

8 March 2007

MOLDOVA: Government fined again by ECtHR for legal status denial

By Felix Corley, Forum 18

Five years after a December 2001 fine by the European Court of Human Rights (ECtHR) in Strasbourg, for denying legal status to the Bessarabian Orthodox Church, the Moldovan government has once again been heavily fined for refusing to grant legal status to a religious community – this time the Moldovan True Orthodox Church. The State Service for Religious Denominations repeatedly refused to register the Church, despite repeated Moldovan court orders to do so. No state official – whether at the State Service, the Justice Ministry, the Foreign Ministry or the Moldovan representation to the Council of Europe in Strasbourg – was prepared to discuss with Forum 18 News Service the reasons for the state's refusal to register the True Orthodox Church, the local branch of the Orthodox Kiev Patriarchate, various Muslim communities and numerous Protestant churches. As Moldova persists in refusing to register religious communities, this is unlikely to be the last time that the ECtHR fines the government for this type of religious freedom violation.

Five years after being heavily fined by the European Court of Human Rights (ECtHR) in Strasbourg for denying legal status to the Bessarabian Orthodox Church, the Moldovan government has been fined again for refusing to grant legal status to another local religious community with no good reason. On 27 February the ECtHR ordered the government to pay compensation of 12,000 Euros (200,600 Moldovan Lei, 97,700 Norwegian Kroner, or 15,800 US Dollars) to the Moldovan True Orthodox Church after the State Service for Religious Denominations refused to register it despite repeated court orders to do so. Vladimir Grosu, the government's agent to the Strasbourg court, refused absolutely to discuss the case. "I can't give an interview by telephone and in any case the court ruling has not yet entered into force," he told Forum 18 from the capital Chisinau on 7 March.

Grosu – who was appointed to the post last December - refused to say whether the government will challenge the ruling within the three-month period available to it or to say whether and how the government plans to change the law and practice to end such denials of religious communities' rights. He also refused to tell Forum 18 why the Moldovan government had spent so much effort and money defending a case at the ECtHR when the State Service, a government agency, had refused to carry out court orders. Moldovan officials have often refused to explain the reasons for religious freedom violations (see F18News 21 July 2004 http://www.forum18.org/Archive.php?article_id=367).

Without legal status religious communities cannot own property in their own name, run bank accounts, employ staff officially or defend themselves as a body in court. In recent years, police have visited unregistered religious communities and demanded that they show their registration certificate in what many see as an attempt to intimidate them. In one bizarre case, the customs service tried to prevent the True Orthodox Church importing clerical robes from Ukraine because it was unregistered, but church members managed to resolve the case unofficially. Long-running arbitrary refusals to register religious communities are common in Moldova (see F18News 24 January 2007 http://www.forum18.org/Archive.php?article_id=902).

The ECtHR judgment found the Moldovan government guilty of violating the religious freedom of the True Orthodox Church (also known as the Russian Orthodox Church Abroad), as well as failing to ensure the protection of their property and their right to an effective remedy. The judgement (Application no. 952/03 <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=813955&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>) becomes final three months after being issued if neither side appeals against it.

The applicants lodged the case in November 2002 after the State Service refused to register the Church despite a Court of Appeal order in August 2001 that it must do so and the Judgements Enforcement Department had failed in its attempt to ensure its compliance. The Judgements Enforcement Department again tried to secure compliance in 2004 but failed.

The Government made three attempts to re-open the proceedings by claiming the discovery of "new and relevant information" which had not been previously known, but these attempts were rejected by local courts. The Church lodged a fresh registration application in June 2004 but received no response from the State Service.

"The Court considered that the authorities' refusal to register the applicant Church constituted an interference with the right of the

applicant Church and the other applicants to freedom of religion," the ECtHR ruled. It noted that local courts "expressly rejected all the arguments advanced by the Government against registration". "The Court therefore took the view that the refusal to register the applicant Church had had no legal basis under Moldovan law and that the interference with the applicants' freedom of religion had not been prescribed by law." The Court also ruled that the Church had had no effective remedy against the State Service's refusal to carry out court orders that it should register the Church.

No state official – whether at the State Service (which is headed by Serghei Yatsko), the Justice Ministry, the Foreign Ministry or the Moldovan representation to the Council of Europe in Strasbourg - was prepared to tell Forum 18 between 5 and 8 March why the State Service has refused to register the True Orthodox Church, the local branch of the Orthodox Kiev Patriarchate, various Muslim communities and numerous Protestant churches (see F18News 24 January 2007 http://www.forum18.org/Archive.php?article_id=902).

Forum 18 made repeated calls to the State Service between 5 and 7 March, but each time it introduced itself officials put the phone down.

Despite this, Foreign Ministry spokesperson Dorina Roman – who said she was not authorised to discuss the True Orthodox case - insists that her government aims to be democratic and open with the media. "We try to raise awareness among all government officials that they have to be open, whatever the subject," she told Forum 18 from Chisinau on 7 March. Asked whether the denial of legal status to many religious communities is such a sensitive subject that officials might not want to talk about, she responded: "I think yes."

Janeta Hanganu, a colleague in the law practice of Alexandru Tanase who represented the True Orthodox in Strasbourg, said the judgement was clear and unambiguous, "so it is unlikely the government will appeal against it". "Hopefully other religious communities denied registration will be able to use this argument in court," she told Forum 18 on 7 March.

But human rights activists have told Forum 18 that they are sceptical that the political will to end arbitrary registration denials is there (see F18News 8 March 2007 http://www.forum18.org/Archive.php?article_id=926). Officials have used the long-promised new Religion Law as an excuse for halting registrations (see F18News 26 January 2007 http://www.forum18.org/Archive.php?article_id=903). (END)

A printer-friendly map of Moldova is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=europe&Rootmap=moldov>

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