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

Communication from an NGO (EHRAC) (25/10/2024) 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 (EHRAC) (25/10/2024) 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.



DGI

25 OCT. 2024

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

25 October 2024

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COMMUNICATION

In accordance with Rule 9(2) of the Rules of the Committee of Ministers of the Council of Europe regarding the supervision of the execution of Judgments in the *Khashiyev and Akayeva group of cases v. Russian Federation* (Application No. 57942/00)

I. Introduction

1. This submission is communicated by the European Human Rights Advocacy Centre¹ ['EHRAC'] for the Committee of Ministers' ['CoM'] consideration at the 1514th meeting in December 2024. EHRAC welcomes the CoM's continued review of the execution of the *Khashiyev and Akayeva* group of cases under the enhanced supervision procedure.²

2. The submission provides an update on the continued lack of progress in implementing the *Khashiyev* group of cases and, in the absence of the State's engagement on this group, emphasises the urgent need to undertake efforts aimed at preserving and leveraging the evidence and other information that has become known to the Committee during its many years of supervision of the *Khashiyev* group. To this end, we focus on what practical steps the CoM can take during this period of State disengagement to build toward progress in this group of cases. We provide three recommendations for strengthening the CoM's supervision:

a. The need to continue to review progress in the *Khashiyev* group of cases under the Committee's enhanced procedure;

¹ The European Human Rights Advocacy Centre [EHRAC] is an apolitical legal centre based within Middlesex University Law School, which advances the protection of human rights in Russia, Ukraine, Armenia, Georgia and Azerbaijan. EHRAC collaborates with human rights defenders in the region to litigate ground breaking strategic cases to secure justice and challenge impunity. Our activities focus around three thematic programmes: conflict related human rights abuses, discrimination, and democratic accountability and rule of law. EHRAC along with our partner Memorial Human Rights Defence Centre, has represented relatives in 75 cases before the ECtHR involving hundreds of disappeared victims.

² Committee of Ministers, Department for the Execution of Judgments of the ECtHR, *Khashiyev and Akayeva v. Russia*, Case Details, available at: <https://hudoc.exec.coe.int/?i=004-9>.

b. The urgent need to collate the information known to the CoM in this group of cases into a memorandum outlining possible models for the creation of an *ad hoc* humanitarian body and the steps that need to be taken by different actors to ensure key evidence is not lost before any real search efforts commence; and,

c. The need to strengthen international cooperation and knowledge-sharing on the *Khashiyev* group of cases especially through participation at the upcoming World Congress on Enforced Disappearances.

II. Evidence of the lack of progress on the implementation of the *Khashiyev* group of cases by the Russian Federation between the CoM's review in 2022 and 2024

3. In preparation of this submission, EHRAC has sought information on whether any steps have been taken by the State since the Committee's most recent review of this group of cases in 2022 from a number of the applicants whose cases await implementation under this group of cases; we have spoken with human rights defenders who maintain contact on the ground with relatives of disappeared victims; we have raised these cases with the Working Group on Enforced or Involuntary Disappearances ['WGEID'] who has a large number of the same cases within its remit; and reviewed the supervision of other UN mechanisms of the State's human rights record to note any references to progress made in resolving these disappearances.

4. From the above sources, we understand there has been no efforts taken in this period by the State to implement these cases. It has become clear to us through the above communication that the State all but treats these cases as historical and is taking no additional steps toward resolution of these cases whether through criminal or other domestic avenues.

5. In support of this conclusion, we present the following evidence. All applicants with whom we have contacted have confirmed that there has been no progress in their relative's case. Human rights defenders who remain in the region have told us that there has been no progress in investigating these disappearances and any efforts to re-invigorate criminal proceedings are either entirely ignored or become part of an ineffective referral loop between different levels of state authorities.

6. We currently have 48 communications before the UN WGEID, all cases are also part of the *Khashiyev* group. Under its humanitarian mandate, the UN WGEID has sought replies from the Russian authorities for the purpose of setting out the most recent steps taken to search for and investigate the victims' disappearance in order to determine their fate or whereabouts. Between 2019 and 2020, we received replies from the State in relation to 36 of the 48 cases submitted. The replies contained no indication of progress in these cases, showed that the investigations are stalled and that no search efforts had taken place, leading the UN WGEID to leave the cases open, as the State had failed to clarify the fate or whereabouts of the disappeared.³ Despite recent follow up, we have not received any further information from the State.

7. In recent years, UN mechanisms have also noted the lack of progress to resolve these cases. During its last review of the Russian Federation's compliance with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the UN Committee Against Torture [UN CAT] stated it "regrets the lack of effective investigations undertaken into past and ongoing human rights violations, including [...] enforced disappearances [...], perpetrated by public

³ See, EHRAC, Rule 9(2) submission to the Committee of Ministers of the Council of Europe concerning implementation of the 'Khashiyev & Akayeva group' of cases, DH-DD(2022)543, paras 6 to 11, available at: [https://hudoc.exec.coe.int/eng?i=DH-DD\(2022\)543E](https://hudoc.exec.coe.int/eng?i=DH-DD(2022)543E).

officials in the northern Caucasus”⁴ and urged the state to “promptly, impartially and effectively investigate all past and ongoing [...] enforced disappearances” and to “prosecute and punish the perpetrators and provide victims with redress”⁵. The UN CAT shared this Committee’s concern that “only two cases of enforced disappearance were investigated between 2012 and 2015, whereas the European Court of Human Rights issued more than 100 judgments on such cases during the same period”.⁶

8. The UN CAT repeated its concern over the lack of investigations and steps to address these enforced disappearances in its most recent List of Issues to the Russian Federation, and asked it to “comment on reports indicating that to date no meaningful progress has been made by the State party in effectively investigating cases of enforced disappearance and extrajudicial killings perpetrated between 1999 and 2006 by its security forces within the region”⁷.

9. In her most recent report, the UN Special Rapporteur on the human rights situation in the Russian Federation, urged the State to “[e]nsure respect for fundamental human rights and strict adherence to international human rights standards in the North Caucasus, including by ending [...] enforced disappearance [...], investigate impartially and promptly all allegations of such violations and bring perpetrators – be they private persons or public officials – to justice”.⁸

10. These reports by the UN further support the evidence provided by applicants and HRDs and the ultimate conclusion that no steps have been taken by the Russian Federation to resolve the *Khashiyev* group of cases and that there is no indication that these cases are viewed by the State as historical rather than as continuing human rights violations requiring urgent resolution.

III. Recommendation 1: The need to continue to review progress in the *Khashiyev* group of cases under the Committee’s enhanced procedure;

11. There are a number of reasons that support the continued enhanced supervision of the *Khashiyev* group of cases: (1) these are continuing violations amounting to ongoing ill-treatment of relatives of disappeared victims which EHRAC among other organisations maintain amount to torture; (2) the systemic practice and impunity for enforced disappearances perpetrated by Russian forces in the North Caucasus, has created an enabling environment for similar violations to be perpetrated in Ukraine; and (3) the CoM is the only international mechanism with the historical knowledge of the individual and general measures required to resolve these disappearances, the ongoing relationships with the NGOs that have worked on this group of cases and the breadth of mandate to supervise the resolution of disappearances in this region.

12. At the core of the resolution of the *Khashiyev* group of cases is the determination of the fate and whereabouts of each disappeared person. Each applicant within the group, and their disappeared relatives, have multiple rights, including an ongoing right to truth, justice and reparation in

⁴ UN CAT, Concluding observations on the sixth periodic report of the Russian Federation, CAT/C/RUS/CO/6, para. 46, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FRUS%2FCO%2F6&Lang=en.

⁵ UN CAT, Concluding observations on the sixth periodic report of the Russian Federation, CAT/C/RUS/CO/6, para. 47(a), available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FRUS%2FCO%2F6&Lang=en.

⁶ UN CAT, Concluding observations on the sixth periodic report of the Russian Federation, CAT/C/RUS/CO/6, para. 46, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FRUS%2FCO%2F6&Lang=en.

⁷ UN CAT, List of issues prior to submission of the seventh periodic report of the Russian Federation, CAT/C/RUS/QPR/7, para. 22, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FRUS%2FQPR%2F7&Lang=en; see also EHRAC and Memorial Human Rights Centre, Submission to the United Nations Committee Against Torture to inform its adoption of a list of issues prior to reporting for the Russian Federation at its 70th Session, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FICS%2FRUS%2F44273&Lang=en.

⁸ Human Rights Council, Situation of human rights in the Russian Federation, Report of the Special Rapporteur on the situation of human rights in the Russian Federation, Mariana Katzarova, A/HRC/57/59, para. 150(w).

relation to the violation of their rights, and the State holds several continuing obligations, including to search for the disappeared and to guarantee the violations' non-recurrence.⁹ Although the disappearances were initiated many years ago, for the relatives, disappeared persons and the community around them, they are not "historical" as claimed by State;¹⁰ conversely, they are current, continuing and requiring urgent attention. Pursuant to the ECHR and international law, enforced disappearances are of a continuing nature until at least the fate and whereabouts of the disappeared person are revealed.¹¹ The passing of time does not absolve the State of its obligations.

13. The first judgments in the *Khashiyev* group of cases have now been pending for over 19 years.¹² The relatives continue to experience intense suffering amounting to violations under Article 3 of the European Convention on Human Rights [ECHR]¹³ every day, due to the lack of resolution, by the Russian Federation, of these disappearances. The suffering caused to the relatives by the disappearance of their loved ones, and the continued anguish that comes with not knowing the fate of their loved ones is a form of cruel, degrading and inhuman treatment that has been recognised by international mechanisms, including the Human Rights Committee¹⁴, the ECtHR¹⁵, Inter-American Court of Human Rights¹⁶ [IACtHR] and UN WGEID¹⁷. The Russian Federation's failure to implement the *Khashiyev and Akayeva* group of cases over the years further amounts to a blatant violation of the relatives' right to truth and, in particular, to know the fate of the disappeared.¹⁸

14. The impact on the relatives of disappearances persons in this group of cases has been well captured in the 2024 report of the Memory Project, titled "*Never Healing Wound*": *Long-Term Consequences of Enforced Disappearances for the Families of Missing People in Chechnya*. The report found that relatives of the disappeared, experience a continued sense of uncertainty about the fate of their loved ones, which means they live in a "state of psychological limbo".¹⁹ This experience is characterised as "ambiguous loss" – "a situation where a person does not have a clear idea of whether a close relative is alive or dead"²⁰, and which "freezes the grieving process"²¹. The relatives are forced

⁹ See e.g. UN General Assembly, Resolution 60/147, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, A/RES/60/147, in particular paras 11 and 18 to 23(h), available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>; UN WGEID, General Comment on the right to truth in relation to enforced disappearance, A/HRC/16/48, para 39, available at: <https://documents.un.org/doc/undoc/gen/g11/104/45/pdf/g1110445.pdf>; PACE, Enforced Disappearances, Resolution 1463 (2005), para 10.2, available at: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17371>; International Convention for the Protection of All Persons from Enforced Disappearance, Article 24(2), available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-all-persons-enforced>;

¹⁰ Russian Federation, Action Plan, 1390th meeting (December 2020) (DH) - Action Plan (09/11/2020) - Communication from the Russian Federation concerning the case of KHASHIYEV and AKAYEVA v. Russian Federation (Application No. 57942/00, paras 1, 2 and 4.2, available at: [https://hudoc.exec.coe.int/eng?i=DH-DD\(2020\)1005E](https://hudoc.exec.coe.int/eng?i=DH-DD(2020)1005E).

¹¹ See e.g. ECtHR, *Aslakhanova and Others v Russia* (Applications nos. 2944/06 and 8300/07, 50184/07, 332/08, 42509/10), paras 122 and 214; available at: <https://hudoc.echr.coe.int/fre#%7B%22itemid%22%3A%222001-115657%22%7D>; UN WGEID, General Comment on enforced disappearance as a continuous crime, A/HRC/16/48, para 39, available at: <https://documents.un.org/doc/undoc/gen/g11/104/45/pdf/g1110445.pdf>

¹² Committee of Ministers, *Khashiyev and Akayeva v. Russia*, Status of Execution, available at: <https://hudoc.exec.coe.int/eng?i=004-9>.

¹³ See e.g. ECtHR, *Aslakhanova and Others v Russia* (Applications nos. 2944/06 and 8300/07, 50184/07, 332/08, 42509/10), para 215; available at: <https://hudoc.echr.coe.int/fre#%7B%22itemid%22%3A%222001-115657%22%7D>.

¹⁴ See e.g. Human Rights Committee, *Almeida de Quinteros v Uruguay*, para 14, available at: <https://juris.ohchr.org/casedetails/339/en-US>

¹⁵ See e.g. ECtHR, *Kurt v Turkey*, paras 130 to 134, 1998, available at: <https://hudoc.echr.coe.int/fre?i=001-58198>

¹⁶ See e.g. IACtHR, *La Cantuta v Peru*, para 123, available at: https://www.corteidh.or.cr/docs/casos/articulos/seriec_162_ing.pdf

¹⁷ See e.g. UN WGEID, Annual Report, para 172, available at: <https://documents.un.org/doc/undoc/gen/g84/150/09/pdf/g8415009.pdf>; UN WGEID, General Comment on article 19, E/CN.4/1998/43, para 71, available at: <https://documents.un.org/doc/undoc/gen/g98/100/94/pdf/g9810094.pdf>

¹⁸ See e.g. UN CAT, General Comment 3, CAT/C/GC/3, paras 16 and 17, available at:

<https://documents.un.org/doc/undoc/gen/g12/487/18/pdf/g1248718.pdf>; UN WGEID, General Comment on the right to truth, A/HRC/16/48, para 4, available at:

<https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F16%2F48&Language=E&DeviceType=Desktop&LangRequested=False>

¹⁹ SJI, 1362nd meeting (December 2019), Communication from a NGO (Stichting Justice Initiative) (18/11/2019) in the case of KHASHIYEV and AKAYEVA v. Russian Federation (Application No. 57942/00), DH-DD(2019)1425, para 5, available at: <https://rm.coe.int/native/090000168098fc11>

²⁰ Memory Project, Zorgan Bachayeva, "Never Healing Wound": Long-Term Consequences of Enforced Disappearances for the Families of Missing People in Chechnya, p. 10, available at: <https://memory-project.org/2024/04/18/never-healing-wound/>

²¹ Memory Project, Zorgan Bachayeva, "Never Healing Wound": Long-Term Consequences of Enforced Disappearances for the Families of Missing People in Chechnya, p. 11, available at: <https://memory-project.org/2024/04/18/never-healing-wound/>

16. The situation of disappearances in Ukraine continues to reach beyond Crimea. In its most recent annual report, the UN WGEID reported that it remains “deeply concerned by the ongoing influx of reports concerning enforced disappearances perpetrated by armed forces and affiliated armed groups against civilians and prisoners of war since the beginning of the armed conflict in Ukraine in February 2022”³⁰. By early May 2024, 2,149 enforced disappearances reported to the UN WGEID and attributable to the Russian Federation, including from Ukraine and Chechnya, remained unresolved³¹. Monitoring groups report the number of disappearances to be above 5,000.³² We submit that the resolution of the *Khashiyev and Akayeva* group of cases is crucial not only to alleviate the relatives’

³² See e.g. Kharkiv Human Rights Protection Group, Maryna Hareieva, “Russia has systematically committed enforced disappearances in the same scenario”. T4P Initiative presents new research”, 7 August 2024, available at: <https://khpg.org/en/1608813885>.

suffering and fully resolve the cases in respect of each victim's human rights, but is also fundamental to preventing the repetition of this pattern of violations in other contexts, including in Ukraine. We respectfully call on the the CoM to continue its review of the *Khashiyev and Akayeva* group of cases under its enhanced procedure on annual basis and to frame its consideration of the group within this continuing context of impunity.

17. While the current period of disengagement by the State poses challenges for the CoM's oversight, no singular other regional or international body has the breadth and depth of knowledge of the barriers to the full resolution of disappearances perpetrated in the North Caucasus. The ECtHR, CoM (and the Department of Execution of Judgments), Parliamentary Assembly of the Council of Europe, and other CoE mechanisms have two decades of knowledge of the systemic practices of enforced disappearances by the Russian Federation, the domestic legal and other barriers to resolution of these cases, the needs of relatives of disappeared victims and the efforts that have been undertaken over the years to attempt resolution of these cases. These bodies have contact with the leading CSOs representing disappeared persons and their relatives and knowledge of the documentation collected by these CSOs.

18. Consequently, the CoM's supervision procedure is perhaps the most effective mechanism to track the lack of progress on individual cases as well as updates to domestic legislation, policy and practice. Combined, the CoE mechanisms have the knowledge, relationships and tools to creatively assess steps that can be undertaken by actors at the regional and state level to preserve evidence and support relatives in the absence of the State's compliance with the ECHR. EHRAC respectfully calls on the CoM to maintain the *Khashiyev* group under enhanced supervision and engage key stakeholders on how best to leverage the Committee's oversight tools, including its collaboration with other CoE mechanisms, to optimise supervision of this group of cases. The CoM's ongoing work will be a critical contribution for future transitional justice processes in addressing enforced disappearances and other crimes committed during the two Russian-Chechen wars.

III. Recommendation 2: The urgent need to collate the information known to the CoM on this group of cases into a memorandum outlining possible models for the creation of an *ad hoc* humanitarian body and the steps that need to be taken by different actors to ensure key evidence is not lost before any real search efforts commence;

The Committee has for many years now reiterated the urgent need for the creation of an *ad hoc* humanitarian body to search for missing persons.³³ In its last review of this group of cases, the Committee noted the absence of any information from the State in relation to the setting up of such a body.³⁴ In light of this, the Committee "instructed the Secretariat to prepare a memorandum on possible models this body can take, for consideration and response by the Russian authorities ahead of the Committee's next examination".³⁵

EHRAC takes the position that a memorandum prepared in collaboration with relatives, civil society, experts on enforced disappearances including forensic experts and those well-versed in transitional justice approaches, remains essential to the oversight of this group of cases despite the State's lack of engagement with the CoM. The systemic and widespread nature of enforced disappearances and the almost complete absence of any progress over many years in resolving these disappearances including the lack of collection of DNA and other necessary data suggests that, where

³³ CoM, 1436th meeting (DH), June 2022 - H46-24 Khashiyev and Akayeva group v. Russian Federation (Application No. 57942/00), CM/Del/Dec(2022)1436/H46-24, para. 8, available at: <https://hudoc.exec.coe.int/eng?i=004-9>.

³⁴ CoM, 1436th meeting (DH), June 2022 - H46-24 Khashiyev and Akayeva group v. Russian Federation (Application No. 57942/00), CM/Del/Dec(2022)1436/H46-24, para. 8, available at: <https://hudoc.exec.coe.int/eng?i=004-9>.

³⁵ CoM, 1436th meeting (DH), June 2022 - H46-24 Khashiyev and Akayeva group v. Russian Federation (Application No. 57942/00), CM/Del/Dec(2022)1436/H46-24, para. 8, available at: <https://hudoc.exec.coe.int/eng?i=004-9>.

there is a change in the State's position on the resolution of these cases, efforts to resolve these disappearances will take decades and surely be completed well after immediate family members have passed away. The expedition of transitional justice processes can be achieved where evidence has been properly preserved, civil society has a shared understanding of objectives and approaches and available approaches have been considered and documented.

Nikolai Bobrinsky, a Russian human rights lawyer, transitional justice researcher, and a doctoral student at the Humboldt University in Berlin, and Stanislav Dmitrievsky's, the head of the human rights focused Russian-Chechen Friendship Society, in producing a report on measures to overcome the consequences of systemic impunity within the framework of transitional justice in Russia titled '*Between revenge and oblivion: a transitional justice concept for Russia*' said:

In the hope of returning Russia to the path of building a democratic and legal state, transitional justice should be planned in advance. Otherwise, there is a high risk that, when it is needed, ill-considered, random decisions will be made, and the consequences of many years of impunity will remain unresolved for a long time. For this reason, the authors of this report have attempted to prepare and propose for discussion a model for the future of transitional justice in Russia

19. A memorandum outlining possible ways for determining the fate of the disappeared victims in the North Caucasus, prepared in consultation with civil society and with expert input, could, when the time comes, act as an important resource for envisioning a resolution in this group of cases. The memorandum could collate the breadth of information from the Court's case law, the State's action plans, NGO perspectives on barriers to implementation, the CoM's decisions and the general measures required to advance resolution of the disappearances and map it against international best practices on search mechanisms, possible models of search mechanisms and the hopes of relatives and civil society.

20. We recommend that the Committee should produce the memorandum in consultation with relatives and CSOs to ensure it reflects community perspectives and recommendations are culturally appropriate, and that it should seek input from international and regional experts on the technical aspects of the body.

21. The scope of the obligation to take all necessary steps to find the disappeared person has been consolidated into the UN's *Guiding Principles for the Search of Disappeared Persons*³⁶. International best practices provide guidance on these aspects, such as the fact that competent authorities tasked with the search "should make use of appropriate forensic methods"³⁷. Similarly, the UN WGEID has called on States to "take the necessary steps to use forensic expertise and scientific methods of identification to the maximum of its available resources, including through international assistance and cooperation".³⁸ The Guiding Principles further set out that the body should have the "legal capacity, necessary financial and technical resources, administrative structure and budget to [search] with the required technical capacity, security and confidentiality".³⁹ In addition to being tasked with the search and location of victims, the body must also be tasked with identifying the remains of disappeared persons, including the collection of biological and *ante mortem* data, and DNA, which must be compiled and securely stored in a database in accordance with international best practices.⁴⁰ In this connection,

³⁶ Committee on Enforced Disappearances, Guiding principles for the search for disappeared persons, CED/C/7, available at: <https://www.ohchr.org/en/documents/legal-standards-and-guidelines/guiding-principles-search-disappeared-persons>;

³⁷ Committee on Enforced Disappearances, Guiding principles for the search for disappeared persons, CED/C/7, available at: <https://www.ohchr.org/en/documents/legal-standards-and-guidelines/guiding-principles-search-disappeared-persons>, Principle 8(4).

³⁸ UN WGEID, General comment on the right to the truth in relation to enforced disappearance, A/HRC/16/48, para. 6, available at: <https://documents.un.org/doc/undoc/gen/g11/104/45/pdf/g1110445.pdf>.

³⁹ Committee on Enforced Disappearances, Guiding principles for the search for disappeared persons, CED/C/7, available at: <https://www.ohchr.org/en/documents/legal-standards-and-guidelines/guiding-principles-search-disappeared-persons>, Principle 10(2).

⁴⁰ See e.g. ICRC, Guidance Note 8, Data and Information Management Regarding Missing Persons, available at: <https://missingpersons.icrc.org/library/national-mechanisms-missing-persons-toolbox>.

we submit that the CoM should seek out the expertise of the UN WGEID, the International Committee of the Red Cross [ICRC] and International Commission of Missing Persons [ICMP], as well as those outlined under Recommendation 3, to advise on the technical aspects, structure and operations of the humanitarian body.

22. Finally, we submit that the CoM should ensure the drafting process of the memorandum, and its implementation, is participatory. The Guiding Principles are instructive in this regard, as they state that search mechanisms, including search bodies, set up for the resolution of enforced disappearances should ensure victim participation⁴¹ and provide victims with support – including psychosocial care – and other measures that prevent revictimisation.⁴² In this way, solutions for the setting up of the humanitarian body should be victim- and community-centred and rooted in their needs and priorities. The participation of relative-victims also recognises, and provides space for developing approaches to, tackling the physical and mental health impacts on victims of participating in the search⁴³ – issues which have not been addressed in the North Caucasus context. The drafting process further benefits from input from civil society organisations, human rights defenders and legal representatives engaged on the *Khashiyev* group of cases, to share their experience and strategies regarding the search and victims' rights.

IV. Recommendation 3: The need to strengthen international cooperation and knowledge-sharing on the *Khashiyev* group of cases especially through attendance at the upcoming World Congress on Enforced Disappearances.

23. The cessation of the Russian Federation from engagement with the CoM requires convergence between the CoE and UN mechanisms on approaches to resolve this group of cases. The need to do so is particularly urgent given the climate of impunity within which the Russian Federation continues to perpetrate enforced disappearances in Ukraine. We note with strong support the efforts the CoM has undertaken to collaborate with international human rights mechanisms and urge greater collaboration with a view to building international alignment on best practices, standards and approaches, as well as to inform and strengthen its strategy for the resolution of the *Khashiyev* group of cases.

24. One significant opportunity for engagement with the international community on the issue of enforced disappearances will arise on 15 - 16 January 2025, at the at the World Congress on Enforced Disappearances⁴⁴ [WCED]. The WCED proposes to bring together States, civil society organisations, international and regional organisations and mechanisms, national human rights institutions, academic institutions and experts. This action-oriented event, co-organised by the Convention Against Enforced Disappearances Initiative⁴⁵ [CEDI], Committee on Enforced Disappearances⁴⁶ [CED], UN WGEID, and Office of the United Nations High Commissioner for Human Rights [OHCHR],⁴⁷ and funded by a number of CoE member states among other supporters provides a space to explore ways in which to end the perpetration of the crime of enforced disappearance globally. An invitation has been extended by the WCED organisers to the Department for the Execution of Judgments [DEJ]. We hope representatives of the DEJ are able to engage with the organisers to ensure meaningful representation at the event and maximise on participation. The WCED has also

⁴¹ Committee on Enforced Disappearances, Guiding principles for the search for disappeared persons, CED/C/7, available at: <https://www.ohchr.org/en/documents/legal-standards-and-guidelines/guiding-principles-search-disappeared-persons>, Principle 5.

⁴² Committee on Enforced Disappearances, Guiding principles for the search for disappeared persons, CED/C/7, available at: <https://www.ohchr.org/en/documents/legal-standards-and-guidelines/guiding-principles-search-disappeared-persons>, Principles 3(5) and 3(6); see also Principle 14.

⁴³ Committee on Enforced Disappearances, Guiding principles for the search for disappeared persons, CED/C/7, available at: <https://www.ohchr.org/en/documents/legal-standards-and-guidelines/guiding-principles-search-disappeared-persons>, Principles 5(2) and 14.

⁴⁴ WCED, available at: <https://www.edworldcongress.org/>.

⁴⁵ CEDI, available at: <https://www.cedi193.org/>.

⁴⁶ CED, available at: <https://www.ohchr.org/en/treaty-bodies/ced>.

⁴⁷ OHCHR, available at: https://www.ohchr.org/en/ohchr_homepage.

called on participating entities to make pledges ahead of the Congress and support civil society and human rights defenders in attending, as well as to take all steps to make the most of this unique and pivotal opportunity.

V. Concluding Remarks

25. The needs of families of disappeared victims remains great and urgent. The CoM and other CoE mechanisms continue to be, despite the challenges posed by the State's disengagement in recent years, one of the strongest avenues for oversight of this group of cases and, while requiring creative adaptation, the enhanced supervision procedure offers unique opportunities to this group of victims. Given the above, we have made the following recommendations for consideration by the CoM in this review of the *Khashiyev* group of cases:

- a. The CoM should continue to review progress in the *Khashiyev* group of cases under the Committee's enhanced procedure;
- b. There CoM should re-state its call on the DEJ to produce a memorandum outlining possible models for the creation of an *ad hoc* humanitarian body and the steps that need to be taken by different actors to ensure key evidence is not lost before any real search efforts commence; and,
- c. The CoM should ensure it is represented at the upcoming World Congress on Enforced Disappearances.

Sincerely,



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