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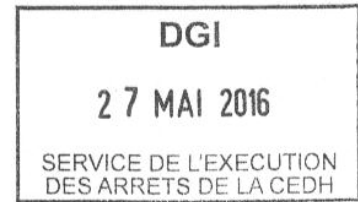
Communication from the Republic of Moldova in the cases of Gorea and Țurcan (Sarban group) against Republic of Moldova (Applications No. 21984/05, 10809/06)

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Réunion : 1265 réunion (20-22 septembre 2016) (DH)

Référence du point : Bilan d'action

Communication de la République de Moldova dans les affaires Gorea et Țurcan (groupe Sarban) contre République de Moldova (Requêtes n° 21984/05, 10809/06) (**anglais uniquement**)



MINISTRY OF JUSTICE OF THE REPUBLIC OF MOLDOVA
AGENT FOR THE GOVERNMENT

Action Report

in the cases of *Gorea v. the Republic of Moldova* (No. 21984/05)
and *Țurcan v. the Republic of Moldova* (No. 10809/06)

I. Description of cases

These cases concern violations of the applicants' right to liberty and security arising from a general practice of detaining defendants without issuing court orders to that effect following the submission of their case files to the trial court (violations of Article 5 § 1). The *Țurcan* case also concerns poor conditions of detention on remand in Prison No.13 (violation of Article 3).

II. Scope of the report

The present action report concerns the individual measures and the general measures related to the violations of Article 5 § 1. Information on general measures taken in response to poor conditions of detention is being reported in the *Ciorap* group of cases.

III. Individual measures

a) Just satisfaction

The just satisfaction awarded for non-pecuniary damage and costs and expenses in the case of *Gorea* was paid on 12/12/2007.

The just satisfaction awarded for non-pecuniary damage and costs and expenses in the case of *Țurcan* was paid on 01/05/2008.

b) Other measures

In the case of *Gorea*, the applicant was released from pre-trial detention on 3 November 2005 and placed under house arrest. On 15 December 2005 the house arrest was replaced by an undertaking not to leave the city. On 13 December 2006 the Buiucani District Court discontinued criminal proceedings against the applicant.

In the case of *Țurcan*, the applicant was released from pre-trial detention on 28 September 2006.

In both cases the applicants applied for compensation from domestic courts for the unlawful criminal proceedings and were awarded monetary compensation under Law no.1545.

Thus, the applicants are no longer detained pending trial and no other individual measure is necessary in these cases.

IV. General measures

Article 186 of the Code of Criminal Procedure was amended on 28 July 2006 (the amendments entered into force on 3 November 2006), putting the prosecution under the obligation to request the prolongation of detention of a defendant during the trial stage. The new procedure makes no distinction between arrest at the pre-trial stage and arrest during the trial. Thus, the general practice of detaining defendants without issuing a court order after submission of their case files to the trial court seized to exist. In addition to the legislative measures, the explanatory ruling of the Supreme Court No. 1 of 15 April 2013 has provided judges and prosecutors with clear indications as to how the 2006 legislation should be implemented in compliance with the case-law of the European Court. Consequently, at its 1214th meeting (December 2014) (DH), the Committee of Ministers considered with satisfaction that the problem of detention pending trial without legal basis in violation of Article 5, paragraph 1, has been resolved.

V. Conclusion

In light of the above, the Government considers its obligations under Article 46, paragraph 1, of the Convention fulfilled as concerns the violation of Article 5 § 1 and the supervision of the execution in these cases can be closed.

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Agent for the Government