

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRETARIAT DU COMITE DES MINISTRES



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Meeting: 1214 meeting (2-4 December 2014) (DH)

Item reference: Updated action plan (15/09/2014)

Communication from Italy concerning the case of Torreggiani and others against Italy (Application No. 43517/09)

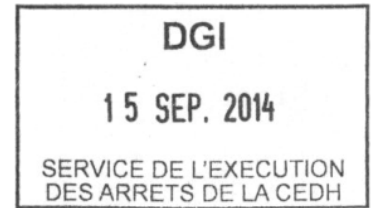
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Réunion : 1214 réunion (2-4 décembre 2014) (DH)

Référence du point : Plan d'action mis à jour

Communication de l'Italie concernant l'affaire Torreggiani et autres contre Italie (requête n° 43517/09) (*anglais uniquement*).



Rappresentanza permanente d'Italia presso il Consiglio d'Europa
Ufficio dell'Agente del Governo davanti alla Corte europea dei Diritti dell'Uomo

Updated information

Case TORREGGIANI and others v. ITALY

Application n° 43517/09

Case SULEJMANOVIC v. ITALY

Application n° 22635/03

Following the decision taken by the Committee of Ministers on 1201-DH meeting (3-5 June 2014), the Italian Government is pleased to submit the following, updated information on the cases at hand.

General measures

On 27 June 2014 it has been published in the Official journal of the Italian Republic the Decree-Law 26 June 2014, n. 92, which provides for a compensatory remedy available for those people who suffered a detention non-compliant with Article 3 of the Convention.

Article 1 of the Decree-Law (which amended the Penitentiary Law: see new Article 35-ter of Law 26 July 1975, n. 354) provides for 2 kinds of compensatory remedy:

1) those who are still detained may apply for a reduction of the residual period of detention to be served (one day of reduction every ten days of detention already served in conditions non-compliant with Article 3 of the Convention);

2) those who have already served their entire sentence in prison, and those who have been detained on remand, may apply for a pecuniary compensation (8 EUR *per diem*, for each day of detention served in conditions non-compliant with Article 3 of the Convention).

These compensatory remedies are alternative: the non pecuniary compensatory remedy is only available for those who are still detained in prison; the pecuniary compensatory remedy is only available for those who have already served their entire sentence in prison and for those who have been detained on remand.

Notwithstanding these general rules, the pecuniary compensatory remedy is also exceptionally available to people who are still detained in prison but suffered an unlawful detention for no longer than 15 days.

Both the applications shall be filed to court (compensatory remedy is therefore a jurisdictional remedy): the application for non pecuniary remedy falls within the competence of supervisory judge (“*magistrato di sorveglianza*”); the application for pecuniary remedy falls within the competence of civil court (“*tribunale*”).

Article 2 of the Decree-Law provides for some transitional provisions, stating that the new internal compensatory remedy is also available to:

a) those who had already served their entire sentence in prison and those who were no more detained on remand, at the time the Decree-Law came into force;

b) those who had already brought an action under Article 3 of the Convention before the European Court of human rights, at the time the Decree-Law came into force.

In cases *sub a)* and *b)*, the interested persons can bring an action for compensation before the competent national court, pursuant to new Article 35-*ter* of Penitentiary Law (*see above*).

The compensatory remedy is fully consistent with the preventive remedy already provided under Article 35-*bis* of Penitentiary Law (see, for a detailed description of the latter remedy, the action plans previously submitted).

The Decree-Law 26 June 2014, n. 92 came into force on 28 June 2014 (the compensatory remedy is therefore available since that day) and has been definitively approved by the Parliament with Law 11 August 2014, n. 117 (provisions concerning the compensatory remedy have not been amended by the Parliament).

Statistical data

According to data published on the internet site of Ministry of justice, the global number of people detained in prison on 31 August 2014 was 54.252 (791 of them are serving their sentence on day release).

A comparison with the statistical data previously released by the Italian Government shows that the number of detainees is currently decreasing (they were 58.092 on 30 June 2014), as an effect of the other general measures recently adopted in criminal and penitentiary Law.

Strasbourg, 9 September 2014.