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MINISTERS' DEPUTIES

Decisions

CM/Del/Dec(2021)1411/H46-15

16 September 2021

1411th meeting, 14-16 September 2021 (DH)**H46-15 Makaratzis group v. Greece (Application No. 50385/99)**

Supervision of the execution of the European Court's judgments

Reference document

CM/Notes/1411/H46-15

Decisions

The Deputies

1. recalling that these cases concern the use of potentially lethal force and ill-treatment by law enforcement agents as well as the lack of effective investigations capable of leading to adequate disciplinary and criminal sanctions;

As regards individual measures

2. welcomed the Greek Prime Minister's public expression of apology to all victims of ill-treatment by law enforcement officers during his speech in Parliament on 12 March 2021, and his recognition of the seriousness of this kind of human rights violations;

3. noted that some of the applicants have requested and been awarded by administrative courts compensation additional to that awarded to them by the European Court;

4. expressed again its regret that as a result of the prescription rules in force the reopening of the criminal and disciplinary investigations in most of these cases would involve a disproportionate burden (except for *Sidiropoulos and Papakostas*, in respect of which information is awaited on the reopening of criminal investigation, *Konstantinopoulos and Others (No. 2)* in respect of which more information is awaited on the reopening of the criminal and disciplinary investigations and for *Fountas* in respect of which more information is awaited on the reopening of the disciplinary investigations);

5. underlined that following a Court's judgment finding procedural violations of Article 2 or Article 3 the proceedings relating to reopening should be prompt; urged therefore the authorities to inform the Committee rapidly about whether reopening of the torture-related criminal investigation remains possible in *Sidiropoulos and Papakostas* (final judgment dating from April 2018) and, as regards *Konstantinopoulos and Others No. 2*, to accelerate the criminal and disciplinary proceedings related to reopening, given that the Court's final judgment dates from March 2019; as regards the *Fountas* case expressed their

concern with respect to the fact that the decision whether to reopen the impugned disciplinary investigation still remains to be adopted and urged the authorities to adopt measures in order for the relevant file is promptly submitted by the Police to the Mechanism for Investigation of Arbitrary Incidents by law enforcement officers;

6. decided, considering also the significant below-mentioned general measures taken in recent years to resolve the problems raised in the present group of cases, to close the supervision of all cases except for *Sidiropoulos and Papakostas, Konstantinopoulos and Others (No. 2)* and *Fountas*, by adopting Final Resolution CM/ResDH(2021)190, and to continue supervising the outstanding general measures under a new group of cases named *Sidiropoulos and Papakostas*;

As regards general measures

7. welcomed again the aforementioned speech of the Greek Prime Minister in Parliament expressing the State's determination to address the causes of violations raised in these cases and its strong commitment to setting the stage for a change of culture among law enforcement officers;

- Substantive violations of Article 3

8. while welcoming the authorities' determination to address the causes of ill-treatment and change the culture among law enforcement agents noted with serious concern notably the lodging of new similar applications with the Court and the persistence of ill-treatment by police agents evidenced notably by CPT in its 2020 reports and encouraged the authorities to take due account of the CPT's recommendations, notably those concerning regular professional training and safeguards preventing ill-treatment in order to prevent recurrence of substantive violations of Article 3 by all law enforcement agents (police and coast guard).

- Ineffective criminal investigations

9. welcomed the 2020 amendment to the Criminal Code which aligned the definition of torture with the Court's case-law in response to the Committee's earlier decisions, as well as the 2019 amendments to the Criminal Code restricting the commutation of custodial penalties and providing for aggravating penalties for racially motivated crimes; noted also with interest the 2020 circulars issued by the Court of Cassation Prosecutor in order to align prosecutors' practice with the Court's judgments in *Konstantinopoulos and Others No. 2* and *Fountas*;

10. noted however with concern the findings contained in the 2020 CPT report and urged the authorities to redouble their efforts in order to enhance the effectiveness of criminal investigations in line with the CPT recommendations; invited them to provide the Committee by September 2022 with updated statistical and qualitative information about criminal investigations into ill-treatment by law enforcement officers and their outcomes, showing the impact of the measures taken to date;

- Ineffective disciplinary investigations

11. welcomed the authorities' determination and measures taken to enhance the effectiveness of disciplinary investigations, notably: the increased transparency of investigations achieved by the Mechanism's work since it started operating in June 2017; the increasing quality of disciplinary investigations reviewed by the Mechanism; the 2020 legislation reinforcing the Mechanism's investigatory competencies; the 2019 change of the police officers' disciplinary law reinforcing the independence of disciplinary investigations;

12. noted nonetheless with concern the persistence of shortcomings in disciplinary investigations, recorded notably in the Mechanism's 2020 report, and urged the authorities to: continue supporting and reinforcing the Mechanism notably by taking measures to provide it promptly with staff necessary in order to further improve its effectiveness; give effect to the Mechanism's recommendations in order to enhance disciplinary investigations; and provide the Committee by September 2022 with updated statistical and qualitative information about disciplinary investigations into ill-treatment by law enforcement officers and their outcomes showing the impact of the measures taken to date.

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