

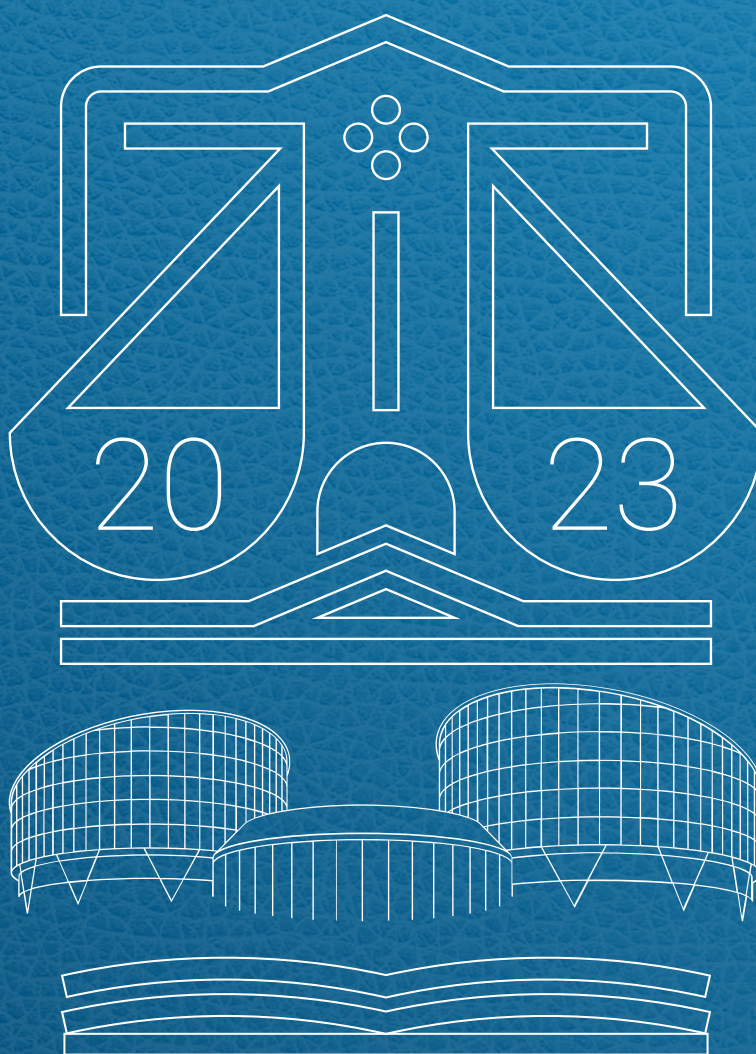
**ANALYTICAL
NOTE**

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REPUBLIC OF MOLDOVA AT EUROPEAN COURT OF HUMAN RIGHTS IN 2023

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SUMMARY

The Legal Resources Centre from Moldova (LRCM) analysed the activity of the European Court of Human Rights (ECtHR) in 2023. The ECtHR's activity was analysed based on their 2023 report and the study of ECtHR jurisprudence in Moldovan cases.

We found the following:

- in 2023, the ECtHR received 34,650 applications, 24% fewer than in 2022. According to the ECtHR, this can be explained mainly by the decrease in the number of applications originating from Russia, Turkey, Serbia, and Greece.
- in the previous year, the ECtHR received 653 applications against Moldova, 2% more than in 2022. Moldova ranks 5th out of the 46 member countries of the Council of Europe in terms of the number of applications submitted per capita inhabitant. Overall, in 2023, Moldovans addressed the ECtHR 6.5 times more often than the European average;
- on 31 December 2023, 1,149 Moldovan applications were still waiting to be examined. About 97% of these have a high chance of success. This figure is higher than the total number of applications based on which Moldova was convicted in the 26 years since it could be brought before the ECtHR. Regarding the number of applications awaiting examination, Moldova is 10th out of the 46 member countries of the Council of Europe.
- by 31 December 2023, the ECtHR issued 599 judgments in Moldovan cases, of which 24 – in 2023. In 516 (86%) of these, it was found that the Republic of Moldova committed at least one violation. In this aspect, Moldova is ahead of Great Britain, Germany, Portugal, Spain and the Netherlands, countries that joined the European Convention on Human Rights (ECtHR) long before Moldova and have a much larger population than Moldova.
- Regarding the number of judgments handed down in 2023, Moldova ranked 11th out of the 46 member countries of the Council of Europe and also 11th in terms of the number of judgments handed down against it;
- the most frequent types of violations found by the ECtHR in Moldovan cases remain non-enforcement of judgements, ill-treatment, lack of effective investigation of ill-treatment and deaths, detention in poor conditions, unlawful detention, and irregular annulment of irrevocable judicial decisions.
- based on all judgments and decisions handed down by the end of last year, the Republic of Moldova was obliged to pay 22,813,920 EUR, of which 365,722 EUR in 2023.

The document also contains a summary of ECtHR rulings and decisions from 2023 that concern the Republic of Moldova.

Previously, the LRCM carried out similar analyses for [2010](#), [2011](#), [2012](#), [2013](#), [2014](#), [2015](#), [2016](#), [2017](#), [2018](#), [2019](#), [2020](#), [2021](#) and [2022](#) as well as [synthesised all violations](#) found by the ECtHR regarding the Republic of Moldova by 11 September 2023.

THE ACTIVITY OF THE EUROPEAN COURT OF HUMAN RIGHTS IN MOLDOVAN CASES IN 2023

According to the [Activity Report of the European Court of Human Rights \(ECtHR\)](#), published on 25 January 2024, in 2023 the ECtHR received 653 applications against Moldova. This number is slightly higher than in 2022 (642 applications). Moldova ranks 5th out of the 46 member countries of the Council of Europe in terms of the number of applications submitted per capita. Relative to the country's population, the number of applications submitted against Moldova is very high. In 2023, Moldovans addressed the ECtHR 6.5 times more often than the European average, in 2022 they addressed five times more often.

From 1998 to 31 December 2023, the ECtHR received over 17,300 applications against Moldova (see details in the following table). On 31 December 2023, 1,149 of these (7%) were still waiting to be examined. Regarding the total number of pending applications, Moldova is 10th among all member countries of the Council of Europe. This number is quite high considering the small population of our country.

Of the 1,149 pending Moldovan applications, only 1% (17 applications) were allocated for examination to the single judge, that is, they were deemed, at first sight, without any chance of success. 835 applications (73% of the pending applications) were examined by panels of three or seven judges. Another 270 applications (24% of the pending applications) have already been communicated to the Government (see details in Chart no. 1). The last two categories of applications (97%, 1 105 applications) have a high chance of success. The number of applications with a high chance of success exceeds the total number of applications based on which Moldova was convicted in the 26 years since the ECtHR has been examining the applications submitted against Moldova.

By 31 December 2023, the ECtHR issued 599 judgments in Moldovan cases. Of these, 24 were pronounced in 2023. The number of judgments adopted in 2023 is the lowest in the last five years, being comparable to the number of judgments adopted in the years 2014-2018.

Even so, with 599 judgments of the ECtHR adopted by 1 January 2024, Moldova is ahead of Great Britain, Germany, Portugal, Spain, and the Netherlands – countries that ratified the ECtHR long before Moldova and have a much larger population. In this regard, Moldova is 11th out of the 46 member countries of the Council of Europe. The ECtHR found at least one violation in 516 (86%) of the 599 Moldovan judgments.

In the 599 Moldovan judgments, the ECtHR found 786 violations of human rights. The most frequent violations are non-enforcement of national court decisions, lack of effective investigation of ill-treatment and deaths, detention in poor conditions, unlawful/arbitrary detention, irregular annulment of irrevocable judicial decisions, and ill-treatment/use of excessive force by law-enforcement officials;

In the 24 judgments issued in 2024, the ECtHR found 32 violations of the ECtHR. 14 (44%) violations refer to the right to a fair trial (art. 6 of the ECtHR), of which five cases refer to the non-enforcement of national court decisions, two – to admission of time-barred appeals or appeals in cassation, and the other violations of art. 6 of ECtHR referred to conviction on appeal without direct hearing of witnesses; conviction based on evidence obtained by torture or provocation, the lack of independence and impartiality of the SCM when examining disciplinary proceedings against a judge, etc. The right to liberty and security (art. 5 of the ECtHR) was violated five times (16%) in 2023. The problems identified by the ECtHR refer to the detention or arrest without reasons that the person has committed a crime; insufficient justification of the arrest or the impossibility of contesting the legality of the arrest, etc.

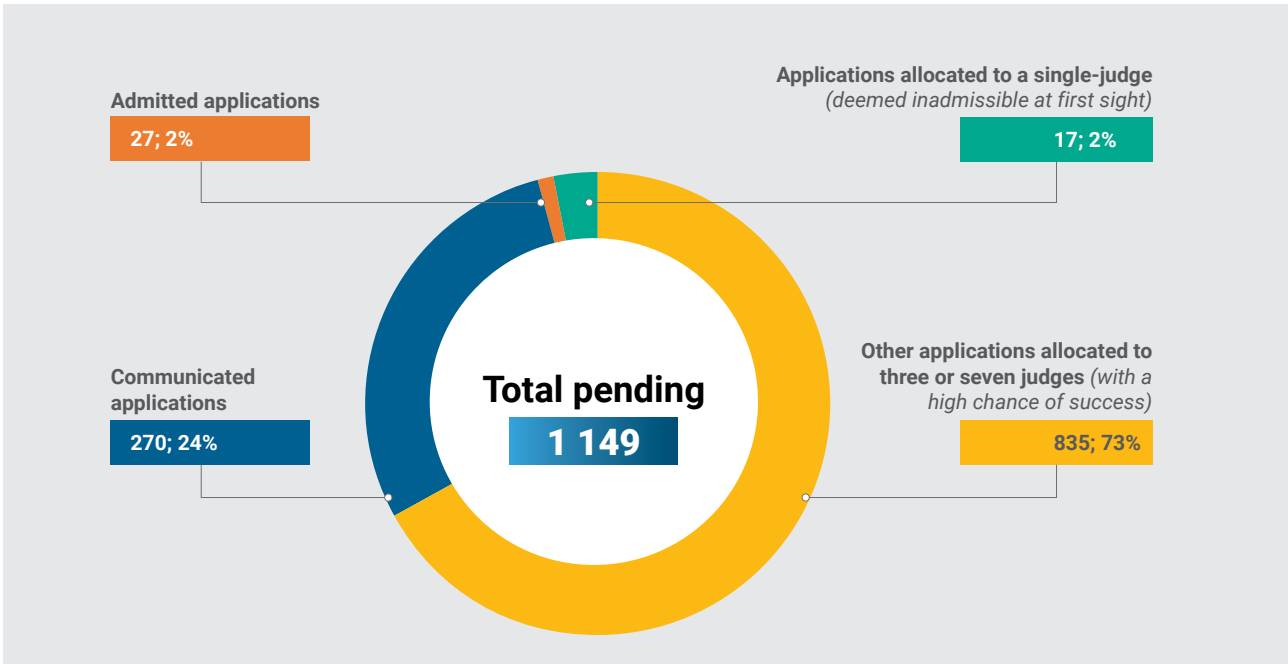
From a legal and public interest point of view, the most important judgments pronounced in 2023 referred to the activity of the judiciary. In the judgment of *Stoianгло v. Moldova*, the ECtHR found that art. 6 of the ECtHR was violated following that the applicant, who held the position of Prosecutor General, was not able to challenge in court his suspension. The given suspension was automatically determined by the initiation of criminal prosecution, a fact considered by the ECtHR as a violation of human rights. The judgment of *Manole v. Moldova* refers to her dismissal from the position of judge for her communication with a journalist about why she issued a separate opinion after the judgment was pronounced, but before the reasoned judgment was pronounced. In this case, the Court found that Art. 10 of the ECtHR (freedom of expression) was violated. In the *Filat v. Moldova* judgment, the ECtHR found that Art. 6 of the ECtHR was violated as the entire criminal process was unjustifiably held in closed session. The decision in the *Iordăchescu v. Moldova* case should also be mentioned, where the ECtHR found no violation of Art. 6 of the ECtHR due to the non-enforcement of a final court decision regarding the allocation of housing space. According to the Court, the applicant lost his right to receive a residential space, because he had stopped working in the public service. This decision can be set as a precedent for other similar cases. See the tables below for more details on the 2023 rulings and decisions.

According to the judgements and decisions issued by 31 December 2023, the Government of the Republic of Moldova was obliged to pay 22,813,920.5 EUR. Of these, based on judgments – 20,290,831.5 EUR (339,622.3 in 2023 EUR) and based on amicable settlements and unilateral declarations – 2,523,089 EUR (26,100 in 2023 EUR).

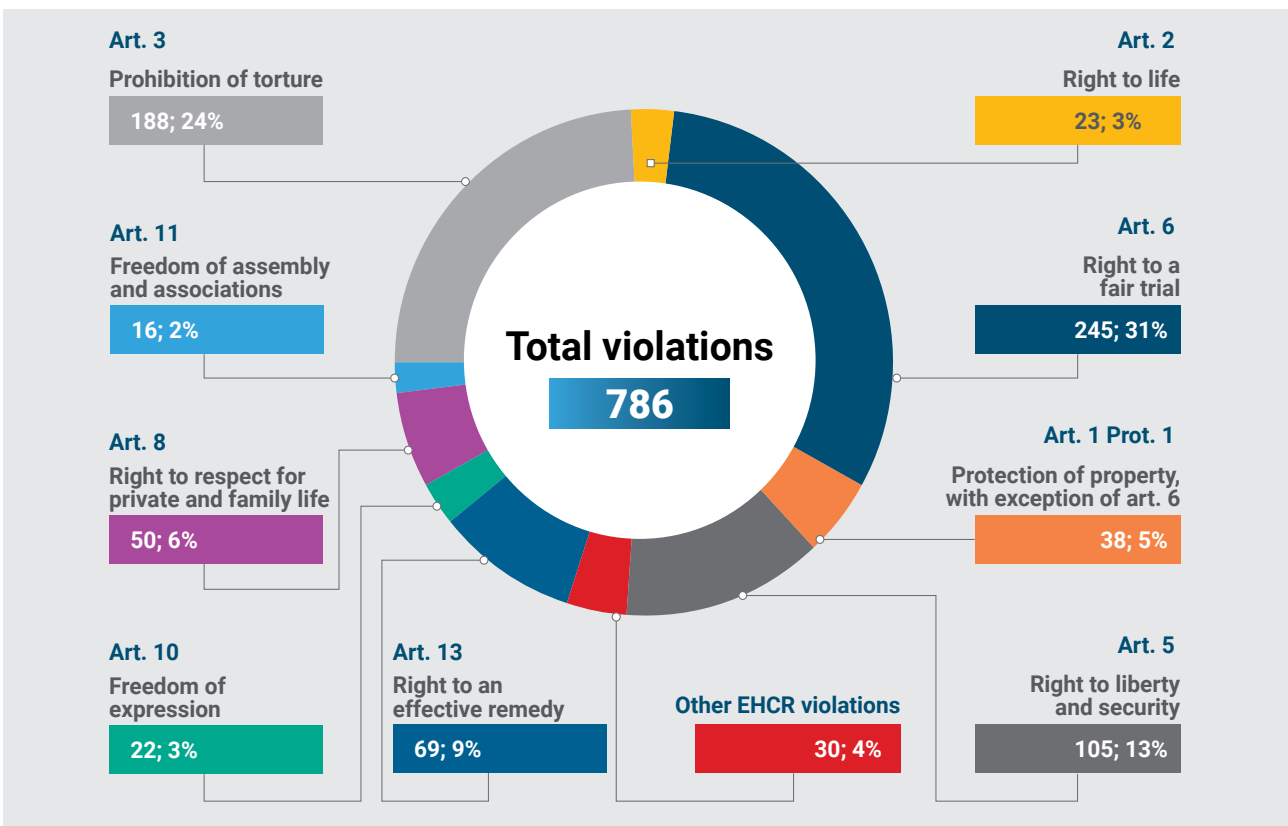
Table no. 1: Statistical data regarding applications submitted to the European Court of Human Rights against the Republic of Moldova

| | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | +/- 2023 | 1.11.98-31.12.23 |
|---|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|----------|------------------|
| Applications received | 1 025 | 938 | 1 354 | 1 105 | 1 011 | 834 | 758 | 814 | 635 | 523 | 630 | 642 | 653 | 2% | 17 311 |
| Declared inadmissible or struck out | 550 | 1 905 | 3 143 | 1 341 | 926 | 750 | 633 | 858 | 697 | 451 | 553 | 601 | 496 | -17.5% | 15 588 |
| Applications communicated to the Government | 118 | 56 | 85 | 73 | 121 | 41 | 67 | 54 | 119 | 42 | 76 | 150 | 53 | -65% | |
| Judgements delivered | 31 | 27 | 19 | 24 | 19 | 23 | 16 | 33 | 54 | 32 | 68 | 34 | 24 | -30% | 599 |
| | 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 | 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 | 1,149 | 13% | |

Graph no. 1: Pending applications against the Republic of Moldova at the ECtHR, 31 December 2023



Graph no. 2: Violations found by the ECtHR in applications against the Republic of Moldova, 1997-2023



THE ACTIVITY OF THE EUROPEAN COURT OF HUMAN RIGHTS (IN RESPECT OF ALL STATES) 2023

According to the [ECtHR Activity Report for 2023](#), the ECtHR received 34,650 applications, 24% fewer than in 2022. 2023 was the year when the ECtHR received the lowest number of applications in the last ten years. According to the ECtHR, this can be explained mainly by the decrease in the number of applications originating from Russia, Turkey, Serbia, and Greece.

Due to the aggression against Ukraine, Russia was excluded from the Council of Europe in March 2022, which means that human rights violations committed by Russia after [16 September 2022](#) can no longer be brought to the ECtHR. However, the ECtHR can deal with claims against Russia in relation to violations that have occurred before this date. For these reasons, the ECtHR continued to accept requests directed against Russia, but their number was much lower (1,695) compared to previous years (for example, in 2022, 6,077 applications were received against Russia).

Almost all of the 24% of claims submitted in 2023 were against Turkey, followed by Romania (8%) and Ukraine (7%). In this regard, the Republic of Moldova ranks 13th with 653 applications (1.88%) submitted against it.

In addition to the 34,650 applications received in 2023, the ECtHR received another 10,600 improperly filed applications. The latter were not admitted, and the plaintiffs were urged to submit applications drafted according to the rigours of the ECtHR. In 2023, 16,623 requests were communicated to Governments (an increase of 144% compared to 2022, when 6,822 requests were communicated). Of these, 57% were submitted against Russia.

In 2023, the ECtHR examined 38,260 applications, which is 3% fewer than in 2022. The ECtHR declared inadmissible or removed 31,329 applications, which represents about 82% of the total applications examined in the previous year. For more details, see Table No. 2.

On 31 December 2023, there were 68,450 applications „waiting” to be examined at the ECtHR, 8% fewer than at the end of 2022. 65% of the applications awaiting examination were submitted against three states – 23,397 (34%) against Turkey, 12,453 (18%) against the Russian Federation and 8,737 (13%) against Ukraine. In this regard, Moldova ranks 10th with 1,149 pending applications (1.7%) against it.

In 2023, the ECtHR issued 1,014 judgments, 13% fewer than in 2022. Most judgments were issued against the Russian Federation – 217 (21%); Ukraine – 130 (13%) and Turkey – 78 (7%). In this regard, Moldova ranks 11th with 24 decisions (2%).

The most violated right within the member countries of the Council of Europe in 2023 was art. 5 of the ECtHR (right to liberty and security) – 348 violations, followed by art. 3 of the ECtHR (prohibition of torture) – 270 violations and art. 6 of the ECtHR (right to a fair trial) – 256 violations.

In 2023, the ECtHR did not issue convictions against Sweden, Finland, and Ireland. Countries with a large population, such as Great Britain or Germany, have from one to three convictions.

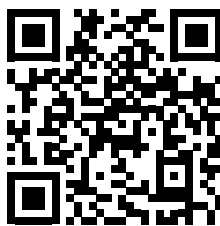
Table no. 2: Statistical data regarding applications submitted to the ECtHR, 2014-2023 (data on all countries)

| | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | +/- 2022 |
|---|---------|---------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|----------|
| 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 | 34 650 | -24% |
| 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 | 16 623 | 144% |
| 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 | 31 329 | -12% |
| Judgements delivered | 1 157 | 1 093 | 916 | 891 | 823 | 993 | 1 068 | 1 014 | 884 | 871 | 1 105 | 1 163 | 1 014 | -13% |
| Pending applications by 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 | 68 450 | -8% |
| Incomplete applications (are not considered as viable applications) | | | | 25 100 | 32 400 | 20 950 | 22 650 | 19 550 | 20 400 | 14 150 | 16 400 | 14 400 | 10 600 | -26% |

Table no. 3: A synthesis of the violations found by the ECtHR in applications against the Republic of Moldova* in the year 2023

| Art. ECtHR | Total no. of violations | Type of ECtHR violation | No. of violations | ECtHR Judgements |
|---|-------------------------|--|-------------------|----------------------------|
| Art. 3 ECtHR (Prohibition of torture or inhuman or degrading treatment or punishment) | 2 | failure to protect from domestic violence and authorities' failure to conduct a prompt and effective investigation into the applicant's allegations | 1 | Luca; |
| | | failure to provide adequate medical care to inmates and failure to prevent transmission of hepatitis C | 1 | Machina; |
| Art. 5 ECtHR (Right to liberty and security) | 5 | § 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 | 2 | Minasian și alții; Mașaev; |
| | | § 3 – insufficient reasoning for the arrest | 1 | Eșanu; |
| | | § 4 – the impossibility of challenging the legality of the detention | 1 | Minasian și alții; |
| | | § 4 – the impossibility of hearing the officers who claimed that the applicant violated the conditions of house arrest, statements that were the basis of a new preventive arrest. | 1 | Eșanu; |

| | | | | |
|---|----|---|---|---|
| Art. 6 ECtHR (Right to a fair trial) | 14 | § 1 – rejecting the request to change a child's domicile as a result of the change of circumstances, on the grounds that the domicile has already been established by an irrevocable court decision | 1 | Bîzdîga; |
| | | § 1 – lack of independence and impartiality of the SCM when examining disciplinary proceedings against a judge | 1 | Catană; |
| | | § 1 – failure to execute court judgment within a reasonable period of time | 5 | Molceanu și alții; Hohlov și alții; Girbu și alții; Munteanu Nani și alții; Pomul S.R.L și Subervin S.R.L |
| | | § 1 – admission of time-barred appeals or appeals in cassation | 2 | Ouș; Robuleț; |
| | | § 1 – the impossibility of challenging in court the suspension from the office of the Prosecutor General, the suspension being automatically determined by the initiation of the criminal investigation | 1 | Stoianoglo; |
| | | § 1 – unjustified examination of the criminal process in closed session | 1 | Filat; |
| | | § 1 – failure of the SCJ to examine the applicants' claims regarding their previous conviction based on evidence obtained as a result of torture and to reopen the criminal proceedings | 1 | Repeșco și Repeșcu; |
| | | § 1 – sentencing based on the evidence obtained as a result of provocation to commit the crime | 1 | Golovchenko; |
| | | § 3 – failure of the courts to hear the key witness, whose statements during the criminal investigation were used to convict the person | 1 | Golovchenko; |
| Art. 7 ECtHR (No punishment without law) | 1 | § 1 – criminal conviction for an act that did not clearly constitute a crime | 1 | Tristan; |
| Art. 8 ECtHR (Right to respect for private and family life) | 6 | pursuing a wanted person contrary to national law | 1 | Negru; |
| | | dismissal from office as a result of obtaining a decryption of detailed telephone conversations from the work telephone | 1 | Mazur; |
| | | failure to ensure adequate relationships between parents and children | 4 | Bocșă; Viotto; Bîzdîga; Luca; |
| Art. 10 ECtHR (Freedom of expression) | 1 | dismissal from the position of judge for communicating with a journalist about the reasons for a separate opinion, after the decision was pronounced, but before the reasoning was published | 1 | Manole; |
| Art. 13 ECtHR (Right to an effective remedy) | 2 | the lack of an effective remedy at the national level for failing to enforce the court decision | 1 | Pomul S.R.L și Subervin S.R.L |
| | | the lack of an effective remedy at the national level regarding the non-provision of medical assistance | 1 | Machina; |
| Art. 14 ECtHR (Protection from discrimination) | 1 | Art. 14 + art. 3 – the discriminatory attitude of the authorities based on gender | 1 | Luca; |
| Art. 1 Prot. 1 ECtHR (Protection of property) | | see the violations from art. 6 ECHR - deprivation of property by admitting time-barred appeals or appeals in cassation and failing to enforce the court decision | | |
| Total number of violations: | | | | 32 |



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