a claim to that effect, but its judgment had provided the legal basis for the applicant to make a claim for such compensation in civil proceedings. Therefore, the applicant had lost his victim status in respect of his complaint under Article 3 of the Convention.

37. The applicant argued that in the absence of an effective investigation into his ill-treatment, the finding of the Supreme Court of Justice that they had been ill-treated could not deprive him of his victim status.

38. The Court considers that the Government's objection is closely related to the substance of the applicant's complaint under Article 3. It therefore joins it to the merits of the case.

39. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

40. The applicant referred to the finding of the Supreme Court of Justice that he had been ill-treated.

41. The Government stated that the fact of ill-treatment had already been established by the Supreme Court of Justice. Moreover, they could not comment on the quality of the investigation, given that the relevant verification file had been destroyed (see paragraph 9 above).

42. Article 3 of the Convention enshrines one of the most fundamental values of democratic societies (see, among other authorities, *Selmouni v. France* [GC], no. 25803/94, § 95, ECHR 1999-V; *Labita v. Italy* [GC], no. 26772/95, § 119, ECHR 2000-IV; *Gäfgen v. Germany* [GC], no. 22978/05, § 87, ECHR 2010; *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, § 195, ECHR 2012; and *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, § 315, ECHR 2014). Indeed, the prohibition of torture and inhuman or degrading treatment or punishment is a value of civilisation closely bound up with respect for human dignity.

43. Unlike most of the substantive clauses of the Convention, Article 3 makes no provision for exceptions, and no derogation from it is permissible under Article 15 § 2 even in the event of a public emergency threatening the life of the nation (see *Mocanu and Others*, cited above, § 315).

44. Allegations of ill-treatment contrary to Article 3 must be supported by appropriate evidence. To assess this evidence, the Court adopts the standard of proof "beyond reasonable doubt" but adds that such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see, among other authorities, *Ireland v. the United Kingdom*, 18 January 1978, § 161 *in fine*, Series A no. 25; *Labita*, cited above, § 121; *Jalloh v. Germany* [GC], no. 54810/00, § 67, ECHR 2006-IX; *Ramirez Sanchez v. France* [GC], no. 59450/00, § 117, ECHR 2006-IX; and *Gäfgen*, cited above, § 92).

45. On this latter point the Court has explained that where the events in issue lie wholly, or in large part, within the exclusive knowledge of the

authorities, as in the case of persons within their control in custody, strong presumptions of fact will arise in respect of injuries occurring during such detention. The burden of proof is then on the Government to provide a satisfactory and convincing explanation by producing evidence establishing facts which cast doubt on the account of events given by the victim (see *Salman*, cited above, § 100; *Rivas v. France*, no. 59584/00, § 38, 1 April 2004; and also, among other authorities, *Turan Cakir v. Belgium*, no. 44256/06, § 54, 10 March 2009; *Mete and Others v. Turkey*, no. 294/08, § 112, 4 October 2011; *Gäfgen*, cited above, § 92; and *El-Masri*, cited above, § 152). In the absence of such explanation, the Court can draw inferences which may be unfavourable for the Government (see, among other authorities, *El-Masri*, cited above, § 152). That is justified by the fact that persons in custody are in a vulnerable position and the authorities are under a duty to protect them (see, among other authorities, *Salman*, cited above, § 99).

46. The Court reiterates that the obligation to carry out an effective investigation into allegations of treatment infringing Article 3 suffered at the hands of State agents is well established in the Court's case-law (see, for instance, *Bouyid v. Belgium* [GC], no. 23380/09, §§ 114-23, ECHR 2015, and *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, §§ 182-85, ECHR 2012).

47. In addition to a thorough and effective investigation it is necessary for the State, in order to remedy a breach of Article 3 at national level, to have made an award of compensation to the applicant, where appropriate, or at least give him or her the possibility of seeking and obtaining compensation for the damage he or she sustained as a result of the ill-treatment (see *Gäfgen v. Germany* [GC], no. 22978/05, § 118, ECHR 2010).

48. In cases of wilful ill-treatment the breach of Article 3 cannot be remedied only by an award of compensation to the victim. This is so because, if the authorities could confine their reaction to incidents of wilful ill-treatment by State agents to the mere payment of compensation, while not doing enough to prosecute and punish those responsible, it would be possible in some cases for agents of the State to abuse the rights of those within their control with virtual impunity, and the general legal prohibition of torture and inhuman and degrading treatment, despite its fundamental importance, would be ineffective in practice (see, for instance, *Gäfgen*, cited above, §§ 116 and 119, and *Jeronovičs v. Latvia* [GC], no. 44898/10, § 103, 5 July 2016).

49. In the present case, the Court notes that the Supreme Court of Justice expressly found a breach of Article 3 of the Convention in respect of the applicant, in relation both to his ill-treatment in detention and to the ineffective investigation thereof (see paragraphs 18 and 20 above). The Court therefore finds it established, in the light of the documents in the file attesting to injuries caused while in detention and the judgments of the

Supreme Court of Justice, that the applicant was subjected to ill-treatment while in detention.

50. As noted in paragraph 48 above, in addition to finding a breach of Article 3 and offering an opportunity to claim compensation in such cases, the State has an obligation to investigate ill-treatment.

51. In the case of the applicant no such investigation has ever taken place, as the prosecutor refused to initiate one on 17 May 2007 (see paragraph 8 above). It is also apparent from the parties' submissions that after the decision of 17 May 2007 concerning the applicant was adopted, no further investigation was carried out. Despite the Supreme Court of Justice finding in 2010 that the applicant had been ill-treated, the prosecution decided to discontinue the investigation on 26 October 2011 (see paragraphs 15 and 18 above). In addition, the prosecution did not reopen any of the investigations after the final decision of 9 April 2013 confirmed that ill-treatment had taken place. Instead, the authorities decided to destroy the only documents concerning the initial verification of his complaint (see paragraph 9 above). The Court considers that this inaction by the authorities, in failing to effectively attempt to elucidate the events that lead to the ill-treatment suffered by the applicant, is striking. It cannot but conclude that the authorities' conduct constituted a manifest disregard of their Convention obligations which also compromised their ability to properly investigate the case in the future.

52. In such circumstances, the Court finds that the Moldovan authorities have not fulfilled their obligation to investigate the serious allegations of ill-treatment. Accordingly, the applicant can still claim to be the victim of a breach of Article 3 of the Convention, and the Government's objection is therefore dismissed. Moreover, the Court finds it established, in the light of the finding of the Supreme Court of Justice, that the applicant was subjected to ill-treatment while in detention.

53. The Court therefore finds a breach of Article 3 in its substantive and procedural limbs in respect of the applicant.

IV. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

54. Lastly, the applicant complained of a breach of Article 13 of the Convention, without giving any details.

55. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible. However, it considers that, in the light of its findings as to the ineffectiveness of the investigation and of the breach of the procedural limb of Articles 2 and 3 (see paragraphs 33 and 53 above), there is no need to examine separately the complaint under Article 13.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

56. Article 41 of the Convention provides:

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

A. Non-pecuniary damage

57. The applicant claimed 160,000 euros (EUR) in respect of non-pecuniary damage. He argued that he and his brother had been the victims of a vicious system of torture in the Republic of Moldova. According to the applicant, his brother, a 21-year-old judo champion with a promising career ahead of him, had died as a result of the imperative need on the part of the law-enforcement authorities to "solve" – at any price – a crime which, he maintained, neither of them had committed. The Government's recognition of a breach of his rights constituted partial satisfaction. However, the perpetrators would never be brought to justice, owing to the authorities' efforts to discard the evidence, which aggravated his suffering.

58. The Government contended that no compensation was due. In any event, the sum claimed was exaggerated.

59. In the light of all the circumstances, notably the gravity of the violation of Article 2 in respect of the applicant's brother and of Article 3 in respect of the applicant, the Court awards the applicant the overall sum of EUR 40,000 in respect of non-pecuniary damage.

B. Costs and expenses

60. The applicant also claimed EUR 2,000 for the costs and expenses incurred before the Court. He relied on a contract with his lawyer and a detailed timesheet showing the hours worked on the case (twenty-five hours).

61. The Government submitted that both the number of hours worked on the case and the sum claimed were excessive.

62. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,500 covering costs under all heads. From this sum should be deducted the EUR 850 granted by way of legal aid under the Council of Europe's legal aid scheme.

C. Default interest

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

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Holds* that the applicant has standing to lodge the application in his late brother's name;

2. *Joins* the Government's objection concerning the applicant's victim status under Article 3 to the merits and dismisses it;

3. *Declares* the application admissible;

4. *Holds* that there has been a violation of Article 2 of the Convention in both its substantive and procedural limbs;

5. *Holds* that there has been a violation of Article 3 of the Convention in both its substantive and procedural limbs in respect of the applicant;

6. *Holds* that no separate issue arises under Article 3 insofar as it concerns the applicant's brother's ill-treatment and insufficient investigation thereof;

7. *Holds* that there is no need to examine the complaint under Article 13 of the Convention;

8. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Moldovan lei at the rate applicable at the date of settlement:
      (i) EUR 40,000 (forty thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 1,500 (one thousand five hundred euros), less EUR 850 (eight hundred and fifty euros) granted by way of legal aid, plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a

rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

9. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 24 March 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı	Robert Spano
Deputy Registrar	President