

DIICOT request to reopen "10 August" criminal case, definitely rejected by Bucharest Tribunal

The Bucharest Tribunal has Tuesday rejected the request by the DIICOT (Directorate for the Investigation of Organised Crimes and Terrorism) to reopen the criminal investigation against the former heads of the Gendarmerie in the "10 August" criminal case, in a definitive move.

Technically, through this decision, the case will be closed, and the former heads of the Gendarmerie will never be criminally prosecuted for the intervention against the protesters at the 10 August 2018 rally in Victoriei Square.

The DIICOT request has been sent back and forth between the courts for several months, as the judges were not clear who has the competence to resolve this case.

On 4 August 2020, former DIICOT Chief Prosecutor Giorgia Hosu partly disproved the resolution of the "10 August" criminal file and ordered the reopening of the criminal prosecution in the case of the former chiefs of the Gendarmerie: Colonel Gheorghe Sebastian Cucosu, Major Laurentiu Cazan, Colonel Catalin Sindile and Commissioner-Chief of Police Mihai Dan Chirica.

However, the decision had to be approved by a judge, and the DIICOT request was sent to the Bucharest Court of Appeal, which decided on 10 August 2020 that it did not have the substantive competence to resolve the request of the prosecutors and sent the file to the Bucharest Tribunal.

In the order to reopen the investigation, Giorgia Hosu explained that prosecutor Doru Stoica, who closed the charges against the Gendarmerie chief, did not re-administer the evidence gathered by the Military Prosecutor's Office in the "10 August" file, nor did he re-hear the suspects, the victims and witnesses. Moreover, Giorgia Hosu showed that the chiefs of the Gendarmerie did not want to give statements when they were called to the Military Prosecutor's Office, but they had to be summoned to DIICOT after the latter took over the file from the military prosecutors.

At the same time, no injured persons and no witnesses were summoned to DIICOT, with the exception of some officials: Carmen Dan, Speranta Cliseru, Aurelian Badulescu and Alin Ionel Mastan.

In addition, Giorgia Hosu said, no evidence collected by the Military Prosecutor's Office was re-administered and no more technical evidence was required, given that some of the video recordings on file could not be accessed.

Prosecutor Doru Stoica invokes in the classification order the "sincere belief" of the authorities in law enforcement and a moral complicity of the peaceful protesters in Victoriei Square, who did not break with those who exerted violence on the law enforcement, but were even amused.

Stoica claimed that not all the "collateral victims" of violence in Victoriei Square were also "innocent victims." He recognized that the decisions taken by the authorities in the management of the protest in Victoriei Square were not perfect, but considering that some peaceful protesters encouraged the violent ones to engage in acts of aggression against the gendarmes, the only constant in managing the situation was "stricter law enforcement".

He invoked ECHR provisions, in the sense that the use of force by state representatives can be justified when it is based on 'sincere belief', even if it is subsequently shown that the intervention was wrong.