

**Summary of points made by civil society representatives at the EIN briefing to
the Committee of Ministers on 5 September 2017**

***Gharibashvili group v Georgia* (Appl. No. 11830/03)**

- Recall that the ECtHR found that the official investigations into this group of cases lacked the necessary independence and impartiality due to the institutional connections between those implicated and those assigned to investigate the cases of ill-treatment;
- Shall adopt appropriate legislative amendments and practical measures to the effect of establishing an independent investigative body to conduct investigations and bring charges in cases involving violations of Articles 2 and 3 of the Convention;
- Call for amendments to legislation to ensure the right of victims to appeal the decisions of the prosecutor on the refusal on the status of a victim, on the annulment of the victim status and on the termination of the investigation/criminal prosecution to the domestic court of first instance.

***Rasul Jafarov v Azerbaijan, as part of the Ilgar Mammadov group* (Appl. No. 69981/14)**

- Recall that the ECtHR found that the actual purpose of the criminal proceedings brought against Mr Rasul Jafarov was to silence and punish him for his human rights activities;
- Note that the terms of the judgment indicate that there were procedural errors or shortcomings of such gravity that a serious doubt is cast on the outcome of the domestic proceedings (CM Recommendation No. R (2000) 2); and
- Call on the Azerbaijani authorities to ensure that the criminal proceedings against Mr Jafarov are re-opened and retried in a manner that is in all respects compliant with the European Convention on Human Rights.

***Navalny and Ofitserov v Russian Federation* (Appl. No. 46632/13)**

- Given the manner in which the Russian authorities interpreted the original ECtHR judgment, which subsequently led to an ineffective re-trial, establish that the re-opening of the case as an individual measure was ineffective and the judgment therefore remains unimplemented, contrary to the recent action report of the Russian Federation of August 2017;
- As a result, call for the re-opening of the proceedings not to be repeated again with the same violations and mistakes but rather to be wholly compliant with Convention norms, including the right to a fair trial;

- Note the intention of Mr Navalny to register as a candidate for the 2018 presidential elections in the Russian Federation, an objective that the applicant is currently prevented from realizing.

Kudeshkina v Russian Federation (Appl. No. 29492/05)

- Recall that the ECtHR found the applicant's dismissal from the judiciary in 2004 to be disproportionately severe and was capable of having a "chilling effect on judges who wish to participate in the public debate on the effectiveness of judicial institutions" ;
- Remind the Russian Federation of the need to provide the Committee of Ministers with an Action Plan, which has been outstanding for a period of almost eight years;
- Noting the applicant is no longer in a position to call for the restoration of her office due to severe illness and age, call for the applicant to be designated as a retired judge since her dismissal and thereby acquire pension reimbursement and other benefits of a retired judge;
- Suggest the conclusion of a friendly settlement to support the effective execution of this judgment.