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Meeting: 1310th meeting (March 2018) (DH)

Item reference: Action report (26/02/2018)

Communication from Poland concerning the case of Dejneke v. Poland (Application No. 9635/13)

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Réunion : 1310^e réunion (mars 2018) (DH)

Référence du point : Bilan d'action

Communication de la Pologne concernant l'affaire Dejneke c. Pologne (requête n° 9635/13)
(anglais uniquement)

ACTION REPORT¹
Information on the measures taken to implement
the judgment in the *Dejneke case against Poland*

Description of the case.

Dejneke v. Poland, application no. 9635/13, judgment of 01/06/2017, final on 01/09/2017.

The case concerned complain about the strip searches to which the applicant had been subjected to.

Artur Dejneke submitted that the strip searches to which he had been subjected many times, while in detention in the Lublin Remand Centre, had been debasing and humiliating. He had been ordered to strip naked despite severe pain in his back. Moreover in the period complained of the applicant was not classified as a dangerous detainee. The applicant complained that the strip searches had amounted to inhuman and degrading treatment, in breach of Article 3 of the Convention.

The Court did not find a violation of Article 3 of the Convention because the alleged ill-treatment by the prison guards, did not attain a minimum level of severity within the scope of Article 3.

The Court, found a violation of Article 8 of the Convention. The Court stated that the strip searches under the circumstances of the present case, were "in accordance with the law" and there were an legitimate aim, but they were disproportionate. The circumstances, which were enumerated as justification for the strip research happened a few months before the search and there were not sufficient to justify the usage of this very strict and potentially humiliating measure. The Court stated that in the present case the strip searches have not been justified.

I. Individual measures.

1. Just satisfaction.

| Pecuniary damage | Non-pecuniary damage | Costs and expenses | Total |
|------------------|----------------------|--------------------|-------|
| - | 3 000 Euro | - | 3 000 |
| Due on 1/12/2017 | | Paid on 17/10/2017 | |

¹ Information submitted by the Polish authorities on 26 February 2018

2. Individual measures.

On the 24th April 2015, the applicant returned to the Lublin Remand Centre, after the break in the serving the sentence of the imprisonment, which was granted to him on 12th September 2013. On the 26th July 2016, the another break was granted to the applicant. On the 16th February 2017 he returned to the Lublin Remand Centre again and until now he has been serving a sentence of imprisonment.

The penitentiary units do not keep records concerning conducted strip searches, but they register complaints of the prisoners concerning the way these searches are conducted. The applicant did not complained in the matters of searches since the delivery of the judgment of the Court.

II. General measures.

The Court in the judgement pointed out the problems caused by the application of the article 116 § 2 of the Code of Execution of Criminal Sentences. According to this provision a convicted person is under obligation to undergo body searched in cases justified for reasons of order or security.

The Court's judgment was translated into Polish and published on the website of the Ministry of Justice. information about the judgment in question was posted in the news on the website of the Ministry of Justice (www.ms.gov.pl) and in its newsletter, which is distributed to all courts, public prosecutors' offices and organisational units of the prison service.

The information about the judgement was also sent to the Director General of the Prison Service and to all Presidents of the Regional Courts, who were asked to disseminate the judgement within the penitentiary judges.

Referring to the Court's remarks concerning the way of conducting of the body searches, the general measures undertaken by the Government were presented in the action report about *Milka v. Poland* case.

In these circumstances, no other general measure appears necessary.

III. Conclusions of the respondent state.

The Government is of the opinion that no further individual measures are necessary in this case and that measures of a general nature which have already been undertaken are sufficient to conclude that Poland has fulfilled its obligations under Article 46 § 1 of the Convention.