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Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1362nd meeting (December 2019) (DH)

Communication from the Georgian authorities (05/11/2019) in the case of Georgia v. Russia (I) (Application No. 13255/07)

Information made available under Rule 8.2a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1362^e réunion (décembre 2019) (DH)

Communication des autorités géorgiennes (05/11/2019) dans l'affaire Géorgie c. Russie (I) (requête n° 13255/07) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 8.2a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



DGI

05 NOV. 2019

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

საქართველოს იუსტიციის სამინისტრო MINISTRY OF JUSTICE OF GEORGIA



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№16211

05 / November / 2019

Mr Fredrik SUNDBERG,
Head of the Department for the Execution of
Judgments of the European Court of Human Rights

Application No. 13255/07

Georgia v. Russia (I)

Dear Sir,

In response to the letter of Ministry of Justice of Russian Federation of 30 October 2019 (№ 10-3047-19), which allegedly enclosed the so called “Action Plan on the execution of the judgment of the European Court of Human Rights in case no.13255/07 *Georgia v. Russia (I)* (just satisfaction)”, the Government of Georgia observes that Russia continues to disrespect the Committee of Ministers (CM) by introducing exactly the same arguments as voiced during the 1355th (DH) meeting of the Minister’s Deputies on 23-25 September 2019. In particular:

1. The Russian Federation again suggests that “there is no legal basis for application of Article 41 and there are no legal regulations for its application in a particular case of an interstate application”. As noted in our previous correspondence, this position runs against the holding of the Grand Chamber that the applicant Government (Georgia) was entitled to submit a claim under Article 41 of the Convention and that an award of just satisfaction was justified in the present case (See *Georgia v. Russia (I)*, Application no. 13255/07, [GC] Just satisfaction, 31 January 2019, §§ 26-27). Likewise, this argument was also unequivocally rejected by the CM during its last debate on this case;
2. Russia intends to shift its obligation imposed by the Court to Georgia in proposing first to focus on mechanism of distribution of compensation instead of paying the sum. The CM has duly examined this proposal at the debates and referring to the Court’s judgment indicated the Russian Federation that “*the respondent State is to pay the applicant Government, within three months, EUR 10,000,000 in respect of non pecuniary damage suffered by a group of at least 1,500 Georgian nationals who were the individual victims of the violations and that these amounts should be distributed by the applicant Government to the individual victims under the supervision of the Committee of Ministers within 18 months of the date of the payment*”. Thus, the sequence of the measures to be undertaken by Russia and Georgia in the process of execution of the present case, is already set out by the Court and acknowledged by the CM. It was further underlined by the CM that “*there is an unconditional obligation under Article 46 § 1 of the Convention to pay the just satisfaction awarded by the Court and therefore called upon the Russian authorities to pay without delay the sums awarded together with the default interest accrued*”. Therefore, attempt to put forward the same arguments over and over again serves the only purpose to continue the practice of systematic disregard of obligations under Article 46 § 1 of the Convention;
3. Russia continues to mislead the Committee of Ministers by claiming as if there is no list of victims. This issue was examined and decided by the Grand Chamber establishing that for the purposes of awarding just satisfaction it could in the present case base itself on a “sufficiently precise and objectively identifiable” group of at least 1,500 Georgian nationals who had been victims of a violation of Article 4 of Protocol No. 4 (collective expulsion). Among these, a

certain number had also been victims of a violation of Article 5 § 1 (unlawful deprivation of liberty) and Article 3 (inhuman and degrading conditions of detention) (See *Georgia v. Russia (I)*, Application no. 13255/07, [GC] Just satisfaction, 31 January 2019, §§ 68-72). As discussed during the CM debates on 23-25 September 2019, this finding cannot be questioned at the phase of execution.

Considering that in its recent communication of 30 October 2019 Russia fully recapitulated all its arguments having voiced before and during debates on 23-25 September 2019, it becomes crystal-clear that Russia entirely ignores the decision of the Committee of Ministers CM/Del/Dec(2019)1355/H46-21 adopted on 1355 (DH) meeting of the Minister's Deputies on 25 September 2019, which indicated that the Russian Federation has an unconditional obligation under Article 46 § 1 of the Convention to pay the just satisfaction awarded by the Court and therefore it has to pay without delay the sums awarded together with the default interest accrued. Therefore, the CM has all grounds to consider that Russia refuses to abide by a final judgment of the Court.

In case the Russian Federation does not change the disrespectful attitude before the 1362nd meeting (December 2019) (DH) it will become absolutely unreasonable to keep calling on payment without further delay and the delegations are kindly asked to support execution of the judgment and during their interventions to:

- recall that the payment of the just satisfaction awarded by the Court is an unconditional obligation;
- note with deep concern, that notwithstanding the above unconditional obligation, the respondent State have not made the required payment;
- underline that continued non-payment of compensation imposed by the Court constitutes the practice of systematic disregard of the obligation under Article 46 § 1 of the Convention to comply with the judgments of the European Court;
- affirm determination to ensure the implementation of the judgment by actively considering using all the means at the disposal of the Organisation, including under Article 46, paragraph 4 of the European Convention on Human Rights;
- request to resume consideration of the question of payment of the just satisfaction in the *Georgia v. Russia (I)* case at their March 2020 meeting (DH).

Considering the relevance of the issue in question and bearing in mind that the Respondent Government has not fulfilled an unconditional obligation imposed by the Grand Chamber, the Committee of Minister is hereby requested to take into account the complex situation at issue and introduce above-mentioned strong wording in the text of the ensuing CM decision which will be adopted during the upcoming December CMDH meeting.

Lastly, I would like to renew our gratitude for your kind assistance and continuous cooperation in execution of the interstate case.

My colleagues and myself remain at your disposal for any queries or clarifications in this respect.

Sincerely,

Government Agent of Georgia to the European Court of
Human Rights

SIGNED/SEALED
ELECTRONICALLY 

Beka DZAMASHVILI