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Meeting: 1419th meeting (December 2021) (DH)

Communication from the applicant (09/11/2021) in the case of *Yelchaninov v. Russian Federation* (Application No. 20179/12) (Mikheyev group)

Information made available under Rule 9.1 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 : 1419^e réunion (décembre 2021) (DH)

Communication du requérant (09/11/2021) relative à l'affaire *Yelchaninov c. Fédération de Russie* (requête n° 20179/12) (groupe Mikheyev) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.1 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

DGI

09 NOV. 2021

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH



Communication to the Committee of Ministers under Rule 9(1) of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements in the *Mikheyev v. Russia* group cases

On 16 March 2021, the ECtHR issued the judgment in the case of *Yelchaninov v. Russia* (*Nº 20179/12*). It established that the applicant was subjected to inhuman and degrading treatment and that no effective investigation was carried out by the authorities in this case. He was represented by the lawyers of the Russian NGO **Committee Against Torture** (Russia, Nizhny Novgorod City, Osharskaya Street, 96b).

As for the facts, the applicant was ill-treated by the police officers on 02 December 2006 to make him confess. A pre-investigation inquiry was carried out, and, as a result, the refusals to open a criminal case was issued. The applicant lodged his application before the ECtHR on 29 March 2012. After communication of the case to the Government a pre-investigation inquiry was resumed. The latest refusal was issued on 02 March 2020 due to the absence of the elements of a crime (**Annex 1**). It was based on the version of the state agents who subjected the applicant to ill-treatment.

The applicant's representative appealed against the decision of 02 March 2020 to the Leninskiy district court of Orenburg and complained about incomplete pre-investigation check and the refusal of the authorities to open a criminal case (**Annex 2**). On 11 December 2020 the court dismissed the applicant's appeal and declared it lawful (**Annex 3**). On 19 February the Orenburg region court upheld the decision in appeal (**Annex 4,5**). Following the judgment in the case of *Yelchaninov v. Russia* of 16 March 2021, the applicant's representative lodged a cassation appeal, which was dismissed as unsubstantiated on 06 August 2021 (**Annex 6,7**). On 26 August 2021 the Supreme Court of Russia dismissed the cassation appeal of the applicant's representative (**Annex 8,9**). To sum up, the court of cassation appeal and the Supreme Court of Russia unreasonably declined to take into account the judgement of the ECtHR and its conclusions.

We believe the Court's judgment in the above case **has not been executed in full**. Individual measures, which Russia need to take to comply with its obligations under Article 3 of the Convention is **to open and complete the criminal case against the state agents who ill-treated Mr. Yelchaninov and take all necessary steps to address the specific shortcomings stated in the Court's judgment of 16 March 2021**.

Olga Sadoyskaya

Annex 1 - Refusal to open a criminal case of 2 March 2020 – p. 1-16

Annex 2 - Appeal of 23 October 2020 – p. 17-25

Annex 3 – Decision of 11 December 2020 – p. 26-30

Annex 4 - Appeal of 15 December 2020 – p. 31-40

Annex 5 – Appeal decision of 19 February 2021 – p. 41-47

Annex 6 – Cassation appeal of 09 April 2021 – p. 48-51

Annex 7 - Decision of 06 August 2021 – p. 52-55

Annex 8 - Cassation appeal of 30 August 2021 – p.56-60

Annex 9 – Decision of the Supreme Court of Russia of 26 October 2021 – p. 61-64