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# European Court of Human Rights

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

FOURTH SECTION

DECISION

Application no. 22742/06  
by EPISCOPIA DE EDINET ȘI BRICENI  
against Moldova

The European Court of Human Rights (Fourth Section), sitting on 7 September 2010  
as a Chamber composed of:

Nicolas Bratza, *President*,  
Lech Garlicki,  
Giovanni Bonello,

Ljiljana Mijović,  
Ján Šikuta,  
Mihai Poalelungi,  
Nebojša Vučinić, *judges*,  
and Fatoş Aracı, *Deputy Section Registrar*,

Having regard to the above application lodged on 30 May 2006,

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

## THE FACTS

The applicant, Episcopia de Edineţ şi Briceni, is branch of the Moldovan Orthodox Church. It was represented before the Court by Ms J. Hanganu, a lawyer practising in Chişinău. The Moldovan Government (“the Government”) were represented by their Agent, Mr V. Grosu.

### **A. The circumstances of the case**

The facts of the case, as submitted by the parties, may be summarised as follows.

On 23 June 1999 the State authorities registered the applicant Church as a branch of the Moldovan Orthodox Church.

On 8 October 2003 Mitropolit Vladimir, the head of the Moldovan Orthodox Church, sent a letter to the Customs Department, informing the latter of the applicant Church's right to import and export objects of a religious nature independently from the Moldovan Orthodox Church.

On 20 January 2005 the applicant Church signed a contract with a company in Russia for the sale and importation into Moldova of 10,000 packets of candles. All the customs documents were prepared in February 2005 and on 15 December 2005 the candles were deposited in Chişinău.

On 17 March 2006 the General Police Department of Chişinău established that candles had been sold by the applicant Church, despite restrictions on the sale of such items established by law. It fined the applicant Church and ordered the seizure of the entire lot of candles. The applicant Church challenged that decision in court, relying on its right to sell candles as religious objects.

On 12 April 2006 the Ciocana District Court found in the applicant Church's favour and annulled the decision of 17 March 2006. The court found, *inter alia*, that the applicant Church was a legal person and under relevant legislation it had the right to produce and to sell objects used in officiating religious services, which included candles. The court's decision was final.

On an unknown date the Prosecutor General lodged an extraordinary appeal in cassation and asked for the annulment of the final court decision of 12 April 2006.

On 11 May 2006 the Chişinău Court of Appeal accepted that request and quashed the decision of 12 April 2006, upholding the decision of 17 March 2006. The court found that the applicant Church did not have a right to sell religious objects independently from the Moldovan Orthodox Church. It considered that ignoring this amounted to a serious breach by the Ciocana District Court of procedural law and the adoption of “an unlawful and unsubstantiated decision”. That decision was final.

## COMPLAINTS

1. The applicant Church complained under Article 6 of the Convention of a violation of the principle of legal certainty as a result of the quashing of the final decision in its favour.
2. It also complained that as a result of that quashing its right to the protection of its property, guaranteed under Article 1 of Protocol No. 1 to the Convention, was breached.

## THE LAW

On 20 January 2010 the Court received the following declaration from the Government:

“I, Vladimir Grosu, Agent for the Government of Republic of Moldova, declare that the Government of Moldova offer to pay the sum of 81,000 (eighty one thousand) euros to Episcopia de Edineţ și Briceni with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into Moldovan lei at the rate applicable on the date of payment, and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.”

On 1 February 2010 the Court received the following declaration signed by the applicant:

“I, Janeta Hanganu, the applicant's representative in the above case, note that the Government of Moldova are prepared to pay the sum of 81,000 (eighty one thousand) euros to Episcopia de Edineț și Briceni with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into Moldovan lei at the rate applicable on the date of payment, and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.

I accept the proposal and waive any further claims against Moldova in respect of the facts giving rise to this application. I declare that this constitutes a final resolution of the case.”

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention). In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court unanimously

*Decides* to strike the application out of its list of cases.

Fatoş Aracı Nicolas Bratza  
Deputy Registrar President