# LCRM – Legal Resources Centre from Moldova

## Arrest continues to be applied often and unjustified in the Republic of Moldova

Gribincea Vladislav · Thursday, April 23rd, 2020

The Government of the Republic of Moldova committed before the Committee of Ministers of the Council of Europe to reduce the phenomenon of unjustified or illegal arrests. On 2-4 June 2020, the Committee of Ministers will verify the measures taken by the Republic of Moldova, in the context of consideration of execution of the *?arban* group of cases. The *?arban* group of cases consists of 14 judgements of the European Court of Human Rights that concern various violations of the Art. 5 of the European Convention on Human Rights (ECHR).

On 18 April 2020, the Legal Resources Centre from Moldova (LRCM) submitted an updated communication on the existent guarantees and the impact of the measures taken by the authorities in preventing and combatting the unjustified arrests.

LRCM concluded that the high rate of arrest and poor motivation of remand judgements remain to be serious problems in Republic of Moldova. Even though, in 2019 the number of arrested persons was the lowest (1,864) compared to previous years, it does not appear that the judges examine more thoroughly the remand requests. On the contrary, the rate of accepted arrest requests increased to historical maximums – 93.5% (in 2018 – 88.4%). At the same time, alternative preventive measures to arrest are not used enough.

These problems generally do not reside in the legislation, but in the deficient judicial practice, influenced by the insufficient independence of judges and prosecutorial bias of many investigative judges. At the same time, the high workload affects the possibility to make a thorough examination of materials and cases.

The overarching conclusion is that the 2016 amendment to the legislation did not lead to a substantive improvement of the practice of judges and prosecutors related to remand.

LRCM calls the Committee of Ministers to recommend the Moldovan authorities take all measures necessary to ensure that:

1. Moldovan judges and prosecutors respect in practice the guarantees of Article 5 of the Convention, in particular the verification of the reasonable suspicion of the crime and examination of all the relevant evidence brought before them;
2. alternatives to remand are effectively used in practice;
3. investigative judges enjoy full independence in practice, including that the legal requirements for

appointment as investigative judge offer sufficient guarantees for their independence and efficiency;
4. the workload of investigative judges is balanced to permit a thorough examination of cases put before them;
5. any person detained in breach of Article 5 is entitled to compensation, irrespective of the verdict on the merits of the charges brought against him/her.

In 2017 and2019, LRCM submitted other communications to the Committee of Ministers on this subject.

*The communication was written within the project „Promoting rule of law in Moldova through civil society oversight" implemented by the legal Resources Centre from Moldova with the financial support of the United States Agency for Development (USAID).*

* * *

In order to strenghtening the enforcement of ECtHR judgments and prevent similar violations in the future, non-profit organizations may submit communications to the Committee of Ministers of the Council of Europe on measures taken by the state. Details on the submission procedure could be found in the handbook „Implementation of Judgments of the ECtHR" elaborated by the European Implementation Network.

The communication in accordance with Rule 9.2 of the Rules for the supervision of the execution of judgments on SARBAN v. MOLDOVA group of cases is available here:

This entry was posted on Thursday, April 23rd, 2020 at 9:45 am and is filed under News
You can follow any responses to this entry through the Comments (RSS) feed. Both comments and pings are currently closed.