



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

FORMER FIRST SECTION

**CASE OF METROPOLITAN CHURCH OF BESSARABIA
AND OTHERS v. MOLDOVA**

(Application no. 45701/99)

JUDGMENT

STRASBOURG

13 December 2001

FINAL

27/03/2002

**In the case of Metropolitan Church of Bessarabia and Others
v. Moldova,**

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

Mrs E. PALM, *President*,

Mrs W. THOMASSEN,

Mr L. FERRARI BRAVO,

Mr C. BÎRSAN,

Mr J. CASADEVALL,

Mr B. ZUPANČIČ,

Mr T. PANȚÎRU, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 2 October and 5 December 2001,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 45701/99) against the Republic of Moldova lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by the Metropolitan Church of Bessarabia (*Mitropolia Basarabiei și Exarhatul Plaiurilor*) and twelve Moldovan nationals, Mr Petru Păduraru, Mr Petru Buburuz, Mr Vasile Petrache, Mr Ioan Eșanu, Mr Victor Rusu, Mr Anatol Gonciar, Mr Valeriu Cernei, Mr Gheorghe Ioniță, Mr Valeriu Matciac, Mr Vlad Cubreacov, Mr Anatol Telembici and Mr Alexandru Magola ("the applicants"), on 3 June 1998. The applicant Vasile Petrache died in autumn 1999.

2. The applicants alleged in particular that the Moldovan authorities' refusal to recognise the Metropolitan Church of Bessarabia infringed their freedom of religion and association and that the applicant Church was the victim of discrimination on the ground of religion.

3. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

4. The application was assigned to the First Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. By a decision of 7 June 2001, the Chamber declared the application admissible [*Note by the Registry*]. The Court's decision is obtainable from

the Registry]. It further decided to strike out of the Court's list that part of the application which concerned the applicant Vasile Petrache, who had died.

6. The applicants and the Moldovan Government ("the Government") each filed observations on the merits (Rule 59 § 1).

7. A hearing took place in public in the Human Rights Building, Strasbourg, on 2 October 2001 (Rule 59 § 2).

There appeared before the Court:

(a) *for the Government*

Mr I. MOREI, Minister of Justice,

Mr V. PÂRLOG, Head of the Department of the Government Agent
and International Relations, Ministry of Justice, *Agent,*

Mr G. ARMAŞU, Director, Religious Affairs Department, *Adviser;*

(b) *for the applicants*

Mr J.W. MONTGOMERY,

Mr A. DOS SANTOS, Barristers practising in London, *Counsel.*

The Court heard addresses by Mr Montgomery and Mr Morei.

8. On 25 September 2001, in accordance with Rule 61 § 3, the President of the Chamber had authorised the Metropolitan Church of Moldova to submit written observations on certain aspects of the case. These observations had been received on 10 September 2001.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

9. The first applicant, the Metropolitan Church of Bessarabia, is an autonomous Orthodox Church having canonical jurisdiction in the territory of the Republic of Moldova. The other applicants are Moldovan nationals who are members of the eparchic council of the first applicant. They are: Mr Petru Păduraru, Archbishop of Chişinău, Metropolitan of Bessarabia and living in Chişinău; Mr Petru Buburuz, prosyncellus, living in Chişinău; Mr Ioan Eşanu, protosyncellus, living in Călăraşi; Mr Victor Rusu, protopresbyter, living in Lipnic, Ocniţa; Mr Anatol Goncear, a priest living in Zubreşti, Străşeni; Mr Valeriu Cernei, a priest living in

Sloveanca, Sângerei; Mr Gheorghe Ioniță, a priest living in Crasnoarmeisc, Hâncești; Mr Valeriu Matciac, a priest living in Chișinău; Mr Vlad Cubreacov, member of the Moldovan parliament and of the Parliamentary Assembly of the Council of Europe, and living in Chișinău, Mr Anatol Telembici, living in Chișinău; and Mr Alexandru Magola, Chancellor of the Metropolitan Church of Bessarabia, living in Chișinău.

A. Creation of the applicant Church and proceedings to secure its official recognition

1. Creation of the Metropolitan Church of Bessarabia

10. On 14 September 1992 the applicant natural persons joined together to form the applicant Church – the Metropolitan Church of Bessarabia – a local, autonomous Orthodox Church. According to its articles of association, it took the place, from the canon-law point of view, of the Metropolitan Church of Bessarabia which had existed until 1944.

In December 1992 it was attached to the patriarchate of Bucharest.

11. The Metropolitan Church of Bessarabia adopted articles of association which determined, among other matters, the composition and administration of its organs, the training, recruitment and disciplinary supervision of its clergy, the ecclesiastical hierarchy and rules concerning its assets. In the preamble to the articles of association the principles governing the organisation and operation of the applicant Church are defined as follows:

“The Metropolitan Church of Bessarabia is a local, autonomous Orthodox Church attached to the patriarchate of Bucharest. The traditional ecclesiastical denomination ‘Metropolitan Church of Bessarabia’ is of a historically conventional nature and has no link with current or previous political situations. The Metropolitan Church of Bessarabia has no political activities and will have none in future. It shall carry on its work in the territory of the Republic of Moldova. The Metropolitan Church of Bessarabia shall have the status of an exarchate of the country. According to canon law, communities of the Moldovan diaspora may also become members. No charge shall be made for the accession of individual members and communities living abroad.

In the context of its activity in the Republic of Moldova, it shall respect the laws of the State and international human rights law. Communities abroad which have adhered for the purposes of canon law to the Metropolitan Church of Bessarabia shall establish relations with the authorities of the States concerned, complying with their legislation and the relevant provisions of international law. The Metropolitan Church of Bessarabia shall cooperate with the authorities of the State in the sphere of culture, education and social assistance. The Metropolitan Church of Bessarabia does not make any claim of an economic or any other kind against other Churches or religious organisations. The Metropolitan Church of Bessarabia maintains ecumenical relations with other Churches and religious movements and considers that fraternal dialogue is the only proper form of relationship between Churches.

Priests of the Metropolitan Church of Bessarabia working in Moldovan territory shall be Moldovan citizens. When nationals of foreign States are invited to come to

Moldova to carry on a religious activity or citizens of the Republic of Moldova are sent abroad for the same purpose, the legislation in force must be complied with.

Members of the Metropolitan Church of Bessarabia shall be citizens of the Republic of Moldova who have joined together on a voluntary basis to practise their religion in common, in accordance with their own convictions, and on the basis of the precepts of the Gospel, the Apostolic Canons, Orthodox canon law and Holy Tradition.

Religious services held in all the communities of the Metropolitan Church of Bessarabia shall include special prayers for the authorities and institutions of the State, couched in the following terms: 'We pray, as always, for our country, the Republic of Moldova, for its leaders and for its army. May God protect them and grant them peaceful and honest lives, spent in obedience to the canons of the Church.' "

12. To date, the Metropolitan Church of Bessarabia has established 117 communities in Moldovan territory, three communities in Ukraine, one in Lithuania, one in Latvia, two in the Russian Federation and one in Estonia. The communities in Latvia and Lithuania have been recognised by the State authorities and have legal personality.

Nearly one million Moldovan nationals are affiliated to the applicant Church, which has more than 160 clergy.

The Metropolitan Church of Bessarabia is recognised by all the Orthodox patriarchates with the exception of the patriarchate of Moscow.

2. Administrative and judicial proceedings to secure official recognition of the applicant Church

13. Pursuant to the Religious Denominations Act (Law no. 979-XII of 24 March 1992), which requires religious denominations active in Moldovan territory to be recognised by means of a government decision, the applicant Church applied for recognition on 8 October 1992. It received no reply.

14. It made further applications on 25 January and 8 February 1995. On a date which has not been specified the Religious Affairs Department refused these applications.

15. On 8 August 1995 the applicant Petru Păduraru, relying on Article 235 of the Code of Civil Procedure (which governs judicial review of administrative acts contrary to recognised rights), brought civil proceedings against the government in the Court of First Instance of the Buiucani district of Chişinău. He asked for the decisions refusing to recognise the applicant Church to be set aside. The court ruled in his favour and, on 12 September 1995, ordered recognition of the Metropolitan Church of Bessarabia.

16. On 15 September 1995 the Buiucani public prosecutor appealed against the Buiucani Court of First Instance's decision of 12 September 1995.

17. On 18 October 1995 the Supreme Court of Justice set aside the decision of 12 September 1995 on the ground that the courts did not have jurisdiction to consider the applicant Church's application for recognition.

18. On 13 March 1996 the applicant Church filed a fresh application for recognition with the government. On 24 May 1996, having received no reply, the applicants brought civil proceedings against the government in the Chişinău Court of First Instance, seeking recognition of the Metropolitan Church of Bessarabia. On 19 July 1996 that court gave judgment against the applicants.

19. On 20 August 1996 the applicants again filed an application for recognition, which went unanswered.

20. The applicants appealed to the Chişinău Municipal Court (*Tribunal municipiului*) against the judgment of 19 July 1996. In a judgment of 21 May 1997, against which no appeal lay, the Municipal Court quashed the impugned judgment and allowed the applicants' claim.

21. However, following a reform of the Moldovan judicial system, the file was sent to the Moldovan Court of Appeal for trial *de novo*.

22. On 4 March 1997 the applicants again applied to the government for recognition. On 4 June 1997, not having received any reply, they referred the matter to the Court of Appeal, seeking recognition of the Metropolitan Church of Bessarabia, relying on their freedom of conscience and freedom of association for the purpose of practising their religion. The resulting action was joined to the case already pending before the Court of Appeal.

23. In the Court of Appeal the government alleged that the case concerned an ecclesiastical conflict within the Orthodox Church in Moldova (the Metropolitan Church of Moldova), which could be resolved only by the Romanian and Russian Orthodox Churches, and that any recognition of the Metropolitan Church of Bessarabia would provoke conflicts in the Orthodox community.

24. The Court of Appeal allowed the applicants' claim in a decision of 19 August 1997. It pointed out, firstly, that Article 31 §§ 1 and 2 of the Moldovan Constitution guaranteed freedom of conscience and that that freedom should be exercised in a spirit of tolerance and respect for others. In addition, the various denominations were free to organise themselves according to their articles of association, subject to compliance with the laws of the Republic. Secondly, it noted that from 8 October 1992 the applicant Church, acting pursuant to sections 14 and 15 of the Religious Denominations Act, had filed with the government a number of applications for recognition, but that no reply had been forthcoming. By a letter of 19 July 1995 the Prime Minister had informed the applicants that the government could not consider the application of the Metropolitan Church of Bessarabia without interfering with the activity of the Metropolitan Church of Moldova. The Court of Appeal further noted that while the applicant Church's application for recognition had been ignored, the

Metropolitan Church of Moldova had been recognised by the government on 7 February 1993, as an eparchy dependent on the patriarchate of Moscow.

The Court of Appeal dismissed the government's argument that recognition of the Metropolitan Church of Moldova made it possible to satisfy the wishes of all Orthodox believers. It pointed out that the term denomination was not to be reserved for catholicism or orthodoxy, but should embrace all faiths and various manifestations of religious feelings by their adherents, in the form of prayers, ritual, religious services or divine worship. It noted that from the point of view of canon law the Metropolitan Church of Moldova was part of the Russian Orthodox Church and therefore dependent on the patriarchate of Moscow, whereas the Metropolitan Church of Bessarabia was attached to the Romanian Orthodox Church and therefore dependent on the patriarchate of Bucharest.

The Court of Appeal held that the government's refusal to recognise the applicant Church was contrary to the freedom of religion, as guaranteed not only by the Religious Denominations Act but also by Article 18 of the Universal Declaration of Human Rights, Article 5 of the International Covenant on Economic, Social and Cultural Rights and Article 18 of the International Covenant on Civil and Political Rights, to all of which Moldova was party. Noting that the representative of the government had taken the view that the applicant Church's articles of association complied with domestic legislation, the Court of Appeal ordered the government to recognise the Metropolitan Church of Bessarabia and to ratify its articles of association.

25. The government appealed against the above decision on the ground that the courts did not have jurisdiction to try such a case.

26. In a judgment of 9 December 1997 the Supreme Court of Justice set aside the decision of 19 August 1997 and dismissed the applicants' action on the grounds that it was out of time and manifestly ill-founded.

It noted that, according to Article 238 of the Code of Civil Procedure, one month was allowed for an appeal against a government decision alleged to infringe a recognised right. The time allowed began to run either on the date of the decision announcing the government's refusal or, if the they did not reply, one month after the lodging of the application. The Supreme Court of Justice noted that the applicants had submitted their application to the government on 4 March 1997 and lodged their appeal on 4 June 1997; it accordingly ruled their action out of time.

It went on to say that, in any event, the government's refusal of the applicants' application had not infringed their freedom of religion as guaranteed by international treaties, and in particular by Article 9 of the European Convention on Human Rights, because they were Orthodox Christians and could manifest their beliefs within the Metropolitan Church

of Moldova, which the government had recognised by a decision of 7 February 1993.

The Supreme Court of Justice considered that the case was simply an administrative dispute within a single Church, which could be settled only by the Metropolitan Church of Moldova, since any interference by the State in the matter might aggravate the situation. It held that the State's refusal to intervene in this conflict was compatible with Article 9 § 2 of the European Convention on Human Rights.

Lastly, it noted that the applicants could manifest their beliefs freely, that they had access to Churches and that they had not adduced evidence of any obstacle whatsoever to the practice of their religion.

27. On 15 March 1999 the applicants again applied to the government for recognition.

28. By a letter dated 20 July 1999 the Prime Minister refused on the ground that the Metropolitan Church of Bessarabia was not a religious denomination in the legal sense but a schismatic group within the Metropolitan Church of Moldova.

He informed the applicants that the government would not allow their application until a religious solution to the conflict had been found, following the negotiations in progress between the patriarchates of Russia and Romania.

29. On 10 January 2000 the applicants lodged a further application for recognition with the government. The Court has not been informed of the outcome of that application.

3. Recognition of other denominations

30. Since the adoption of the Religious Denominations Act, the government has recognised a number of denominations, some of which are listed below.

On 7 February 1993 the government ratified the articles of association of the Metropolitan Church of Moldova, attached to the patriarchate of Moscow. On 28 August 1995 it recognised the Orthodox Eparchy of the Old Christian Liturgy of Chişinău, attached to the Russian Orthodox Church of the Old Liturgy, whose head office was in Moscow.

On 22 July 1993 the government recognised the "Seventh-Day Adventist Church". On 19 July 1994 it decided to recognise the "Seventh-Day Adventist Church – Reform Movement".

On 9 June 1994 the government ratified the articles of association of the "Federation of Jewish (Religious) Communities" and on 1 September 1997 those of the "Union of Communities of Messianic Jews".

4. Reaction of various national authorities

31. Since it was first set up, the Metropolitan Church of Bessarabia has regularly applied to the Moldovan authorities to explain the reasons for its creation and to seek their support in obtaining official recognition.

32. The government asked several ministries for their opinion about whether to recognise the applicant Church.

On 16 October 1992 the Ministry of Culture and Religious Affairs informed the government that it was favourable to the recognition of the Metropolitan Church of Bessarabia.

On 14 November 1992 the Ministry of Financial Affairs informed the government that it could see no objection to the recognition of the Metropolitan Church of Bessarabia.

On 8 February 1993 the Ministry of Labour and Social Protection declared that it was favourable to the recognition of the applicant Church.

In a letter of 8 February 1993 the Ministry of Education emphasised the need for the rapid recognition of the Metropolitan Church of Bessarabia in order to avoid any discrimination against its adherents, while pointing out that its articles of association could be improved upon.

On 15 February 1993 the Secretariat of State for Privatisation stated that it was favourable to the recognition of the Metropolitan Church of Bessarabia, while proposing certain amendments to its articles of association.

33. On 11 March 1993, in reply to a letter from the Bishop of Bălți, writing on behalf of the Metropolitan of Bessarabia, the Moldovan parliament's Cultural and Religious Affairs Committee noted that the delay in registering the Metropolitan Church of Bessarabia was aggravating the social and political situation in Moldova, even though its actions and articles of association complied with Moldovan legislation. The committee therefore asked the government to recognise the applicant Church.

34. A memorandum from the Religious Affairs Department, dated 21 November 1994, summarised the situation as follows:

“For nearly two years an ecclesiastical group known under the name of the Metropolitan Church of Bessarabia has been operating illegally in Moldovan territory. No positive result has been obtained in spite of our sustained efforts to put a stop to its activity (discussions between members of the so-called Church, priests, Mr G.E., Mr I.E. ..., representatives of the State and believers from the localities in which its adherents are active, Mr G.G., Minister of State, and Mr N.A., Deputy Speaker; all the organs of local and national administrative bodies have been informed of the illegal nature of the group, etc.).

In addition, although priests and adherents of the Church have been forbidden to take part in divine service, for failure to comply with canon law, they have nevertheless continued their illegal activities in the churches and have also been invited to officiate on the occasion of various public activities organised, for example, by the Ministries of Defence and Health. The management of the Bank of Moldova and the National Customs Service have not acted on our request for liquidation of the

group's bank accounts and strict supervision of its priests during their numerous crossings of the border.

The activity of the so-called Church is not limited to attracting new adherents and propagating the ideas of the Romanian Church. It also has all the means necessary for the work of a Church, it appoints priests, including nationals of other States ..., trains clergy, builds churches and many, many other things.

It should also be mentioned that the group's activity (more political than religious) is sustained by forces both from within the country (by certain mayors and their villages, by opposition representatives, and even by some MPs) and from outside (by decision no. 612 of 12 November 1993 the Romanian government granted it 399,400,000 lei to finance its activity ...

The activity of this group is causing religious and socio-political tension in Moldova and will have unforeseeable repercussions ...

The Religious Affairs Department notes:

(a) Within Moldovan territory there is no territorial administrative unit with the name of Bessarabia which might justify setting up a religious group named 'Metropolitan Church of Bessarabia'. The creation of such a group and recognition of its articles of association would constitute a wrongful anti-State act – a negation of the sovereign and independent State which the Republic of Moldova constitutes.

(b) The Metropolitan Church of Bessarabia was set up to take the place of the former Eparchy of Bessarabia, founded in 1925 and recognised by Decree no. 1942 promulgated on 4 May 1925 by the King of Romania. Legal recognition of the validity of those acts would imply recognition of their present-day effects within Moldovan territory.

(c) All Orthodox parishes in Moldovan territory have been registered as constituent parts of the of the Orthodox Church of Moldova (the Metropolitan Church of Moldova), whose articles of association were ratified by the government in its decision no. 719 of 17 November 1993.

In conclusion:

1. If nothing is done to put a stop to the activity of the so-called Metropolitan Church of Bessarabia, the result will be destabilisation not just of the Orthodox Church but of the whole of Moldovan society.

2. Recognition of the Metropolitan Church of Bessarabia (Old Style) and ratification of its articles of association by the government would automatically entail the disappearance of the Metropolitan Church of Moldova.”

35. On 20 February 1996, following a question in Parliament asked by the applicant Vlad Cubreacov, a Moldovan MP, the Deputy Prime Minister wrote a letter to the Speaker explaining the reasons for the government's

refusal to recognise the Metropolitan Church of Bessarabia. He said that the applicant Church was not a denomination distinct from the Orthodox Church but a schismatic group within the Metropolitan Church of Moldova and that any interference by the State to resolve the conflict would be contrary to the Moldovan Constitution. He pointed out that the political party to which Mr Cubreacov belonged had publicly expressed disapproval of the Supreme Court of Justice's decision of 9 December 1997, that Mr Cubreacov himself had criticised the government for their refusal to recognise "this phantom metropolitan Church" and that he continued to support it by exerting pressure in any way he could, through statements to the media and approaches to the national authorities and international organisations. The letter ended with the assertion that the "feverish debates" about the Metropolitan Church of Bessarabia were purely political.

36. On 29 June 1998 the Religious Affairs Department sent the Deputy Prime Minister its opinion on the question of recognition of the Metropolitan Church of Bessarabia.

It pointed out in particular that not since 1940 had there been an administrative unit in Moldova with the name "Bessarabia" and that the Orthodox Church had been recognised on 17 November 1993 under the name of the Metropolitan Church of Moldova, of which the Metropolitan Church of Bessarabia was a "schismatic element". It accordingly considered that recognition of the applicant Church would represent interference by the State in the affairs of the Metropolitan Church of Moldova, and that this would aggravate the "unhealthy" situation in which the latter Church was placed. It considered that the articles of association of the applicant Church could not be ratified since they merely "reproduce[d] those of the Orthodox Church of another country".

37. On 22 June 1998 the Ministry of Justice informed the government that it did not consider the articles of association of the Metropolitan Church of Bessarabia to be contrary to Moldovan legislation.

38. By letters of 25 June and 6 July 1998 the Ministry of Labour and Social Protection and the Ministry of Financial Affairs again informed the government that they could see no objection to recognition of the Metropolitan Church of Bessarabia.

39. On 7 July 1998 the Ministry of Education informed the government that it supported recognition of the Metropolitan Church of Bessarabia.

40. On 15 September 1998 the Cultural and Religious Affairs Committee of the Moldovan parliament sent the government, for information, a copy of a report by the Ministry of Justice of the Russian Federation, which showed that on 1 January 1998 there were at least four different Orthodox Churches in Russia, some of which had their head offices abroad. The Committee expressed the hope that the above-mentioned report would assist the government to resolve certain similar

problems, particularly the problem concerning the Metropolitan Church of Bessarabia's application for recognition.

41. In a letter sent on 10 January 2000 to the applicant Vlad Cubreacov, the Deputy Attorney-General expressed the view that the government's refusal to reply to the Metropolitan Church of Bessarabia's application for recognition was contrary to the freedom of religion and to Articles 6, 11 and 13 of the Convention.

42. In a decision of 26 September 2001 the government approved the amended version of Article 1 of the Metropolitan Church of Moldova's articles of association, worded as follows:

“The Orthodox Church of Moldova is an independent Church and is the successor in law to ... the Metropolitan Church of Bessarabia. While complying with the canons and precepts of the Holy Apostles, Fathers of the Church and the Ecumenical Synods, and the decisions of the Universal Apostolic Church, the Orthodox Church of Moldova operates within the territory of the State of the Republic of Moldova in accordance with the provisions of the legislation in force.”

43. In a letter received by the Court on 21 September 2001 the President of the Republic of Moldova expressed his concern about the possibility that the applicant Church might be recognised. He said that the issue could be resolved only by negotiation between the Russian and Romanian patriarchates, since it would be in breach of Moldovan legislation if the State authorities were to intervene in the conflict. Moreover, if the authorities were to recognise the Metropolitan Church of Bessarabia, this would have unforeseeable consequences for Moldovan society.

5. International reactions

44. In its Opinion no. 188 (1995) to the Committee of Ministers on Moldova's application for membership of the Council of Europe, the Parliamentary Assembly of the Council of Europe noted the Republic of Moldova's willingness to fulfil the commitments it had entered into when it lodged its application for membership on 20 April 1993.

These commitments, which had been reaffirmed before the adoption of the above-mentioned opinion, included an undertaking to “confirm complete freedom of worship for all citizens without discrimination” and to “ensure a peaceful solution to the dispute between the Moldovan Orthodox Church and the Bessarabian Orthodox Church”.

45. In its annual report for 1997 the International Helsinki Federation for Human Rights criticised the Moldovan government's refusal to recognise the Metropolitan Church of Bessarabia. The report stated that as a result of this refusal many churches had been transferred to the ownership of the Metropolitan Church of Moldova. It drew attention to allegations that members of the applicant Church's clergy had been subjected to physical violence without receiving the slightest protection from the authorities.

46. In its 1998 report the Federation criticised the Religious Denominations Act, and in particular section 4 thereof, which denied any protection of the freedom of religion to the adherents of religions not recognised by a government decision. It pointed out that this section was a discriminatory instrument which enabled the government to make it difficult for the adherents of the Metropolitan Church of Bessarabia to bring legal proceedings with a view to reclaiming church buildings which belonged to them. In addition, the report mentioned acts of violence and vandalism to which the applicant Church and its members were subjected.

B. Alleged incidents affecting the Metropolitan Church of Bessarabia and its members

47. The applicants reported a number of incidents during which members of the clergy or adherents of the applicant Church had allegedly been intimidated or prevented from manifesting their beliefs.

48. The Government did not dispute that these incidents had taken place.

1. Incidents in Gârbova (Ocnița)

49. In 1994 the assembly of Christians of the village of Gârbova (Ocnița) decided to join the Metropolitan Church of Bessarabia. The Metropolitan of Bessarabia therefore appointed T.B. as the parish priest.

50. On 7 January 1994, when T.B. went to the church to celebrate the Christmas mass, the mayor of Gârbova, T.G., forbade him to enter. When the villagers came out of the church to protest, the mayor locked the door and, without further explanation, ordered T.B. to leave the village within twenty-four hours.

51. The mayor summoned a new assembly of the Christians of the village on 9 January 1994. On that date he informed the villagers that T.B. had been stripped of his post as the village priest because he belonged to the Metropolitan Church of Bessarabia. He introduced a new parish priest who belonged to the Metropolitan Church of Moldova. The assembly rejected the mayor's proposal.

52. The mayor called a new assembly of the Christians of the village on 11 January 1994. On that date he introduced to the villagers a third priest, also from the Metropolitan Church of Moldova. He was likewise rejected by the assembly, which expressed its preference for T.B.

53. In those circumstances, S.M., the chairman of the parish council, was summoned by the mayor and the manager of the local collective farm, who urged him to persuade the villagers to accept T.B.'s removal from office. The chairman of the parish council refused.

54. On 13 January 1994 S.M. was arrested on his way to church. He was pinned down by five policemen, then thrown into a police van and taken first to the town hall, where he was savagely beaten. He was then taken into police custody at Ocnîța police station, where he was upbraided for showing favour to the Metropolitan Church of Bessarabia. He was not informed of the reasons for his arrest. He was released after being detained for three days.

55. Following these incidents T.B. left the parish.

2. Parish of Saint Nicholas, Făleşti

56. In a letter of 20 May 1994 the vice-president of the provincial council for the province (*raion*) of Făleşti rebuked G.E., priest of the parish of Saint Nicholas and a member of the Metropolitan Church of Bessarabia, for having celebrated the Easter service on 9 May 1994 in the town cemetery, that being an act contrary to the Religious Denominations Act because the Metropolitan Church of Bessarabia was illegal. For the same reason he was forbidden to conduct divine service in future whether inside a church or in the open air. The vice-chairman of the provincial council warned G.E. not to implement a plan he had to invite priests from Romania to attend divine service on 22 May 1994, given that he had not first obtained official authorisation, as required by section 22 of the Religious Denominations Act.

57. In November 1994 G.E. was fined 90 lei (MDL) for officiating as a priest of an unrecognised Church, the Metropolitan Church of Bessarabia. The Court of First Instance upheld the penalty, but reduced the amount of the fine to MDL 54 on the ground that G.E. did not hold any office within the Church concerned.

58. On 27 October 1996, before the beginning of divine service in the parish church, several persons, led by a priest of the Metropolitan Church of Moldova, violently assaulted G.E., drawing blood, and asked him to join the Metropolitan Church of Moldova. They also attacked the priest's wife, tearing her clothes.

59. G.E. managed to escape into the church, where the service was taking place, but he was pursued by his assailants, who began to fight with the congregation. A policeman sent to the scene managed to persuade the aggressors to leave the church.

60. On 15 November 1996 the parish meeting published a declaration expressing the parishioners' indignation about the acts of violence and intimidation to which members of the Metropolitan Church of Bessarabia were subjected, requested the authorities to cease to condone such acts and demanded official recognition for their Church.

61. On 6 June 1998 the applicant Petru Păduraru, Metropolitan of Bessarabia, received two anonymous telegrams warning him not to go to Făleşti. He did not lodge any complaint about this.

3. *Parish of Saint Alexander, Călărași*

62. On 11 July 1994 the applicant Ioan Eșanu, priest of the parish of Saint Alexander, was summoned by the president of the Călărași provincial council to a discussion about the Metropolitan Church of Bessarabia.

That discussion was also attended by the mayor of Călărași, the secretary of the provincial council and the parish clerk. The president of the provincial council criticised the applicant for his membership of the applicant Church, which made him a fellow-traveller of those who supported union with Romania. He then gave him one week to produce a certificate attesting to recognition of the Metropolitan Church of Bessarabia, failing which he would have to leave the parish.

4. *Parish of Cania (Cantemir)*

63. In a letter of 24 November 1994 to the Metropolitan of Bessarabia, V.B., a Romanian national, priest of the parish of Cania, reported that he was under intense pressure from the authorities of the province of Cantemir, who had upbraided him for belonging to the applicant Church.

64. On 19 January 1995 V.B. was summoned to the police station in Cantemir, where he was served with a government decision cancelling his residence and work permits and ordering him to leave Moldovan territory within seventy-two hours and to hand over the permits concerned to the relevant authorities.

5. *Incidents in Chișinău*

65. On 5 April 1995 Vasile Petrache, priest of the parish of Saint Nicholas, informed the Metropolitan of Bessarabia that the windows of the church, which was affiliated to the Metropolitan Church of Bessarabia, had been broken during incidents that had taken place on the nights of 27 to 28 March and 3 to 4 April 1995.

66. A similar attack occurred in the night of 13 to 14 May 1995. Vasile Petrache lodged a complaint on each occasion, asking the police to intervene in order to prevent further attacks taking place.

67. In the night of 3 to 4 September 1996 a grenade was thrown by unknown persons into the house of the Metropolitan of Bessarabia, causing damage. The applicant lodged a complaint about this at the police station in Chișinău.

68. In autumn 1999, after the death of Vasile Petrache, the Metropolitan of Bessarabia appointed the applicant Petru Buburuz as the parish priest of Saint Nicholas.

Following that appointment the church of Saint Nicholas was occupied by representatives of the Metropolitan Church of Moldova, who locked it and prevented the adherents of the applicant Church from entering. They also took possession of the parish documents and seal.

69. On 8 December 1999 the police issued a summons against Petru Buburuz for organising a public meeting in front of Saint Nicholas's church on 28 November 1999 without first obtaining the authorisation required for public meetings.

70. On 28 January 2000 Judge S. of the Buiucani Court of First Instance discontinued the proceedings on the ground that the applicant had not organised a meeting but had merely celebrated a mass in his capacity as priest at the request of about a hundred believers who were present. Judge S. also noted that the mass had been celebrated on the square, as the church door had been locked.

6. Incident in Buiucani (Chişinău)

71. In the night of 3 to 4 September 1996 a grenade was thrown into the house of P.G., a member of the clergy of the applicant Church. On 28 September 1996 P.G. was threatened by six persons unknown to him. He immediately lodged a criminal complaint.

72. In a letter of 22 November 1996 to the President of Moldova, the Minister of the Interior expressed his regret about the slow progress of the investigations into P.G.'s complaints and informed him that on that account disciplinary penalties had been imposed on the police officers responsible for the inquiry.

7. Parish of Octombrie (Sângerei)

73. In a report of 22 June 1998 to the Metropolitan of Bessarabia the parish clerk complained of the actions of one M., a priest of the Metropolitan Church of Moldova, who was trying, with the help of the mayor of Bălţi, to oust P.B., a priest of the applicant Church, and have the village church closed.

No complaint was lodged with the authorities on this subject.

8. Incidents in Cucioaia (Ghiliceni)

74. On 23 August 1999, according to the applicants, Police Captain R., claiming to be acting on the orders of his superior officer, Lieutenant-Colonel B.D., placed seals on the door of the church of Cucioaia (Ghiliceni) and forbade V.R., a priest of the applicant Church, who regularly officiated there, to enter and continue to conduct divine service. After a complaint by the people of the village, the applicant Vlad Cubreacov wrote to the Prime Minister on 26 August 1998 to ask him for an explanation.

The incident was also reported in the 26 August 1998 issue of the newspaper *Flux*.

The Government asserted that following the above complaint the Ministry of the Interior ordered an inquiry. The inquiry showed that it was

not a policeman but a member of the Metropolitan Church of Moldova, Archdeacon D.S., who had placed the seals on the church door.

9. Parish of Badicul Moldovenesc (Cahul)

75. On 11 April 1998, at about midnight, the parish priest was woken by persons unknown to him who were trying to force open the presbytery door. He was threatened with death if he did not give up the idea of creating a new parish in Cahul.

76. On 13 April 1998 he was threatened with death by one I.G., a priest of the Metropolitan Church of Moldova. On the same day he complained to the police.

10. Parish of Mărinici (Nisporeni)

77. After leaving the Metropolitan Church of Moldova in July 1997 to join the applicant Church, the priest of the parish of Mărinici and his family received threats on a number of occasions from various priests of the Metropolitan Church of Moldova. The windows of his house were broken and, on 2 February 1998, he was attacked in the street and beaten by strangers, who told him not to meddle with “those things” anymore.

78. The parish priest consulted a forensic physician, who issued a certificate detailing the injuries that had been inflicted on him. He subsequently lodged a criminal complaint with the Cecani police.

79. The Moldovan newspapers regularly reported incidents described as acts of intimidation against the clergy and worshippers of the Metropolitan Church of Bessarabia.

11. Incident at Floreni

80. On 6 December 1998 one V.J., a priest of the Metropolitan Church of Moldova, and other persons accompanying him broke open the door of the village church and occupied it. When the parish priest, V.S., a member of the applicant Church, arrived to take the Sunday service he was prevented from entering. The stand-off continued until the villagers belonging to the applicant Church arrived on the scene.

12. Incident at Leova

81. In a report sent to the Metropolitan of Bessarabia on 2 February 2001, N.A., priest of the parish of Leova, stated that the church in Leova had suffered acts of vandalism and that he himself and other parishioners had been the target of public acts of intimidation and death threats from one G.C., a priest of the Metropolitan Church of Moldova. Such acts were repeated on a number of further occasions without any protection being offered by the municipal council to parishioners who were members of the applicant Church.

C. Incidents affecting the assets of the Metropolitan Church of Bessarabia

1. Incident at Floreni

82. The Christians of the village of Floreni joined the applicant Church on 12 March 1996 and formed a local community of that Church on 24 March 1996. They also had a chapel built where mass could be celebrated.

83. On 29 December 1997 the government adopted decision no. 1203, granting the Metropolitan Church of Moldova a right of use in respect of the land on which the chapel built by the Metropolitan Church of Bessarabia was situated. That decision was confirmed by a decree of 9 March 1998 issued by the Floreni municipal council.

84. Following a request by the Metropolitan Church of Bessarabia for the right to use the land concerned, in view of the fact that its chapel was built on it, the National Land Registry replied to the Church's adherents in the parish of Floreni that "the local public authorities [were] not able to adopt such a decision since the Metropolitan Church of Bessarabia [had] no recognised legal personality in Moldova".

2. Incident relating to a humanitarian gift from the American association "The Church of Jesus Christ of Latter-Day Saints"

85. On 17 February 2000 the Metropolitan of Bessarabia asked the government Committee for Humanitarian Aid to authorise entry into Moldovan territory of goods to the value of 9,000 United States dollars (USD) sent from the United States, and to classify the goods concerned as humanitarian aid. That request was refused on 25 February 2000.

86. On 25 February 2000 the applicant Vlad Cubreacov asked the committee to inform him of the reasons for its refusal. He pointed out that the gift (of second-hand clothes), sent by the Church of Jesus Christ of Latter-Day Saints, had been given a transit visa by the Ukrainian authorities, who accepted that it was a humanitarian gift. However, the goods had been held up by the Moldovan customs since 18 February 2000, so that the addressee was obliged to pay USD 150 per day of storage. The applicant repeated his request for the goods to be allowed to enter Moldovan territory as a humanitarian gift.

87. On 28 February 2000 the Deputy Prime Minister of Moldova authorised the entry of this humanitarian gift into Moldovan territory.

D. Questions relating to the personal rights of the applicant Church's clergy

88. Vasile Petrache, a priest of the applicant Church, was refused a retirement pension on the ground that he was not a minister of a recognised denomination.

II. RELEVANT DOMESTIC LAW**A. The Constitution of 29 July 1994**

89. Article 31 of the Moldovan Constitution, concerning freedom of conscience, provides:

“1. Freedom of conscience is guaranteed. It must be manifested in a spirit of tolerance and mutual respect.

2. Freedom of worship is guaranteed. Religious denominations shall organise themselves according to their own articles of association, in compliance with the law.

3. Any manifestation of discord is forbidden in relations between religious denominations.

4. Religious denominations shall be autonomous and separated from the State, and shall enjoy the latter's support, including facilities granted for the purpose of providing religious assistance in the army, hospitals, prisons, mental institutions and orphanages.”

B. The Religious Denominations Act (Law no. 979-XII of 24 March 1992)

90. The relevant provisions of the Religious Denominations Act, as published in the Official Gazette no. 3/70 of 1992, read as follows:

Section 1 – Freedom of conscience

“The State shall guarantee freedom of conscience and freedom of religion within Moldovan territory. Everyone shall have the right to manifest his belief freely, either alone or in community with others, to propagate his belief and to worship in public or in private, on condition that such worship is not contrary to the Constitution, the present Act or the legislation in force.”

Section 4 – Intolerance on denominational grounds

“Intolerance on denominational grounds, manifested by acts which interfere with the free operation of a religious denomination recognised by the State, shall be an offence punished in accordance with the relevant legislation.”

Section 9 – Religious denominations' freedom of organisation and operation

“Denominations shall be free to organise and operate freely on condition that their practices and rites do not contravene the Constitution, the present Act or the legislation in force.

Where that is not the case, denominations shall not qualify for State recognition.”

Section 14 – Recognition of religious denominations

“In order to be able to organise and operate, denominations must be recognised by means of a government decision.

Where a denomination fails to comply with the conditions laid down by the first paragraph of section 9 of the present Act, recognition may be withdrawn under the same procedure.”

Section 15 – Articles of association

“To qualify for recognition, each denomination shall submit to the Government, for scrutiny and approval, the articles of association governing its organisation and operation. The articles of association must contain information on its system of organisation and administration and on the fundamental principles of its beliefs.”

Section 21 – Associations and foundations

“Associations and foundations which pursue a religious aim, in whole or in part, shall enjoy religious rights and shall be subject to the obligations arising from the legislation on religious denominations.”

Section 22 – Clergy, invitation and delegation

“Leaders of denominations having republican and hierarchical rank ..., and all persons employed by religious denominations, must be Moldovan citizens.

Denominations which wish to take foreign nationals into their employ to conduct religious activities, or to delegate Moldovan citizens to conduct religious activities abroad, must in every case seek and obtain the agreement of the State authorities.”

Section 24 – Legal personality

“Denominations recognised by the State shall be legal persons ...”

Section 35 – Publishing and liturgical objects

“Only denominations recognised by the State and registered in accordance with the relevant legislation may

- (a) produce and market objects specific to the denomination concerned;
- (b) found periodicals for the faithful, or publish and market liturgical, theological or ecclesiastical books necessary for practice of the religion concerned;
- (c) lay down scales of charges for pilgrimages and touristic activities in the denomination’s establishments;
- (d) organise, within Moldovan territory or abroad, exhibitions of liturgical objects, including exhibitions of items for sale;

...

For the purposes of the present section, the term ‘liturgical objects’ shall mean liturgical vessels, metal and lithographic icons, crosses, crucifixes, church furniture, cross-shaped pendants or medallions framing religious images specific to each denomination, religious objects sold from door to door, etc. The following items shall be assimilated with liturgical objects: religious calendars, religious postcards and leaflets, albums of religious works of art, films and labels portraying places of worship or objects of religious art, other than those which form part of the national cultural heritage, products necessary for worship, such as incense and candles, including decorations for weddings and christenings, material and embroidery for the production of liturgical vestments and other objects necessary for practice of a religion.”

**Section 44 – Recruitment of clergy and employees
by religious denominations**

“Bodies affiliated to religious denominations or institutions and enterprises set up by them may engage staff in accordance with labour legislation.”

Section 45 – Contracts

“Clergy and employees of religious denominations shall be engaged under a written contract ...”

Section 46 – Legal status

“Clergy and employees of religious denominations or the institutions and enterprises set up by them shall have the same legal status as the employees of organisations, institutions and enterprises, so that labour legislation shall be applicable to them.”

Section 48 – State pensions

“Whatever pensions are paid by religious denominations, their clergy and employees shall receive State pensions, in accordance with the Moldovan State Pensions Act.”

C. The Code of Civil Procedure

91. Article 28/2, as amended by Law no. 942-XIII of 18 July 1996, determines the jurisdiction of the Court of Appeal as follows:

“1. The Court of Appeal shall examine at first instance applications against organs of the central administration and their officials on account of illegal or *ultra vires* acts which infringe citizens’ rights.”

92. Article 37, on the participation of several plaintiffs or defendants in the same trial, provides:

“The action may be brought by a number of plaintiffs jointly or against more than one defendant. Each of the plaintiffs and defendants shall act independently of the others.

Co-plaintiffs and co-defendants may designate one of their number to prosecute the action ...”

93. Article 235, on the right to appeal against unlawful acts of the administration, provides:

“Any natural or legal person who considers that his rights have been infringed by an administrative act or the unjustified refusal of an administrative organ ... to examine his application concerning a legal right shall be entitled to ask the competent court to set aside the relevant act or uphold the infringed right.”

THE LAW**I. ALLEGED VIOLATION OF ARTICLE 9 OF THE CONVENTION**

94. The applicants alleged that the Moldovan authorities’ refusal to recognise the Metropolitan Church of Bessarabia infringed their freedom of

religion, since only religions recognised by the government could be practised in Moldova. They asserted in particular that their freedom to manifest their religion in community with others was frustrated by the fact that they were prohibited from gathering together for religious purposes and by the complete absence of judicial protection of the applicant Church's assets. They relied on Article 9 of the Convention, which provides:

“1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

A. Arguments submitted to the Court

1. The applicants

95. Citing *Manoussakis and Others v. Greece* (judgment of 26 September 1996, *Reports of Judgments and Decisions* 1996-IV, p. 1361, § 37), the applicants alleged that the refusal to recognise the applicant Church infringed their freedom of religion, since the lack of authorisation made it impossible to practise their religion. They submitted that a State could require a prior registration procedure for religious denominations without breaching Article 9 of the Convention provided that registration did not become an impediment to believers' freedom of religion. But in the present case the refusal to recognise did not have any basis which was acceptable in a democratic society. In particular, the applicants asserted that the applicant Church and its members could not be criticised for any activity which was illegal or contrary to public order.

96. The applicants submitted that in a democratic society any group of believers who considered themselves to be different from others should be able to form a new Church, and that it was not for the State to determine whether or not there was a real distinction between these different groups or what beliefs should be considered distinct from others.

Similarly, it was not for the State to favour one Church rather than another by means of recognition, or to censor the name of a Church solely on the ground that it referred to a closed chapter of history.

Consequently, in the present case, the Moldovan State was not entitled to decide whether the applicant Church was a separate entity or a grouping within another Church.

2. The Government

97. The Government accepted that the right to freedom of religion included the freedom to manifest one's religion through worship and observance, but considered that in the present case the refusal to recognise the applicant Church did not amount to a prohibition of its activities or those of its members. The members of the applicant Church retained their freedom of religion, both as regards their freedom of conscience and as regards the freedom to manifest their beliefs through worship and practice.

98. The Government further submitted that the applicant Church, as an Orthodox Christian Church, was not a new denomination, since Orthodox Christianity had been recognised in Moldova on 7 February 1993 at the same time as the Metropolitan Church of Moldova. There was absolutely no difference, from the religious point of view, between the applicant Church and the Metropolitan Church of Moldova.

The creation of the applicant Church had in reality been an attempt to set up a new administrative organ within the Metropolitan Church of Moldova. The State could not interfere in the conflict within the Metropolitan Church of Moldova without infringing its duty of neutrality in religious matters.

At the hearing on 2 October 2001 the Government submitted that this conflict, apparently an administrative one, concealed a political conflict between Romania and Russia; were it to intervene by recognising the applicant Church, which it considered to be a schismatic group, the

consequences were likely to be detrimental to the independence and territorial integrity of the young Republic of Moldova.

B. The third party

99. The third party submitted that the present application originated in an administrative conflict within the Metropolitan Church of Moldova. It asserted that the applicant Church had been set up by clergy of the Metropolitan Church of Moldova who, prompted by their personal ambition, had decided to split away from it. As the schismatic activity of the applicant Petru Păduraru had been contrary to the canons of the Russian Orthodox Church, the patriarch of Moscow had forbidden him to conduct divine service. However, in breach of canon law, and without consulting either the patriarchate of Moscow or the Moldovan civil authorities, the patriarchate of Bucharest had decided to recognise the schismatic Church. The conflict thus generated should therefore be resolved only by negotiations between the Romanian and Russian patriarchates.

100. The third party contended that the applicant Church was based on ethnic criteria and that its recognition by the government would therefore not only constitute interference by the State in religious matters but would also have detrimental consequences for the political and social situation in Moldova and would encourage the existing nationalist tendencies there. In addition, such recognition would prejudice the friendly relations between Moldova and Ukraine.

C. The Court's assessment

101. The Court reiterates at the outset that a Church or ecclesiastical body may, as such, exercise on behalf of its adherents the rights guaranteed by Article 9 of the Convention (see *Cha'are Shalom Ve Tsedek v. France* [GC], no. 27417/95, § 72, ECHR 2000-VII). In the present case the Metropolitan Church of Bessarabia may therefore be considered an applicant for the purposes of Article 34 of the Convention.

1. Whether there was an interference

102. The Court must therefore determine whether there was an interference with the applicants' right to freedom of religion on account of the refusal to recognise the applicant Church.

103. The Government submitted that the refusal to recognise the applicant Church did not prevent the applicants from holding beliefs or manifesting them within the Orthodox Christian denomination recognised by the State, namely the Metropolitan Church of Moldova.

104. The applicants asserted that, according to Moldovan law, only religions recognised by the State may be practised and that refusing to recognise the applicant Church therefore amounted to forbidding it to operate, both as a liturgical body and as an association. The applicants who are natural persons may not express their beliefs through worship, since only a denomination recognised by the State can enjoy legal protection.

105. The Court notes that, according to the Religious Denominations Act, only religions recognised by government decision may be practised.

In the present case the Court observes that, not being recognised, the applicant Church cannot operate. In particular, its priests may not conduct divine service, its members may not meet to practise their religion and, not having legal personality, it is not entitled to judicial protection of its assets.

The Court therefore considers that the government's refusal to recognise the applicant Church, upheld by the Supreme Court of Justice's decision of 9 December 1997, constituted interference with the right of the applicant Church and the other applicants to freedom of religion, as guaranteed by Article 9 § 1 of the Convention.

106. In order to determine whether that interference entailed a breach of the Convention, the Court must decide whether it satisfied the requirements of Article 9 § 2, that is whether it was "prescribed by law", pursued a legitimate aim for the purposes of that provision and was "necessary in a democratic society".

2. *Whether the interference was prescribed by law*

107. The applicants accepted that the interference in question was prescribed by the Religious Denominations Act. They asserted nevertheless that the procedure laid down by the Act had been misapplied, since the real reason for refusal to register had been political; the Government had neither submitted nor proved that the applicant Church had failed to comply with the laws of the Republic.

108. The Government made no observation on this point.

109. The Court refers to its established case-law to the effect that the terms "prescribed by law" and "in accordance with the law" in Articles 8 to 11 of the Convention not only require that the impugned measures have some basis in domestic law, but also refer to the quality of the law in question, which must be sufficiently accessible and foreseeable as to its effects, that is formulated with sufficient precision to enable the individual – if need be with appropriate advice – to regulate his conduct (see *The Sunday Times v. the United Kingdom (no. 1)*, judgment of 26 April 1979, Series A no. 30, p. 31, § 49; *Larissis and Others v. Greece*, judgment of 24 February 1998, Reports 1998-I, p. 378, § 40; *Hashman and Harrup v. the United Kingdom* [GC], no. 25594/94, § 31, ECHR 1999-VIII; and *Rotaru v. Romania* [GC], no. 28341/95, § 52, ECHR 2000-V).

For domestic law to meet these requirements, it must afford a measure of legal protection against arbitrary interferences by public authorities with the rights guaranteed by the Convention. In matters affecting fundamental rights it would be contrary to the rule of law, one of the basic principles of a democratic society enshrined in the Convention, for a legal discretion granted to the executive to be expressed in terms of an unfettered power. Consequently, the law must indicate with sufficient clarity the scope of any such discretion and the manner of its exercise (see *Hasan and Chaush v. Bulgaria* [GC], no. 30985/96, § 84, ECHR 2000-XI).

The level of precision required of domestic legislation – which cannot in any case provide for every eventuality – depends to a considerable degree on the content of the instrument in question, the field it is designed to cover and the number and status of those to whom it is addressed (see *Hashman and Harrup*, cited above, § 31, and *Groppera Radio AG and Others v. Switzerland*, judgment of 28 March 1990, Series A no. 173, p. 26, § 68).

110. In the present case the Court notes that section 14 of the Law of 24 March 1992 requires religious denominations to be recognised by a government decision and that, according to section 9 of the same law, only denominations whose practices and rites are compatible with the Moldovan Constitution and legislation may be recognised.

Without giving a categorical answer to the question whether the above-mentioned provisions satisfy the requirements of foreseeability and precision, the Court is prepared to accept that the interference in question was “prescribed by law” before deciding whether it pursued a “legitimate aim” and was “necessary in a democratic society”.

3. *Legitimate aim*

111. At the hearing on 2 October 2001 the Government submitted that the refusal to allow the application for recognition lodged by the applicants was intended to protect public order and public safety. The Moldovan State, whose territory had repeatedly passed in earlier times from Romanian to Russian control and vice versa, had an ethnically and linguistically varied population. That being so, the young Republic of Moldova, which had been independent since 1991, had few strengths it could depend on to ensure its continued existence, but one factor conducive to stability was religion, the majority of the population being Orthodox Christians. Consequently, recognition of the Moldovan Orthodox Church, which was subordinate to the patriarchate of Moscow, had enabled the entire population to come together within that Church. If the applicant Church were to be recognised, that tie was likely to be lost and the Orthodox Christian population dispersed among a number of Churches. Moreover, under cover of the applicant Church, which was subordinate to the patriarchate of Bucharest, political forces were at work, acting hand-in-glove with Romanian interests favourable to reunification between Bessarabia and Romania. Recognition

of the applicant Church would therefore revive old Russo-Romanian rivalries within the population, thus endangering social stability and even Moldova's territorial integrity.

112. The applicants denied that the measure complained of had been intended to protect public order and public safety. They alleged that the Government had not shown that the applicant Church had constituted a threat to public order and public safety.

113. The Court considers that States are entitled to verify whether a movement or association carries on, ostensibly in pursuit of religious aims, activities which are harmful to the population or to public safety (see *Manoussakis and Others*, cited above, p. 1362, § 40, and *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, nos. 29221/95 and 29225/95, § 84, ECHR 2001-IX).

Having regard to the circumstances of the case, the Court considers that the interference complained of pursued a legitimate aim under Article 9 § 2, namely protection of public order and public safety.

4. *Necessary in a democratic society*

(a) **General principles**

114. The Court refers to its settled case-law to the effect that, as enshrined in Article 9, freedom of thought, conscience and religion is one of the foundations of a "democratic society" within the meaning of the Convention. It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it.

While religious freedom is primarily a matter of individual conscience, it also implies, *inter alia*, freedom to "manifest [one's] religion" alone and in private or in community with others, in public and within the circle of those whose faith one shares. Bearing witness in words and deeds is bound up with the existence of religious convictions. That freedom entails, *inter alia*, freedom to hold or not to hold religious beliefs and to practise or not to practise a religion (see *Kokkinakis v. Greece*, judgment of 25 May 1993, Series A no. 260-A, p. 17, § 31, and *Buscarini and Others v. San Marino* [GC], no. 24645/94, § 34, ECHR 1999-I). Article 9 lists a number of forms which manifestation of one's religion or belief may take, namely worship, teaching, practice and observance. Nevertheless, Article 9 does not protect every act motivated or inspired by a religion or belief (see *Kalaç v. Turkey*, judgment of 1 July 1997, *Reports* 1997-IV, p. 1209, § 27).

115. The Court has also said that, in a democratic society, in which several religions coexist within one and the same population, it may be necessary to place restrictions on this freedom in order to reconcile the

interests of the various groups and ensure that everyone's beliefs are respected (see *Kokkinakis*, cited above, p. 18, § 33).

116. However, in exercising its regulatory power in this sphere and in its relations with the various religions, denominations and beliefs, the State has a duty to remain neutral and impartial (see *Hasan and Chaush*, cited above, § 78). What is at stake here is the preservation of pluralism and the proper functioning of democracy, one of the principle characteristics of which is the possibility it offers of resolving a country's problems through dialogue, without recourse to violence, even when they are irksome (see *United Communist Party of Turkey and Others v. Turkey*, judgment of 30 January 1998, *Reports* 1998-I, p. 27, § 57). Accordingly, the role of the authorities in such circumstances is not to remove the cause of tension by eliminating pluralism, but to ensure that the competing groups tolerate each other (see *Serif v. Greece*, no. 38178/97, § 53, ECHR 1999-IX).

117. The Court further observes that in principle the right to freedom of religion for the purposes of the Convention excludes assessment by the State of the legitimacy of religious beliefs or the ways in which those beliefs are expressed. State measures favouring a particular leader or specific organs of a divided religious community or seeking to compel the community or part of it to place itself, against its will, under a single leadership, would also constitute an infringement of the freedom of religion. In democratic societies the State does not need to take measures to ensure that religious communities remain or are brought under a unified leadership (see *Serif*, cited above, § 52). Similarly, where the exercise of the right to freedom of religion or of one of its aspects is subject under domestic law to a system of prior authorisation, involvement in the procedure for granting authorisation of a recognised ecclesiastical authority cannot be reconciled with the requirements of paragraph 2 of Article 9 (see, *mutatis mutandis*, *Pentidis and Others v. Greece*, judgment of 9 June 1997, *Reports* 1997-III, p. 995, § 46).

118. Moreover, since religious communities traditionally exist in the form of organised structures, Article 9 must be interpreted in the light of Article 11 of the Convention, which safeguards associative life against unjustified State interference. Seen in that perspective, the right of believers to freedom of religion, which includes the right to manifest one's religion in community with others, encompasses the expectation that believers will be allowed to associate freely, without arbitrary State intervention. Indeed, the autonomous existence of religious communities is indispensable for pluralism in a democratic society and is thus an issue at the very heart of the protection which Article 9 affords (see *Hasan and Chaush*, cited above, § 62).

In addition, one of the means of exercising the right to manifest one's religion, especially for a religious community, in its collective dimension, is the possibility of ensuring judicial protection of the community, its

members and its assets, so that Article 9 must be seen not only in the light of Article 11, but also in the light of Article 6 (see, *mutatis mutandis*, *Sidiropoulos and Others v. Greece*, judgment of 10 July 1998, *Reports* 1998-IV, p. 1614, § 40, and *Canea Catholic Church v. Greece*, judgment of 16 December 1997, *Reports* 1997-VIII, pp. 2857 and 2859, §§ 33 and 40-41, and opinion of the Commission, p. 2867, §§ 48-49).

119. According to its settled case-law, the Court leaves to States party to the Convention a certain margin of appreciation in deciding whether and to what extent an interference is necessary, but that goes hand in hand with European supervision of both the relevant legislation and the decisions applying it. The Court's task is to ascertain whether the measures taken at national level are justified in principle and proportionate.

In order to determine the scope of the margin of appreciation in the present case the Court must take into account what is at stake, namely the need to maintain true religious pluralism, which is inherent in the concept of a democratic society (see *Kokkinakis*, cited above, p. 17, § 31). Similarly, a good deal of weight must be given to that need when determining, as paragraph 2 of Article 9 requires, whether the interference corresponds to a "pressing social need" and is "proportionate to the legitimate aim pursued" (see, *mutatis mutandis*, among many other authorities, *Wingrove v. the United Kingdom*, judgment of 25 November 1996, *Reports* 1996-V, p. 1956, § 53). In exercising its supervision, the Court must consider the interference complained of on the basis of the file as a whole (see *Kokkinakis*, cited above, p. 21, § 47).

(b) Application of the above principles

120. The Government submitted that the interference complained of was necessary in a democratic society. In the first place, to recognise the applicant Church the State would have had to give up its position of neutrality in religious matters, and in religious conflicts in particular, which would have been contrary to the Moldovan Constitution and Moldovan public policy. It was therefore in order to discharge its duty of neutrality that the Government had urged the applicant Church to settle its differences with the Metropolitan Church of Moldova first.

Secondly, the refusal to recognise, in the Government's submission, was necessary for national security and Moldovan territorial integrity, regard being had to the fact that the applicant Church engaged in political activities, working towards the reunification of Moldova with Romania, with the latter country's support. In support of their assertions, they mentioned articles in the Romanian press favourable to recognition of the applicant Church by the Moldovan authorities and reunification of Moldova with Romania.

Such activities endangered not only Moldova's integrity but also its peaceful relations with Ukraine, part of whose present territory had been

under the canonical jurisdiction of the Metropolitan Church of Bessarabia before 1944.

The Government further asserted that the applicant Church was supported by openly pro-Romanian Moldovan parties, who denied the specificity of Moldova, even sometimes during debates in Parliament, thus destabilising the Moldovan State. In that connection, they mentioned the Christian Alliance for the Reunification of Romania, set up on 1 January 1993, whose affiliates included a number of associations and a political party represented in the Moldovan parliament, the Christian Democratic Popular Front, which had welcomed the reappearance of the Metropolitan Church of Bessarabia.

Thirdly, in the Government's submission, the refusal to recognise the applicant Church had been necessary to preserve social peace and understanding among believers. The aggressive attitude of the applicant Church, which sought to draw other Orthodox Christians to it and to swallow up the other Churches, had led to a number of incidents which, without police intervention, could have caused injury or loss of life.

Lastly, the Government emphasised that, although they had not recognised the Metropolitan Church of Bessarabia, the Moldovan authorities were acting in a spirit of tolerance and permitted the applicant Church and its members to continue their activities without hindrance.

121. The applicants submitted that the refusal to recognise the Metropolitan Church of Bessarabia was not necessary in a democratic society. They asserted that all the arguments put forward by the Government were without foundation and unsubstantiated and that they did not correspond to a "pressing social need". There was nothing in the file to show that the applicants had intended or carried on or sought to carry on activities capable of undermining Moldovan territorial integrity, national security or public order.

They alleged that the government, by refusing recognition even though it had recognised other Orthodox Churches, had failed to discharge its duty of neutrality for preposterously fanciful reasons.

Non-recognition had made it impossible for the members of the applicant Church to practise their religion because, under the Religious Denominations Act, the activities of a particular denomination and freedom of association for religious purposes may be exercised only by a denomination recognised by the State. Similarly, the State provided its protection only to recognised denominations and only those denominations could defend their rights in the courts. Consequently, the clergy and members of the applicant Church had not been able to defend themselves against the physical attacks and persecution which they had suffered, and the applicant Church had not been able to protect its assets.

The applicants denied that the State had tolerated the applicant Church and its members. They alleged, on the contrary, not only that State agents

had permitted acts of intimidation which members of the applicant Church had suffered at the hands of other believers but also that in a number of cases State agents had participated in such acts.

122. The Court will examine in turn the arguments put forward by the Government in justification of the interference and the proportionality of that interference in relation to the aims pursued.

(i) Arguments put forward in justification of the interference

(α) Upholding Moldovan law and Moldovan constitutional principles

123. The Court notes that Article 31 of the Moldovan Constitution guarantees freedom of religion and enunciates the principle of religious denominations' autonomy *vis-à-vis* the State, and that the Religious Denominations Act (the Law of 24 March 1992) lays down a procedure for the recognition of religious denominations.

The Government submitted that it was in order to comply with the above principles, including the duty of neutrality as between denominations, that the applicant Church had been refused recognition and instead told first to settle its differences with the already recognised Church from which it wished to split, namely the Metropolitan Church of Moldova.

The Court notes first of all that the applicant Church lodged a first application for recognition on 8 October 1992 to which no reply was forthcoming, and that it was only later, on 7 February 1993, that the State recognised the Metropolitan Church of Moldova. That being so, the Court finds it difficult, at least for the period preceding recognition of the Metropolitan Church of Moldova, to understand the Government's argument that the applicant Church was only a schismatic group within the Metropolitan Church of Moldova, which had been recognised.

In any event, the Court observes that the State's duty of neutrality and impartiality, as defined in its case-law, is incompatible with any power on the State's part to assess the legitimacy of religious beliefs, and requires the State to ensure that conflicting groups tolerate each other, even where they originated in the same group. In the present case, the Court considers that by taking the view that the applicant Church was not a new denomination and by making its recognition depend on the will of an ecclesiastical authority that had been recognised – the Metropolitan Church of Moldova – the State failed to discharge its duty of neutrality and impartiality. Consequently, the Government's argument that refusing recognition was necessary in order to uphold Moldovan law and the Moldovan Constitution must be rejected.

(β) Threat to territorial integrity

124. The Court notes in the first place that in its articles of association, in particular in the preamble thereto, the applicant Church defines itself as an autonomous local Church, operating within Moldovan territory in

accordance with the laws of that State, and whose name is a historical one having no link with current or previous political situations. Although its activity is mainly religious, the applicant Church states that it is also prepared to cooperate with the State in the fields of culture, education and social assistance. It further declares that it has no political activity.

The Court considers those principles to be clear and perfectly legitimate.

125. At the hearing on 2 October 2001 the Government nevertheless submitted that in reality the applicant Church was engaged in political activities contrary to Moldovan public policy and that, were it to be recognised, such activities would endanger Moldovan territorial integrity.

The Court reiterates that while it cannot be ruled out that an organisation's programme might conceal objectives and intentions different from the ones it proclaims, to verify that it does not the Court must compare the content of the programme with the organisation's actions and the positions it defends (see *Sidiropoulos and Others*, cited above, p. 1618, § 46). In the present case it notes that there is nothing in the file which warrants the conclusion that the applicant Church carries on activities other than those stated in its articles of association.

As to the press articles mentioned above, although their content, as described by the Government, reveals ideas favourable to reunification of Moldova with Romania, they cannot be imputed to the applicant Church. Moreover, the Government have not argued that the applicant Church had prompted such articles.

Similarly, in the absence of any evidence, the Court cannot conclude that the applicant Church is linked to the political activities of the above-mentioned Moldovan organisations (see paragraph 120 above), which are allegedly working towards unification of Moldova with Romania. Furthermore, it notes that the Government have not contended that the activity of these associations and political parties is illegal.

As for the possibility that the applicant Church, once recognised, might constitute a danger to national security and territorial integrity, the Court considers that this is a mere hypothesis which, in the absence of corroboration, cannot justify a refusal to recognise it.

(γ) Protection of social peace and understanding among believers

126. The Court notes that the Government did not dispute that incidents had taken place at meetings of the adherents and members of the clergy of the applicant Church (see paragraphs 47-87 above). In particular, conflicts have occurred when priests belonging to the applicant Church tried to celebrate mass in places of worship to which the adherents and clergy of the Metropolitan Church of Moldova laid claim for their exclusive use, or in places where certain persons were opposed to the presence of the applicant Church on the ground that it was illegal.

On the other hand, the Court notes that there are certain points of disagreement between the applicants and the Government about what took place during these incidents.

127. Without expressing an opinion on exactly what took place during the events concerned, the Court notes that the refusal to recognise the applicant Church played a role in the incidents.

(ii) Proportionality in relation to the aims pursued

128. The Government submitted that although the authorities had not recognised the applicant Church they acted in a spirit of tolerance and permitted it to continue its activities without hindrance. In particular, its members could meet, pray together and manage assets. As evidence, they cited the numerous activities of the applicant Church.

129. The Court notes that, under Law no. 979-XII of 24 March 1992, only religions recognised by a government decision may be practised in Moldova. In particular, only a recognised denomination has legal personality (section 24), may produce and sell specific liturgical objects (section 35) and engage clergy and employees (section 44). In addition, associations whose aims are wholly or partly religious are subject to the obligations arising from the legislation on religious denominations (section 21).

That being so, the Court notes that in the absence of recognition the applicant Church may neither organise itself nor operate. Lacking legal personality, it cannot bring legal proceedings to protect its assets, which are indispensable for worship, while its members cannot meet to carry on religious activities without contravening the legislation on religious denominations.

As regards the tolerance allegedly shown by the government towards the applicant Church and its members, the Court cannot regard such tolerance as a substitute for recognition, since recognition alone is capable of conferring rights on those concerned.

The Court further notes that on occasion the applicants have not been able to defend themselves against acts of intimidation, since the authorities have fallen back on the excuse that only legal activities are entitled to legal protection (see paragraphs 56, 57 and 84 above).

Lastly, it notes that when the authorities recognised other liturgical associations they did not apply the criteria which they used in order to refuse to recognise the applicant Church and that no justification has been put forward by the Government for this difference in treatment.

130. In conclusion, the Court considers that the refusal to recognise the applicant Church has such consequences for the applicants' freedom of religion that it cannot be regarded as proportionate to the legitimate aim pursued or, accordingly, as necessary in a democratic society, and that there has been a violation of Article 9 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION TAKEN IN CONJUNCTION WITH ARTICLE 9

131. The applicant Church further submitted that it was the victim of discrimination on account of the authorities' unjustified refusal to recognise it, whereas they had recognised other Orthodox Churches and had also recognised several different associations which all claimed allegiance to a single religion. It relied on Article 14 of the Convention, which provides:

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

132. According to the Government, as the Orthodox Christian religion had been recognised in the form of the Metropolitan Church of Moldova, there was no justification for recognising in addition the applicant Church, which also claimed allegiance to the Orthodox Christian religion. The applicant Church was not a new denomination but a schismatic group whose beliefs and liturgy did not differ in any way from those of the Metropolitan Church of Moldova. The Government admitted that the Orthodox Eparchy of Chişinău, which was attached to the Russian Orthodox Church of the Old Liturgy, whose head office was in Moscow, had been recognised even though it was not a new denomination, but submitted that the difference in treatment was based on an ethnic criterion, since the adherents and clergy of the Orthodox Eparchy of Chişinău were all of Russian origin.

133. The applicants submitted that the reason given to the applicant Church for refusing to recognise it was neither reasonable nor objective, because when the authorities recognised other denominations they had not applied the criteria of believers' ethnic origins or the newness of the denomination. They pointed out, for instance, that the authorities had recognised two Adventist Churches and two Jewish associations, which were not organised along ethnic lines.

134. The Court considers that the allegations relating to Article 14 of the Convention amount to a repetition of those submitted under Article 9. Accordingly, there is no cause to examine them separately.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

135. The applicants asserted that domestic law did not afford any remedy for the complaints they had submitted to the Court. They alleged a violation of Article 13 of the Convention, which provides:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

136. The Government submitted that in the present case, since the applicants' complaints were civil in nature, the requirements of Article 13 were absorbed by those of Article 6 of the Convention.

137. The Court reiterates that the effect of Article 13 is to require the provision of a domestic remedy allowing the competent national authority both to deal with the substance of the relevant Convention complaint and to grant appropriate relief, although Contracting States are afforded some discretion as to the manner in which they comply with their obligations under this provision (see *Chahal v. the United Kingdom*, judgment of 15 November 1996, *Reports* 1996-V, pp. 1869-70, § 145). The remedy required by Article 13 must be "effective", both in practice and in law. However, such a remedy is required only for complaints that can be regarded as "arguable" under the Convention.

138. The Court observes that the applicants' complaint that the refusal to recognise the applicant Church had infringed their right to the freedom of religion guaranteed by Article 9 of the Convention was undoubtedly arguable (see paragraph 130 above). The applicants were therefore entitled to an effective domestic remedy within the meaning of Article 13. Accordingly, the Court will examine whether such a remedy was available to the applicant Church and the other applicants.

139. It notes that in its judgment of 9 December 1997 the Supreme Court of Justice held that the government's refusal to reply to the application for recognition lodged by the applicant Church had not been unlawful, nor had it been in breach of Article 9 of the Convention, since the applicants could manifest their religion within the Metropolitan Church of Moldova. However, in doing so the Supreme Court of Justice did not reply to the applicants' main complaints, namely their wish to join together and manifest their religion collectively within a Church distinct from the Metropolitan Church of Moldova and to have the right of access to a court to defend their rights and protect their assets, given that only denominations recognised by the State enjoyed legal protection. Consequently, not being recognised by the State, the Metropolitan Church of Bessarabia had no rights it could assert in the Supreme Court of Justice.

Accordingly, the appeal to the Supreme Court of Justice based on Article 235 of the Code of Civil Procedure was not effective.

140. Moreover, the Court notes that although the Religious Denominations Act makes the activity of a religious denomination conditional upon government recognition and the obligation to comply with the laws of the Republic, it does not contain any specific provision governing the recognition procedure and making remedies available in the event of a dispute.

The Government did not mention any other remedy of which the applicants could have made use.

Consequently, the Court considers that the applicants were unable to obtain redress from a national authority in respect of their complaint relating to their right to the freedom of religion. There has therefore been a violation of Article 13 of the Convention.

IV. ALLEGED VIOLATION OF ARTICLES 6 AND 11 OF THE CONVENTION

141. The applicants further complained that the refusal to recognise the applicant Church was preventing it from acquiring legal personality, thus depriving it of its right of access to a court, as guaranteed by Article 6 of the Convention, so that any complaint relating to its rights, and in particular its property rights, could be determined. In addition, they alleged that the refusal to recognise, coupled with the authorities' stubborn persistence in holding to the view that the applicants could practise their religion within the Metropolitan Church of Moldova, infringed their freedom of association, contrary to Article 11 of the Convention.

142. Having taken Articles 6 and 11 into account in the context of Article 9 (see paragraphs 118 and 129 above), the Court considers that there is no cause to examine them separately.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

143. 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. Damage

144. The applicants did not claim any sum in respect of pecuniary damage, but asked for 160,000 French francs (FRF) for non-pecuniary damage.

145. The Government did not comment on this point.

146. The Court considers that the violations it has found must undoubtedly have caused the applicants non-pecuniary damage which it assesses, on an equitable basis, at 20,000 euros (EUR).

B. Costs and expenses

147. Having received from the Council of Europe FRF 7,937.10 in legal aid for the appearance of the applicant Vlad Cubreacov at the hearing before the Court, the applicants requested only the reimbursement of the lawyers'

fees they had incurred for the proceedings before the Court, namely FRF 8,693.89 for the Moldovan lawyer who had prepared their application and 3,550 pounds sterling for the British counsel who had defended the applicants' interests in the present proceedings and presented argument at the hearing.

148. The Government did not comment on this point.

149. Having regard to the vouchers supplied by the applicants, and ruling on an equitable basis, the Court awards the applicants the sum of EUR 7,025 for costs and expenses, plus any sum which may be chargeable in value-added tax.

C. Default interest

150. According to the information available to the Court, the statutory rate of interest applicable in France at the date of adoption of the present judgment is 4.26% per annum.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 9 of the Convention;
2. *Holds* that it is not necessary to examine the case also from the standpoint of Article 14 of the Convention taken in conjunction with Article 9;
3. *Holds* that there has been a violation of Article 13 of the Convention;
4. *Holds* that it is not necessary to determine whether there have been violations of Articles 6 and 11 of the Convention;
5. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, the following amounts:
 - (i) EUR 20,000 (twenty thousand euros), to be converted into Moldovan lei at the rate applicable on the date of settlement, for non-pecuniary damage;
 - (ii) EUR 7,025 (seven thousand and twenty-five euros) for costs and expenses, plus any sum which may be chargeable in value-added tax;
 - (b) that simple interest at an annual rate of 4.26% shall be payable on the above sums from the expiry of the above-mentioned three months until settlement;

6. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in French, and notified in writing on 13 December 2001, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Elisabeth PALM
President