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Date: 20/12/2016

DH-DD(2016)1411

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Meeting: 1280 meeting (7-9 March 2017) (DH)

Item reference: Action report (09/12/2016)

Communication from Armenia concerning the case of Domazyan against Armenia (Application No. 22558/07)

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Réunion : 1280 réunion (7-9 mars 2017) (DH)

Référence du point : Bilan d'action

Communication de l'Arménie concernant l'affaire Domazyan contre Arménie (Requête n° 22558/07)
(anglais uniquement)

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**THE GOVERNMENT OF THE REPUBLIC OF ARMENIA
ACTION REPORT**

DOMAZYAN v. ARMENIA

no. 22558/07, judgment of 25/02/2016, final on 25/05/2016

(Supervised by the Committee of Ministers under the standard procedure)

I. INTRODUCTORY CASE SUMMARY

1. In the case of *Domazyan* the European Court of Human Rights (hereinafter, the Court) held that there had been a violation of Article 6 § 1 of the European Convention on Human Rights (hereinafter, the Convention). The applicant's right of access to court was infringed due to the dismissal by the District Court in November 2006 of the applicant's counter-claim on the basis that the power of attorney of the applicant's lawyer had not been certified by a notary. The Court found that at the material time the law did not contain clear rules establishing the manner in which a power of attorney issued by a person to an advocate should be drawn up.

II. INDIVIDUAL MEASURES

(i) *Payment of Just Satisfaction*¹

<i>Case of</i>	<i>Pecuniary Damage</i>	<i>Non-Pecuniary Damage</i>	<i>Costs and Expenses</i>	<i>Total</i>
<i>Domazyan</i>	---	EUR 3,600	---	EUR 3,600
Paid on: 3 August 2016				

(ii) *Other Individual Measures*

2. According to the information provided by the Judicial Department of Armenia on 21 November 2016, the applicant appealed to the Court of Cassation for the reopening of her case at the domestic level on the ground of new circumstance. At present, the application is in the examination process.

III. GENERAL MEASURES

A. *Publication and Dissemination of the Judgment*

3. The *Domazyan v. Armenia* judgment was immediately translated into Armenian and published on the official websites of the Ministry of Justice (www.moj.am) and of the Armenian Government Representation before the European Court of Human Rights (agent.echr.am) on 24 May 2016. Considering the importance of preventing further similar

¹ The just satisfaction form was submitted to the Just Satisfaction Unit of the Department for the Execution of Judgments of the European Court of Human Rights on 15 August 2016.

violations, as well as of effectively implementing the Court's judgment, the relevant authorities involved were duly informed about the judgment and provided with the corresponding translation.

4. In addition, the respective training curricula of the Justice Academy², the Police Academy³ as well as the Law Institute of the Ministry of Justice⁴ have special training courses on the Convention and the Court's case-law in general, and judgments delivered in respect of Armenia, in particular. It is also worth mentioning that relevant courses on both the Convention and the Court's jurisprudence are included in the academic programmes of higher education institutions of Armenia.

B. Legislative Measures

Article 6 § 1 of the Convention

5. The Government would like to emphasise that the violation of Article 6 § 1 of the Convention found by the Court in the *Domazyan* case was the direct consequence of defective regulations and was connected to the legislative gaps existing at the material time. In particular, the law did not contain clear rules establishing the manner in which a power of attorney issued by a person to an advocate should be drawn up, including the procedure for its certification.

6. Acknowledging the necessity of eliminating the existing legislative uncertainties and preventing any possible misinterpretations and misapplications in practice, amendments were made to the Code of Civil Procedure (hereinafter, the CCP) on 28 November 2007 with effect from 1 January 2008. The main purpose of these amendments was to remedy any possible legal uncertainties regarding the legal requirements applicable to issuing a power of attorney to an advocate.

7. It is to be noted that prior to these amendments, the relevant provisions of the CCP read as follows: "(...) *The power of attorney issued to an advocate shall be certified in accordance with law.*" These provisions did contain clear rules establishing the manner in which a power of attorney issued to an advocate should be drawn up, including the procedure for its certification.

8. In contrast to the legislation existing at the material time, at present Article 41 of the CCP reads as follows: "(...) ***The power of attorney issued to an advocate shall be drawn up in simple written form and is not subject to certification.***"

² The Justice Academy provides trainings for acting judges and candidates for judges, prosecutors and candidates for prosecutors, investigators as well as other public officials.

³ The relevant materials are taught at the Police Academy, particularly within the Bachelor's, Master's and Distance Learning Programmes of the Faculty of Law, as well as in the College and the Faculty of Trainings and Qualification of the Police Academy in the framework of subjects "Human Rights and the Police", "The Major Problems of the Theory of Human Rights".

⁴ The Law Institute provides trainings for penitentiary officials and civil servants.

9. As it appears from the above-mentioned, the process of legislative amendments started even before the application was communicated to the Government⁵ and the judgment under consideration was delivered by the Court.

10. In the light of the foregoing the Government emphasise that under the present regulations it is foreseeable and accessible for everyone the manner in which a power of attorney issued to an advocate should be drawn up. The Court itself also has reflected this in the judgement under consideration. More specifically § 42 reads as follows: *"(...) as a result of amendments to the relevant provisions of the CCP introduced on 1 January 2008, the law currently stipulates that power of attorney issued to an advocate should be in a simple written form and is not subject to certification."*

11. Thus, taking into consideration the above-mentioned, i.e. the very nature of the violation found by the Court, the subsequent legislative amendments, the Government is of the view that no similar violation may occur in the future.

IV. STATE OF EXECUTION

12. The Government of the Republic of Armenia consider that measures adopted have fully remedied the consequences of the violation of the Convention found by the Court in the case in question, that these measures will prevent similar violations and that Armenia has thus complied with its obligations under Article 46 § 1 of the Convention.

⁵ The application was communicated to the Government on 15 September 2010.