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Committee of Ministers - 1172nd meeting (DH), 4-6 June 2013 -
Annotated order of Business and decisions adopted

Application: 22635/03

Judgment final on:

06/11/2009

SULEJMANOVIC v. Italy Enhanced procedure : complex
problem

Reference texts:

Updated action plan (29/06/2012) DH-DD(2012)670

Action plan (23/11/2011) DH-DD(2011)1113

Communication from a NGO (Radicali Italiani) (19/09/2012) DH-
DD(2013)380

Decision adopted at the 1150th meeting (September 2012)

Case description: Inhuman or degrading treatment suffered by the
applicant on account of the
conditions of his detention in Rebibbia prison (Rome), due to the
excessively confined space at his
disposal in a cell resulting from overcrowding (violation of Article
3).

The European Court noted that for more than two and a half months
the applicant was obliged to live
in a very confined space, much smaller than the minimum surface
considered as desirable by the
European Committee for the Prevention of Torture and Inhuman or
Degrading Treatment or
Punishment (CPT). According to the Court, the evident lack of
personal space suffered by the
applicant constituted, in itself, inhuman or degrading treatment (§ 43
of the judgment).

Status of execution: *Individual measures:* Mr Sulejmanovic was
released in October 2003 and the

European Court awarded him just satisfaction in respect of non-pecuniary damages suffered.

Therefore no further individual measure seems necessary.

General measures: On 29/06/2012, the authorities provided an updated action plan, presenting the details of the structural measures taken and planned (so-called “*Piano carceri*” plan), the domestic remedy available to prisoners as well as certain further measures envisaged. The authorities underlined that the fight against prisons’ overcrowding is a priority of the Minister of Justice. This information was assessed at the last examination of the case when the Committee noted the action plan with interest, and asked the authorities for further information and clarifications, notably on:

- the exact number of additional places foreseen in prisons, as well as the additional total capacity of the prison estates;
- the meaning and status of the Ministry of Health standard relating to the minimum living space per detainee and how the total capacity of prison establishments is calculated
- the monitoring carried out on detention conditions, including up-to-date statistics on the reduction in prison overcrowding, and details on the impact of the different measures adopted so far.

The Committee also strongly encouraged the Italian authorities to redouble their efforts so as to find a lasting solution to the problem of prison overcrowding and stressed the importance of the

existence, both in theory and practice, of effective domestic remedies in this context. A response is still awaited to the Committee's request for information and clarifications.

Since then, the European Court gave a pilot judgment in the case of *Torreggiani and others* in which it found that the violation of the applicants' right to adequate detention conditions was not an isolated incident, but has its origins in a systemic problem, resulting from the chronic dysfunction of the Italian penitentiary system (§88). It also expressed concern about the fact that around 40% of detainees in Italian prisons are persons detained on remand (§ 94) and encouraged the authorities to reduce to a minimum the use of detention on remand. Moreover, the Court found that lack of personal space suffered by the applicants, was further aggravated by other factors such as the lack of hot water for long periods of time and insufficient lighting and ventilation in cells (§ 77). With reference to the question of a remedy, the judgment stated that the domestic authorities must put in place within one year from the date on which the judgment became final, an effective domestic remedy or a combination of such remedies capable of affording, in accordance with the Convention's principles, adequate and sufficient redress in cases of overcrowding in prisons (§ 99).

On 12 April 2013, the Italian authorities informed the Secretariat that they had requested a referral of the pilot judgment to the Grand Chamber on 8 April 2013. That request was refused by the Grand

Chamber panel on 27 May 2013 and the pilot judgment became final on the same date.

Application Case Judgment of Final on

22635/03 SULEJMANOVIC 16/07/2009 06/11/2009

1172nd meeting - Notes

The questions raised in the case of *Sulejmanovic* were examined in detail by the Committee at its 1150th meeting (September 2012). The case was proposed for the Order of Business for the June 2013 meeting in order that the Committee could, on the one hand take note of the deadline fixed in the pilot judgment *Torreggiani and others* for the introduction of a remedy and on the other hand, recall the questions raised and clarifications requested at the last examination of the *Sulejmanovic* case, to which to no reply has been given so far.

Decisions

The Deputies

1. recalled that at its 1150th meeting (September 2012) (DH), the Committee assessed in detail the Action plan submitted by the authorities in the Sulejmanovic case and invited them to submit further information and clarifications on :

- the exact number of additional places foreseen in prisons, as well as the additional total capacity of the prison estates;
- the meaning and status of the Ministry of Health standard relating to the minimum living space per detainee and how the total capacity of prison establishments is calculated
- the monitoring carried out on detention conditions, including up-to-date statistics on the reduction in prison overcrowding, and details on the impact of the different measures adopted so far;

2. recalled that the Committee also underlined in this context the

importance of the existence, both in theory and practice, of effective domestic remedies;

3. noted in this respect that the European Court delivered the pilot judgment *Torreggiani and others*, which sets a deadline of one year for the authorities to put in place an effective domestic remedy or a combination of such remedies capable of affording adequate and sufficient redress in cases of overcrowding in prisons;

4. noted that this judgment has become final on 27 May 2013 and encouraged the authorities to deploy all the necessary efforts with a view to submitting an action plan, together with a calendar, for the setting up of such a remedy by the deadline set, namely before the 27 May 2014;

5. furthermore strongly encouraged the Italian authorities to submit the further information and clarifications already requested by the Committee without delay.