

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRETARIAT DU COMITE DES MINISTRES



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Documents distributed 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.

Meeting: 1318th meeting (June 2018) (DH)

Communication from the authorities on the individual measures (03/04/2018) concerning the case of ASSOCIATION '21 DECEMBRE 1989' AND OTHERS v. Romania (Application No. 33810/07).

Information made available under Rule 8.2a 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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Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1318^e réunion (juin 2018) (DH)

Communication des autorités sur les mesures individuelles (03/04/2018) concernant l'affaire ASSOCIATION 21 DECEMBRE 1989 ET AUTRES c. Roumanie (requête n° 33810/07) (**anglais uniquement**)

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

DGI

03 AVR. 2018

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Information note
Group of cases

Association “21 December 1989” and others v. Romania
(Applications nos. 33810/07 and 18817/08)

Crăiniceanu and Frumușanu v. Romania
(Application no. 12442/04)

Mocanu and others v. Romania
(Application nos. 10865/09, 45886/07 and 32431/08)

Following the decision of the Committee of Ministers, adopted at their 1288th meeting (6-7 June 2017), where it was decided that the consideration of the individual measures in the abovementioned group of cases be resumed at Human Rights meeting in June 2018 at the latest, the Romanian Government has the honour to inform you the following information on the progress achieved in the investigations carried out into the events of December 1989, 13-15 June 1990 and 25 September 1991:

i. Case of Association “21 December 1989” and others v. Romania

According to the information provided by the Prosecutor’s Office attached to the High Court of Cassation and Justice (The Military Prosecution Department) between March 2017 and December 2017 several targets established in the investigation plan drafted after the commencement of the criminal prosecution in rem for the offense provided by Article 439 of the Criminal Code - "crimes against humanity" were reached.

Prosecutors involved in this case have decided to hear once again a consistent number of witnesses. They also collaborated with historians, writers and journalists who documented the December 1989 events, and used relevant data and information published in literature works focusing on the Revolution in 1989.

The prosecutors also began looking into military and civilian archives and scanned and analysed the vast archive of the Romanian Senate, which was the basis for the Senate Committee Report on the Romanian Revolution of December 1989. They also used video and audio materials.

Investigators have also clarified the circumstances related to the escape of the communist presidential couple, to their route and the conduct of the military forces, before, during and after the revolutionists broke into the premises of the Communist Party’s Central Committee.

Moreover, the investigators established the structure of the political and military ruling who took over the total power in Romania after president Ceaușescu ran away and the general conclusion was that there was no power vacuum in December 1989.

The evidence so far reveals that there is partial available information about the start and the enforcement of the military diversion as of 22 December 1989, which certified that the diversion existed and was extremely complex, being the main cause of the numerous deaths and injuries.

The evidence also disclosed the mechanisms of the constant disinformation with serious consequences launched through the public television and radio stations and other military communication means, which enabled the well-known terrorist psychosis. At the same time, prosecutors are currently in process to reveal the way that certain military diversionist orders had been given, with extremely serious consequences.

According to the investigators, there is information related to the same diversion proving that Romanian armed forces had imported two types of military fire imitators in 1987.

The evidence also pointed to a clear image of the request for the military foreign help, particularly for Soviet help and the serious consequences of such a request for the domestic military structure and for the civilian population.

Effective evidence was handled to determine the circumstances and the specific actions that resulted in the destruction of patrimony assets within the Palace Square (Central University Library, Royal Palace). It was investigated the conduct imposed by the military regulations for the army forces in the urban area, and the similar situations from other countries was analysed in order to establish the factual circumstances of the case.

The evidence managed has highlighted the mechanisms of constant misinformation, with particularly serious consequences, launched through Romanian Television Channel, Romanian Broadcasting Corporation and military means of communication, thus being established at national level a terrorist psychosis.

On 19 February 2018 further prosecution was ordered against persons that held high military positions during the events.

On 22 March 2018 a report was submitted to the General Prosecutor proposing that necessary steps be carried out and documentation be forwarded to the President of Romania, in order for the later dignity to assess the request for the criminal prosecution of several persons holding high public dignities during the events.

At the same time, several witnesses were heard and an extensive documentation work took place along with the drafting reports activities from various relevant military archives.

After obtaining the aforementioned approval from the President of Romania the prosecutors are going to hear all the suspects from the case file, the relevant witnesses and all the injured parties.

Given the current status of the investigation, the Department of the Military Prosecutors' Offices estimates that by the end of 2018 a solution will be reached in this case file.

The victims' relatives were informed about the measures taken in the case file mainly through press releases, the latest being issued in December 2017.

Regarding the particular case concerning the investigation of Mr. Nicușor Vlase's death, taking into account that it takes place in the file case no. 11/P/2014, procedural measures common to all other victims were taken. Moreover, the Military Prosecution Department from the Prosecutor's Office attached to the High Court of Cassation and Justice answered during 2018 to the two memorandums filed by the victim's relatives.

ii. Case of *Mocanu and others v. Romania*

On 12 June 2017, the Prosecutor's Office attached to the High Court of Cassation and Justice send to trial 14 persons, that were previously indicted for the offence of crimes against humanity provided by the Article 439 form the Romanian Criminal Code, stating that the defendants had ordered, organized and coordinated an widespread and systematic attack against the civilian population namely the people who were participating at a protest demonstration in Bucharest and against the population of Bucharest, between 11 June 1991 and 15 June 1991. According to the prosecutors the attacks led to the death of 4 people, another 1388 people were injured and 1250 were unlawfully arrested or deprived of liberty.

Since the beginning of the criminal trial the HCCJ has already held three hearing sessions, concerning the file no. 1752/1/2017.

iii. Case of *Crăiniceanu and Frumușanu v. Romania*

Since March 2017, there have been numerous correspondence activities with administrative and public authorities with the purpose to gather relevant information in order to settle the case.

On one hand, documentary evidence, on paper or tape support, was requested to various national institutions, in order to determine either the identity of several witnesses or the conduct of persons involved in the unfolding of the events, either the general context of events on 25-26 September 1991.

Requests for transmission of documents and audio and video recordings were addressed to the Romanian Government, the Ministry of National Defence, the *Al.I. Cuza* Police Academy, the Romanian Intelligence Service, the Presidential Administration, the Ministry of Information Technology, the National Broadcasting Council and the Protection and Guard Service. Several *on situ* identification and verification activities were carried out at the headquarters of various public institutions, so that additional documentary is identified.

Moreover, during the period between March and April 2017, the entire audio-video material in the file, consisting of 25 optical carriers and 7 video tapes, made available by the Romanian Television, Sahia Film Studios, the Protection and Guard Service and the Presidential Administration of Romania was watched.

Part of the recorded material received from these institutions was sent for the evaluation of its validity by means of expertise to the Criminalistics Service within the General Inspectorate of the Romanian Police.

Institutions involved in the events were requested to forward the sheets of military personnel or conscripts and of other employees employed or registered within those institutions at the time of the events. As well, extensive database verifications were carried out for the identification of the civil status information of the persons who could, according to the emergent evidentiary, provide essential declarations for the investigation.

From March 2017 until present more the one hundred and ten witnesses were heard. Also, examinations in order to detect the simulated behaviour of witnesses heard previously were carried out.

The criminal prosecution file was made available, several times, to the civil parties Frumușanu Ștefan and Crăiniceanu Viorel for consultation in order to ensure their access to the new developments in the file (on 20 April 2017, 2 November 2017, 29 November 2017 and 10 January 2018).

The civil parties were regularly informed about the notifications of witnesses and the dates schedules for their hearing and were consulted on the drafting of objectives of the new technical forensic report of the audio-video recording within or in the vicinity of the Government's headquarters during the events.

At present, despite the vast and substantial evidentiary body, no conclusion different from the previous ones reached by the High Court of Cassation and Justice emerged and the investigation is still carried on *in rem*. The prosecutor's office attached to the Bucharest Military District Court will continue to explore all possible avenues and will carry out the following activities: a technical expertise to determine the telemetric measurement *on situ*, as ordered by the court, a new hearing of some of the witnesses for the clarification of certain inconsistencies, the identification of certain witnesses that have in their possession recordings of the main events that occurred on 25 September 1991, the hearing of the witnesses nominated by the civil parties Frumușanu Ștefan and Crăiniceanu Viorel, the order of a new technical expertise concerning the simulated behaviour of some of the witnesses, a technical expertise regarding audio/video recordings in order to identify the places where the firings were executed, rechecking evidence of weapons and ammunition related to military units that had servicemen in the Government headquarters at the time of the facts.

The Government will keep the Committee informed on all developments concerning individual measures in the abovementioned cases.