



**Republic of Moldova**

**CONSTITUTIONAL COURT**

**JUDGMENT**

**ON THE INTERPRETATION**

**of Article 13, par. (1) of the Constitution in correlation with the  
Preamble of the Constitution and the Declaration of Independence of  
the Republic of Moldova**

*(Applications No. 8b/2013 and 41b/2013)*

*The judgment may be subject to editorial revision*

CHIȘINĂU  
5 December 2013

In the name of the Republic of Moldova,

Constitutional Court composed of:

Mr. Alexandru TĂNASE, *President*,  
Mr. Aurel BĂIEȘU,  
Mr. Igor DOLEA,  
Mr. Tudor PANȚÎRU,  
Mr. Victor POPA,  
Mr. Petru RĂILEAN, *judges*,

with the participation of Mrs. Elena Lupan, *registrar*

given the applications lodged on 26 March and 17 September 2013,  
registered on the same dates,  
having examined the applications referred to in a plenary public sitting,  
given the file documents and proceedings,

Delivers the following Judgment:

## PROCEEDINGS

1. The case originated in the application lodged with the Constitutional Court on 26 March 2013, under Art. 25, par. (1), p.g) of the Law on the Constitutional Court and Art. 38, par. (1), p.g) of the Code of Constitutional Jurisdiction, by, member of Parliament Mrs. Ana Guțu, on the interpretation of Art.13 of the Constitution, which provides:

“(1) The State language in the Republic of Moldova is the **Moldovan language based on the Latin alphabet**. [...]”

2. The author of the application has requested the Constitutional Court to interpret Article 13 of the Constitution, and to explain:

– whether the phrase “*Moldovan language based on the Latin alphabet*” can be semantically equated with the phrase “*Romanian language*”.

3. By the decision of the Constitutional Court of 12 April 2013, the application had been declared admissible, without any prejudices to the merits.

4. On 17 September 2013, members of Parliament Mihai Ghimpu, Valeriu Munteanu, Corina Fusu, Boris Vieru and Gheorghe Brega lodged a application on the interpretation of Art. 1, par. (1) correlated with Art. 13 par. (1) and the Preamble of the Constitution of the Republic of Moldova, in which there was requested:

– to acknowledge that the Declaration of Independence of the Republic of Moldova has a superior value over the Constitution of the Republic of Moldova;

– to remove the contradiction between the provisions of the Declaration of Independence of the Republic of Moldova and Art. 13 par. (1) of the Constitution, correlating the name of the official language of the Republic of Moldova in accordance to the legal act that the Constitutional Court considers having superior value.

5. On 15 October 2013, Mrs. Ana Guțu lodged a supplement to the application, requesting the Constitutional Court to confer to the Declaration of Independence of the Republic of Moldova, adopted on 27 August 1991, the status of a constitutional norm, thus confirming that the official language of the Republic of Moldova is the Romanian language, and not “Moldovan language in Latin alphabet” as it is formulated in Art. 13 of the Constitution.

6. Given the identity of the object outlined as a result of this supplement, according to Art. 43 of the Code of Constitutional Jurisdiction, on 23 October 2013 the Court decided to colligate the two applications into a single file.

7. In preparing the applications for examination, the Constitutional Court has requested the opinions of the President of the Republic of Moldova, of the Parliament, of the Government and of the Academy of Sciences of Moldova. The Parliament and the Government did not exercise this right.

8. Within the public plenary sitting of the Court, the application has been presented by the authors Mrs. Ana Guțu and Mr. Valeriu Munteanu. The authorities did not delegate their representatives.

## THE FACTS

### A. Historical context

9. The fact of founding medieval Moldova as an independent state is recorded in the middle of the XIVth century (according to various sources: 1359 or 1365). The state was situated in the area between the Carpathian mountains, the Dniester River and the Black Sea; nowadays, this territory is divided between the Republic of Moldova, Romania and Ukraine. Its population spoke the same language and was of the same origin with the Wallachian and Transylvanian people.

10. Since the fifteenth century, Moldova was under the suzerainty of the Ottoman Empire.

11. As a result of the Russo-Turkish War of 1806-1812, the eastern part of the Principality of Moldova, having its eastern border on the Dniester River and the western border on the Prut River, was annexed to the Russian Empire. The name was changed into Bessarabia.

12. In 1859, the western part of the Principality of Moldova united with Wallachia and formed a new state. Since 1861, the new state was known as Romania. In 1877, Romania gained independence from the Ottoman Empire.

13. On 2 December 1917, Moldavian Democratic Republic (Bessarabia) has proclaimed its independence from the Russian Empire and on 24 January 1918 it has reconfirmed its independence from the successor hereof – Federal Russia. Shortly thereafter, on 27 March 1918, Moldavian Democratic Republic (Bessarabia) has united with Romania.

14. On the left bank of Dniester, the Soviet authorities founded, in 1924, the Moldavian SSAR (Soviet Socialist Autonomus Republic) as an autonomous republic subordinated to the Ukrainian SSR. This is the region where the theory of Moldovan language, which is different from the Romanian language, was created; according to this theory the Soviet Union was trying to justify its claims over Bessarabia. By this territory, the Soviet Union imposed a cultural policy of "making up" a false language, written in Cyrillic alphabet and thus purified from Latin elements of the Romanian language spoken beyond Prut River. This language was called Moldovan.

15. In the period within 1932-1938, the Soviets gave up Moldovenist theory, restauring the use of the Latin alphabet and of the literary Romanian language. In 1938, the Cyrillic alphabet has been reintroduced, the followers of the Latin alphabet were condemned and the theory of Moldovan language as a language different from Romanian, in force.

16. On 28 June 1940, as a result of Molotov-Ribbentrop Pact with Nazi Germany, the Soviet Union re-annexed the territory of Bessarabia.

17. On 2 August 1940, by the decision of the central bodies of the USSR, approximately 70% of the territory of Bessarabia and 80% of its population became the Moldavian Soviet Socialist Republic (MSSR). The remaining territory of Bessarabia was incorporated into the Ukrainian Soviet Socialist Republic.

18. After the Second World War, the Soviet authorities introduced in Bessarabia the Cyrillic alphabet and the notion of the Moldovan language. In 1957 the Cyrillic alphabet has been introduced also for the Gagauz language, which is a Turkish language written in Latin alphabet and spoken by the turcophone minority population in southern Bessarabia.

19. In 1989, the Moldovan language was enacted as official language of the MSSR, and the use of the Latin alphabet was reinstated. The alphabet which was approved has derived from the 26 characters of the Latin alphabet plus a series of 5 additional characters formed by the application of diacritical marks; the use of letters "K, Q, W, Y" was limited to proper names and neologisms of international nature, and thus being **identical to the alphabet of the Romanian language**. The Law of 1989 on the languages spoken in the Moldavian SSR, which is in force according to the

Constitution of the Republic of Moldova, mentions “**really existing Moldavian-Romanian identity**”.

20. In 1989-1991 the “Moldovan language” switched to Latin script, by way of transcription of the Cyrillic script. Furthermore, in 1996, the Gagauz language switched to the Latin script, according to the Turkish model.

21. In the Declaration of Independence of 27 August 1991, the Parliament of the Republic of Moldova proclaimed the independence of the country from the Soviet Union within the borders of the former Moldavian Soviet Socialist Republic. In the same time, in the Declaration of Independence of the Republic of Moldova, the language is called “**Romanian**”. On 2 March 1992, Republic of Moldova joined the United Nations and was recognized by the international community.

## **B. The official language after the proclamation of independence**

22. The Constitution, which was adopted in 1994, has enacted the official language “*Moldovan language based on the Latin alphabet*”.

23. In its final and transitory provisions, Article VII of Title VII, the Constitution preserved in force the Law of 1 September 1989 on the use of languages on the territory of the Republic of Moldova, to the extent that it does not infringe the Constitution. At the same time, it was provided that this law may be changed by a vote of at least two thirds of the members of Parliament within 7 years following the date of coming into effect of the Constitution, namely with the majority required to amend the Constitution.

24. The educational curricula approved by the Ministry of Education provides the study of the “Romanian language” and during the first years following the independence this subject has been studied according to the textbooks from Romania.

25. At the request of the Parliament of the Republic of Moldova addressed to the Academy of Sciences of Moldova on 28 July 1994 with a view to provide the opinion on the history and use of the glossonym “Moldovan language”, the Presidium of the Academy on 9 September 1994 unanimously approved the opinion, mentioning the following:

“Our belief is that Article 13 of the Constitution should be revised in accordance with the scientific truth and should have the following wording: “The official language (state’s language) of the Republic of Moldova is Romanian”.

26. According to the Declaration of the Annual General Meeting of the Academy of Sciences of Moldova of 29 February 1996, the official language of the Republic of Moldova is Romanian:

“The Annual General Meeting of the Academy of Sciences of the Republic of Moldova confirms the grounded scientific opinion of the philologists from our country and from abroad, approved by the Decision of the Presidium of the Academy of Sciences of Moldova of 09.IX.1994, according to which the correct name of the (state’s) official language of the Republic of Moldova is Romanian”.

27. In the process of editing “*The orthographic Dictionary of the Romanian language (orthoepic, morphologic and punctuation rules)*” laid out by the Academy of Sciences of Moldova and recommended for publishing following the sitting of 15 November 2000, there were applied the spelling rules of the Romanian language approved by the Romanian Academy.

28. In 2010, the Academy of Sciences of Moldova has elaborated a draft law in order to transpose the spelling rules of the Romanian language.

29. In all five districts and two municipalities of the self proclaimed separatist region Transnistria, the “Moldovan language” continues to be spelled with Cyrillic letters (as in the Soviet times). Having this writing, this language is the official one along with the Ukrainian and Russian languages. The State University of Tiraspol, which for a period of time used the Latin alphabet, was transferred to Chisinau. In the summer of 2004, the separatist militia started to close schools in Transnistria in which the Romanian language was taught in Latin alphabet and the parents and pupils who opposed this were arrested (see the case *Catan and others v. Moldova and Russia*, the Judgment of the Grand Chamber of the European Court of Human Rights of 19 October 2012). Thus, six Romanian schools were closed and then reopened, still they have the status of “non-governmental schools”. In other schools from Transnistria, pupils/students learn “Moldovan language” (in Cyrillic).

30. The international standard ISO 639 (a set of international standards aimed to assign a short code to languages), initially conferred to the Moldovan language the codes *mol* and *mo*, but these were removed in November 2008 and replaced by the codes associated to the Romanian language. Also, there is no any Ethnologue code (a reference work bringing together all known living languages in the world) of the Moldovan language as it had been assigned the code associated to the Romanian language.

## PERTINENT LEGISLATION

31. The provisions of the Declaration of Independence, approved by the Law No. 691 of 27 August 1991, (Official Journal No. 11-12/103; 118, 1994) are the following:

### DECLARATION OF INDEPENDENCE OF THE REPUBLIC OF MOLDOVA

“THE PARLIAMENT OF THE REPUBLIC OF MOLDOVA, constituted following free and democratic elections;

TAKING into account the millenary history of our people and its uninterrupted statehood within the historical and ethnic area of its national making;

CONSIDERING the acts of disaggregation of its national territory in 1775 and 1812 as being contradictory to the historical right of its people and the judicial statute of the Principality of Moldova, acts recalled by the entire evolution of the history and by the freely rendered will of the population of Bessarabia and Bucovina;

UNDERLINING the existence of Moldovans in Transnistria, a component part of the historical and ethnic territory of our people;

ACKNOWLEDGING that the Parliaments of many states, in their declarations, consider the agreement of 23 August 1939 between the government of the USSR and the government of Germany, as void *ab initio* and demand that the political and judicial consequences of the above mentioned agreement to be eliminated, a fact revealed also by the Declaration of the International Conference "The Molotov – Ribbentrop Pact and its consequences for Bessarabia", adopted on 28 June 1991;

POINTING out that, without prior consultation of the population of Bessarabia, Northern Bucovina and Herța District, occupied by force on 28 June 1940, as well as the Moldavian Soviet Socialist Autonomous Republic (Transnistria) founded on 12 October 1924, the Supreme Soviet of the USSR, by infringing its constitutional prerogatives, adopted the "Law of the USSR on the establishment of Moldavian SSR" on 2 August 1940, and its Presidium on 4 November 1940 issued "The Decree on the frontiers between Ukrainian SSR and Moldavian SSR", normative acts whereby, in the absence of any real legal basis, it was attempted to justify disaggregation of those territories and incorporation of the new republic into the USSR;

RECALLING that during the recent years the democratic national liberation movement of the population of the Republic of Moldova has reaffirmed its *aspirations for freedom, independence and national unity*, expressed in the final documents of the Great National Assembly in Chisinau on 27 August 1989, on 16 December 1990 and on 27 August 1991, by the laws and decisions of the Parliament of the Republic of Moldova on *the enactment of Romanian language as the state language* and restoration of the Latin alphabet on 31 August 1989, the state flag on 27 April 1990, the state coat of arms on 3 November 1990 and changing the official name of the republic on 23 May 1991;

TAKING as a basis the Declaration of Sovereignty of the Republic of Moldova, adopted by the Parliament on 23 June 1990 and the fact that the population of the Republic of Moldova, in its own right as a sovereign people, did not participate in the referendum on the preservation of the USSR, held on 17 March 1991, despite the pressure exercised by the state bodies of the USSR;

TAKING into account the irreversible processes taking place in Europe and elsewhere in the world calling for democracy, freedom and national unity, for the establishment of the rule of law and transition to market economy,

REAFFIRMING the equal rights of people and their right to self-determination, as laid down in the Charter of the United Nations, the Helsinki Final Act and in the norms of international law;

CONSIDERING, in view of all of the above, that the time has come for the accomplishment of a judicial act, in accordance with the history of our people, with the norms of morality and the provisions of the international law,

PROCLAIMS

solemnly, in the virtue of the right of people to self-determination, in the name of the entire population of the Republic of Moldova, and in the face of the entire world, that:

THE REPUBLIC OF MOLDOVA IS A SOVEREIGN, INDEPENDENT AND DEMOCRATIC STATE, FREE TO DECIDE ITS PRESENT AND FUTURE, WITHOUT ANY EXTERNAL INTERFERENCE, IN ACCORDANCE WITH THE IDEALS AND ASPIRATIONS OF THE PEOPLE WITHIN THE HISTORICAL AND ETHNICAL AREA OF ITS NATIONAL MAKING.

As a SOVEREIGN AND INDEPENDENT STATE, THE REPUBLIC OF MOLDOVA, hereby:

REQUESTS all states and governments of the world to recognize the independence of the Republic of Moldova, as proclaimed by the freely elected Parliament of the Republic, and expresses its will to establish political, economic and cultural relations, as well as in other fields of common interest, with European countries and all other countries of the world, and is ready to proceed to the establishment of diplomatic relations with the above, in accordance with the norms of international law and common practice in this matter;

REQUESTS the United Nations to admit the Republic of Moldova as a full member of this world organization and its specialized agencies;

DECLARES that it is ready to adhere to the Helsinki Final Act and the Charter of Paris for a new Europe, requesting hereby to be admitted, with equal rights, to the Conference on Security and Cooperation in Europe and to its mechanisms;

REQUESTS the Government of the Union of Soviet Socialist Republics to start the negotiations with the Government of the Republic of Moldova in order to terminate the illegal state of occupation of the latter and to withdraw the Soviet troops off the national territory of the Republic of Moldova;

DECIDES that only the Constitution, the law and other normative acts adopted by the legally constituted bodies of the Republic of Moldova shall apply on its territory,

GUARANTEES the exercise of social, economic, cultural and political rights of all citizens of the Republic of Moldova, including those of national, ethnic, religious and linguistic groups, in accordance with the provisions of the Helsinki Final Act and documents adopted afterwards, as well as the Charter of Paris for a new Europe.

So help us God!

Adopted in Chisinau, by the Parliament of the Republic of Moldova, on 27 August 1991”.

32. The relevant provisions of the Constitution (Official Journal No. 1/1, 1994) are the following:

Preamble



“[...] **STARTING** from the secular *aspirations* of the people to live in a sovereign country, *expressed by the proclamation of independence* of the Republic of Moldova, [...]”

### Article 13

#### State language, use of other languages

“(1) The State language in the Republic of Moldova is the **Moldovan language based on the Latin alphabet.** [...]”

[...]

(4) The manner of functioning of languages within the territory of the Republic of Moldova shall be established by organic law”.

## THE LAW

33. Given the content of the application, the Court noticed that in essence it refers to the relationship between the Declaration of Independence, the Preamble and the Constitution. In this context it is necessary to solve the matter of competition between these two fundamental acts on the issue related to the name of the official language of the country.

34. Therefore, the application refers to a set of elements and principles having interconnected constitutional value, as well as to the observance of principles proclaimed in the Declaration of Independence and enshrined in the Constitution, to the national and linguistic identity.

### A. ADMISIBILITY

35. According to its decisions of 12 April and 23 October 2013 (see par. 3 and 6 *supra*), the Court noted that, under Art. 135, par. (1), p. b) of the Constitution, Art. 4 par. (1), p. b) of the Law on Constitutional Court and Art. 4 par. (1), p. b) of the Code of Constitutional Jurisdiction, the application on the interpretation of the Constitution falls into the competence of the Constitutional Court.

36. Art. 25 par. (1), p. g) of the Law on Constitutional Court and Art.38 par. (1), p. g) of the Code of Constitutional Jurisdiction, grants MP’s the right to submit applications to the Constitutional Court.

37. The Court notes that the aspects raised by the authors of the application have not previously been a matter of interpretation in the court of constitutional litigation.

38. The Court considers that the application cannot be rejected as inadmissible and that there is no ground for ceasing the process, according to the provisions of Art. 60 of the Code of Constitutional Jurisdiction. The Court notes that the application has been lodged within the legal framework and that it is in its competence to rule on the interpretation of Article 13 par.

(1) of the Constitution in conjunction with the Preamble to the Constitution and the Declaration of Independence of the Republic of Moldova. Therefore, the Court will further examine the merits of the application.

39. According to Art. 6 par. (2) of the Code of Constitutional Jurisdiction, the Constitutional Court sets up its own limits of competence.

40. The examination of the case before the Court requires the analysis of two issues that are interdependent. Given the fact that the examination of the correlation between the Declaration of Independence and the Constitution of the Republic of Moldova influences the reasoning related to the name of the official language, the Court will investigate these issues separately, while some aspects will be approached jointly. Therefore, the Court will examine: a) the correlation between the Declaration of Independence and the Constitution of the Republic of Moldova; b) the competition between two fundamental acts that are referring to the official language.

41. In order to clarify the issues raised in the application, the Court especially will use the provisions of the Preamble and those of Art. 13 par. (1) of the Constitution, as well as its previous jurisprudence, using all methods of legal interpretation.

## B. MERITS

42. The Court holds that its power conferred by Art. 135 par. (1), p. b) of the Constitution involves the establishment of the true and full meaning of constitutional norms, which can be achieved by the methods of interpretation of the text (grammatical interpretation), based on the context (systematic interpretation), on purpose (teleological interpretation) and based on legal materials and the history of issuing the law (historical interpretation). To determine the genuine sense, these methods do not exclude each other, they complement reciprocally.

### I. CORRELATION BETWEEN THE DECLARATION OF INDEPENDENCE AND THE CONSTITUTION OF THE REPUBLIC OF MOLDOVA

#### 1. Arguments of the authors of the application

43. The authors of the application refer to the provisions of the Declaration of Independence of the Republic of Moldova, where the phrase “Romanian language” is used to designate the official language of the Republic of Moldova.

## **2. Arguments of the authorities and of the Academy of Sciences of Moldova**

44. In his written opinion the President of the Republic of Moldova has not commented on the correlation between the Declaration of Independence and the Constitution. Concurrently, the President of the Republic of Moldova left to the discretion of the Constitutional Court the necessity to interpret Art. 13 of the Constitution.

45. The Academy of Sciences of Moldova considers that in the Declaration of Independence of the Republic of Moldova the supreme legislative body recognized that the official name of the language spoken in Moldova is Romanian.

46. The Parliament and the Government have not submitted their written opinions.

## **3. Findings of the Court**

### *3.1. Fundamental principles*

#### *3.1.1. Legal value of the Declaration of Independence*

47. The Court notes that, on the basis of the Declaration of Independence, the Republic of Moldova was founded as a sovereign and independent state. The Declaration of Independence represents the political and legal basis of the Republic of Moldova as a sovereign, independent and democratic state. It is the act of birth of the Republic of Moldova. It was on the ground of the Declaration of Independence that the Republic of Moldova was recognized by the other states, was accepted on 31 January 1992 within the Conference for Security and Cooperation in Europe and on 2 March 1992 – within the United Nations.

48. Given the fact that the Republic of Moldova, as a sovereign and independent state, still did not have a Constitution, the Declaration of Independence was the sole document that defined the constitutional order of the Republic of Moldova, under which the political, economic and judicial system of the Republic of Moldova were established. Therefore, until enacting the Constitution, the Declaration of Independence served as a constitutional basis for the development of the state and of the society of the Republic of Moldova.

49. Consequently, the Declaration of Independence is a political and legal document that enacted the creation of the new independent state Republic of Moldova, representing the “birth certificate” of the new state and establishing the basis, fundamental principles and values of the governmental organization of the country.

50. In addition to being the “birth certificate” of the new state, the Declaration of Independence is the most concise statement of the constitutional ideals of the Republic of Moldova. In the historical context of the country, **this legal document has articulated the constitutional values of the newly independent state, from which the legitimate power of those governing the Republic of Moldova nowadays arises.**

*3.1.2. The functional role of the Preamble of the Constitution: legal, interpretative and substantial value*

51. The Court holds that in its Judgment No. 4 of 22 April 2013 it has stated that:

“59. The Preamble, which is at the origin of the constitutional text, is that part of the Constitution which accurately reflects the spirit of the Supreme Law. Accordingly, the Preamble lays out certain **imperative constitutional principles** that can serve as an **independent source** for provisions which are not necessarily reflected directly in the text of the Constitution.”

52. The Court reiterates that the Preamble refers to the Constitution in its entirety; it **has a key-role in understanding and applying the Constitution and can be referred to as a source of law** (see Judgment No. 4 of 22 April 2013, par. 56, 58).

53. In the same Judgment, the Court held, as a matter of principle, that:

“Any interpretation of the Constitution must be carried out starting from the original aims of the Constitution, which are provided in its Preamble and from which derives the text of the Constitution itself... **[W]hen there are several interpretations, the one in line with the Preamble shall prevail**” (par. 59).

*3.2. Relevant legal provisions of other states*

54. As a rule, constitutions commence with a preamble which vary significantly depending on their content.

55. A progressively large number of states have recognized the legal value of the preamble and ceased to treat it as a mere preface, rather as a special provision of the Constitution (Germany, France, Ireland, Estonia, Latvia, Macedonia, Bosnia and Herzegovina, Ukraine, Turkey, India etc).

56. The European Commission for Democracy through Law of the Council of Europe (Venice Commission) made it clear in its conclusion on the importance of the preamble of the Constitution:

”Preambles have above all a political purpose and represent political declarations meant to stress the importance of the fundamental law, its principles, values and guarantees, for the state concerned and its population. As a consequence, they should also have a significant unifying function. (Opinion on the new Constitution of Hungary CDL-AD (2011)016, § 31).

57. In the same vein, the European Court of Human Rights considers that the main principles enshrined in the preamble of the Convention do refer to the Convention in its whole (c.f., *inter alia*, ECtHR judgments *Engel and others v. Netherlands* of 8 June 1976, *Klass and others v. Germany* of 6 September 1978, *Malone v. United Kingdom* of 2 August 1984, etc).

58. In countries with a common law system, the interpretative value of the preamble is deeply rooted, as the preamble of the Constitution is the embodiment of a framework guideline on constitutional interpretation.

59. When there are several interpretations, **the courts give preference to the option in line with the preamble.** For instance, section 39 of the Constitution of South Africa provides that when interpreting the Bill of Rights, the law courts “must promote the values that underlie an open and democratic society based on human dignity, equality and freedom”, words which appear in the preamble of the Constitution. Article 39 of the Constitution does not clearly refer to the preamble of the Constitution. Notwithstanding, the Constitutional Court of South Africa *confirmed the guiding status of the preamble of the Constitution in interpreting* the Bill of Rights. Similarly, in Ireland the courts called upon the preamble of the Irish Constitution, it being a tool used in understanding its spirit.

60. The use of the preamble as a tool to interpret the constitutions is common to the states with Civil law system. In Estonia, the preamble of the Constitution, where the Estonian people commit to “guarantee the preservation of the Estonian nation, language and culture for centuries”, was employed by the Supreme Court of Justice (authority of constitutional jurisdiction) in order to confirm the constitutionality of an act imposing a relevant knowledge of the Estonian language as a condition of eligibility within a council of local administration. Referring to the Estonian language which is the official language of the state, the Court held that it is a legal requirement in light of the *Preamble* of the Constitution (EST-1998-3-007, 1998, CODICES).

61. In Macedonia, the Supreme Court of Justice admitted restrictions on the freedom of political association, due to the fact that a number of activities were perceived as being contrary to the *Preamble* of the Constitution. It considered that a political organization which openly denies the right of Macedonians to self-determination is legally prohibited (MKD-2001-1-004, 2001, CODICES, Judgment preceding the change of the Preamble in 2001). In Ukraine, the Supreme Court of Justice called upon the *Preamble* when deciding the constitutionality of the fact of imposing the use of Ukrainian language by central and local governmental agencies (UKR-2000-1-002, 2000, CODICES).

62. An illustration of the role the preamble plays in interpretation could be considered in German practice. On 30 June 2009, the German Constitutional Court decided that, as a matter of principle, there are no incompatibilities between the *Grundgesetz* (German Constitution) and the

Lisbon Treaty, and thus has set the basis for the final process of ratification (BVerfG, 2 BvE 2/08, 30 June 2009). The Treaty grants the European Union (EU) competences in foreign policy and security. The issue that was raised referred to whether the Treaty breaches the German constitutional order in a manner that a constitutional amendment would be necessary. The Court held that the Treaty does not infringe upon the German sovereignty, though its ratification implies the necessity to undertake certain legislative steps.

63. The German Constitutional Court called upon Article 23 par. (1) of the Basic Law, as well as the *Preamble, which provides for the "determination to promote world peace as an equal partner in a united Europe"*. In light of these provisions, **the Court deduced the will of the German people to be a part of the EU**. The Court mentioned that the Preamble stresses *"not only the moral basis for a responsible self-determination, but also the desire to promote world peace as an equal partner in a united Europe."* **The Court noted that Germany renounces to "political Machiavellianism and to the rigid concept of sovereignty", attempting to achieve "a united Europe, which derives from Article 23.1 of the Basic Law and from the Preamble."** Consequently, the Constitutional Court held that achieving *"European integration and international peaceful order"* is the **will of the German people expressed in the Preamble of the Constitution**.

64. The preambles may also serve as **reference (connective) constitutional clauses**, legally binding, which can serve as an independent source of rights and duties.

65. An illustration in this regard is represented by France. The French Council of State in 1947 ruled expressly for the first time on the legal value of the preamble. When deciding on case related to the right to strike, the Council of State fully recognized the legal value of the Preamble of the Constitution of 1946 (CE., 18.04.1947, *Jarrigion*). By way of this innovative ruling, the Council of State grounded its conclusions on the *"rights and freedoms guaranteed in the Preamble of the Constitution"*.

66. In 1960, when reviewing the collision of an administrative act with a norm of the Preamble of the new Constitution of 1958, the French Council of State confirmed its case-law established in 1947, under the Constitution of 1946. Thus, when reviewing a number of articles of the Criminal Code in collision with Article 8 of the Declaration of 1789, which the Preamble of 1958 Constitution refers to, the French Council of State delivered one of its most prominent judgments holding the legal normative value of the Preamble of the Constitution of 1958, despite of the fact that the constitutional text does not make a clear reference to the Preamble, thus putting an end to the existent controversies on the issue (CE, sect., 12/02/1960, *Soc. Eky*).

67. This solution was upheld later by the Constitutional Council, which adopted the same position in 1971 when delivering a fundamental judgment on the freedom of association (44-71 DC).

68. The Preamble of the Constitution of the V<sup>th</sup> Republic (1958) affirms that French people "*proclaim their attachment to the human rights and the principles of national sovereignty as defined by the Declaration of 1789, confirmed and complemented by the Preamble of the Constitution of 1946.*" The founding fathers of the V<sup>th</sup> Republic did not include the text of the Declaration of 1789 in the Constitution. The Preamble of the Constitution of 1958 did not initially enjoy a legally binding force, it was not either considered as an integral part of the Constitution.

69. It only happened on 16 July 1971 when the Constitutional Council recognized the binding nature of the preamble, as an independent legal source of human rights. **It was for the first time when the Council declared unconstitutional an act adopted by the French Parliament, considering that it breached the freedom of association, one of the "fundamental principles recognized by the laws of the Republic"** (decision of 16 July 1971 entitled "*The freedom of assembly*", 44-71 DC). **These fundamental principles were not mentioned in the Constitution of 1948, but in the Preamble of the Constitution of 1946.**

70. In its subsequent rulings, the French Constitutional Council considered that the *Preamble of the Constitution of 1946* enjoys **legal binding force** and constitutes an **independent source of rights**, although when it was drafted, the preamble of the Constitution of 1946 was perceived as having no legal force. Therefore, the French Constitutional Council effectively granted to the Preamble of the Constitution of 1946 a higher status than the one it had previously.

71. Thus, by its Decision of 1971, the French Constitutional Council applied a method of legal interpretation according to which the Preamble of 1946, the Declaration of 1789 and the fundamental principles of the Republic were granted *ex post facto* legal constitutional status.

72. On finding that the Preamble of the Constitution of the V<sup>th</sup> Republic (1958) makes reference both to the French Declaration of the Rights of Man and of the Citizen of 26 August 1789 and to the Preamble of IV<sup>th</sup> Republic (1946), the French Constitutional Council held *by way of its case-law* that, although the Constitution have not specifically incorporated in its text the provisions on human rights, *the mere reference to it in the text of the preamble* makes the issue of human rights to be considered as *part of constitutional norms*, in this way forming "*the block of constitutionality*".

73. The constant case-law of the French Constitutional Council established the value of constitutional norm for **the Declaration of the Rights of Man and of the Citizen of 1789, which served as a landmark provision for the constitutional review in the field of human rights** (Constitutional Council, 73-51 DC, 27 December 1973; 74-54 DC, 15

January 1975; 99-416 DC, 23 July 1999; 89-254 DC, 4 July 1989; 89-265 DC, 9 January 1990).

74. Under the constitutional reform of 2005, following a referendum, the Preamble of the French Constitution of 1958 also incorporated the Charter for the Environment. **This is the only reference from the Preamble of the Constitution of 1958 inserted as a result of a constitutional referendum. The rest of the texts were included in the block of constitutionality exclusively by way of case-law, through the decision of the Constitutional Council.**

75. Therefore, as a matter of principle, “the block of constitutionality” is made up of the French Constitution as well as of the above cited documents and constitutional principles, **irrespective of the fact whether they are part of the Constitution or not, but which are referred to in the Preamble of the Constitution** (“political, economic and social principles necessary in our times, fundamental principles recognized by the laws of the Republic, principles and objectives of constitutional value”).

76. In the same vein, in Germany the constitutional jurisdiction comprises not only the text of the Basic Law, but also **the constitutional principles, irrespective of the fact whether they are part of the Basic Law or not.** In this regard, *inter alia*, the Federal Constitutional Court noted:

“The Basic Law of the German people, in the context of the international development achieved, particularly since the United Nations has been established, is based on *the universal fundamentals which cannot be changed by a positive law*” (Judgment 2 be 2/08 of 30 June 2009, § 218).

77. Following the same reasoning, the Constitutional Court of Hungary developed the theory of “*The invisible constitution*”, whereby there was decided that it can interpret not only the provisions of the Constitution, but also **any other legal principles of constitutional value**, including the values deduced following a reference to “modern constitutions” (cases 8/1990, 15/1991, 57/1991, 19/1992, 22/1992, 58/2001 etc.). “The invisible constitution” integrates all the fundamental principles needed in order to understand the written constitution and builds up a coherent block of constitutional law.

### *3.3 Applying the above mentioned principles to the present case*

78. The constitution, as a basic law establishing the principles serving for the organizational framework of the state and of the society, is a document of specific significance not only in legal terms, but also in the political and historic context.

79. The preamble of the constitution does not represent mere legal statements. The reasons for the putting down the preamble, the process of



its creation and its sociological functions are various. **The aim of the preamble is not only to guarantee the rights and provide legal reasoning, but also to establish the fundamental values of the society** (*constitutional faith*).

80. The Constitution of 1994 in its Preamble enshrines the constitutional values: centenary *aspirations* of our people to live in a sovereign country, **expressed by the proclamation of independence** of the Republic of Moldova; continuity of statehood of Moldovan people within the historic and ethnic context of its making as a nation; fulfillment of the interests of the citizens of other ethnic origin that, along with Moldovans, constitute the people of the Republic of Moldova; rule of law, civic peace, democracy, human dignity and freedoms, free development of human personality, justice and political pluralism; responsibility and obligations towards the ancient, present and future generations; devotion to the general human values, desire to live in peace and good understanding with all the nations of the world in line with the unanimously recognized principles and norms of international law.

81. This means that the constitutional court is bound to consider these constitutional values and to interpret them taking into account: a) *the aspirations* [...] *expressed by the proclamation of independence* of the Republic of Moldova; b) historical and ethnic context of [people's] making as a nation.

82. The provision related to the "*aspirations* [...] *expressed by the proclamation of independence*" from the Preamble of the Constitution refers directly to the act which proclaimed independence – the Declaration of Independence of the Republic of Moldova. This is **the legal act by which the independence of the Republic of Moldova has been expressed and which reflects the aspirations that accompanied this process**. Therefore, this text of the Preamble of the Constitution is *a referring constitutional provision*.

83. When analyzing the legal value of the Declaration of Independence, the Court shall take into account its nature and content and not its denomination as "law" (Law no. 691 of 27.08.1991). The Declaration of Independence cannot be qualified as an organic law. As a matter of fact, such a classification did not exist at the moment of its passing. The fact that this legal act has a different connotation as compared to an organic law is also due to the use of the verb "*decrees*", in order to confer solemnity which fact is improper to organic laws, and due to the fact that the Declaration of Independence at first was proclaimed and approved by the Great National Assembly and then confirmed by the Parliament (both representing "*the constitutive power*") in a "legal clothing".

84. **The fact of "approving" the Declaration of Independence by a law was made purposefully to confer it the legal force of an official act**

**passed by a recognized authority of the state, which was necessary in order to obtain international recognition.**

85. The Declaration of Independence, which **establishes the formation of the independent state the Republic of Moldova, sets the basis, fundamental principles and values of the governmental organization of the Republic of Moldova.**

86. **There is no other place where the constitutional understanding of the founding fathers and national belief would be so clearly reflected as in the Declaration of Independence.** Therefore, it is the **Declaration of Independence, reflecting the fundamental political decisions, is the national conscience and defines "the constitutional identity" of the Republic of Moldova.** Therefore in the Declaration of Independence there are included elements considered to be essential in defining the constitutional identity of the new state and its population: *aspirations for freedom, independence and national unity, linguistic identity, democratization, rule of law, market economy, history, norms of morality and of international law, European geopolitical orientation, insurance of social, economic and cultural rights and political freedoms for all the citizens of the Republic of Moldova, including for people belonging to other national, ethnic, linguistic and religious groups.*

87. In this respect, when referring to the Preamble of the Constitution, the Declaration of Independence unquestionably carries **a value of constitutional text.** Despite of the fact that such a reference is lacking in the Preamble of the Constitution, the Declaration of Independence of the Republic of Moldova in any case, **by its nature carries a value of constitutional text, as it represents the major expression of the will of the people to build and live in a free and independent state, this will predetermining the necessity of approving the Constitution and it binds the constituent by the ideals, principles and values of the Declaration** (c.f. *mutatis mutandis* the ruling of the Federal Constitutional Court of Germany mentioned in § 102 *infra*).

88. The Court holds that the Declaration of Independence constitutes the primary legal and political basis of the Constitution. Thus, no provision of the Constitution reflected in the text of the Declaration of Independence can violate the limits (provisions) of the Declaration.

89. Moreover, being the founding act of the state Republic of Moldova, the Declaration of Independence is a legal document which cannot be subject to any change and/or amendments. Thus, the Declaration of Independence benefits by the status of "*eternity clause*", as it defines the constitutional identity of the political system, which principles cannot be changed without breaking this identity.

90. On the basis of this argument, the Court notes that the Declaration of Independence is **the original, intangible and immutable element** of the block of constitutionality.

91. By way of the Preamble of the Constitution, the Declaration of Independence envisages the Constitution in its entirety, **having a key role in drafting, understanding and application of the text of the Constitution, as well as the vocation to be called upon as a source of law** (c.f. *mutatis mutandis* the Judgment No. 4 of 22 April 2013, par. 56, 58, 59). Consequently, **any constitutional review or any interpretation shall take into account not only the text of the Constitution, but also the constitutional principles deriving from the block of constitutionality.**

## II. CONCURRENCE OF TWO FUNDAMENTAL ACTS ON THE STATE LANGUAGE

### 1. Arguments of the authors of the application

92. The authors of application consider the phrase "Moldovan language based on the Latin alphabet" can semantically be equated to the phrase "Romanian language", as only the latter is exclusively valid from the scientific point of view.

93. According to the authors of the application, this fact is proved by contemporary linguistic research and can be applied with no exceptions in educational and scientific realm of the Republic of Moldova.

### 2. Arguments of the authorities and of the Academy of Science of Moldova

94. The written opinion of the President of the Republic of Moldova mentions that the scientific name of the state's official language of the Republic of Moldova is certain, this continues to be an issue of political nature.

95. In the view of the President of the Republic of Moldova, the Romanian nation is organized in two Romanian states: Romania and the Republic of Moldova. In the case of the Republic of Moldova, we can see the consequences of a perfidious ideology that has been spread about for tens of years and which is based on the concept of "the existence of two different states, two different nations and two different histories".

96. The President of the Republic of Moldova considers that the issue of the name of the state's official language, determined by the issue of the linguistic identity of the holding nation, has generated a great split among the population of the Republic of Moldova. The Republic of Moldova has to solve urgently its linguistic issues, so that the official name of the state language would only be determined in terms of the scientific truth, with no political interference.

97. According to the Academy of Science of Moldova, the (official) state language of the Republic of Moldova is the Romanian language and

the phrase “Moldovan language based on Latin alphabet” inserted in Art. 13 par. (1) of the Constitution can be semantically equated with the Romanian language. At the same time, the Academy mentions the necessity to use the state language of the Republic of Moldova on the basis of the orthographic norms of Romanian language.

### **3. The findings of the Court**

#### *3.1. Fundamental principles*

98. Within the constitutional order of each state, certain provisions (implicitly and explicitly) have the value of a principle that, in a transversal manner, guides the interpretation of all the constitutional provisions, thus forming the “constitutional core”. As a rule, this hierarchy is obvious in the context of the discussing constitutional amendments, but it also has direct consequences on the issues of applying and interpreting the Constitution.

#### *3.2. Experience of other states*

99. The concept of immutable “basic structure” of the Constitution appears in many Constitutions. Art. 89 par. (5) of the French Constitution prohibits any constitutional amendment infringing upon the republican form of governance in France; Art. 79 par. (3) of the German Basic Law prohibits any constitutional amendment infringing upon the human dignity or the German republican, democratic and social federal state feature; Art. 4 of the Turkish Constitution prohibits any constitutional amendment concerning the Republic of Turkey, its democratic, secular and social nature. Whilst the basic structure of the Constitution, in many cases, does not appear in a formal Preamble, this “basic structure” is treated as a form of *substantial* preamble.

100. This hierarchy has also been recognized by Venice Commission:

“[T]here are however constitutions that declare certain parts – certain provisions or principles – to be unamendable or unalterable.” (c.f. Venice Commission Report on Constitutional Amendment, CDL-AD(2010)001 adopted at its 81<sup>st</sup> plenary session, 11-12 December 2009, par. 206-237).

101. These protected principles generally refer, according to the experience of other states, to the form of government, organization of the state, sovereignty, territorial integrity, certain fundamental rights and freedoms (c.f. Venice Commission Report on Constitutional Amendment, CDL-AD(2010)001 adopted at its 81<sup>st</sup> plenary session, 11-12 December 2009, par. 206-237).

102. For instance, the Constitutional Court of Germany held in 1951 [BvervGE 14 (1951), the case *Südwesstaat*; reiterated in 3 BVerfGE 225, 230-236 (1953), 30 BVerfGE I, 33-47 (1970)] that “*There are constitutional principles that are insomuch the expression of a pre-existent to the Constitution right that it even binds the constituent and other constitutional provisions which are not entitled to this rank can be void due to the fact that it violates these principles*” [I BvervGE, 14, 32 (1951)], called “eternity clauses”. Thus, the Constitutional Court of Germany held that **a certain constitutional provision, even it is inserted in the Constitution from its origin or it was introduced on the occasion of a constitutional amendment, can be deemed unconstitutional if it is contrary to “higher principles and fundamental decisions”**.

103. When dealing with the case called *Communist party* [5 BVerfGE 85, (1956)], the reasoning of the Court relied on the fact that the Basic Law contains, explicitly and implicitly, **an hierarchy** of the provisions, where the **lower ranking** provisions have to lead to a review of their conformity with the **higher ranking** principles.

104. As well, the Constitutional Court of Austria laid down the following interpretation principle: the constitutional provision must be interpreted in line with the fundamental principles of the Constitution; **when a collision occurs, there shall prevail the provision which is in line with fundamental principles** (VfSlg. 11500/1987).

105. There are over one hundred cases where the Supreme Court of the United States of America mentions “The Declaration of Independence”. In the case *Cotting v. Godard*, 183 U.S. 79 (1901), the Supreme Court held:

”While such declaration of principles may not have the force of organic law, or be made the basis of judicial decision as to the limits of right and duty, and while in all cases reference must be had to the organic law of the nation for such limits, yet the latter [the organic law] is but the body and the letter of which the former [the Declaration of Independence] is the thought and the spirit, and it is always safe to read the letter of the Constitution **in the spirit of the Declaration of Independence**. No duty rests more imperatively upon the courts than the enforcement of those constitutional provisions intended to secure that equality of rights which is the foundation of free government.”

### *3.3. Applying the above mentioned principles to the present case*

106. The Court notes that according to Art.13 par. (1) of the Constitution, the state language of the Republic of Moldova is “**Moldovan language based on the Latin alphabet**”.

107. On the other hand, the Declaration of Independence operates with the term “**Romanian language**” as the state language of the newly created state, the Republic of Moldova.

108. As a matter of consequence, the reference to “Romanian language” represents a factual situation enshrined in the text of the Declaration of Independence, which is the founding act of the Republic of Moldova.

Irrespective of the glossonyms in legal use prior to independence, the Declaration of Independence operated a clear-cut distinction opting clearly for the term “*Romanian language*”.

109. In this context, the Court recalls that in its Judgement no. 17 of 12 July 2010 it mentioned:

“3. The Court will not undertake any political and historical assessment of the events from the history the Republic of Moldova [...]. The Court will rule on the issues called upon in the application [...].”

110. Following the same reasoning, the Court notes that it is not in a position to undertake a scientific assessment on the name of the official language, neither on the uniqueness of the language, this being the field of academic research, not the one of the political or legal nature.

111. Finding the existing contradiction between the text of the Declaration of Independence and the text of Article 13 par. (1) of the Constitution, the Court notes that it is not in the position to declare void a provision of the Constitution, any amendments to it being the prerogative of the Parliament.

112. Aiming at settling the legal conflict between the wording of Article 13 of the Constitution – “Moldovan language based on the Latin alphabet” – and the text from the Declaration of Independence – “Romanian language”, the Court will rely on the hierarchy of legal provisions and, subsequently, on the relation of validity between them.

113. The Court notes that in case of a hierarchy relation between two provisions, the validity of the lower one derives from the provision of a higher rank. Therefore, in the event of a conflict between two provisions, in case they are of a different ranking in the hierarchy, the lower provision which is contrary to the higher one shall be invalidated. On the contrary, if the provisions are of the same ranking, the Court shall reconcile them by an interpretation (c.f. the experience of the Federal Constitutional Court of Germany, *BVerfGE 39, 1*).

114. Taking into account the findings stated in par. 87 *supra* on the constitutional value of the text of the Declaration of Independence as part of the block of constitutionality, the two provisions have the same ranking, the Constitution transposing and guaranteeing the values established by the Declaration of Independence. Therefore being in the position to solve the conflict, the Court shall reconcile them by the way of **interpretation**.

115. The Court notes that starting with the legal nature of the Declaration of Independence (c.f. par. 88-90 *supra*), the rule *lex posteriori derogat priori* is inapplicable in the present case. If there is an *a contrario* reasoning and if it is accepted that certain provisions of the Declaration of Independence are contrary to the Constitution, the Declaration of Independence itself would be unconstitutional, which is a non-sense.

116. Considering the findings of the par. 88 and 91 *supra* on the constitutional interpretative value of the Declaration of Independence, the two texts will rely on the reasoning of the founding fathers of the states, expressed in the Declaration of Independence (*ratio legis*).

117. In this context, the Court notes that each political system has its “year zero” when its value and legal system is born. Referring to the existent value, legal and political system of the Republic of Moldova, it is the year 1991 when the state the Republic of Moldova, within the frontiers of the former Soviet Socialist Republic of Moldova was created. The act that certifying the creation of the Republic of Moldova, namely the Declaration of Independence, contain the most essential thesis of its value and legal system on which the Moldovan state is founded, enumerating the “elements of identification” of the latter: the state language, the flag, the coat of arms and the official name of the state.

118. The value of a principle of the Declaration of Independence derives from the general popular consensus legitimating it as well as from its context defining the new state. This confers the Declaration of Independence, in the constitutional order of the Republic of Moldova, a transversal function (“unifying value” in the language of the Venice Commission, mentioned in par. 56 *supra*) as related to other constitutional provisions (in a similar way to the general principles on the rule of law, fundamental rights and freedoms, political justice and pluralism etc), it being the core of the block of constitutionality.

119. “*Romanian language as the state language*” and “*the reintroduction of the Latin alphabet*” are the first thesis included in the Declaration of Independence among the other “elements of identification” of the state (c.f. par. 117 *supra*), obviously resulting that these elements were deemed to be essential in defining the constitutional identity of the new state and of its population, being placed alongside, for instance, with the state flag, the coat of arms and the official name of the state, **having a key role in the value system created through the proclamation of independence of the Republic of Moldova.**

120. Undertaking a historical and teleological interpretation of the Preamble of the Constitution, the Court notes that the Declaration of Independence was the basis for adoption of the Constitution of 1994. Moreover, all political changes have resulted from the struggle for national liberation, freedom, independence and national unity. The key element of the process of national emancipation was the struggle for Romanian language and Latin alphabet. The fact of regaining the right to the name of the language and to the Latin alphabet was enshrined in the Declaration of Independence, which is an immutable act, particularly aiming at safeguarding those national values representing its identity on which depended the salvation from assimilation and disappearance of the nation itself.

121. From the perspective of the principle of democracy, the violation of the constitutional identity, the violation of the constitutional identity, which is codified in the Declaration of Independence, represents an encroachment upon the constituent power of the people. In this respect, the constituent power had not granted to the representatives and bodies of the people a mandate to dispose of the identity of the constitution (c.f. *mutatis mutandis*, the Judgment of the Federal Constitutional Court of Germany, be 2/08 of 30 June 2009). No constitutional body has been granted the power to amend the constitutional principles which are essential pursuant to the Preamble of the Constitution and the Declaration of Independence. These cannot be subject to the public or popular vote.

122. Subsequently, when applying the principles laid down in the Judgment No. 4 of 22 April 2013 (par. 56, 58, 59), any interpretation of the Constitution shall be operated stemming from the original goals of the Constitution, which are provided for by the Preamble and implicitly by the Declaration of Independence, from which the text of the Constitution itself derives. Thus, **when there are more interpretations, the option in line with the Preamble and implicitly with the Declaration of Independence prevails.**

123. Subsequently, **no legal act, irrespective of its force, including the Basic Law, can be in collision with the text of the Declaration of Independence.** Insofar as the Republic of Moldova is in the same political system created by the Declaration of Independence of 27 August 1991, the constituent legislator cannot adopt regulations contrary to it. Although, **in case when the constituent legislator admitted in the Basic Law certain contradictions with regard to the Declaration of Independence, the genuine text withstands the Declaration of Independence.**

124. In light of the above, having examined the cumulative effect of the two provisions on the state language, the Court finds that the corroborated interpretation of the Preamble and of Article 13 of the Constitution resides in the uniqueness of the state language, which name is given by the primary, imperative provision of the Declaration of Independence. Consequently, the Court considers that the provision contained in the Declaration of Independence on the Romanian language as the state language of the Republic of Moldova prevails over the provision regarding Moldovan language from in Article 13 of the Constitution.

125. In the same context, the Court reiterates the principles laid down in the Judgment No. 33 of 10 October 2013 on the interpretation of Article 140 of the Constitution:

“47. The interpretation given to constitutional provisions **are of official and binding nature for all the subjects of the legal relationship. The judgment on the interpretation of a constitutional text has a legal power and is binding, by the considerations on which it is grounded, for all the constitutional bodies of the Republic of Moldova. It is directly applicable, with no other condition referring to the form.**”



Based on these reasons, according to Art. 140 of the Constitution, Art. 26 of the Law on the Constitutional Court, Art. 6, 61, 62 p. b) of the Code of Constitutional Jurisdiction, the Constitutional Court

**DECIDES:**

1. Within the meaning of Preamble of the Constitution, the Declaration of Independence of the Republic of Moldova makes up a joint body with the Constitution, being the primary and immutable text of the block of constitutionality.
2. In the event of a divergence between the text of the Declaration of Independence and the text of the Constitution, the primary constitutional text of the Declaration of Independence prevails.
3. The present judgment is definite, cannot be subject to any appeal, enters into force on the date of its passing and is published in the Official Journal of the Republic of Moldova.

**President**

**Alexandru TĂNASE**

*Chişinău, 5 December 2013*  
*Judgment no. 36*  
*Application no. 8b/2013*