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Date: 28/11/2019

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

Communication from a NGO (Stichting Justice Initiative) (18/11/2019) in the case of KHASHIYEV and AKAYEVA v. Russian Federation (Application No. 57942/00)

Information made available under Rule 9.2 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 d'une ONG (Stichting Justice Initiative) (18/11/2019) dans l'affaire KHASHIYEV et AKAYEVA c. Fédération de Russie (requête n° 57942/00) (**anglais uniquement**).

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



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Out. U 19035
18 November 2019

DGI

18 NOV. 2019

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

To Mr. Fredrik Sundberg
Department for the Execution of Judgments
Of the European Court of Human Rights
Directorate General of Human Rights and Rule of Law
Council of Europe
67075 Strasbourg CEDEX
France

By email to: DGI-Execution@coe.int; Fredrik.sundberg@coe.int

Copy to follow by courier

Re: *Khashiyev and Akayeva* group – submission on humanitarian resolution

Dear Sir,

Please find attached a submission made under the Rule 9(2) of the Committee's Rules on behalf of the applicants in the above cases. Please acknowledge the receipt of this letter to srji.org@gmail.com. Copies may be sent to PO box 19318, Utrecht DH, the Netherlands.

Sincerely,

Egbert Wesselink,
Board Chair, Stichting Justice Initiative



DGI

18 NOV. 2019

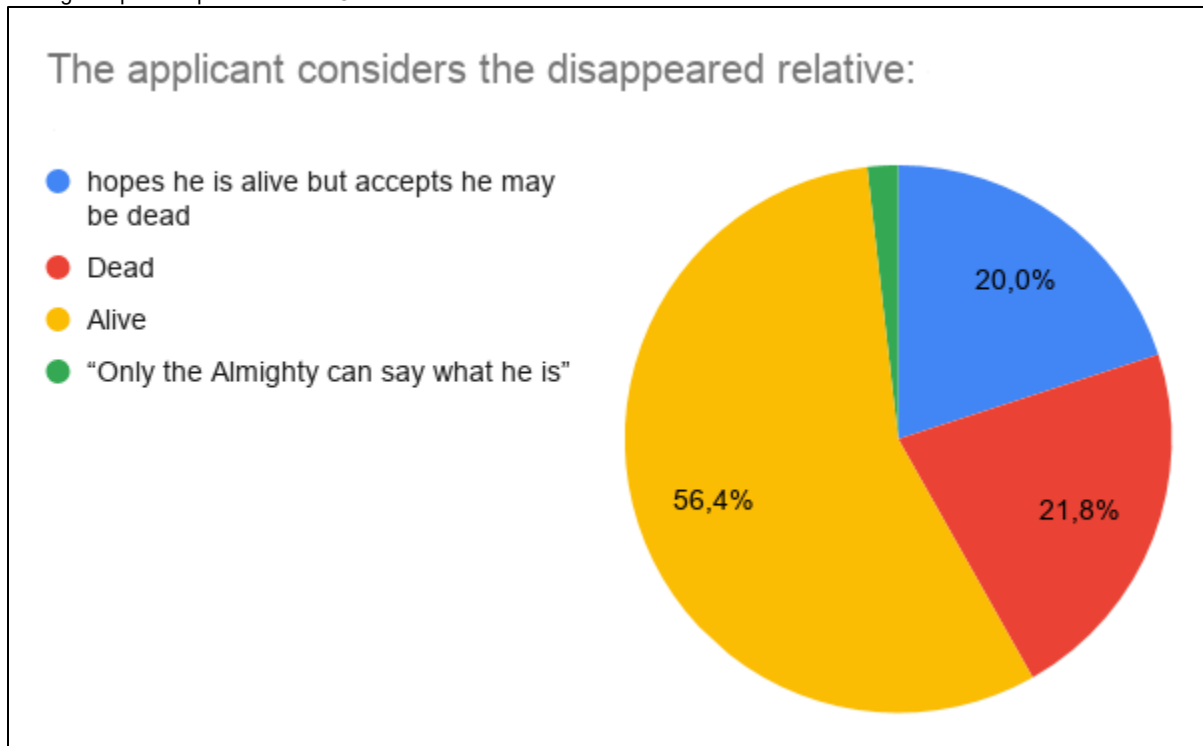
SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Submission of Stichting Justice Initiative (SJI)

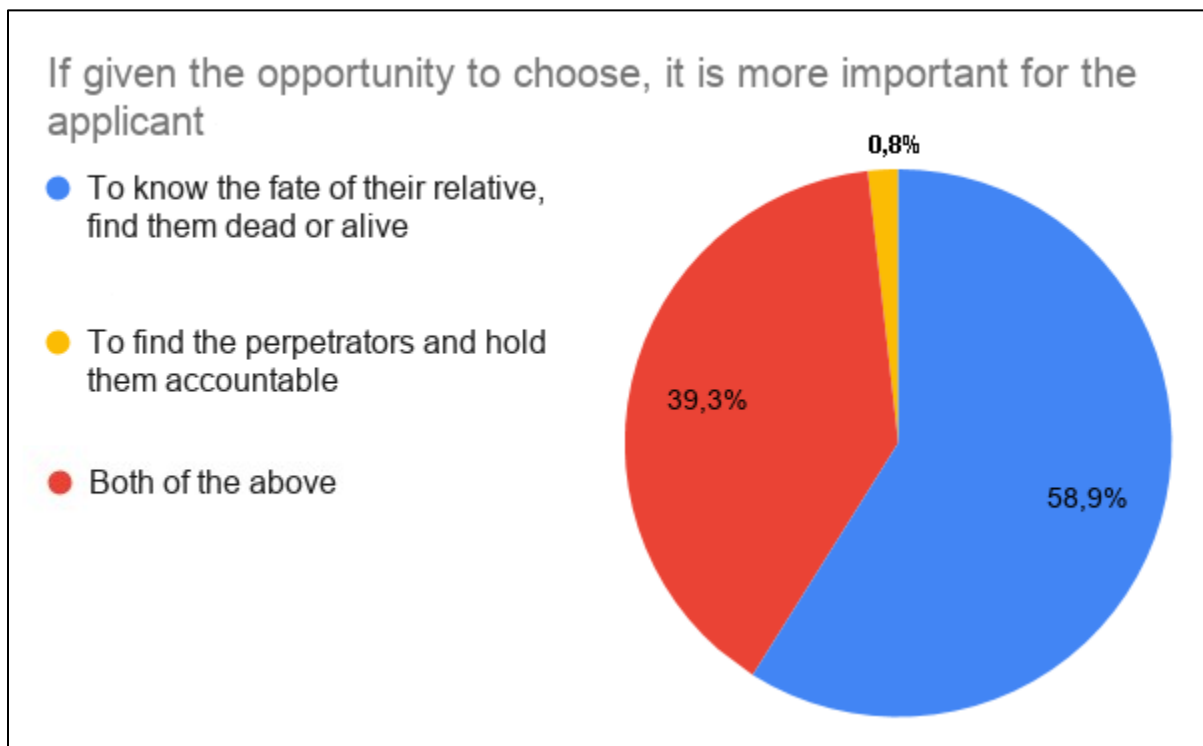
Under Rule 9(2) of the Committee of Ministers

Regarding execution of general measures in the *Khashiyev and Akayeva* group of cases (humanitarian resolution)

1. This submission is made by Stichting Justice Initiative for consideration at the CM's 1362nd meeting in December 2019 in the context of the question of humanitarian resolution for applicants in the *Khashiyev and Akayeva* group, which concerns grave violations of the European Convention in the North Caucasus, in particular enforced disappearances (ED).
2. This submission intends to present results from a pilot project begun in July 2019 which may be relevant for the Committee's consideration of the humanitarian aspects of the *Khashiyev and Akayeva* group.
3. The project was designed to collect information from a subset of SJI's clients – families of victims of enforced disappearances – on 1) their satisfaction with the legal process and outcome of their case at the European Court of Human Rights (ECHR); 2) their experiences subsequent to the disappearance; 3) ideas for commemoration of ED victims.
4. 189 surveys were completed by the parents, spouses, children and other relatives of ED victims whose cases have been taken to the ECHR. This sample represents 17.6% of all of SJI's ED case applicants. 90 interviews were also conducted with survey respondents. 55% of respondents were 59 – 68 years old; the second biggest group of respondents (21%) was 49 – 58 years old.
5. The information below represents 61% of the interview data collected regarding two issues: **1) whether the applicants consider their disappeared relative to be dead or alive, and 2) how knowing the fate of their relative ranked next to holding perpetrators accountable, if asked to choose.** The sample presented below is largely representative of the entire data set. We close the submission with a selection of quotes from applicants collected from the interviews conducted in July 2019.
6. Strikingly, the majority of respondents do not accept that their relative is dead. 76.4% of respondents either believes, or hopes, that their disappeared relative is still alive. Thus, the question of commemoration of their loved ones has been indefinitely put off. Most applicants do not have closure, and describe a state of constant psychological limbo known as “ambiguous loss.” Some applicants describe a state of hope following the judgment of the ECtHR in their case, as they believed that the judgment would lead at least to information about their relative. Regrettably, for the vast majority, this hope has not been realized.



7. Regarding the question of the importance of knowing the fate of their relative vs. pursuing accountability, almost no one chose the option of pursuing accountability over knowing the fate of their relative. **The majority expressed that finding out the fate of their relative was their most important goal**, although a significant percentage of respondents could not choose one or the other, indicating that not all applicants are ready to “give up” on the issue of accountability.



Quotes from applicants on the questions:

- 1) “How important to you is it to know the fate of your relative?” and**
- 2) “What were your expectations from the judgment of the European Court of Human Rights?”**

“I applied to the Court to find our brothers...because they disappeared...we expected to find them. We weren’t waiting for the Court’s decision or something from the Government. The most important goal was to find them. And finding them is still our most important goal. If it’s possible, to find them alive, if it’s not, then, of course, their bodies.”

“At least to find his body, to bury him, I would agree to this.”

“It’s so important to me to know if he is alive or not. I really want certainty. Because all of these years, in September 2019 it will be 14 years, I have been in limbo.”

“I think the Court’s judgment is just, but the most important thing is to find [my relative], that’s the first thing. No amount of money will bring them back, money will not replace him.”

“At first the Court’s decision gave me hope. Now they will answer, now they will tell...at least whether he is dead or alive, what happened to him. I had such a big hope.”

“When I applied to the Court I was hoping that maybe the authorities would meet me halfway, they would say ‘withdraw your application, and we’ll either give you information about your son or we’ll let him go.’ Those were my hopes.”

“I still hope that they will find him...While I am alive, I will write, I will wait.”

“I can’t believe that he is not alive. And the Court cannot decide this. And I cannot accept it...I believe he is alive and that he is held somewhere.”

“My case is in Khankala. When I go there and talk to them, they aren’t happy, they ask me, ‘why should your case be first on the list?’ Because I’m a mother, I say. Because I am rooting for my son, that’s why I came here to you, I say. Sometimes they make me so upset that I say: ‘I wish you would wake up in my skin.’”

“Whenever a stranger comes into our yard, I think, maybe he will tell me something. Maybe, he is bringing news from him. On the 8th of August 2019 it will be 19 years. Not a day goes by without waiting.”

“It’s 100% important [to find him]. It’s 1000% important. I wanted to see him alive. But if he is no longer alive or they did something to him, then at least to find his grave.”

“[To find him] is the most important goal of my life. My biggest wish.”

“This is the most important thing in our lives. For the children and for me. Is he alive or not? Where is he? How is he? The youngest [daughter] never saw her father, she suffers so. She was born six months after he disappeared, and she is still suffering.”

“If he was guilty – they had to put him on trial. Please! And we would have proven that he was not guilty. Or if he was – let him go to jail. But they didn’t do this...probably they killed him. I don’t think he is in some prison. It seems to be that he is no longer alive. But they don’t even say where he is buried. This I want to know.”

“Some say, so much time has passed. But for me it’s like yesterday. It’s not like 16 years, it’s like yesterday.”

“I applied to the Court because I thought I would find him. That they would find my son. That was the main thought in my head.”

“When I applied to the European Court I was counting that I would find out the details of what happened to my relatives...from the federal authorities I couldn’t find out anything, they always answered ‘we haven’t seen him, we don’t know.’ That’s why we appealed in the hope that we would find out something about their fate.”

“My only goal was to somehow influence the authorities, pressure them to answer about what happened to my son. I hope that I have the right to know about this.”

“We say, the children went missing. These are only words. But do you know how much is behind them? You come in at night, close your gate, lie down – one ear is listening. Are they knocking? Will someone come? Will someone give you some kind of note or something? Then you think, what is he wearing, if he is alive? And if he is not alive, where is he buried? This is like...death while living.”

“When you have lost someone, you wait your whole life...I’m waiting for someone to knock. I’m waiting for someone to come in. I’m waiting for them to say something. At least they could say ‘he’s buried here,’ and I would be happy for that.”

“If he’s alive, I want to find where he’s kept. If he’s dead, I want to find the remains so that I can bury them according to our traditions.”

“I’m his mother, after all. If something really had happened to him, if he was no longer alive, I’d likely feel this. Right now there is nothing in my thoughts to say that he is not alive. I believe he is held somewhere, maybe he has lost his memory? I feel this too.”

“We are still waiting and hoping that he is alive. I would give everything I have to know where he is.”