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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 (02/04/2018) concerning the case of N. v. Romania (Application No. 59152/08).

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 (02/04/2018) concernant l'affaire N. c. Roumanie (requête n° 59152/08)
(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.

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SERVICE DE L'EXECUTION
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Information note on individual measures
Case N. v. Romania (Request no. 59152/08)
Judgment of 28 November 2017 (final on 28 February 2018)

Summary of the case

The Court found that the admission of the applicant, Mr. N., to a psychiatric hospital (Săpoca Hospital for Psychiatric and Safety Measures) for an indefinite period of time, under the terms of Article 114 of the Romanian Criminal Code, as in force at the time of facts, was contrary to national law, since there was no indication of the fact that applicant's behaviour posed a social danger. As such, the applicant's admission to the psychiatric hospital had neither a legal basis nor was factually justified. Also, although on 21 February 2017, the Buzău First Instance Court decided to replace the safety measure of medical hospitalization with that of the obligation to medical treatment, the court's decision was not enforced, the authorities failing to identify measures tailored to the applicant's needs.

As a consequence, the Court found that the applicant's rights had been violated (article 5 (1) și 5 (4) of the Convention).

Article 46 of the Convention

The Court considered it necessary, in the light of its finding of a violation of Article 5, to make the application of article 46 and to indicate the individual measures for the execution of the present judgment. Therefore, the Court considered that in order to efface the effects of the breach of the applicant's rights, the authorities should immediately implement the final judgment of Buzău First Instance Court of 21 February 2017 ordering the applicant's release under conditions consonant with his needs.

Individual measures

a. Payment of just satisfaction

In what concerns the just satisfaction (30 000 EUR for non-pecuniary damages and 8 060 EUR for costs and expenses), the Government has not yet paid the sums awarded by the Court. On 28 February 2018, the applicant was legally incapacitated (*pus sub interdicție*) by a national court and a tutor was appointed to cater to his interests. In these circumstances, the Government addressed the applicant's tutor in order to open a bank account on the applicant's name, so that the sum awarded by the Court be paid within the 3-month period.

However, these legal aspects do not impede the payment within the three month time frame (until 28 May 2018).

b. Other measures

As the Court itself noted, starting from 7 March 2017, the applicant resides voluntarily in the Săpoca Hospital for Psychiatric and Safety Measures, until the authorities can identify an adequate solution. The Court itself underlined that the authorities must find a solution adapted to the applicant's needs and fit to ensure the continuance of his medical treatment. The same request was made by the applicant's representative.

According to all medical documents, including an evaluation report submitted by the applicant's representative, the applicant requires permanent assistance and intensive care in a maximum protected house, for at least 1 year, due to the fact that:

- He requires constant assistance for part of the daily activities;
- He requires permanent care due to important functional limitations;
- He requires assistance in the daily administration of his medical treatment.

Therefore, a special and adapted accommodation formula must be found, in order to ensure that the applicant complies with his medical treatment.

In these circumstances, even if the Government are aware of the fact that the individual measures that need to be taken are urgent, they must also be adapted to the applicant's particular situation. According to the evaluation report, the applicant must be placed in a maximum protected house. The competent authority (the General Direction of Social Assistance and Child Protection Sector 6 Bucharest) informed the Government that they preliminarily identified a solution to the applicant's needs but the particularities of the social services identified, their acquisition through public procedures and their implementation by the supplier of the service require a specific amount of time.

However, all efforts are deployed towards finding the best possible solution to the applicant's situation and the possibility to continue his medical treatment under supervision, in the community.