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Meeting: 1514th meeting (December 2024) (DH)

Communication from an NGO (Crew Against Torture) (21/10/2024) concerning the Khashiyev and Akayeva group of cases v. Russia (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 : 1514^e réunion (décembre 2024) (DH)

Communication d'une ONG (Crew Against Torture) (21/10/2024) relative au groupe d'affaires Khashiyev et Akayeva c. 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.

Rule 9.2 communication on the implementation of general measures in
the case of case of «*Khashiyev and Akayeva v. Russia*»
prepared by NGO Crew Against Torture

DGI

21 OCT. 2024

SERVICE DE L'EXECUTION
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Introduction

1. This submission is communicated by Crew against torture (CAT), as a non-governmental organisation under Rule 9(2) of the Rules of the Committee of Ministers, for consideration at the 1514-th meeting in December 2024.
2. The submission addresses the issue of non-implementing the general measures by Russia under the *Khashiyev and Akayeva v. Russia* case, namely fighting the enforced disappearances in Chechnya. CAT demonstrates with its practice that the issue identified in the present case still persists in the region.

Findings of the Court and the decision of the Committee of Ministers

3. On 24 February 2005, the Court has decided the case of «*Khashiyev and Akayeva v. Russia*», applications №№ 57942/00 and 57945/00.
4. These cases mainly concern violations relating to the actions of Russian security forces during anti-terrorist operations in the Northern Caucasus, mostly in the Chechen Republic, including killings or presumed killings notably as a result of indiscriminate bombings and failures to properly organise safe passages for civilians; unjustified use of force; disappearances; unacknowledged detentions; torture; unlawful search and seizure operations; destruction of property; and failure to co-operate with the Convention organs. They also concern the mental suffering of the victims' relatives, the lack of effective investigations into the alleged abuses and absence of effective domestic remedies in this respect. The Court found violations of Articles 2, 3, 5, 6, 8, 13, 38 and of Article 1 of Protocol No. 1.
5. During the last meeting on the case on 4-6 June 2022, the Committee of Ministers reiterated the state's obligation to find the missing persons concerned and to address the deficiencies in the criminal investigations highlighted by the Court; invited the authorities to ensure that of the just satisfaction awards are placed at the disposal of the applicants, allowing them to access the sums without unnecessary limitations.
6. As to the general measures, the Committee of Ministers, among other point, deplored again, with regard to the more recent abductions by the state agents in Chechnya, the continuing serious human rights violations in the region, called again the authorities to urgently issue a clear message of zero tolerance of involvement of state agents in any unlawful actions and to urgently deploy additional efforts, including on the regional level, to address this problem, as well as to provide information, including available statistics, on recent complaints about kidnappings involving state agents in the region and their investigation.

Failure of Russia to implement the general measures

7. CAT still registers a sufficient number of applications in Chechnya concerning the enforced disappearances of civilians, allegedly committed with the participation of the law-enforcement authorities.
8. Since 2022, CAT registered 29 applications concerning enforced disappearances in North Caucasus, 24 of them were from Chechnya.
9. However, just a few of them led to the public enquiry by CAT, the facts of the violation of their rights by state agents were confirmed and the human rights defenders began the process of bringing the perpetrators to liability.
10. We note that the relatives of the abducted persons are threatened by the authorities, as they state that cooperation with human rights defenders may worsen the fate of the abductees.
11. In some cases, the abductees were returned home after their relatives paid a ransom to law enforcement officials. After that, they refused any cooperation to bring the perpetrators to account.
12. In other few cases the facts of the enforced disappearances were not confirmed as the abductees were officially apprehended and detained.
13. However, even in the cases of confirmed abductions by the state agents, they usually escape the liability. The vivid example is the case of Alexey Kardashov¹.
14. In 2017, Mr Kardashov was abducted in Dagestan by Chechen officials of Rosgvardia and the police, and brought to Chechnya. His whereabouts have been unknown since then, he was presumably killed.
15. The abductors were found, and in the summer of 2023, the Gudermes City Court of the Chechen Republic found former Rosgvardiya officers Bekhan Abdurashidov and Aslan Dukayev guilty of illegally detaining Mr Kardashov, who worked as the manager of a pharmacy. They were sentenced to two years suspended sentences under the article on abuse of official powers.
16. This sentence was cancelled on appeal, and in June 2024 the Sheikh-Mansurovsky court dismissed the case against the ex-Rosguardians due to the expiration of the statute of limitations for criminal liability. The decision has not yet entered into legal force. Neither the lawyers nor Kardashov's mother disagreed with it and filed an appeal. At the moment, the case is being examined in the Supreme Court of the Chechen Republic.

Conclusion

17. It may be stated that the issue of the enforced disappearances is still present in Chechnya, and no reasonable visible steps were taken by the authorities to fight it.
18. It is incredibly difficult to gather independent statistics on the abductions in Chechnya, as well as to protect the rights of the residents who in some cases are afraid to cooperate with human rights defenders (especially those who work in the organization included in the register of foreign agents).

¹ Crew Against Torture. A court in Chechnya has dismissed a criminal case against two members of the Rosgvardia. The mother of the missing Dagestani believes they were involved in her son's abduction seven years ago. 9 July 2024. Available at: <https://pytkam.net/sud-v-chechne-prekratil-ugolovnoe-delo-v-otnoshenii-dvuh-rosgvardejczjev-mat-propavshego-dagestancza-schitaet-ih-prichastnymi-k-pohishheniyu-syna-sem-let-nazad/>

19. The abductors escape liability even in cases where their identities and the circumstances of the abduction were revealed before the investigation and the court.
20. Consequently, Russian Federation has failed to implement the general measures in the case of «*Khashiyev and Akayeva v. Russia*».