

**ANALYTICAL
NOTE**

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REPUBLIC OF MOLDOVA AT THE EUROPEAN COURT OF HUMAN RIGHTS IN 2022

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SUMMARY

The Legal Resources Centre from Moldova (LRCM) analysed the activity of the European Court of Human Rights (ECtHR) for the year 2022. The analysis is based on the [Activity report of the ECtHR for that year](#) and the study of ECtHR jurisprudence in cases concerning Moldova.

We found the following:

- In 2022, the ECtHR registered 45,500 applications, 3% more than in 2021. It seems that, after the decrease in the number of applications received in 2020 and 2021, due to the pandemic, the number of applications received in 2022 returned to the level of 2019.
- In the previous year, the ECtHR received 642 applications against Moldova, slightly more than the number of applications against Moldova received in 2021 (630 applications). In this regard, Moldova is on the fourth place out of the 46 member countries of the Council of Europe. Compared to the country's population, the number of applications submitted against Moldova is very high. In 2022, Moldovans addressed the ECtHR 5 times more often than the European average.
- As of 31 December 2022, 1 020 Moldovan applications were still waiting to be examined. About 97% of these have a high chance of success. This number is almost equal to the total number of applications based on which Moldova was convicted, in the 25 years since Moldova could be sued at the ECtHR. In terms of the number of pending applications, Moldova is the 12th top country out of the 46 member countries of the Council of Europe.
- Before 31 December 2022, the ECtHR issued 575 judgments in Moldovan cases, of which 34 – in 2022. In 492 of these (86%), at least one violation committed by the Republic of Moldova was found. In this regard, Moldova is ahead of Great Britain, Germany, Portugal, Spain and the Netherlands, countries that joined the European Convention on Human Rights (ECHR) long before Moldova and have a much larger population than Moldova's.
- Regarding the number of judgments handed down in 2022, Moldova ranked 6th out of the 46 member countries of the Council of Europe and 11th in terms of the total number of judgments handed down against it.
- The most frequent types of violations found by the ECtHR in Moldovan cases are failure to enforce judgments (older violations), ill-treatment, improper investigation of ill-treatment and deaths, detention in poor conditions, illegal detention, and irregular annulment of final court judgements.
- Ased on all judgments and decisions pronounced by 31 December 2022, the Republic of Moldova was obliged to pay 22 448 198 EUR (544 448 EUR in 2022).

The report also contains a summary of ECtHR judgements from 2022 that concern the Republic of Moldova.

Previously, LRCM carried out similar analyses for the years [2010](#), [2011](#), [2012](#), [2013](#), [2014](#), [2015](#), [2016](#), [2017](#), [2018](#), [2019](#), [2020](#) and 2021, and also [synthesised all the violations](#) found by the ECHR regarding the Republic of Moldova before 11 September 2022.

THE ACTIVITY OF THE EUROPEAN COURT OF HUMAN RIGHTS IN THE MOLDOVAN CASES IN THE YEAR 2022

According to the [Activity Report](#) of the European Court of Human Rights (ECtHR), [published](#) on 26 January 2023, in 2022 the ECtHR received 642 applications against Moldova. This number is slightly higher than in 2021 (630 applications). Compared to the country's population, the number of applications submitted against Moldova is very high. In this regard, in 2022, Moldova ranks 4th out of the 46 member countries of the Council of Europe. In 2022, Moldovans addressed the ECtHR five times more often than the European average.

Between 1998 and 31 December 2022, the ECtHR registered over 16 600 applications against Moldova (see details in the following table). On 31 December 2022, 1 020 of these (6%) were still waiting to be examined. Regarding the total number of pending applications, Moldova is the top 12th country of all member countries of the Council of Europe. This number is quite high considering the small population of our country.

Of the 1 020 pending Moldovan applications, only 3% (29 applications) were allocated for examination to a single judge, that is, they were considered, at the first glance, unlikely to succeed. 682 applications (67% of the pending applications) were assigned to panels of three or seven judges, and another 301 applications (30% of the pending applications) have already been communicated to the Government (see details in Chart no. 1). The last two categories of applications (97%, 983 applications) are very likely to succeed. The number of applications very likely to succeed is almost equal to the total number of applications based on which Moldova was convicted in the 25 years since the ECtHR has been examining the applications submitted against Moldova.

By 31 December 2022, the ECtHR issued 575 judgments in Moldovan cases, of which 34 – in 2022. The number of judgements adopted in 2022 is comparable to the number of judgments adopted in the 2018-2020 period but twice as fewer as in 2021. The large number of judgments adopted in 2021 was probably due to the change of the Moldovan judge at the ECtHR at the end of 2021 and the desire for the case files examined by her to be completed before the expiration of her mandate.

With 575 ECtHR judgements adopted by 1 January 2023, Moldova is ahead of Great Britain, Germany, Portugal, Spain or the Netherlands, countries that joined the ECtHR long before Moldova and have a much larger population than the Republic of Moldova. In this regard, Moldova is the top 11th country out of the 46 member countries of the Council of Europe. The ECtHR found at least one violation in 492 (86%) of the 575 Moldovan judgments.

In the 575 Moldovan judgements, the ECtHR found 754 violations of human rights. Failure to enforce judgments (old violations), improper investigation of ill-treatment and deaths, detention in poor conditions, illegal detention, irregular annulment of final judgments and ill-treatment/use of excessive force by government officials are some of the most frequent violations found.

In the 34 judgments issued in 2022, the ECtHR found 48 violations of the ECHR. Thirteen of the 48 violations (27%) concern ill-treatment and/or inadequate investigation of ill-treatment, as well as failure

to provide adequate medical care to detainees. Another 13 (27%) violations relate to the right to a fair trial. Three of these violations refer to conviction on appeal without the direct hearing of witnesses, and the other violations of the right to a fair trial relate to insufficient reasoning of court judgments, admission of time-barred appeals or appeals in cassation, or violation of access to justice.

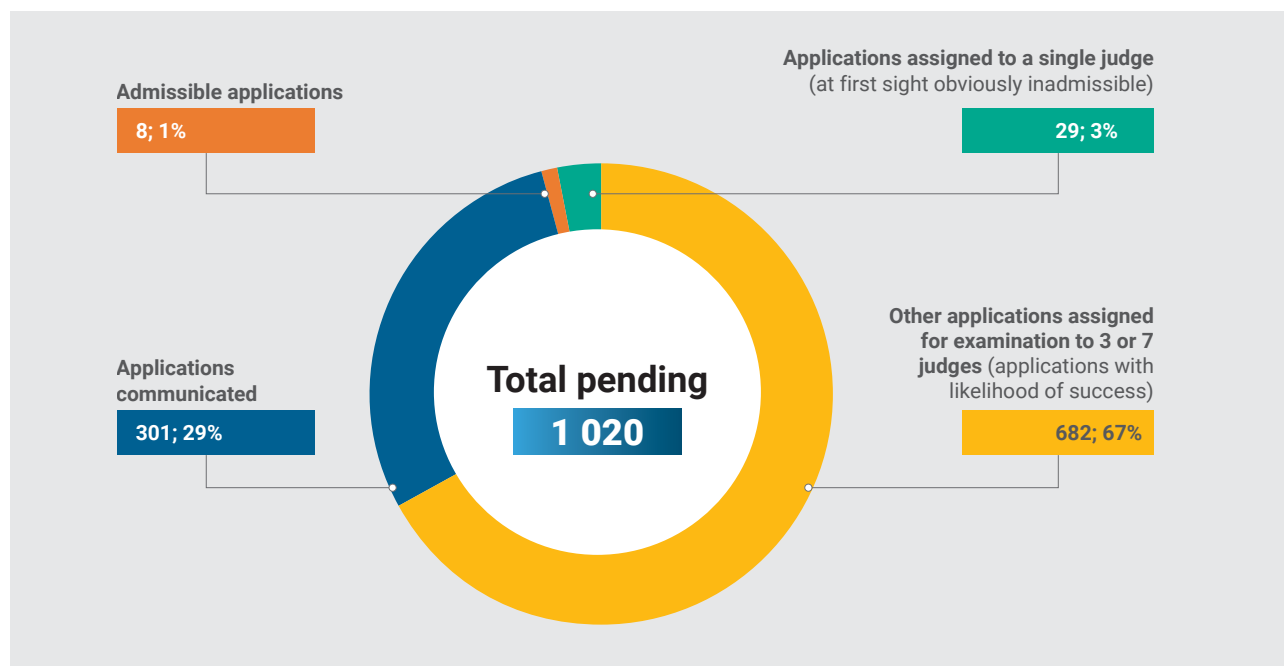
From a legal point of view, the most important judgments handed down in 2022 are [NIT S.R.L. v. Moldova](#), in which the Grand Chamber examined the correctness of the withdrawal of the operating license of the television channel, for gross political propaganda, after the application of other sanctions for similar violations. The ECtHR did not find that the freedom of expression was violated in that case. The judgment of [Boboc and others v. Moldova](#) concerns the death of the plaintiff during the protests of April 2009 and the defective investigation of his death (unexplained delays in the examination of video recordings, failure to establish a system of post-factum identification of masked officers, the total prohibition of the defence to access criminal investigation materials, etc.). Another high-profile case is the [Theo National Construct S.R.L. v. Moldova](#) trial, which refers to the 'raider attack' depriving the plaintiff company of its company share in another company, with the involvement of courts and other public authorities. For more details on the 2022 judgements, see the Tables below.

According to the judgements issued before 31 December 2022, the Government of the Republic of Moldova was obliged to pay EUR 22 448 197 EUR. Of these, based on judgments – 19 951 209,20 EUR (529 348,76 EUR in 2022) and based on friendly settlements and unilateral declarations – 2 496 989 EUR (15 100 EUR in 2022).

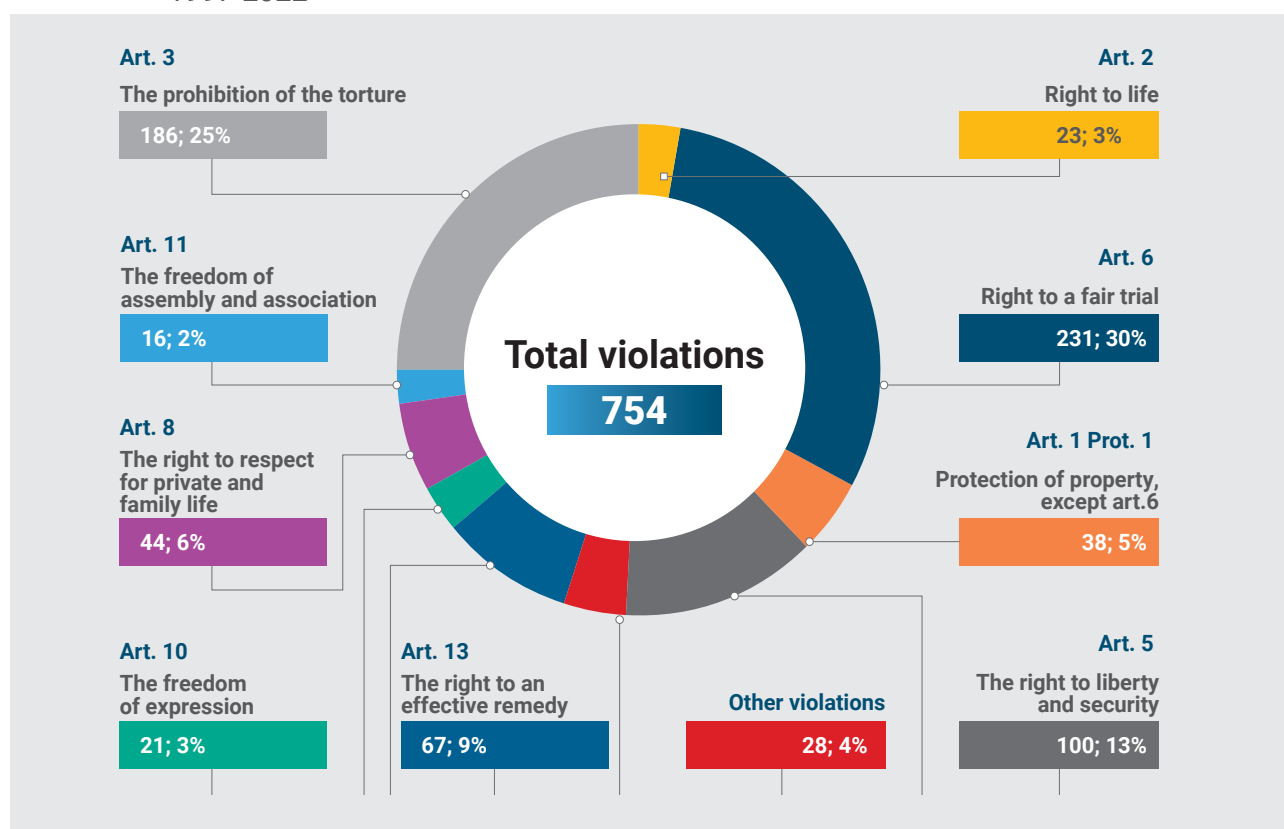
Table no. 1: Statistical data regarding applications submitted to the European Court of Human Rights against the Republic of Moldova 2009-2022

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	+/- 2021	1.11.98- 31.12.21
Applications received	1 025	938	1 354	1 105	1 011	834	758	814	635	523	630	642	2%	16 658
Declared inadmissible or struck out	550	1 905	3 143	1 341	926	750	633	858	697	451	553	601	9%	15 092
Applications communicated to the Government	118	56	85	73	121	41	67	54	119	42	76	150	97%	
Judgments delivered	31	27	19	24	19	23	16	33	54	32	68	34	-50%	575
	31.12. 2011	31.12. 2012	31.12. 2013	31.12. 2014	31.12. 2015	31.12. 2016	31.12. 2017	31.12. 2018	31.12. 2019	31.12. 2020	31.12. 2021	31.12. 2022		
Pending applications	4 261	3 256	1 442	1 159	1 223	1 283	1 348	1 204	1 056	1 054	1 038	1 020	-1,7%	

Graph no. 1: Pending applications against Moldova at the European Court of Human Rights
31 December 2022



Graph no. 2: Violations found by the ECtHR in applications against the Republic of Moldova
1997-2022



THE ACTIVITY OF THE EUROPEAN COURT OF HUMAN RIGHTS (IN RESPECT OF ALL STATES) 2022

According to the [ECtHR Activity Report](#) for the year 2022, the ECtHR registered 45 500 applications, 3% more than in 2021. In 2022, a similar number of applications were submitted as in 2019 (the year before the pandemic). Almost 41% of all applications submitted in 2022 were directed against two countries – Turkey (12 551) and the Russian Federation (6 077). For 2022, the situation in this chapter is similar to that of 2021.

In addition to the 44 500 applications registered in 2022, the ECtHR received another 14 400 improperly filed applications. The latter were not registered, and the plaintiffs were urged to submit requests drafted according to the ECtHR rigours.

In 2022, the ECtHR examined 39 570 applications – 10% more than in 2021. The ECtHR declared inadmissible or removed – 35 402 applications, which represents about 89.5% of the total applications examined in the previous year. For more details, see table no. 2. On 31 December 2022, 74 650 applications were ‘waiting’ to be examined at the Strasbourg Court, 6% more than at the end of 2021.

Due to the aggression of the Russian Federation against Ukraine, Russia was excluded in March 2022 from the Council of Europe, therefore human rights violations committed by Russia after [16 September 2022](#) can no longer be submitted to the ECtHR. However, the ECtHR can deal with applications against Russia concerning violations that occurred before 16 September 2022.

Almost 70% of the pending applications were against four member states of the Council of Europe. 20 115 (27%) requests were submitted against Turkey, 16 742 (22%) – against the Russian Federation, 10 403 (14%) – against Ukraine and 4 793 (6%) – against Romania. In this regard, Moldova is the top 12th country, with 1 020 pending applications (1.4%).

In 2022, the ECtHR issued 1 163 judgments, 5% more than in 2021. Most judgments were issued against the Russian Federation – 384 (33%); Ukraine – 144 (12%) and Romania – 81 (8%). In this regard, Moldova is the top sixth country, with 34 judgments (3%). The most violated right in countries that are members of the Council of Europe in 2022 was art. 5 ECHR (right to freedom) – 407 violations, followed by art. 3 ECHR (prohibition of torture) – 403 violations and art. 6 ECHR (right to a fair trial) – 346 violations.

In 2022, the ECtHR did not issue convictions against Sweden, the Netherlands or Ireland. States with a large population, such as Germany, Austria, or Great Britain – have one or two convictions.

Table no. 2: Statistical data regarding applications submitted to the European Court of Human Rights 2009-2022 (data on all countries)

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	+/- 2021
Applications received	64 400	65 162	65 900	56 200	40 550	53 400	63 350	43 100	44 500	41 700	44 250	45 500	3%
Applications communicated to the Government	5 360	5 236	7 931	7 895	15 964	9 533	7 225	7 644	6 442	7 683	10 630	6 822	-36%
Declared inadmissible or struck out	50 677	86 201	89 737	83 675	43 133	36 579	70 356	40 022	38 480	37 289	32 961	35 402	7%
Judgments delivered	1 157	1 093	916	891	823	993	1 068	1 014	884	871	1 105	1 163	5%
Pending applications before December 31	151 600	128 100	99 900	69 900	64 850	79 750	56 250	56 350	59 800	62 000	70 150	74 650	6%
Applications disposed of administratively				25 100	32 400	20 950	22 650	19 550	20 400	14 150	16 400	14 400	-12%

Table no. 3: A synthesis of the violations found by the European Court of Human Rights in applications against the Republic of Moldova in the year 2022

Art. ECtHR	Total no. of	Type of violations	No. of	ECtRH Judgements
Art. 2 ECtHR (Right to life)	4	Use of lethal force by State agents	1	Boboc și alții;
		Improper investigation of a death	1	Boboc și alții;
		Failure to promptly execute a conviction for bodily harm resulting in death	1	Natalia Lungu;
		Inadequate legal protection of people with intellectual disabilities, forced abortions and contraception imposed on an applicant	1	G.M. și alții;
Art. 3 ECtHR (Prohibition of torture)	13	Ill-treatment	3	Crețu; Mătășaru; Canuda;
		Improper investigation of ill-treatment	7	Povestca; Crețu; Mătășaru; Străisteanu și Agachi; Canuda; Apopii; G.M. și alții;
		Failure to provide adequate medical care to detainees	2	Povestca; Cosovan;
		Insufficient compensation for the violation of art. 3	1	Străisteanu și Agachi;
Art. 5 ECtHR (Right to liberty and security)	4	§ 1 – Detention and/or arrest in the absence of credible reasons to suspect that the person has committed the crime of which he/she is accused	1	Salinschi;
		§ 2 – Delays in informing the detainee of the reasons for the arrest	1	Mătășaru;
		§ 3 – Insufficient reasoning for the arrest	1	Gilanov;
		§ 4 – Unjustified examination of the arrest motion in the absence of the lawyer chosen by the plaintiff	1	Gilanov;

Art. 6 ECtHR (Right to a fair trial)	13	§ 1 – Insufficient reasoning of the court judgement	2	Cosovan; Canuda;
		§ 1 – Conviction on appeal without the direct hearing of witnesses	3	Melega; Madam; Naddur;
		§ 1 – Failure to execute court judgement within a reasonable period of time	1	Glușcenco;
		§ 1 – Admission of time-barred appeals or appeals in cassation	2	Axentii; Balan;
		§ 1 – Cassation of the court judgment through the irregular application of the review	1	Imperialex Grup S.R.L.;
		§ 1 – Violating access to justice by not granting the practical possibility to pay the state fee for the examination of the appeal	1	Dunas;
		§ 1 – Reducing the amount of compensation granted to the plaintiff through an irrevocable judgment following the interpretation given by the SCJ of the execution of this judgment	1	Balan (nr.2);
		§§ 1 and 3 – Conviction for drunk driving, despite medical evidence obtained by the applicant suggesting the contrary	1	Lilian Erhan;
		§ 3 – Unjustified refusal of the judge to hear the witness requested by the defence	1	V.P.;
Art. 8 ECtHR (Right to respect for private and family life)	4	Groundless dismissal of a defamation action	1	Ghimpu și alții;
		Illegal application of special investigative measures	1	Străisteanu și Agachi;
		Failing to protect the applicant against the continued violation of the right to respect for private life (creating fake accounts with disparaging information on social networks) and failing to conduct an effective investigation	1	Straistă;
		Flaws in legislation to prevent unjustified interception of telephone conversations	1	Iurcovscaia și Pavlovschi;
Art. 11 ECtHR (Freedom of assembly and association)	1	Authorities failing to ensure peaceful conduct of a demonstration in support of sexual minorities	1	Genderdoc-M;
Art. 14 ECtHR (Protection from discrimination)	1	Art. 14 + Art. 11 – Discriminatory refusal to authorize peaceful assemblies	1	Genderdoc-M;
Art. 1 Prot. 1 ECtHR (Protection of property)	7	Unjustified withdrawal of the license to carry out the economic activity	1	Tegulum S.A.;
		Obliging the plaintiff to pay fees for the fraudulent behaviour of a third party with whom he/she had contractual relations	1	Gospodăria Țărănească „Alcaz G.A.”;
		Depriving of property due to delays in admission of actions, appeals or cassations, or by improper application of review	3	Axentii; Balan; Imperialex Grup S.R.L.;
		Depriving the plaintiff company of its company share in another company through a ‘raider attack’, with the involvement of courts and other public authorities	1	Theo National Construct S.R.L.;
		Reducing the amount of compensation granted to the plaintiff through an irrevocable judgment following the interpretation given by the SCJ of the execution of this judgment	1	Balan (nr.2);
Art. 4 Prot 7 ECtHR (Right not to be tried or punished twice)	1	Being tried twice for the same contravention act	1	Prigală;
Total number of violations found			48	





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the development
of LRCM activities.



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