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Meeting: 1288th meeting (June 2017) (DH)

Item reference: Action report (28/02/2017)

Communication from Romania concerning the cases of GHEORGHITA AND ALEXE and ARION v. Romania (Applications No. 32163/13, 50443/14)

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Réunion : 1288^e réunion (juin 2017) (DH)

Référence du point : Bilan d'action

Communication de la Roumanie concernant les affaires GHEORGHITA ET ALEXE et ARION c. Roumanie (Requêtes n° 32163/13, 50443/14) (**anglais uniquement**)



Action Report

Gheorghita and Alexe v Romania (application no. 32163/13) - Judgment of 31 May 2016, final on 31 August 2016

Arion v Romania (application no. 50443/14) – Final Judgement on 8 November 2016

I. Introductory summary of the cases

The first case concerns the ineffectiveness of the investigations into the allegations of brutality within a police operation, on account in particular of failure to clarify the differences between statements through means such as confrontations, to order medical expert reports and to open the criminal investigation, leading to the infringement of **Article 3 of the Convention in its procedural limb.**

The second case regards the excessive and unjustified force employed by the police during the applicant's questioning and the corresponding failure of the authorities to ensure the required level of protection against ill-treatment, amounting to the violation of **Article 3 in its substantial limb.**

II. Individual measures

A. Payment of the just satisfaction afforded by the Court

In the case of *Gheorghita and Alexe*, the domestic authorities have paid the amount afforded through the Court's judgment in due course and the proof of payment has been already submitted.

In the *Arion* case, the amount granted by the Court was transferred in a bank account at the applicant's disposal and the proof in this respect will be sent shortly.

B. Reopening of the impugned proceedings (application no. 32163/13)

In November 2016, the competent prosecutor's office communicated that the criminal liability for the crime in relation to the Conventional infringement (abusive behaviour, regulated by Article 250 of the former Romanian Criminal Code and by Article 296 of the Romanian Criminal Code presently in force) became time-barred on 12 June 2015.

As such, the investigated facts occurred on 12 June 2012 and the date corresponding to the end of the limitation period (*dies ad quem*) mentioned previously was established by the competent prosecution body holding a limitation period of three years.

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In order to summarise, the Government assert that no individual measures are any longer possible or required in the present case.

III. General measures

In the *Gheorghita and Alexe*, important steps were taken in order to ensure a proper dissemination and full acknowledgement of the Court's findings.

In this respect, the text of the judgement has been translated into Romanian and published on the internet website of the Superior Council of Magistracy. In addition, other Romanian specialized internet publications have also addressed the present case.

Furthermore, the proceedings for publishing of the judgement in Romania's Official Gazette are currently pending.

As regards other general measures to be taken in relation to *both* of these cases, the Government would like to recall that the issues under Article 3 of the Convention have been already assessed by the Committee of Ministers in the *Barbu Anghelescu* group of cases, where a Final resolution was issued on 8 June 2016 (CM/ResDH(2016)150).

It follows that no further specific measures are required in this respect, in relation to the cases at hand.

IV. Conclusions

Having regard to the aspects above, the Government consider that no other specific individual or general measures are to be taken in the present cases and kindly invite the Committee of Ministers to close the examination thereof.