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Case of Abdelhamid Hakkar

Written question No 481 to the Committee of Ministers

Reply from the Committee of Ministers
adopted at the 974th meeting of the Ministers' Deputies (27 septembre 2006)

I. Written Question No. 481 by M. Jurgens (Doc. 10788)

Recalling that in his reply to a question by Mr Jurgens in January 2004, the Chairman of the Committee of Ministers referred to the position of the French authorities to the effect that Mr Abdelhamid Hakkar, who had received a second conviction in proceedings resulting from the reopening of his case was not nonetheless required to serve two consecutive terms of imprisonment for the same offence as the first conviction would disappear as soon as the second had become final;

Noting that the second conviction could not become final at that time because it had been subject first to an appeal and then to an application in cassation by Mr Hakkar;

Observing, however, that with the decision of the Court of Cassation of 7 December 2005 rejecting Mr Hakkar's application, the second conviction is no longer subject to any possibility of appeal and is therefore final, and that as a consequence the initial conviction may finally be suppressed;

Noting furthermore that the initial life sentence included a tariff of 18 years and that this was reduced to 16 years by the second sentence but that in any event Mr Hakkar has now served 21 years in prison,

Mr Jurgens asks the Committee of Ministers:

to inform the Assembly whether the French authorities today see any reason why Mr Hakkar should not now be able to be set free from his life sentence and a decision be taken to grant him parole with respect to his other conviction(s).

II. Reply by the Committee of Ministers

1. The Committee of Ministers wishes to inform the Honourable Member that in the context of its examination of the question, the French delegation provided the following information.

2. It is assumed that the first part of the question relates to the deletion of the first life sentence pronounced at the initial trial which was found to violate the European Convention on Human Rights. In this respect the government confirms that the life sentence combined with a 16-year tariff pronounced against Mr Hakkar at his second, fair, trial replaces the initial sentence.

3. As regards the second part of the question concerning the possibilities of liberation on parole, the government points out first of all that this must be examined taking into account both Mr Hakkar's convictions for various lesser offences and the life sentence with its irreducible 16-year punitive period.

4. The government emphasises that applications to be freed on parole fall within the jurisdiction of a judicial branch specialising in the enforcement of sentences (*tribunal d'application des peines*) under Article 729 *et seq.* of the Code of Criminal Procedure. A decision to liberate a detainee on parole is given by the Tribunal, a collegiate court which pronounces itself "having heard the representative of the prison

administration and following an adversarial discussion held in chambers during which the Tribunal hears the demands of the prosecution and the observations of the detainee or, where appropriate, his counsel" (Translation, Article 712-7 of the Code of Criminal Procedure).

5. In the present case, following Mr Hakkar's application to be freed on parole submitted on 3 February 2006, the Tarbes *Tribunal d'application des peines*, in a decision rendered on 31 July 2006, declared the application admissible but dismissed it on the merits. Mr Hakkar appealed this decision and the case is at present pending before the *Chambre de l'application des peines* at Pau.