

MAY 23 '97 01:35PM EXTERNAL AFFAIRS OTT

P.1

Foreign Affairs
and International
TradeAffaires étrangères
et Commerce
International**CAMANT****Case Note / Note sur le cas****98-BUCST-58471 KAPOUSTIN 23-May-1997 06:40**

Category / Catégorie: Arrest/Detention

Status / Statut: Active

Mission: Bucharest

Originator / Auteur: Adcock

Note Reference /

Objet de la note: note 223

Topic /

Sujet: consul's visit 13 May

Consul and HonDon visited subj 13 May. Subj appeared to be in good physical condition but was mentally distressed as a result of his continued detention and lack of news concerning setting of trial date. Legal counsel has advised him that trial date (if there is to be one) may take another one to two years. It proved impossible to obtain any corroborating info from investigator's office.

Corruption abounds within the prosecutor's office according to local news reports. Investigator Cheorgiev has been removed from office with replacement to be named in coming weeks. Whether this will or will not delay proceedings remains to be seen. Legal counsel advises they are having access problems as a result of a more rigorous application of existing law; they will pursue matter of access with prosecutor's office. Subj also complained that since consul's last visit 16 March he had been denied access to exercise facility on a regular basis. Temporary investigator/replacement (deputy?) stated that the problem would be resolved. HonDon has been asked to follow up on a regular basis during the period June/September and will forward reports via cons/ambt Bueat.

Subj has requested CANADA advise him as to what steps/process may be used to hasten investigation and trial. According to him and his legal counsel Bulgaria has already been taken to the European Court of Justice in Strasbourg for a case of illegal detention. Court decision approx 2 months was in favor of the plaintiff against Bulgaria. Subj wishes to follow same route and legal counsel stated they may file suit in July. Subj has also requested German authorities be advised that he is not being tried for offences for which he was extradited and has asked for Germany to assist with traveling case more speedily brought to trial. Subj has requested that you keep Mr Kap informed of all measures taken.

Diplo note which follows was presented to MFA 16 May. Ambassador Duguay will pursue matter with MFA and Prosecutor during visit scheduled for 11-13 June.

Funds transfer was given to legal counsel and receipted as requested.

2. Following is diplo Note presented to Bulg MFA, after we received written approval from subj:

quote

Note 8088/87

The Canadian Embassy in Bucharest presents its compliments to the Ministry of Foreign Affairs of the Republic of Bulgaria and has the honour to refer to the case of Mr. Michael Kapoustin who has been held in detention since his extradition from Germany on September 2, 1996 on various charges under the Penal Code of Bulgaria.

The Embassy understands that the initial period for which Mr. Kapoustin can be held for purposes of an investigation into the charges expires June 1, 1997 and is concerned by suggestions that the responsible Bulgarian authorities will seek to have his detention extended for a further period of investigation. The Embassy notes that these authorities had considerable time to investigate the charges prior to the request for Mr. Kapoustin's extradition from Germany (the Embassy understands that the original arrest warrant dates back to July 1995), that they had additional time for investigation from February 7, 1996 until September 2, 1996, during which period he was detained in Germany pending extradition, and that they have had a

MAY 23 '97 01:40PM EXTERNAL AFFAIRS OTI

P.2

Foreign Affairs
and International
Trade



Affaires étrangères
et Commerce
International

CAMANT

Case Note / Note sur le cas

96-BUCST-58471 KAPOUSTIN 23-May-1997 06:40

further nine months since his return to Bulgaria to question him direct.

In these circumstances, the Embassy believes that the Bulgarian authorities have had adequate time to determine whether, based on the available evidence, Mr. Kapoustin, who has now been in detention for almost sixteen months, should be brought to trial or released and that to leave matters unresolved by detaining him for a further period of investigation would amount to punishment without trial.

...2/

Should the Bulgarian authorities determine that, notwithstanding the above, yet a further period of investigation is required, the Embassy believes that Mr. Kapoustin should be released on bail until the investigation is complete. In this regard, the Embassy notes that Bulgarian citizens facing charges in similar cases have been released on bail. *

The Canadian Embassy in Bucharest avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Republic of Bulgaria the assurances of its highest consideration.

Bucharest, 9 May 1997