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Communication from the government of the Russian Federation in the case of Abdulazhon Isakov against Russian Federation (Application No. 14049/08).

Information made available under Rule 8.2.a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Référence du point : 1136e réunion DH (mars 2012)

Communication du gouvernement de la Fédération de Russie dans l'affaire Abdulazhon Isakov contre Fédération de Russie (Requête n° 14049/08) (**anglais uniquement**).

Informations mises à disposition en vertu de la Règle 8.2.a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

^{*} In the application of Article 21.b of the rules of procedure of the Committee of Ministers, it is understood that distribution of documents at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers (CM/Del/Dec(2001)772/1.4). / Dans le cadre de l'application de l'article 21.b du Règlement intérieur du Comité des Ministres, il est entendu que la distribution de documents à la demande d'un représentant se fait sous la seule responsabilité dudit représentant, sans préjuger de la position juridique ou politique du Comité des Ministres CM/Del/Dec(2001)772/1.4).

ACTION REPORT / ACTION PLAN

On execution of the judgment of the European Court of Human Rights in application No. 14049/08 *Abdulazhon Isakov v. Russia*, judgment of 8 July 2010, final on 22 November 2010

Violation

In its judgment in application no. 14049/08 *Abdulazhon Isakov v. Russia* the European Court of Human Rights found that in the event of the extradition order against the applicant being enforced, the Russian authorities would violate Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms. In the above judgment the European Court also found the violations by the Russian authorities of Article 5 § 1 of the Convention on account of illegal detention of the applicant, Article 5 § 4 on account of the absence of judicial review of the applicant's detention pending extradition and Article 13 of the Convention on account of lack of an effective remedy at the applicant's disposal in respect of the above violations.

The problems related to extradition of foreign nationals from the territory of the Russian Federation (the *Garabayev* group of cases) have been previously emphasized by the European Court and the Committee of Ministers of the Council of Europe ("the CMCE").

Individual measures:**1. Just satisfaction**

Pecuniary damage	Non-pecuniary damage	Legal costs and expenses	Total
-	EUR 20,000	5 500	EUR 25,500
RUB 811,248.00 were fully paid on 26 January 2011 at the exchange rate applicable as of the payment date (payment order no. 82780 is attached).			

2. As the European Court's judgment in *Abdulazhon Isakov v. Russia* case became final, the President of the Supreme Court of the Russian Federation forwarded a petition to the Presidium of the same court on resumption of proceedings in the case against A.M. Isakov due to new circumstances.

On 1 June 2011, the Presidium of the Supreme Court of the Russian Federation satisfied the above petition and delivered the judgment on resumption of proceedings in the case against A.M. Isakov, quashing the following judicial acts rendered in respect of the applicant:

- the judgment of the Central District Court of Tyumen of 27 March 2008 on imposition of a measure of restraint in the form of detention in respect of A.M. Isakov;
- the cassation decision of the Tyumen Regional Court of 15 April 2008 upholding the judgment of 27 March 2008 of the Central District Court of Tyumen;

- the judgment of the Kalininskiy District Court of Tyumen of 1 April 2008 on dismissal of the complaint of A.M. Isakov against the actions of the SIZO-1 administration in Tyumen, connected with illegal detention of the applicant;
- the cassation decision of the Tyumen Regional Court of 6 May 2008, upholding the judgment of 1 April 2008 of the Kalininskiy District Court of Tyumen;
- the decision of the Tyumen Regional Court of 30 September 2008 on dismissal of the appeal of A.M. Isakov against the decision of the Deputy General Prosecutor of the Russian Federation of 12 August 2008 on the applicant's extradition to the Republic of Uzbekistan for criminal prosecution;
- the cassation decision of the Supreme Court of the Russian Federation of 22 December 2008 upholding the decision of 30 September 2008 of the Tyumen Regional Court.

By the above judgment the Presidium of the Supreme Court of the Russian Federation also quashed the decision of the Deputy General Prosecutor of the Russian Federation of 12 August 2008 on A.M. Isakov's extradition to the law enforcement bodies of the Republic of Uzbekistan.

Therefore, all necessary measures on restoration of the applicant's rights were undertaken. At the present time there is no risk of extradition of the applicant to Uzbekistan.

3. According to the information of the Tyumen Regional Court, neither the applicant, nor his representative had filed any applications to the courts due to the fact that the European Court's judgment became final.

General measures:

1. The judgment of the European Court in *Abdulazhon Isakov v. Russia* was forwarded to the Supreme Court of the Russian Federation, the General Prosecutor's Office of the Russian Federation, the Federal Penal Service, the Constitutional Court of the Russian Federation and the Tyumen Regional Court for information, practical use and adoption of measures, within the competence, on elimination and prevention in future of the violations of the Convention, found by the Court.

2. According to the information of the General Prosecutor's Office of the Russian Federation, the findings of the European Court, set out in the judgment, have been taken into consideration and are used in law enforcement activity. The relevant letter with a copy of unofficial translation of the European Court's judgment in *Abdulazhon Isakov v. Russia* has been sent to prosecutors of the constituent entities of the Russian Federation, eligible military prosecutors and prosecutors of other specialised prosecutor's offices for consideration in practical activity and adoption of measures on prevention in future of the violations of the Convention, found by the European Court (a copy of the letter is attached).

It was also stated that, when deciding on the extradition of a person for performance of criminal prosecution, where there are grounds for that, the Russian General Prosecutor's Office takes into account the opinion of the Ministry of the Interior of the Russian Federation and other federal departments concerned, and a

competent authority of a foreign state is also requested for additional assurances of the non-use of torture, cruel and inhuman treatment, death penalty, non-persecution on account of religious affiliation, dissent, beliefs. In case of a failure to provide the required guarantees, a decision on extradition is not rendered.

In addition, the General Prosecutor's Office of the Russian Federation, together with the Russian Ministry of the Interior, have developed a mechanism of verification by diplomatic and consular institutions, if the requesting party complied with the assurances to guarantee the rights of departed persons after extradition. Application of the requesting procedure and the assurances verification procedure shall facilitate the respect of the persons' rights guaranteed by the Convention.

3. In connection with the entry into force of the European Court's judgment in *Abdulazhon Isakov v. Russia*, the letter of the Head of the Russian Federal Penal Service containing the following instructions has been sent to the heads of the territorial bodies of the Russian Federal Penal Service and to the head of institutions subordinated to the Russian Federal Penal Service:

- to set continuous monitoring over the lawfulness of detention and compliance with the time-limits for extension of the measure of restraint in the form of detention for persons in respect of whom a question on extradition upon request of a foreign state for criminal prosecution is under consideration;

- to ensure creation of detention conditions consistent with the international law rules, the provisions of the international treaties of the Russian Federation and the federal laws for detained persons in respect of whom a question on extradition upon request of a foreign state for criminal prosecution is under consideration;

- to organise study by the officers of institutions and bodies of the penal system of the judgment of the European Court in application no. 14049/08 *Abdulazhon Isakov v. Russia* with a view to take measures on prevention of the violations set forth in the judgment in the course of the activity of the subordinate penal system institutions.

By this letter the heads of the territorial bodies of the Russian Federal Penal Service received the instruction to inform the Russian Federal Penal Service about the results of execution of the above listed demands in the form of annual reports on respect of the rights of suspects, accused and convicted persons, and the officers of the Penal System and execution of the instructions of the Russian Federal Penal Service on improvement of work on ensuring the human rights by the penal system bodies (a copy of the letter is attached).

4. By the letter of 24 February 2011 (ref. No. ok-38/11) of the Deputy President of the Supreme Court of the Russian Federation the judgment in the present case has been sent to the presidents of supreme courts of the republics, territorial and regional courts, the Moscow and Saint Petersburg City Courts, the court of autonomous region and courts of autonomous districts, district (fleet) military courts for information and practical use.

5. The European Court's judgment in *Abdulazhon Isakov v. Russia* was published in Russian in *Consultant Plus* legal reference system.

The text of the above judgment was also published in Russian in the *Bulletin of the European Court of Human Rights*, 2011. No. 3.

Action Plan

1. Adoption of any other individual measures, except of the above mentioned, is not required in the present case.
2. Adoption of other general measures, except those specified above, aimed at resolution of the problems related to extradition of persons from the Russian Federation to a foreign state, is under progress within the framework of activity on enforcement of the European Court's judgment in the Garabayev group of case.

Attachment: on 8 pages.