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Date: 23/05/2024

DH-DD(2024)580

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Meeting: 1501st meeting (June 2024) (DH)

Communication from the applicant (21/05/2024) concerning the case of Bigovic v. Montenegro (Application No. 48343/16) (appendices in Montenegrin are available at the Secretariat upon request).

Information made available under Rule 9.1 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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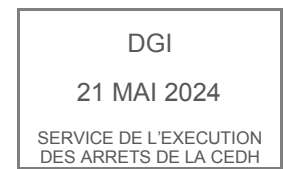
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Réunion : 1501^e réunion (juin 2024) (DH)

Communication du requérant (21/05/2024) relative à l'affaire Bigovic c. Monténégro (requête n° 48343/16) (des annexes en monténégrin sont disponibles auprès du Secrétariat sur demande) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.1 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

From: Bojana Franovic Kovacevic <bojana.franovic@icloud.com>
Sent: lundi 20 mai 2024 09:32
To: DGI-Execution <DGI-Execution@coe.int>; Ioana Iliescu <iliescu@einnetwork.org>
Subject: Bigovic v Montenegro



Dear Sir/Madam,

Regarding the execution of Bigovic case, there has been a new unfortunate development in the case. On 15.04.2024. (The records from the trial are attached to this e mail as Zapisnik o pretresu Kzs.br.23-22 od 15.04.2024.) the trial started from the beginning since we had new a judge on the panel of 3 judges. Considering that in the meantime the Constitutional Court adopted one of our appeals from 2022 and found a violation of article 5 (the same as in the judgement from Strasbourg in Bigovic v Montenegro case, so again repeating the same violations against all the accused in that case) we asked for all the defendants to be released from detention since their right to freedom has been violated so many times, again and again. We also submitted to the Appellate Court the decision of the Appellate Court in Montenegro in a similar case where detention has been terminated and defendant was released because of the same violation done by first instance court. For some reason, the court didn't decided on our request and the panel of judges postponed the decision on our request about detention for the next trial, which was very unusual since this kind of decisions are delivered always on the same day. The next trial was scheduled for 13.05.2024. In the meantime, Ljubo Vujadinovic, who was on a hunger strike, was declared suicidal (which he is not) by the psychiatrist and a recommendation was giving that he should be placed in a Psychiatric hospital and put on medications. Since this would inevitable lead to postponing the next scheduled trial for 13.05.2024., Ljubo Vujadinovic decided to end the hunger strike in order to prevent postponing the next trial. Even though the defence lawyers and the defendants did everything to secure that the trial is not postponed, the panel of judges at the end did postpone it. Believe it or not, the panel of judges has been changed AGAIN! A new judge was assigned to the case and the trial was postponed in order for this new judge to have enough time to read all the case files. This means that the next trial will start all over again and that our request for detention from 15.04.2024. will never be decided. We have to make a new one since everything that has happened before, is like it never did happen. In the attachment we are sending the decision on the change of the judge and the trial record from 13.05.2024.

In the meantime we submitted again one urgency to the Constitutional Court of Montenegro to decide on our appeal from 2023. The cases are being decided weekly in this Court and most of them are cases that were submitted after our constitutional appeal and the court is not replying why this case has been put aside and what is the reason for those other cases to be handled with priority even though they don't seem to be as important as this one. This, after all, is a repeating case with same blatant violations, and the national courts are acting with so much irresponsibility towards the mere fact that this case started in 2006 and that detention is still pending even though the Constitutional Court found a violation of article 6 in 2019 and Strasbourg Court violation of article 5 and since than they have been in worse position that ever. I am attaching to this e mail the letter to Constitutional court also.

Since the situation is getting more and more complicated, and the accused are not adding to it, on the contrary, they are doing everything to try to have the trials held and decision delivered, I am asking you to please advise how to continue with this.

The Bigovic V Montenegro judgement was delivered by me, the defence attorney, to the panel judges deciding the case, but the judges keep changing so I do not understand what is going on with this case. I am very worried since the new appointed judge is ex Special prosecutor from the same office that this case was indicted. She was elected recently to become a judge, but I don't understand how can someone who was a special prosecutor the one day, can be the judge deciding on a special prosecutor case the next day. This especially having in mind the fact that Montenegro is such a small country, to small. This gives me the reason (since her impartiality and independence is questionable due to the mere fact that she has changed position just recently, she was elected to be a judge on 29.03.2024. and started her duty on 09.04.2024.) to ask for her exception but this would lead to new postponement of the trial and we are trying to avoid that.

Having in mind everything said in this e mail, and everything said during this execution procedure, and every document submitted, please advise how to proceed.

Best regards,
Bojana Franovic