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Legal proceedings concerning Mr van der Dussen and failures in the Spanish judicial system

Reply to Written question[1]: Written question No. 689 (Doc. 13815)
Committee of Ministers

1. The Committee of Ministers is pleased to be able to inform the Honourable Parliamentarian that following a re-opening of the case of Mr Van der Dussen on the basis of new elements, part of the original judgment against him, i.e. the part concerning one of the convictions for sexual assault, has been set aside. However, the parts of the judgment concerning other convictions including for sexual assault, were upheld.

2. The Committee of Ministers notes that the proceedings, which led to the release of the Mr Van der Dussen, began with a decision by the Criminal Chamber of the Supreme Court of 12 November 2015, authorising the lodging of an application for review of the judgment delivered by the Second Section of the Malaga Provincial Court on 25 May 2005. On 22 December 2015, the public prosecution service stated that it agreed to a review of the judgment. According to the information the Committee of Ministers has received from the Spanish authorities, the review of a final judgment is an exceptional measure which is only authorised if new and irrefutable evidence concerning the applicant's innocence has been produced. In the present case, such evidence was produced in the form of DNA results and the confession of a British citizen arrested in 2007 and currently in prison.

3. The Spanish authorities have recently informed the Committee of Ministers that Mr Van der Dussen has been released after having served the part of the sentence concerning the charges relating to the other convictions. They have also informed the Committee that Section V of the Spanish Courts Act governs State liability and compensation for matters concerning the functioning of the justice system.

1. Adopted at the 1249th meeting of the Ministers' Deputies (2-3 March 2016).