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MINISTERS' DEPUTIES

Decisions

CM/Del/Dec(2019)1362/H46-14

5 December 2019

**1362<sup>nd</sup> meeting, 3-5 December 2019 (DH)****H46-14 Cestaro group v. Italy (Application No. 6884/11)**

Supervision of the execution of the European Court's judgments

Reference document

CM/Notes/1362/H46-14

*Decisions*

## The Deputies

1. noting that these cases concern the applicants' torture and other forms of ill-treatment by law enforcement agents and the ineffectiveness of the investigations and court proceedings carried out into these events, due mainly to the absence of criminal provisions imposing appropriate penalties on those responsible for such acts despite the respondent State's obligation to prevent impunity for serious human rights violations;

*As regards individual measures*

2. noted with deep regret that it is no longer possible to open a fresh investigation into the torture suffered by the applicants in *Bartese Gallo and Others* due to the statute of limitation; therefore accepted that no individual measure is any longer possible in this case;
3. requested the authorities rapidly to clarify whether it is possible to carry out new criminal investigations into the applicants' allegations of ill-treatment in the remaining cases and, if so, to provide information on the steps taken or planned to rectify the shortcomings found by the European Court and their outcome; invited also the authorities to provide information on any disciplinary investigations that have been initiated against the law enforcement agents who have been involved in acts of torture and other forms of ill-treatment, and their outcome;

*As regards general measures*

4. noting with satisfaction the reforms which in 2017 introduced the crime of torture into the Italian Criminal Code, expressed their confidence that the law enforcement authorities, prosecutors and courts will be guided in their interpretation and application of these provisions by the requirements of the Convention and the European Court's case-law in this area;
5. regretted that, while the authorities have endeavoured to ensure that sufficiently long prescription periods are provided to prevent torture-related criminal proceedings from becoming time-barred and that further provisions to this end are due to enter into force on 1 January 2020, they have not taken the opportunity to disapply the statute of limitation to torture; strongly invited the authorities to ensure that the remaining reforms in this area come into effect on the above date, and to keep the Committee informed of developments showing the effective and Convention-compliant application by prosecutors and courts of the new torture-related provisions of the Criminal Code;
6. recalled that the European Court found that the efforts of the prosecutors and courts adequately to investigate, try and punish those responsible for the ill-treatment suffered by the applicants were frustrated not only by gaps in the criminal law but also by the impossibility to identify all of the perpetrators and by the lack of cooperation from the police;
7. therefore called on the authorities rapidly to ensure that adequate legal provisions are in place to ensure that agents taking part in law enforcement operations can be identified in all situations and that a message at high political level of zero tolerance of ill-treatment is formally delivered to law enforcement agencies, underlining that the rights of persons in custody must be respected and that law enforcement agents involved in ill-treatment will be prosecuted and sanctioned adequately and dissuasively;
8. invited furthermore the authorities to indicate how they have ensured, or intend to ensure, that law enforcement agents who have been charged with crimes involving ill-treatment are suspended from duty during the investigation or trial and dismissed if they are convicted, in conformity with the established case-law of the Court on this issue;
9. noted with interest the information provided on the theoretical and practical training offered to law enforcement agents and encouraged the authorities to pursue their efforts to ensure that these officials undertake systematic and comprehensive training in the field of human rights throughout their career, also drawing on the Council of Europe's expertise and training courses such as the HELP course on the prohibition of ill-treatment;
10. requested the authorities to provide information on all the remaining questions identified above no later than 30 June 2020.

## Related documents

No related documents

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