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Legal remedies for human rights violations in the North-Caucasus Region

Report[1]
Committee on Legal Affairs and Human Rights
Rapporteur: Mr Dick MARTY, Switzerland, Alliance of Liberals and Democrats for Europe

Summary

The Committee on Legal Affairs and Human Rights notes that the situation in the North Caucasus region, particularly in the Chechen Republic, Ingushetia and Dagestan, constitutes the most serious situation in the entire geographical area encompassed by the Council of Europe in terms of human rights protection and the affirmation of the rule of law.

In the Chechen Republic, the current authorities continue to maintain a generalised climate of fear, notwithstanding the undeniable successes in the sphere of reconstruction and the distinct improvement of the region's infrastructures, which had been laid to waste by two cruel and devastating wars. Nevertheless, the human rights situation and the functioning of justice and democratic institutions continue to give cause for the gravest concern: successive disappearances of the government's opponents and human rights defenders still remain widely unpunished and are not elucidated with due diligence.

In Ingushetia, constructive dialogue has been forged between the authorities and civil society since the new president came to power. It must nevertheless be pointed out that there has been a worrying resurgence of violence since 2009, resulting in some cases in assassinations and disappearances of opponents to the government and journalists, without any prosecutions to date.

Dagestan has also recently experienced a resurgence of acts of terrorism, prompting responses from the security forces that, unfortunately, are not always lawful and productive. The admirable tradition of peaceful secular cohabitation between Muslim, Christian and Jewish communities founded on mutual tolerance could be jeopardised by the rise of extremism and inappropriate responses from the authorities.

The committee notes that the European Court of Human Rights has condemned the Russian Federation for serious human rights violations in the region in over 150 judgments and stresses the importance of the prompt and complete implementation of these judgments.

The committee is making a number of proposals aimed at putting a stop to the impunity enjoyed by the perpetrators of human rights violations and restoring the people's trust in the law enforcement agencies, without which it will not be possible to defeat the rise of extremism and terrorism, which the Committee condemns in the most resolute terms, expressing its solidarity with the victims on all sides.

1. Reference to committee: Doc. 10916, Reference 3277 of 23 June 2008; Reference 3607 of 2 October 2009; Doc. 12090, Reference 3633 of 29 January 2010.

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A. Draft resolution[2]

1. The Parliamentary Assembly notes with relief the end of such acts of war as the bombing and shelling of inhabited areas which had devastating effects on the civilian population during the “two Chechen wars”; it commends the impressive efforts made by the authorities of the Russian Federation and of the Chechen Republic to rebuild towns often reduced to heaps of rubble, and to restore and improve the republic's infrastructures; this has indubitably bettered the living conditions of the inhabitants after so many years of severe hardship.

2. The Assembly recalls its Resolution 1479 (2006), in which it warned the Russian Federation against the danger of the entire North Caucasus region flaring up because of the widespread violence prevailing in the Chechen Republic; systematic human rights violations and the climate of complete impunity were bound to foster the rise of extremist movements and their propagation beyond the borders of the Chechen Republic. It must be acknowledged today that those fears were alas founded.

3. The Assembly has already firmly condemned terrorist acts on many occasions. There can be no justification whatsoever for having recourse to acts of indiscriminate violence against the civil population; these are dastardly and abhorrent deeds. The Assembly expresses its compassion and solidarity for the families of the victims of the recent Moscow Metro bombings and of the countless attacks continually made on the population of the Caucasian republics.

4. The Assembly observes that the situation in the North Caucasus region, particularly in the Chechen Republic, Ingushetia and Dagestan, constitutes today the most serious and most delicate situation from a standpoint of safeguarding human rights and upholding rule of law, in the entire geographical area covered by the Council of Europe:

4.1. In the Chechen Republic, the current authorities continue to nurture a climate of pervading fear despite the undeniable successes in the sphere of reconstruction and the appreciable improvement of infrastructures in this region torn by two cruel and devastating wars. The human rights situation, like the functioning of justice and democratic institutions, nonetheless continues to arouse the keenest anxieties: recurrent disappearances of government’s opponents and human rights defenders still remain widely unpunished and are not elucidated with due diligence, reprisals are taken against the families of persons suspected of belonging to illegal armed factions (setting fire to their dwellings; the close relatives of the suspect or suspects are abducted or receive dire threats), there reigns a climate of continuous intimidation of the media and civil society, and the judicial organs plainly do nothing about the misdeeds of the security forces. All this occurs in an atmosphere of personalisation of power which, given its disproportion, appears disgraceful in a democracy;

4.2. In Ingushetia, since the appointment of the new President, constructive dialogue has grown up between the ruling power and civil society. An alarming upsurge of violence since 2009 is nevertheless to be observed, notably murders and disappearances of opponents of the government and journalists which have to this day remained with no judicial follow-up whatsoever. The President himself has suffered a brutal assassination attempt and in circumstances which have hitherto not been fully elucidated. The Assembly encourages him to continue his policy towards a more stable situation in the Republic through dialogue with the civil society;

4.3. More recently, Dagestan also underwent a fresh outbreak of terrorist acts which have unfortunately prompted responses of the security forces which are not always lawful and productive. The admirable age-old tradition of peaceable cohabitation of the Muslim, Christian and Jewish communities based on mutual tolerance – the town of Derbent is a striking example of this – is likely to be imperilled by the rise of extremism and the inappropriate official reactions.

5. The suffering of the close relatives of thousands of missing persons in the region and their inability to get over their grief constitute a major obstacle to true reconciliation and lasting peace. The International Committee of the Red Cross, armed with its recognised experience in this field, has made concrete and realistic proposals to the Russian authorities to cast light on the fate of as many missing persons as possible.

2. Draft resolution adopted unanimously by the committee on 31 May 2010.

6. The Assembly takes note of the very numerous judgments of the European Court of Human Rights – over 150 decisions to date – finding grave and repeated violations of fundamental rights in the region, notably in the Chechen Republic. The Court has thus been compelled to assume a role of last-ditch protection for a very large number of victims:

6.1. In many cases before it, the Court has found that the Russian authorities were directly responsible for the violations of the right to life (Article 2 of the European Convention on Human Rights) and the prohibition of torture (Article 3);

6.2. It repeatedly noted the absence of a real and effective investigation, in breach of the Convention, in cases where representatives of the security forces were suspected of being responsible for abductions and torture;

6.3. In a large number of cases, it also held that the treatment meted out by the representatives of the security forces to the close relatives of the abducted persons constituted inhuman and degrading treatment within the meaning of Article 3 of the Convention;

6.4. Overwhelmed by a ceaseless influx of applications, the Court gives priority to the cases where its swift intervention can aid the protection and relief of the victims of the gravest violations, numerous applicants in the North Caucasus region among them.

7. Concerning the execution of these Court judgments, the Assembly welcomes the specific efforts made by the Russian authorities not only to pay promptly financial compensation which the Court awards victims – whose amount is far more symbolic than substantive – but also genuinely to actuate investigations in cases where the Court has ascertained neglect in that respect. It finds, however, that appreciable results in the matter are still awaited and regrets that the special departments set up in the investigative committees have not yet succeeded in solving the problems of collaboration and co-ordination between the various services.

8. The climate of impunity illustrated by the Court's judgments, and the passiveness of the authorities which is condemned therein, especially in numerous cases of crimes against emblematic figures of civil society, seriously undermine the population's trust in the security forces and the state institutions generally, and thus feed the nefarious spiral of violence.

9. The Assembly, as it stated in Resolution 1539 (2007) concerning the human rights violations committed by the United States and its allies in the name of combating terrorism, forcefully reaffirms its aversion to any act of terrorism, and remains convinced that terrorism can only be fought effectively while respecting fundamental rights and the tenets of rule of law:

9.1. In any law-based state, and with stronger reason in all Council of Europe member states, forced disappearances, torture, extrajudicial killings and secret detentions committed by representatives of the state authorities, condoned or not prevented, much less combated by them, are unacceptable acts to be unreservedly condemned;

9.2. These outrages and omissions erode the very co-existence within society, as they destroy the population's trust in the institutions, which dooms to failure any attempt to contend effectively with the terrorist threat and instead favours the rise of extremism;

9.3. Human rights violations committed by the authorities finally confer an aura of martyrdom on the terrorists, whereas in fact they are no more than criminals who should be treated as such;

9.4. The use of illegal, even downright criminal, methods against terrorists carries a strong risk of arousing an impulse of sympathy towards them, which can only strengthen them in their motivation and give them a sense of legitimacy, of fighting a state that resorts to unlawful methods;

9.5. The physical elimination of suspects who do not oppose any armed resistance is not only illegal but is also a counter-productive tactic. A lawful arrest in accordance with the procedural requirements and arrangements for encouraging co-operation with the justice system make it possible to combat and neutralise criminal organisations and terrorist networks more effectively;

9.6. The criminalisation and victimisation of many innocent people merely add further fuel to the spiral of violence. This is truer considering that the North Caucasus region is still marked by entrenched clan traditions, including the custom of vengeance.

10. The Assembly pays tribute to human rights activists, lawyers and journalists working in difficult circumstances and often in peril of their lives to help victims obtain justice and denounce abuses. It is deeply saddened by the violent death or the disappearance of personalities such as Anna Politkovskaia, Natalia

Estemirova, Stanislav Markelov, Magomed Yevloyev, Maksharip Aushev, Zarema Gaisanova, Zarema Sadulayeva, Rashid Ozdoyev and many others, and expresses its perplexity and anguish at the fact that to date none of these cases has been elucidated by the investigating system.

11. The Assembly also expresses its concern over the deterioration of the situation of women in the Chechen Republic. In contrast with other Caucasian republics, a rigid interpretation of religious norms is imposed which, moreover, seems to be at variance with the religious and cultural traditions in the region.

12. It is also anxious that many Chechen exiles in several European countries have been pressured by envoys of the Chechen leadership to return home and submit to his power. There are strong indications that the Chechen power, or at least circles close to it, were directly implicated in the murder of Umar Israilov on the streets of Vienna.

13. The Assembly therefore calls upon

13.1. the Russian central and regional executive and judicial authorities to:

13.1.1. combat terrorism by availing themselves of the instruments provided by the law-based state and to look for the causes of the ongoing radicalisation and of the growing hold of religious extremism;

13.1.2. bring to trial in accordance with the law all culprits of human rights violations, including members of the security forces, and to clear up the many crimes which have gone unpunished, especially crimes against the personalities listed above (paragraph 10);

13.1.3. intensify co-operation with the Council of Europe in enforcing the judgments of the European Court of Human Rights, especially where they concern reinforcement of the individual measures to clear up the cases of, in particular, abduction, murder and torture in which the Court has ascertained a lack of proper investigation;

13.1.4. be guided by the example of other countries which have had to contend with terrorism, particularly as regards the implementation of measures conducive to the suspects' co-operation with justice in dismantling the terrorist networks and the criminal entities that exist within the security forces, and to prevent further acts of violence;

13.1.5. co-operate more closely with the organisations working on the ground in defence of human rights and of civil society as a whole, and to protect their staff members effectively against possible reprisals;

13.1.6. implement the proposals of the International Committee of the Red Cross to resolve as far as possible the serious problem of missing persons, and to create favourable conditions to renewed ICRC visits to detainees arrested and held in relation with the situation in the Northern Caucasus;

13.1.7. persevere in efforts to build up the regional economy with an equitable balance between the republics, paying close attention to the creation of steady jobs for young people, who have a very high unemployment rate, moreover one of several factors causing social unease, the ongoing radicalisation, and crime;

13.1.8. give their earliest consent to the publication of the reports of the European Committee for the Prevention of Torture (CPT) concerning the North Caucasus region;

13.1.9. promote initiatives at every level to enhance intercultural and interfaith dialogue for marked improvement in knowledge about the Caucasian populations and in their integration into the Russian Federation;

13.2. both Chambers of the Russian Parliament to devote their utmost attention to the situation in the North Caucasus and to demand exhaustive explanations of the executive and judicial authorities concerning the malfunctions observed in the region and mentioned in this resolution, and to stipulate that the necessary measures be applied;

13.3. all other Council of Europe member countries to:

13.3.1. co-operate with the Russian authorities in the fight against terrorism, insisting on compliance with the European Convention on Human Rights and the Court's judgments in all circumstances;

13.3.2. guarantee adequate protection to the Chechen exiles who have been harboured in their territory and are still in danger as a result of threats, and to co-operate with each other to neutralise the networks that target Caucasian refugees;

13.3.3. consider with the greatest care and caution extradition requests in respect of exiles from the North Caucasian republics who would risk being killed, subjected to torture or an unfair trial, or any treatment contrary to the European Convention on Human Rights.

14. The Assembly pays tribute to the Council of Europe Commissioner for Human Rights and the European Committee for the Prevention of Torture (CPT) for their action in the North Caucasus, and invites them to maintain and further intensify their commitment. It urgently requests that the necessary resources be made available to them.

B. Draft recommendation[3]

1. The Parliamentary Assembly refers to its Resolution … (2010) on legal remedies for human rights violations in the North-Caucasus Region and reminds the Committee of Ministers that it regards the situation in the North Caucasus region, particularly the Chechen Republic, Ingushetia and Dagestan, as the most serious and most delicate situation from a standpoint of human rights and the rule of law in the entire area covered by the Council of Europe and the European Convention on Human Rights.

2. It therefore invites the Committee of Ministers to:

2.1. pay the utmost attention to the development of the human rights situation in the North Caucasus;

2.2. in enforcing the judgments of the European Court of Human Rights concerning this region, emphasise the prompt and complete elucidation of the cases in which the Court has ascertained an absence of effective investigation;

2.3. consider creating, within the Council of Europe and with the collaboration of non-governmental organisations working in this field, a record-keeping system for the witness statements, documents and evidence substantiating human rights violations committed in the region, in the firm belief that genuine lasting conciliation has to be attained through an effort of recollection and truth.

3. It recommends that the Committee of Ministers assign itself the monitoring of the Russian Federation's commitments concerning the state of democracy, human rights and rule of law as regards the situation in the North Caucasus (Declaration of the Committee of Ministers on compliance with commitments accepted by member states of the Council of Europe of 10 November 1994, paragraph 1, third indent).

3. Draft recommendation adopted unanimously by the committee on 31 May 2010.

C. Explanatory memorandum by Mr Marty, rapporteur

1. Background

1. Let us begin by outlining the path travelled by this report. The problem of the human rights situation in the North Caucasus has already been the subject of past Assembly reports. The Committee on Legal Affairs and Human Rights and the rapporteur would have liked to re-examine the issue before now, given the situation in the region. For reasons beyond the control of the committee and the rapporteur, the presentation of this report has been somewhat delayed. An initial motion for a resolution was referred by a Bureau decision of 2 October 2006 to the Committee on Legal Affairs and Human Rights for a simple information report,[4] and not for a normal report. The committee initially appointed Mr Paschal Mooney (Ireland, ALDE) as rapporteur; following Mr Mooney's withdrawal, it appointed Mr Dick Marty (Switzerland, ALDE) as rapporteur on 8 June 2007. On 12 March 2007 the committee took note of an introductory memorandum[5] and decided to invite the Russian delegation to submit to the rapporteur the comments of their country's authorities on the questions raised in the document.[6] On 26 June 2007, the committee heard a statement by the rapporteur and authorised him to travel to Moscow and, where applicable, the North Caucasus region by the end of 2007. On 13 December 2007, the committee requested the Bureau to refer the matter to it for a normal report. On 15 April 2008, the committee approved and declassified a supplementary introductory memorandum[7] and decided to forward it to the Bureau. On 23 June 2008, the Bureau referred the matter to the committee, this time for a normal report, on the understanding that it would adopt the report in time for the Monitoring Committee to be able to take it into account for its forthcoming report on the Russian Federation. On 25 June 2008, the committee held an exchange of views with human rights defenders from the North Caucasus region and confirmed Dick Marty's appointment as rapporteur, authorising him anew to make a fact-finding visit to the North Caucasus region. On 11 September 2009, the committee held an exchange of views on the case law of the European Court of Human Rights relating to the region and the execution of the Court's respective judgments. On 30 September 2009, the committee examined and declassified a second information report on security and human rights in the region.[8] After several postponements for various reasons, the rapporteur managed to make a fact-finding visit to Moscow and the North Caucasus region between 22 and 27 March 2010.[9]

2. Foreword

2. It is not the purpose of this report to put forward a socio-political analysis of the North Caucasus region. However, an assessment of the human rights situation does require us to take account of the cultural, socio-economic, political and historical context. Without claiming to be exhaustive, we will therefore attempt to portray, at least in outline, the special characteristics and circumstances which, in our opinion, provide a clearer understanding of the situation.

3. By their very nature, Parliamentary Assembly reports are in no way intended to pass verdicts of guilt or absolution. Any criticism voiced is always made constructively, with the intention of asserting the Council of Europe's values and, if necessary, advocating improvements in the application of the European Convention on Human Rights, the fundamental charter to which all the member states are committed. These reports, and the resolutions and recommendations which accompany them, ultimately pursue one sole objective: to uphold and protect the fundamental rights and dignity of the women and men who live on our continent. A constant and united drive to defend this common heritage of values is the prerequisite for ensuring peace, justice and prosperity on our continent, in the belief that "injustice anywhere is a threat to justice everywhere" (Martin Luther King).

4. Before travelling to the Caucasus at long last, we made contact with numerous individuals with good knowledge of the region or special links to this highly complex situation. We travelled to Moscow and the three Caucasus republics – Ingushetia, the Chechen Republic and Dagestan – from 22 to 27 March 2010. It was a particularly intense and very enriching visit, impeccably organised, from all points of view, by the Russian Federation delegation to the Parliamentary Assembly. The Caucasus hospitality and human warmth afforded to us were extraordinary, of a kind we have rarely experienced on similar visits and which we found deeply

4. References 3277-3243 of 26 June 2006 and 3633 of 25 January 2010, modified on 29 January 2010.
5. See document AS/Jur (2007) 15.
6. See document AS/Jur (2007) 42.
7. Document AS/Jur(2008)21, http://assembly.coe.int/CommitteeDocs/2008/20080411_ajdoc21_2008.pdf.
8. Document AS/Jur(2009)43, http://assembly.coe.int/CommitteeDocs/2009/ajdoc43_2009.pdf.
9. See programme of the visit in Appendix III.

touching. Special thanks are due in particular to our colleague, Ilyas Umakhanov, member of Russia's Council of the Federation, who accompanied us throughout the visit, ever attentive and willing to cater for our every request and desire. Our colleague Leonid Slutsky travelled with us to the Chechen Republic and facilitated our dealings with people on the spot. Also providing a discreet but ever efficient presence was the secretary of the Russian Federation delegation to the Parliamentary Assembly, Valery Levitsky, to whom we express our thanks. Thanks are also due to Konstantin Kosachev, chair of the delegation, who made our visit possible. We were able to talk at some length with the presidents of the three republics, the judicial, police and prison authorities, the human rights ombudsmen and several NGOs, at both regional and federal level. In Moscow we also held talks with the Deputy Prime Minister, Aleksandr Khloponin, the Russian President's plenipotentiary representative in the North Caucasus region. Our visit, which entailed numerous journeys, called for substantial security arrangements and we would like to express our heartfelt gratitude to all those who ensured our safety with great professionalism.

5. Before going on to the subject matter itself, mention should be made of the last two reports by our former colleague, Rudolf Bindig, on "The human rights situation in the Chechen Republic" of 13 March 2003[10] and 20 September 2004[11] and "Human rights violations in the Chechen Republic: the Committee of Ministers' responsibility vis-à-vis the Assembly's concerns" of 4 January 2006.[12] We believe that these remarkable documents are required reading for a better grasp of the complexity of the current situation.

3. General points

6. When Rudolf Bindig last visited the Chechen Republic in June 2004, Grozny was still no more than a pile of rubble after intensive bombardment by the Russian army and air force. The situation has totally changed: we saw for ourselves that the entire centre has been rebuilt and no outward signs of the war are visible. The reconstruction of the infrastructure is impressive, if not spectacular if we recall the pictures of devastation seen on television not so long ago. The Russian and Chechen authorities must be congratulated on their successes in this respect and the tremendous efforts they have made.

7. In his 2006 report, Rudolf Bindig warned against the danger of the serious troubles affecting the Chechen Republic spilling over into other areas: "In addition, the climate of impunity is spreading further, beyond the Chechen and Ingush Republics, into other regions in the Northern Caucasus" (paragraph 3). Sadly, he has been proven right and the situation in the three republics we visited has drastically deteriorated. Yet, in April 2009, the Russian Government had proudly announced that it was ceasing the counter-terrorist operations pursued in the Chechen Republic for the previous ten years or so and that the local authorities were now assuming the bulk of the responsibilities. The tragic events occurring just a few hours after our visit to the region were confirmation enough of the deterioration of the situation: the odious bomb attacks in the metro, in the very heart of Moscow, on 29 March 2010, and two days later, in Dagestan, taking the lives of 40 and 12 victims respectively. Another bomb attack killed five people while we were still in the region. It is clear, therefore, that the strategy followed by the Russian authorities has not yielded the expected results. On the contrary, the remarkable reconstruction of infrastructures has not been followed by the restoration of justice and the rule of law, as the Commissioner for Human Rights, Mr Hammarberg, has also observed.[13] Disappearances, torture and murder continue with the utmost impunity. President Medvedev himself acknowledged in November 2009 that the troubles in the Caucasus were Russia's number one domestic problem.[14] The failure of the policy pursued in the region is rendered all the more flagrant by the worrying resurgence of Muslim extremism. It is true that outside influences have been, and still are, a factor but it would be simplistic and dangerous to see this outside interference as the main or even sole cause of the current situation. We feel that there has been no real thought as to the reasons why extremism has been able to gain a foothold in Caucasian society. Repression alone, with no objective analysis of the deep-lying causes of disquiet, will never resolve anything and will only serve to create further radicalisation. It has to be said that what is happening today is the result of endemic brutality and a climate of impunity and of lack of justice.

8. As we pointed out during the current affairs debate on 30 September 2009,[15] President Medvedev considers that there are three main causes of the ills of the Caucasus: the clan culture, corruption and the inefficiency of the law enforcement agencies. His analysis rings true. An additional factor to note is the cultural tradition which sets considerable store by vengeance and the vow of silence and generates a fairly unclear

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10. Doc. 9732 of 13 March 2003; see Resolution 1323 (2003) and Recommendation 1600 (2003).
11. Doc. 10283 of 20 September 2004; see Resolution 1403 (2004) and Recommendation 1679 (2004).
12. Doc. 10774 of 4 January 2006; see Resolution 1479 (2006) and Recommendation 1733 (2006).
13. See the report of his visit (2-11 September 2009) – CommDH(2009)36, http://wcd.coe.int/ViewDoc.jsp?id=1543437
14. "Russia's 'silent war' spills into Moscow", Reuters, 1 April 2010.
15. See the report of debates, AS (2009) CR32.

pattern of conduct that is difficult to eradicate. It fuels a spiral of violence, rendered even more ruinous by the fact that the judicial system is lamentably inefficient and totally lacking in public credibility. On top of this, the region was particularly badly hit by the dissolution of the Soviet Union. Numerous industries closed down, notably in the armaments sector, causing great upheaval and robbing the population of some of its markers. Unemployment has been very high for years, particularly among young people (the rate quoted was around 50%). The authorities in Moscow appear to have acknowledged the problem and substantial investments have been promised (and already partly implemented in the Chechen Republic, with the reconstruction effort). Another factor worth underlining is the fundamentally conflictual relationship between Russians and Caucasians. The traces of a long history of wars, never really elucidated, are clearly apparent. We heard many claims of discrimination against Caucasians elsewhere in the federation, particularly in prisons and in the army. Caucasians stand accused of running mafia networks[16] in many parts of the country. While there are indeed indications that there may well be some truth to those claims, it should be added that Caucasians certainly do not have a monopoly where this kind of activity is concerned.

9. The religious factor also plays a major role, and it would be futile to deny it. In this traditionally moderate Muslim region, fundamentalist influences are increasingly prevalent. While it is true that religious extremists do not form a majority, they do appear to catalyse the discontent and despair of a population exasperated by corruption and impunity and have considerable potential to cause problems. These extremists resort to odious tactics, such as using bombs against the civilian population. The use of female suicide bombers,[17] subjugated and manipulated by fanatics who do not have the courage to risk their own skins, is particularly repugnant and cowardly. There is absolutely nothing that could justify horrors of this kind. Even so, one cannot help wondering why such acts are committed in a given society. Not to do so would not only be a refusal to understand but also hamper our capacity to develop effective antidotes.

10. Where the relationship between religious practices and the rights of women is concerned, we heard reports of degrading treatment suffered by women following the introduction of rules directly dictated by the regime run by the current president of the Chechen Republic. Women caught without headscarves in the street have been publicly humiliated on local television. The Chechen courts now apply rules drawn from Sharia law, in contravention of Russian law. As a result, for example, a woman who is widowed may have any children over 12 years of age and her property taken away from her by her deceased husband's family. The prevailing attitudes towards women cannot be justified by putting them down to tradition and culture. This is an intolerable situation, often exacerbated by the behaviour and statements of the local authorities. In late November 2008, upon the discovery of the bodies of six young Chechen women who had been savagely murdered, the Chechen Ombudsman, Nurdi Nukhazhiyev, made the following comments to journalists on the *Kommersant* newspaper, who had asked him for his opinion on these murders: "Unfortunately, we have among us some women who are beginning to forget the code of conduct that should be followed by mountain women. The male members of their family who consider that they have been dishonoured carry out acts of mob justice."[18] A few weeks previously, the Chechen President in person stated in an interview given to *Komsomolskaya Pravda* on 24 September 2008, that "a woman should be considered as property owned by a man. Here, if a woman does not behave correctly, her husband, her father and her brother are responsible. In our tradition, if a woman is unfaithful, she is killed … It can happen that a brother kills his sister or a husband kills his wife. Our boys go to prison for that … as President, I cannot allow people to be killed. So let us make sure that women do not wear shorts."[19] Chechen exiles abroad have told us that emissaries of the Chechen President trying to incite them to return home said "that they could no longer consider themselves real men since, in Europe, they were not entitled to punish their wives and daughters as one should". This attitude towards women is intolerable and no supposed custom or religious rule can justify it. Natalya Estemirova, assassinated in July 2009, had been expelled from the Human Rights Council of the city of Grozny in 2008

16. Long ago Mikhail Yurevich Lermontov (1814-41), in his *Cossack Lullaby*, spoke of the "Evil Chechen, crawling along the riverbank, sharpening his knife". It is alleged that this unflattering portrayal of the "rebellious and thieving Chechen" has been perpetrated by presidents Yeltsin and Putin, according to Grégoire Hervouet-Zeiber in a study presented at Montreal University: "Articulation entre les guerres tchétchènes et la politique étrangère russe dans les discours des présidents Boris Eltsine (1994-96) et Vladimir Poutine (2000-03)" [Links between the Chechen wars and Russian foreign policy in the statements of presidents Boris Yeltsin (1994-96) and Vladimir Putin (2000-03)], August 2008: www.archipel.uqam.ca/1132/1/M10544.pdf

17. What drives these women, often of a very young age, to commit such insane acts? This is the question which a Russian journalist tries to answer as she sketches the portraits of these suicide bombers: Yulia Yuzik, *The brides of Allah – The tragedy of Chechen female suicide bombers*, 2003.

18. See *Kommersant*, No. 216 (4033) of 27 November 2008, quoted in an article by Svetlana Gannushkina dated 3 December 2008 ("The right to be a human being").

19. See *Komsomolskaya Pravda* of 24 September 2008, interview with Alexander Gamov, quoted by Svetlana Gannushkina (note 18).

after stating in a television interview that she would not wear a headscarf in public, since obliging women to do so did not lie within the competence of the president of the republic. Her voice has been extinguished; the example she set and the truth she courageously expressed remain and must be acted upon by the authorities.

11. In all three republics, we also met the families of dozens of young people who had disappeared, been abducted, tortured or murdered. These fathers, mothers, brothers and sisters recounted their story and their pain. They did so with extraordinary dignity, without hatred but also without concealing their despair: their sons had been murdered, almost always most horribly, and they had received no reply from the authorities responsible for prosecuting these crimes. This indifference makes them feel as if their sons are being killed over and over again with every day that passes. We will never forget those faces, so noble and so full of sadness and suffering. They were moving in their gratitude to us for going to their home regions and listening to their deeply distressing stories. Through the rapporteur, they have made a heart-rending appeal to all the members of the Parliamentary Assembly not to forget them and to give them help. While not wishing to appear in any way impertinent, we would suggest that the representatives of the highest functions of the federation go themselves and meet their compatriots who feel abandoned by the institutions. It would certainly not be a waste of their time. We believe that it could make them realise – or strengthen their conviction – that repression and money alone will not bring peace to the region. Without a political approach, without restoring a judicial system worthy of the name and without rebuilding confidence in the institutions, there will be no way out of this quagmire. It has been politely suggested that we should not forget the numerous victims among the law enforcement agencies. Certainly the pain felt by the families is the same, and we realise that. Pain and grieving make no distinction between social classes or political convictions, and this is a reproach that some have made to the Memorial NGO. But we see it as an unjust reproach. The state cannot pitch itself on the same level as criminals and terrorists and it cannot and must not deploy the same means. If there are concrete indications implicating members of the law enforcement agencies in acts of torture and murder, it is imperative that this be condemned. This is in the interest of the state and the whole of society, and in this respect Memorial and other NGOs assume a delicate and vital task that is clearly in the public interest. The authorities would truly be wrong to ignore this and they should even take positive measures to publicly encourage and support the efforts of civil society.

12. We believe that a clear and unequivocal reminder should be issued as a matter of urgency by the highest authorities of state regarding the conduct of the law enforcement agencies and prosecution authorities and we are convinced that it would have a positive impact. The statements we heard on the spot during our visit certainly point towards this. One NGO has set up “mobile legal assistance units”.[20] These units travel around in cars fitted with highly advanced technical equipment for recording evidence and, at the request of families, rush to the scenes of abductions or other alleged crimes. They then write to the competent authorities, in the capacity of the legal representatives of the plaintiffs, to ensure that they have carried out the investigative procedures required by the law and prescribed by the directives of the prosecutor general’s office, drawn up in co-operation with the Council of Europe, within the framework of the execution of the Strasbourg Court’s judgments. Once assigned a case, they hound the authorities to take action and do their duty: have given witnesses been interviewed? If not, when will they be interviewed? Why have they not been interviewed? Why have the owners of the vehicles described by witnesses not yet been identified? These young law specialists track the investigation step by step and do not hesitate to address their concerns to the highest levels of the hierarchy. The “mobile units” have observed that as soon as investigations risked casting suspicion on security force entities, either the investigation was suddenly curtailed or police officers failed to carry out the investigators’ instructions regarding those structures.[21] The work of these “mobile units” is admirable, in helping victims exercise their procedural rights to oblige the investigators to carry out their duty; however, with the resources available to them, they can follow up only a small number of cases. The anecdotes recounted by the heads of these units were both amusing and interesting and sometimes very telling: one very high-ranking representative of the Chechen Republic expressly asked the head of this NGO if he was actually working for President Medvedev; on another occasion, a patrol of the FSB (Federal Security Service) was so impressed by the highly professional working methods used by the NGO that it asked the unit’s operatives if they were not “one of us”. It may be concluded that these episodes are both an illustration of the good work carried out by these volunteers and testimony to how President Medvedev is viewed in the region. It is a compliment and, above all, a call for action.

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20. The Committee against Torture, whose headquarters are in Nizhniy Novgorod (see www.pytkam.net

21. We obtained, by way of example, a copy of the correspondence in the case concerning the murder of Mrs Saidullayeva, an employee of the Danish Refugee Council in Grozny, revealing the protests of the investigators working on the investigative committee regarding the failure of the police to carry out inquiries targeting certain law enforcement structures.

13. Rudolf Bindig had very clearly criticised the generalised climate of impunity prevailing in the region in the middle of the first decade of this century. As we have already pointed out, sadly, things have not changed a great deal. Of course, the war is over; Grozny now looks back to normal, people's everyday lives are safer than before. But the abductions, acts of torture and murders go on. The spectacular number of European Court of Human Rights judgments concerning the Chechen Republic alone is a striking illustration. We will return to this point in detail below. Some of these judgments relate to cases in which the perpetrators of the crimes were clearly identified and yet nothing was done to render justice. The authorities content themselves with paying the compensation fixed by the Court to the applicant, but nothing, or next to nothing, is done to prosecute the perpetrators and ensure that there are no further acts of this kind. The army's blunders are classified as incidents; disappearances and numerous murders are put down to "bandits", without a proper investigation even being carried out, despite there being concrete indications implicating the security forces.

14. The region is suffering from a democratic deficit, which is not so surprising when one considers that there has never been a real tradition or culture of democracy there. It must be remembered that the presidents of the three republics visited are not elected by the local population but by the local parliaments upon proposal by the Kremlin. The region's peoples have long been squeezed between the barbaric acts of rebels and the indiscriminate brutality of the agents of authority. The press is hardly independent, freedom of opinion is claimed but not guaranteed and there is a widespread fear of expressing criticism of the authorities. This feeling of fear is palpable and only after taking thorough precautions is it possible to ascertain what people really think. It must be borne in mind, though, that the situation does not appear to be identical in all three republics.

15. The Ingush President, Yunus-Bek Yevkurov, appeared genuinely concerned for the welfare of his people, who are distinctly more supportive of him than of his predecessor, installed at the time by President Putin and then sacked by President Medvedev. President Yevkurov, a former parachutist general and hero of the Russian Federation,[22] has made the scourge of corruption one of his top targets and that does not seem to have pleased everyone: eight months after taking office, he was the victim of a bomb attack which left him seriously injured. After a long stay in hospital, he has returned to his duties and appears determined to pursue his drive for reform. Nevertheless, the situation in the country remains delicately poised and security is precarious. The witness statements on the atrocities committed by the security forces are, alas, numerous and highly detailed. Bringing the law enforcement agencies under control and setting up a judicial system worthy of the name will require enormous efforts. President Yevkurov seems to be aware of the challenge; he twice made the point that he was fully answerable for the actions of all the law enforcement agencies on the territory of his republic. This is a challenge which is starkly apparent in all three republics.

16. The President of Dagestan, Magomedsalam Magomedov, in office only since 10 February 2010, appeared strongly committed to improving the living conditions of his country's inhabitants and combating religious extremism. Dagestan is a remarkable and rather exceptional example of multiculturalism, where a great many ethnic groups and different languages have long cohabited.[23] In Derbent, on the shore of the Caspian Sea, we were able to observe for ourselves a reality which is both noteworthy and praiseworthy: in the same street of this charming town (declared a world heritage site by UNESCO), there is a mosque, a synagogue and an orthodox church. The Jewish community seems comfortable and optimistic, despite being in an environment where Muslims are very much in the majority: it has invested heavily in the renovation of its place of worship and the adjoining social centre. These are very strong, positive signs. The contrast between this long and peaceful cohabitation of different cultures and the violence which has besieged the country is disconcerting and is an alarm signal for the authorities and for us all.

17. The Chechen Republic has been devastated by two wars of an unimaginable level of cruelty and atrocity. After so much suffering, the population can but appreciate the relative stabilising influence of President Ramzan Kadyrov, who had previously fiercely fought against the Russian forces and was then installed as the republic's leader, with very considerable powers, by the president of that time, Mr Putin. We have already emphasised the enormous effort to rebuild the city of Grozny, which has also extended to its outskirts: a great many villages, even distant ones, have been connected to the gas supply network, and the road infrastructure has been considerably improved. The general living conditions of the population have been distinctly improved in this way. At the same time people are still being abducted, tortured and murdered both by the rebels and by the security services. We were told of numerous cases of homes being burnt by law enforcement units as retribution for one of the household members supporting the rebellion, allegedly or in

22. In particular, he came to the fore in Kosovo, at the head of a column of tanks taking control of Pristina airport in order to provide relief for the Kosovan Serb population, "Right under NATO's nose" (*Le Monde* of 18 December 2009).

23. There is a most interesting document covering these aspects, the report by the Committee on Culture, Science and Education of 7 April 2006 by our colleague Anne Brasseur, "Cultural diversity of the North Caucasus" (Doc. 10869).

reality. President Kadyrov denied all responsibility of the security services for the atrocities ascribed to them. He even told us that he had adopted an *ukaz* (decree) stipulating that if law enforcement officers were caught participating in illegal acts while wearing masks, they were to be shot by firing squad on the spot. We doubt that such an *ukaz* really exists and that it could have been accepted by the federation government; but his claim that one exists provides a fairly accurate illustration of the nature of the regime. As for the ongoing rebellion, the president is categorical: it is interference by a foreign power. When we asked which one, he told us without a moment's hesitation that it was the Americans, with the complicity of Berezovsky, adding that everyone knew that the 9/11 terrorist attacks had been organised by the United States themselves. What is really surprising, and even downright shocking for an outside observer, is the personality cult[24] imposed on the country, which is not the case in the other two republics. It is likely that a sizeable proportion of the Chechen population backs the president out of gratitude for the distinct improvements in their material living conditions. Will that support last? Several observers told us that the president's popularity had been waning for several months. It is a fact that a society without justice ultimately has no chance of survival.

4. The judgments of the European Court of Human Rights[25]

4.1. Key figures

18. Since 2007, the European Court of Human Rights has ruled against Russia in over 150 cases concerning human rights violations in the North Caucasus, mainly in the Chechen Republic. At the end of 2009, 235 were pending before the Court, and 100 or so of these had already been communicated to the Russian Government. New cases are continuing to flood in, around a hundred of them in 2009. They mostly related to events going back to the period 2000-02. Around 60% of applications relate to forced disappearances. The other complaints concern the destruction of homes, disproportionate use of force causing the death or injury of civilians, illegal detention, acts of torture or inhumane detention conditions (Articles 2, 3, 5, 8, 13 and 14 of the Convention and Articles 1 of Protocols No. 1 and No. 7).

4.2. Typical nature of the violations found

19. The Strasbourg Court's first judgments, handed down in 2005, concerned the disproportionate use of force during the military campaign of 1999-2000 (cases of *Isayeva, Yusupova and Bazayeva v. Russia* and *Isayeva v. Russia*)[26] and the forced disappearances of applicants following their arrest by federal forces (cases of Bazorkina, Imakayeva, Alikhadzhiyeva)[27]. In several cases, the Court held that members of the law enforcement agencies had been responsible for extrajudicial executions (cases of Khashiyev and Akayeva, Estamirov, Luluyev, Musayev and others)[28]. In the Chitayev case,[29] the Court found that the Russian authorities had been responsible for acts of torture into which no investigations took place following the victim's complaint.

20. In a large number of cases, the Court has held that the Russian State's responsibility for the violations complained of by the applicants was proven. It has systematically asked the government to provide copies of the criminal investigation files, but co-operation on the part of the authorities has been most unsatisfactory. The Court has found, therefore, in a growing number of cases (such as Imakayeva, Bitiyeva)[30] that Russia was (at the same time) in breach of its duty to furnish all necessary facilities for the examination of individual applications (Article 38, paragraph 1). In cases where the authorities do not offer a substantial response to the

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24. A Stalinist-style personality cult is the conclusion of two separate assessments published by the *Independent* on 12 January 2007 and by *Le Point* on 19 November 2009 (No. 1939).
25. See the article by Philip Leach, "The Chechen conflict: analysing the oversight of the European Court of Human Rights", *European Human Rights Law Review*, Issue 6, 2008.
26. *Isayeva, Yusupova and Bazayeva v. Russia*, Applications Nos. 57947/00, 57948/00 and 57949/00, judgment of 24 February 2005.
27. *Bazorkina v. Russia*, Application No. 69481/01, judgment of 27 July 2006; *Imakayeva v. Russia*, Application No. 7615/02, judgment of 9 November 2006 ; *Alikhadzhiyeva v. Russia,* Application No. 68007/01, judgment of 5 July 2007.
28. *Khashiyev and Akayeva v. Russia*, Applications Nos. 57942/00 and 57945/00, judgment of 24 February 2005; *Estamirov and others v. Russia*, Application No. 60272/00, judgment of 12 October 2006; *Luluyev and others v. Russia*, Application No. 69480/01, judgment of 9 November 2007; *Musayev and others v. Russia*, Applications Nos. 57941/00, 58699/00 and 60403/00, judgment of 26 July 2007.
29. *Chitayev v. Russia*, Application No. 59334/00, judgment of 18 January 2007.
30. *Imakayeva v. Russia*, Application No. 7615/02, judgment of 9 November 2006; *Bitiyeva and X v. Russia*, Applications Nos. 57953/00 and 37392/03, judgment of 21 June 2007.

detailed allegations of the applicants, the Court is increasingly inclined to use presumptions of fact, particularly in situations where the authorities are in sole possession of evidence with which to clarify the situation (such as detention and release registers, autopsy reports, etc.).

21. In a great many cases where the Court considers that it does not have sufficient evidence to establish that a murder or an act of torture was committed by an agent of the state and consequently finds that Articles 2 or 3 were not violated in substantive terms, it frequently rules that there were "procedural" violations of those articles for failing to fulfil the obligation to carry out an official, effective and efficient investigation.

22. In cases of forced disappearances, the Court has also classified the lack of an effective investigation and the refusal to give a substantial response to requests from family members as constituting inhuman treatment of the family members themselves in violation of Article 3 of the European Convention on Human Rights.[31]

23. The lack of an effective investigation with, as its corollary, the de facto impunity of the perpetrators of grave human rights violations is a central point of this report. The Court has used increasingly stern wording to express its indignation at the passive attitude of the authorities. In the case of *Baysayeva v. Russia*[32] the authorities had a video recording of the arrest of the applicant's husband and did not even manage to identify and question the officials appearing on it. In the case of *Isigova and others v. Russia*,[33] the Court considered that, as the identities of the detachments and their commanders involved in the abduction of the applicants' relatives were established by the investigation at national level, the failure to bring charges may only be attributed to the negligence of the prosecuting authorities in handling the investigation and their reluctance to pursue it. The Court found it appalling that even after the commander of the detachment that had apprehended Apti Isigov and Zelimkhan Umkhanov had been identified, the investigation was repeatedly suspended on the grounds of the failure to identify the alleged perpetrator or to ensure the suspect's participation in the proceedings. In the case of *Khatsiyeva and others v. Russia*,[34] the Court considered that "the investigation soon appeared to have become protracted and plagued with inexplicable shortcomings and delays in taking the most trivial steps. In particular, it did not appear that any ballistic tests were ever performed. Moreover, no autopsy or any further medical forensic examination of the corpses was ever carried out, apart from the initial medical examination on 6 August 2000. It did not appear that at the early stage of the investigation any meaningful efforts were made to establish the identity of those who had given the order to attack or those who had carried out the order. The identity of those ordering the attack did not appear to have been established at all. In particular, the decision of 15 December 2001 did not indicate whether the identity of the official concerned had been established or make any assessment of the order to attack. No further attempts to analyse the order were ever made. … Finally, between August 2000 and April 2003 the investigation was adjourned and reopened at least five times. Its ineffectiveness and the investigators' failure to take practical measures aimed at resolving the crime and to comply with prosecutors' orders were even acknowledged by senior prosecutors. The Court also noted numerous transfers of the investigation file from one investigating authority to another without any reasonable explanations being given".[35] In the case of *Aziyevy v. Russia*,[36] the Court sharply criticised the investigation, in which there had been a patent lack of progress for more than seven years. The investigators did not even identify and question the soldiers posted nearby, or check whether any special operations had taken place at the time of the disappearances, or carry

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31. See, for example, *Bazorkina v. Russia*, Application No. 69481/01, judgment of 27 July 2006, paragraph 141, and *Imakayeva v. Russia*, Application No. 7615/02, judgment of 9 November 2006, paragraph 166.

32. *Baysayeva v. Russia*, Application No. 74237/01, judgment of 5 April 2007; the press release issued by the Registrar states that "the investigation was opened only on 10 May 2000. When the investigation did begin, it was plagued by inexplicable delays in performing the most essential tasks. … Moreover, the videotape was available to the authorities as far back as 2000. The Court found it astonishing that in February 2006 the persons depicted in it had still not been identified by the investigation, let alone questioned" (paragraph 128).

33. *Isigova and others v. Russia*, Application No. 6844/02, judgment of 26 June 2008, paragraph 109:

"The Court considers that in the circumstances of the present case where the identities of the detachments and their commanders involved in the abduction of the applicants' relatives were established by the domestic investigation, the failure to bring charges may only be attributed to the negligence of the prosecuting authorities in handling the investigation and their reluctance to pursue it. The Court finds it appalling that after the commander of the detachment that had apprehended Apti Isigov and Zelimkhan Umkhanov had been identified, the investigation was repeatedly suspended on the grounds of the failure to identify the alleged perpetrator or to ensure the suspect's participation in the proceedings. Such a manner of proceeding offered no prospect of bringing those responsible for the offence to account or of establishing the fate of the applicants' relatives."

34. *Khatsiyeva and others v. Russia,* Application No. 5108/02, judgment of 7 July 2008, see, *inter alia*, paragraphs 146 and 147.

35. Quoted from the press release issued by the Court's Registrar on 17 January 2008.

36. *Aziyevy v. Russia*, Application No. 77626/01, judgment of 20 March 2008, see, *inter alia*, paragraphs 77 and 78.

out questioning of any witnesses. The authorities' response to the applicants' well-substantiated complaints prompted the Court to presume that the soldiers' conduct had at least the authorities' tacit assent, giving grounds for the Court to have serious doubts as to the objective nature of the investigation.[37]

24. The Court has made countless comments and observations of this nature and we could fill many more pages of this report with them. We can but share the Court's manifest irritation over investigations which are ineffective and yet relate to the most serious kinds of human rights violations and infringements of Russian legislation itself. To claim that the Court's decisions are driven by political considerations, as some people have done, is simply absurd if not ridiculous, as is plain to see for anyone taking the trouble to read these judgments.

25. In preparation for our fact-finding visit, we sent the competent Russian authorities a list of questions we wished to raise with the representatives of the prosecutor general's office in Moscow and in the three republics concerned (the Chechen Republic, Ingushetia and Dagestan). In particular, we asked for an update of the list received in autumn 2008 of criminal convictions of members of law enforcement agencies for crimes committed against civilians. This official list of convictions of police officers and soldiers actually constitutes a kind of confession, and proof, of their near-total impunity. Knowing that hundreds of people have been killed, abducted and tortured in the region over the years,[38] the list of convictions makes for surrealist reading: it almost exclusively lists violations of the road traffic regulations, petty theft, drunk and disorderly conduct, etc. In the rare cases listed where someone has been killed, the perpetrator's acts are described as accidental or a failure to correctly handle their service weapon. Consequently, the sentences handed down were mostly fines or very short and/or suspended prison terms.[39]

26. Prior to the visit, we also submitted a list of thirty or so individual cases selected in relation to the status of the victims – journalists, well-known human rights activists or emblematic political figures – cases in which there subsisted tangible and convergent indications implicating members of the law enforcement agencies.[40] With one exception, none of those cases – some of them already dating back several years – has been elucidated to date. The exception mentioned concerns the attempted assassination of the President of Ingushetia, Yunus-Bek Yevkurov, in June 2009. We were told that the "liquidation" of the Islamist leader Alexandr Tikhomirov (alias Said Buryatskiy), said to have claimed responsibility for the attack, had resolved the case. We would take the liberty of expressing some doubts as to whether this affair has really been cleared up. If the suspect had not been "liquidated"[41] with such haste, it might have transpired that the president had other enemies who were not necessarily Islamic fundamentalists, bearing in mind his stand against corruption. There are doubts of this kind surrounding other affairs too. One cannot help thinking of the hostage-takers in the North-East theatre. We recall that all the terrorists were finished off with a bullet in the head, despite the fact that they were lying on the floor, unconscious after inhaling the gas used during the law enforcement agencies' intervention to free the hostages. These were assassinations or extrajudicial executions (which are the same thing) and a valuable opportunity was lost to obtain important information on the criminal organisation that had ordered the terrorist operation. The replies we received concerning the list of cases submitted to the authorities are disappointing.[42] Beyond the extremely formal nature of these replies there remains very little substance. The investigative acts described mostly go no further than merely sending letters to different public authorities, and the findings all too often come down to the observation that "unidentified individuals wearing uniforms and masks entered the victim's home and took them away to an unknown destination", without further details. It is true that for some cases their replies are more detailed and list the names of the witnesses interviewed, the number of documents analysed, the vehicle number plates noted and so on. The fact that the investigations have gone into such detail is undoubtedly an improvement,

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37. Ibid., paragraph 78: "The authorities' behaviour in the face of the applicants' well-substantiated complaints gives rise to a strong presumption of at least acquiescence in the situation and raises strong doubts as to the objectivity of the investigation."
38. See, for example, the "chronicles of violence" regularly published by the Memorial human rights centre.
39. I have not yet received the updated list as requested.
40. The list of cases raised can be found in Appendix I.
41. This is the terminology used by the authorities we spoke to at all levels.
42. Replies by the Investigative Committee of the Chechen Republic to questions from Mr Dick Marty, Committee on Legal Affairs and Human Rights, rapporteur on legal remedies for human rights violations in the North Caucasus, reference 03.2010, No. 396-216/2-10 dated 30 March 2010 (32 pages); briefing paper on the progress of the work of the law enforcement agencies in combating the abduction of individuals in Dagestan, taking account of the questions raised by Mr Dick Marty, PACE Committee on Legal Affairs and Human Rights rapporteur, dated 20 April 2010, three pages (original in Russian); replies to the questions raised by Mr Dick Marty, rapporteur of the PACE Committee on Legal Affairs and Human Rights (undated, handed to the rapporteur on 24 March 2010 in Magas/Ingushetia, original in English, three pages).

especially if we compare them with the information supplied to the previous rapporteur, Mr Paschal Mooney, in reply to his introductory memorandum of 9 March 2007.[43] But this more detailed information still needs to be followed by tangible results. That, sadly, is far from the case.

4.3. Reprisals against applicants

27. Since 2002, the Court has had to deal with complaints of harassment and intimidation of applicants. In two cases, the applicants "disappeared" (cases of Imakayeva, Magomadov),[44] and in one case the applicant and her entire family were massacred in their home (Bitiyeva case).[45] Those cases were the subject of the report by our colleague Christos Pourgourides (Cyprus, EPP/CD) on "Member states' duty to co-operate with the European Court of Human Rights",[46] which also implies the obligation to protect applicants, their families and their lawyers when they receive threats. A more recent affair concerned the assassination, on 19 January 2009 in Vienna, of Umar S. Israilov, who had publicly accused Ramzan Kadyrov of personally participating in acts of torture in a secret prison located in Tsentoroy, the Chechen President's native village.[47] In fact, Mr Israilov's application to the Court, lodged in 2006, was nearly struck out owing to a failure to reply to a communication from the Court which his lawyer had mislaid. Although the Court has not often found a violation of the exercise of the right of individual petition (Article 34) in such cases, for lack of sufficient evidence, it has nevertheless decided to treat them as a priority, pursuant to Rule 41 of its Rules of Court. In the light of Mr Pourgourides' report, the Assembly has backed the Court in this approach and even encouraged it to open up and go further, along the lines of the Inter-American Court of Human Rights, which had faced similar challenges, particularly in cases concerning the death squads in a number of Latin American countries; the Court might go so far as to order physical protection measures, on the basis of Rule 39 of the Rules of Court and Article 34 of the Convention. In the experience of the human rights protection organisations which represent the vast majority of applicants in cases concerning the North Caucasus before the Court,[48] the best way of protecting applicants is to notify the Russian authorities of each application of this type as quickly as possible; according to the NGOs, in most cases the authorities assume their responsibilities and do their utmost to provide the necessary protection.

4.4. Implementation of the Court's judgments

28. The Court's judgments – contrary to what is sometimes reported in the press – do not "punish" the states found to have violated the Convention or indeed the officials who actually committed the acts in question. The Court limits itself to finding any violations of the Convention and, where applicable, to establishing compensation for pecuniary and non-pecuniary damage suffered by the applicants. These are often symbolic amounts, rising to several tens of thousands of euros for the family of someone who has disappeared or been killed, even if that person had a large dependent family. In our opinion, the Court could go further when determining compensation for pecuniary losses, particularly in cases involving the disappearance of victims with major family responsibilities. When we met the victims' relatives, in all three republics, no one actually mentioned the financial aspect. Their sense of despair was above all due to the disappearance of a loved one, the passive attitude of the authorities and the shameless impunity enjoyed by certain circles close to the seat of power.

29. The implementation of the Court's judgments is not confined to the payment of symbolic compensation to the victim or their beneficiaries. In the cases where the Court found a breach of Article 2 or 3 of the Convention, in the form of a proven lack of an effective investigation, it is demanded, as an "individual measure", that an effective investigation of the case be carried out with the aim, where possible, of putting a stop to the violation found. The principle is in no way contested by the Russian authorities, which have set up special investigation units tasked as a priority with cases which have been the subject of a Court judgment and are assigned to particularly well qualified and experienced investigators. We met representatives of these units, who assured us that they were pulling out all the stops to resolve these cases. It has to be said, however, that tangible results are still not forthcoming. We were told that, of 150 cases in

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43. Russian delegation's comments on the introductory memorandum "Legal remedies for human rights violations in the North Caucasus", document AS/Jur (2007) 15 of 9 March 2007, rapporteur: Mr Paschal Mooney, Ireland.
44. *Imakayeva v. Russia*, op. cit.; *Magomadov v. Russia*, Application No. 68004/01, judgment of 12 July 2007.
45. *Bitiyeva and others v. Russia*, Application No. 36156/04, judgment of 23 April 2009.
46. See Doc. 11183 of 9 February 2007.
47. See *Le Monde/AFP* of 12 February 2009 "L'opposant tchétchène tué à Vienne devait témoigner contre Kadyrov" [Chechen opposition politician killed in Vienna was to testify against Kadyrov]; and C. J. Chivers, "Slain exile detailed cruelty of the ruler of Chechnya", *New York Times,* 1 February 2009.
48. In particular the European Human Rights Advocacy Centre (EHRAC/Memorial), the Stichting Chechnya/Russia Justice Initiative, and the Centre of International Protection.

which the Court found procedural failings, only two had been resolved in the meantime: in one case, the main suspect had since died and, in the other, the suspect was on the run and a search warrant had been issued for him.

30. In September 2009 Human Rights Watch presented a detailed analysis of investigation measures taken by the authorities following Court judgments finding that there had been no effective investigation.[49] At the joint initiative of Mr Pourgourides, rapporteur for the implementation of judgments of the Court,[50] and myself, the Committee on Legal Affairs and Human Rights held a hearing, on 11 September 2009, with the participation of the Russian Federation's representative to the Court and Deputy Minister of Justice, Mr Matyushkin, Professor Philip Leach and Mrs Gannushkina, representative of Memorial, replacing Mrs Estemirova, head of the Memorial office in the Chechen Republic, who had been murdered the day after confirming her attendance at the meeting. The victims actively participate in the process of the execution of judgments supervised by the Committee of Ministers, through NGOs which previously assisted them during the proceedings before the Court, proposing concrete measures for remedying the violation found.[51]

31. In an information document of 11 September 2008, the Committee of Ministers presented the general measures taken to date in respect of the execution of the Court's judgments concerning events in the Chechen Republic.[52] Information in this area would gain in transparency if the reports produced by the CPT after its visits to the region were made public; however, the publication of those reports requires the consent of the Russian authorities, which have not yet granted it. The CPT has made 11 visits to the region, the last one in April 2009. It has adopted three "public statements" concerning the situation in places of detention in the Chechen Republic.[53] It should be pointed out that the public statement is an instrument which is rarely used (five times in the twenty years of existence of the CPT) and is reserved for situations characterised by a manifest lack of co-operation on the part of the authorities.[54] As far as we know, the Committee of Ministers has never put these statements on its agenda and, consequently, has not stated its views on them. Why not?

32. While it is true that the Court's judgments do have a powerful symbolic value, we have seen that their execution is often problematic. In some of these judgments concerning the North Caucasus, those responsible for the violations are clearly identified in the facts of the case. Yet there is no tangible follow-up. Here are two examples:

> *Khalid Khatsiyev and Kazbek Akiyev were killed on 6 August 2000, when a Russian military helicopter opened fire, without apparent reason, on a group of men who were cutting grass near the village of Arshty in Ingushetia, near the Chechen border. In its judgment in 2008, the Court saw no plausible justification for the use of firearms in the circumstances and, accordingly, ruled that Russia had violated the victims' right to life.[55] The military prosecutor's office established the identity of the pilots only after a year-long investigation but did not identify the superiors who ordered the attack. The Court strongly criticised the lack of an effective investigation. Within the framework of the execution of this judgment, the military prosecutor's office re-opened the investigation, only to suspend it one month later, on the day when the victims' families received the letter notifying them of the reopening of the procedure. They are still waiting for justice to be done.[56]*

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49. Human Rights Watch, "Who will tell me what happened to my son? Russia's implementation of European Court of Human Rights Judgments on Chechnya", September 2009, 38 pages (available on the HRW website).

50. See the statement by Mr Pourgourides following his visit to Moscow from 7 to 10 February 2010 (http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=5269 and the committee's interim reports of 31 August 2009 (AS/Jur(2009)36 and addendum), in particular pages 16 to 19 of the addendum (http://assembly.coe.int/CommitteeDocs/2009/ejdoc36_2009.pdfhttp://assembly.coe.int/CommitteeDocs/2009/ejdoc36ADD_2009.pdf).

51. In addition to Human Rights Watch, I would like to express particular thanks to the European Human Rights Advocacy Centre (EHRAC) in London and the Stichting Russia Justice Initiative (SRJI), which provided me with detailed information on the implementation of the Court's judgments.

52. CM/Inf/DH(2008)33, 11 September 2008, "Actions of the security forces in the Chechen Republic of the Russian Federation: general measures to comply with the judgments of the European Court of Human Rights, second part of the revised memorandum prepared by the Department for the Execution of Judgments of the European Court of Human Rights"; an updated version of this document is awaited for June 2010: http://wcd.coe.int/ViewDoc.jsp?Ref=CM/Inf/DH%282008%2933&Language=lanEnglish&Site=

53. See the public statements of 10 July 2007 (www.cpt.coe.int/documents/rus/2003-33-inf-eng.pdf 13 March 2007 (www.cpt.coe.int/documents/rus/2007-17-inf-eng.pdf and 10 July 2001 (www.cpt.coe.int/documents/rus/2001-15-inf-eng.pdf

54. See the 19th General Report of the CPT (1 August 2008-31 July 2009), paragraph 12, www.cpt.coe.int/en/annual/rep-19.pdf

55. *Khatsiyeva and others v. Russia*, Application No. 5108/02, judgment of 17 January 2008, paragraph 139.

56. See the HRW report, op. cit., pp. 14-15, note 36.

In the Bazorkina case,[57] Russian television showed video footage on 2 February 2000 of the federal forces arresting a young man, Khadzi-Murat Yandiyev, whose mother, Fatima Bazorkina, instantly recognised him. General Baranov is seen and clearly heard to say to the soldiers: "Go on, go on, take him away, finish him off, shoot him, damn it". The Russian soldiers are then seen to take Yandiyev away; he has never been seen since. Despite the Court judgment, finding a violation of Article 2 and strongly condemning the lack of an effective investigation, the Russian authorities have refused to open an investigation concerning General Baranov. In a letter of 24 March 2008 sent to Mrs Bazorkina's representatives, the military prosecutor's office stated, with no further explanation, that in the course of the "preliminary" investigation into Yandiyev's disappearance "all the violations of the European Convention pointed out in the Court's judgment have been rectified." In another letter dated 3 April 2009 (in reply to Mrs Bazorkina's request on 20 February 2009 to open a criminal investigation concerning General Baranov's actions) the military prosecutor's office replied that "no evidence has been established during the investigation of potential involvement of Major-General A. I. Baranov in the abduction and killing of Kh-M. A. Yandiyev. In this connection, the request to launch a criminal investigation [in relation to Baranov] has been denied."[58]

33. These two cases are clear illustrations of how difficult it is to put an end to impunity in the North Caucasus region. To further prove the point we can cite the reply given to the relatives of the Aziyev brothers,[59] who had asked the Chechen Ministry of the Interior for the names of the soldiers assigned to a given checkpoint on the night of their abduction: their request was refused by order of the Ministry of the Interior of 25 August 2007 prohibiting access to the personal data of operatives taking part in counter-terrorist or "special" operations.[60] This stipulation has the effect of preventing the identification of law enforcement agency staff who may be involved in criminal acts. There is an extensive network of checkpoints, as we could see for ourselves on the spot. When a person's body is found far from the place where they were abducted, the perpetrators must have passed through or close to checkpoints. This immunity granted to the staff manning checkpoints can only nurture suspicion. It should be remembered that Natalya Estemirova was abducted in the Chechen Republic and her body was found in Ingushetia. Her assassins must have felt very sure of themselves to travel around with an abducted person or a dead body.

5. Some frightening figures

34. While it is true that the number of human rights violations has fallen since the end of the two "official" wars in the Chechen Republic, we must deplore a worrying resurgence of acts of violence, abductions, assassinations and acts of terrorism since 2009.

35. In the Chechen Republic, according to the data provided by the prosecutor general's office, 536 people were reported missing between 2006 and 2009, of whom 287 are considered to have been "abducted" and have not been found since. Over the same period, 30 criminal prosecutions for abduction went before the courts. Since the lifting of the counter-terrorist operation at the beginning of 2009, the activity of "illegal armed groups" does not appear to have diminished: the number of attempted murders of law enforcement agency staff is even said to have increased by 18.6%. A total of 631 "victims" were reported for 2009 (compared with 575 in 2008), of whom 74 died (68 in 2008). However, the prosecutor's office observes above all an increase in the number of suicide bombers, pointing out that "the criminal acts in this category committed in 2009 showed considerably more audacity and cruelty".

36. In Ingushetia, again according to the official data supplied to us, 186 people were reported missing between 2006 and 2009, of whom 163 were found alive and three dead. Over the same period, 40 people were declared victims of abductions, but there were no prosecutions for this category of crime.

37. In Dagestan, 671 people were reported missing between 2006 and 2009 (188 of them in 2009). Some 60 of them were abducted by men wearing camouflage uniform (therefore, it is alleged, with the participation of the law enforcement agencies), 29 of them during 2009 alone. Some 12 bodies of missing persons were found during the period in question. In total, 586 of the 671 people reported missing were found. Given the relatively small populations of these republics, these are high figures. Moreover, they may be only a very partial reflection of the real situation.

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57. *Bazorkina v. Russia*, Application No. 69481/01, judgment of 27 July 2006.
58. Quoted from letters as per the aforementioned HRW report, p. 11.
59. *Aziyevy v. Russia*, Application No. 77626/01, judgment of 20 March 2008.
60. See the aforementioned HRW report, p. 26, note 90, giving additional details; the family has not received the copy of this order it requested.

6. The problem of missing persons – A role for the Red Cross

38. In August 2009, the ICRC presented a report on the needs of the families of missing persons in the North Caucasus, based on the analysis of interviews with 100 families in this situation.[61] The total number of missing persons for the Chechen Republic alone is estimated at between 3 000[62] and 5 000.[63] The families' suffering and distress, strikingly described by the ICRC, demonstrate, were it still necessary, that if there is to be reconciliation and lasting peace, the issue of missing persons must be resolved. In keeping with its statute and long experience, the ICRC does not seek to attach blame but calls for practical assistance for the victims. As the Assembly has forcefully spelt out on several occasions,[64] and as proclaimed in the convention for the protection of all persons from enforced disappearance recently adopted by the United Nations,[65] relatives have the right to know, and the competent authorities have a duty to muster their forces to resolve as many cases as possible. Russia could greatly benefit from the experience acquired by the Red Cross in other countries, such as Cyprus, in Africa or in the countries of the former Yugoslavia. The ICRC concludes its report by setting out recommendations that are practical, concrete and very much to the point, which we can only endorse and strongly recommend to the Russian authorities.

7. Some exemplary cases

39. We now come to one of the most painful sections of this report. Before our fact-finding mission we had been informed of a large number of unresolved individual cases: murders, disappearances, tortures, abductions, arson attacks on houses and various forms of intimidation. Before setting off we selected some 30 cases to submit to the different authorities and human rights defenders. We were unable to go into detail on each case during the actual interviews. However, we did manage to discuss them during our sessions with the representatives of the executive and the judicial authorities and at the meetings we organised in co-operation with Memorial with witnesses and relatives of the victims in Moscow, Nazran, Grozny and Makhachkala. We would like once again to thank both the competent Russian authorities and the Memorial representatives for their unstinting help in organising these encounters. As already stated, the meetings with the victims' families were highly emotional. We were impressed with the dignity with which all these individuals voiced their grief and despair. I have also mentioned their heart-rending appeal, which they asked us to pass on to the Council of Europe, not to forget and desert them. This led us to suggest recording some of these testimonies on video, in co-operation with Memorial, and presenting them alongside the Assembly session during the discussion of this report, together with a photo exhibition. One thing must be very clear: the idea here is not to incriminate any particular party, but rather to show the point of view and the suffering endured by people subjected to violence in the region, from whatever side they may come, and to give simple, ordinary people a rare opportunity to express their feelings and the grief which they are forced to bear. Defending human rights means first and foremost being on the victims' side, whoever might be responsible for the violence. Appendix II to this report sets out a number of cases which we consider exemplary,[66] some of which were related to us and directly confirmed by the victims' relatives.

40. The assassination of Umar S. Israilov by a Chechen commando on the streets of Vienna on 13 January 2009 was, in many respects, a particularly difficult and worrying case. Mr Israilov had publicly accused the Chechen President of having personally participated in torture sessions and was preparing to testify against him.[67] Artur Kurmakayev, a Chechen, had reportedly informed the Austrian Constitutional Security Department in May 2008 that he had been ordered to execute Israilov but that he would disobey the order, and was consequently requesting special protection. The Austrian authorities apparently failed to take this information seriously, dismissing it as pure fabrication. Kurmakayev had been sent back to Russia, with his ostensible consent, as shown by a document which he had allegedly signed in the presence of Austrian

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61. "Families of missing persons: responding to their needs", a report by the International Committee of the Red Cross (ICRC) based on an assessment carried out in the Northern Caucasus, August 2009 (bilingual Russian/English).
62. See Andrew E. Kramer, "Chechnya's capital rises from the ashes atop hidden horrors", *New York Times,* 30 April 2008, quoting the Chechen ombudsman Nurdi Nukhazhiyev for the figure of 3 018 unresolved disappearances.
63. Radio Free Europe, "Identifying Chechnya's dead", 19 November 2008.
64. See Resolution 1463 (2005) for example.
65. International Convention for the Protection of All Persons from Enforced Disappearance of 20 December 2006.
66. Description of the facts in line with information gathered by Memorial, taking account of any comments from representatives of the authorities notified to me.
67. See *Le Monde* of 12 February 2009, "L'opposant tchétchène tué à Vienne devait témoigner contre Kadyrov" [Chechen opposition politician killed in Vienna was to have testified against Kadyrov]; *New York Times* of 1 February 2009, C. J. Chivers: "Slain exile detailed cruelty of the ruler of Chechnya".

officials. Nothing has been heard of Kurmakayev since. Shortly after Israilov's assassination, the Austrian police arrested a number of suspects of Chechen origin. According to leaks from generally reliable sources, the police has evidence linking the crime to the immediate entourage of the Chechen President.[68]

41. An Austrian MP very recently informed us that he had obtained a copy of the charge sheet drawn up and transmitted to the public prosecutor's office by the Federal Constitutional Security Department. It had apparently been established that Kurmakayev was assassinated just after returning to Russia. He just had time to phone the following information through to the aforementioned Austrian MP: "I told them [the Austrian authorities] everything. But they refused to protect either me or Mr Israilov. They wanted to get rid of me as quickly as possible. I know that my life is in danger. Nobody's helping me any more". The document allegedly contains the stark comment that Kurmakayev is probably no longer alive. Another informer, Salman Muvlayev, who is reported to have told the Austrian authorities the name of the main suspect in the Israilov murder case, a certain Lecha Bogatirov, had in turn been murdered in autumn 2009 during a visit to Azerbaijan. To this day, no formal proof has ever been made public by the competent judicial authorities, which makes it impossible to draw any definite conclusions. Nevertheless, the facts are disconcerting and worrying. We are sure that the Austrian authorities will do their utmost to shed the necessary light on this affair and establish the responsibilities at all levels, regardless of any consideration of political expediency and in the sole interests of justice.

42. Still according to the information obtained by our Austrian colleague, the Austrian authorities and the FSB engage in close co-operation on the basis of an agreement between the Ministry of the Interior and the FSB, particularly vis-à-vis the repatriation of Chechen exiles. The FSB representative in Vienna, a Mr Pleshkayev, had reportedly been Deputy Minister of the Interior of the Chechen Republic before being transferred to Vienna, and, furthermore, apparently belongs to the inner circle of the President of the Chechen Republic. Such co-operation also exists between the FSB and authorities in other western European states. These allegations are worth examining in detail. Effective international co-operation in combating terrorism and organised crime is, of course, desirable, indeed vital, provided it is conducted with respect for law and fundamental rights. Council of Europe reports have demonstrated that many countries have committed or tolerated intolerable abuses in the name of the "war on terrorism". Vigilance is therefore of the essence.

43. Other exiled Chechen opposition figures have been killed, notably in Turkey and Azerbaijan.[69] Threats have been issued against other exiles, including, most recently, regime opponents enjoying political asylum in Strasbourg with whom we have spoken.

44. Another person who had accused Mr Kadyrov of acts of torture was abducted on 3 August 2008 in Grozny, where he had been attending his sister's funeral. This was Momadsalah Denilovich Masayev, who had just completed an interview for the newspaper *Novaya Gazeta*,[70] in which he accused Mr Kadyrov of having tortured him in 2006 and 2007 in a secret prison in Tsentoroy, the Chechen President's home village. We wrote to the Chechen President on 12 August 2008 asking him to intervene and take all the necessary steps to trace Mr Masayev. There was no reply. And there is still no trace of Mr Masayev.

45. During our talks with Mr Kadyrov in Gudermes, before we could even put the question to him, he rejected all accusations, claiming that there was no evidence against him.

8. Additional considerations

46. At the end of last year, President Medvedev declared that the unrest in North Caucasus was the Russian Federation's number one problem. This is truer still after the atrocious terrorist attacks in Moscow. The impressive battery of judgments of the European Court of Human Rights highlighting glaring cases of infringements of the right to life and of the prohibition of torture also points to the fact that the North Caucasus has for many years been the European region where the worst and most massive violations of human rights take place. So it is not an exclusively Russian problem, but one which concerns the whole European community, even though it is primarily the Russian authorities which must act and find solutions in conformity

68. See Sonja Zekri, "Tschetscheniens Machthaber soll Mord Befohlen haben – Österreichs Verfassungsschutz beschuldigt Präsident Ramsan Kadyrov – doch es fehlen stichhaltige Beweise" [Chechen leader alleged to have ordered assassination – Austrian Constitutional Security Department accuses President Ramsan Kadyrov, despite lack of firm evidence], *Süddeutsche Zeitung*, 28 April 2010; Joëlle Stolz, "La police autrichienne relie le president tchétchène au meurtre d'un opposant" [Austrian police link Chechen President to murder of political foe], *Le Monde,* 30 April 2010.

69. I have obtained a copy of a document from the French authorities mentioning a team of Chechen killers operating in several European countries.

70. English translation published on the website of Memorial on 6 August 2008 (www.memo.ru

with their own legislation and with their international commitments. The events are tragic evidence that the policy implemented hitherto has failed miserably. We were struck by the extent to which some of our interlocutors still hide behind purely formal, stereotypical explanations: the abductions, arson attacks on houses and murders of human rights defenders are carried out solely by "bandits" in an attempt to discredit the authorities, we were repeatedly told, always in the same terms. All that is needed is to read the detailed facts set out in the judgments of the European Court of Human Rights in order to realise just how absurd this stance is. Without clear, personal and firm action by the top echelons of the Russian Federation to regain control over the law enforcement agencies and guarantee discipline and professionalism in their ranks, the situation is liable to deteriorate even more dangerously. Once the police services have been reformed the judicial institution can be strengthened.[71] We have collected witness statements on explicit or implicit threats from police circles against judges who have attempted to investigate cases liable to implicate police officers or soldiers. We were also informed that the police simply reject requests from the investigating authorities for investigative measures in cases involving the police services. Organised crime and terrorism can never be properly tackled without the support of the population and without public trust in the institutions. The best way to contend with the threat of terrorism is to have a competent, efficient and adequate police force and an independent, respected judiciary. Investment in this field is manifestly insufficient.

47. The terrorist attacks on the Moscow Metro on 29 March 2010 can only fill one with horror and revulsion. Such acts can never be justified and there are no mitigating circumstances for the perpetrators: those who manipulated the young women in question are cowardly, odious and repulsive characters. We must be brutally realistic here. Such absurd, blind violence prompts reactions of revulsion and hatred; this is understandable, at least for the man in the street. However, it is precisely in such situations that the law-based democratic state must show its strength, authority and credibility, and it is at such tragic times that we can prove and measure the quality and solidity of our institutions and of their representatives. The language used by the highest authorities of the Russian Federation bodies is not very encouraging: to proclaim that they will "drag the terrorists out of the sewers" and implement the anti-terrorist measures "even more brutally"[72] is to play along with the criminals and fuel the spiral of atrocities. Even after the 1999 terrorist attacks, the then Russian President pledged to "wipe the terrorists out in their outhouse". Let me remind you of two examples of a different approach to similar tragic events. In 1978, in the midst of "The Leaden Years", the abduction and murder of Aldo Moro not only marked the climax of the terrorist violence raging through Italy during these years but also, and above all, were a direct attack on the heart of the state. Many people at the time advocated the adoption of extraordinary measures which would be incompatible with fundamental human rights. General Carlo Alberto dalla Chiesa, who was responsible for co-ordinating the fight against terrorism, was very straightforward: "Italy will survive the death of Aldo Moro, but it will never survive the introduction of torture".[73] This was an impressive position for a military man involved on the ground, in a period of extreme tension such as the country had seldom seen in its history. On 11 March 2004, bombs on a train and in two Madrid railway stations killed 191 people. King Juan Carlos reacted the same day with a televised speech to the nation, a passage of which would be worth quoting here: "A country which is well aware that the only possible reaction to injustice and barbarity is unity, firmness and serenity. Unity, firmness and serenity in combating terrorism, with all the instruments provided by the law-based state, intensifying our joint efforts to eliminate this scourge and relying on the work of the police, our justice system and international co-operation."[74] Italy overcame terrorism without renouncing its values and principles as a law-based state. The Spanish judges managed to identify the criminals[75] who had committed these dastardly attacks, to arrest them and to convict them by means of judicial proceedings conducted in strict compliance with the rule of law.

48. On 25 January 2005 the Parliamentary Assembly regretted that "the Committee of Ministers' monitoring of the human rights situation in the Chechen Republic, launched by the Secretary General in June 2000, is now de facto at a standstill since the spring of 2004, despite repeated calls by the Assembly to intensify monitoring efforts".[76] It would also be useful to quote a lengthy passage from the report drawn up at the time

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71. In a recent speech before the Upper Chamber of the Russian Parliament, the Prosecutor General of the Russian Federation, Yuri Chaika, strongly denounced the corruption and fraud which are rife among the police in the Caucasus. He also exposed the falsification of statistics (AFP, 24 April 2010).
72. At a meeting with the Director of the FSB on 8 January 2010, President Medvedev reportedly said, "Where the bandits are concerned, our policy has not changed. We must simply destroy them. Do so brutally, do so systematically, ie regularly, because these groups unfortunately still exist" (quote from an open letter of 15 January 2010 by Svetlana Gannushkina, Chair of the Civic Assistance Committee and member of the Board of Memorial).
73. Article from the *Corriere della sera* entitled, "Maestri e allievi a scuola di tortura", 8 September 2003: www.veritagiustizia.it/old_rassegna_stampa/corriere_della_sera_maestri_e_allievi_a_scuola_di_tortura.php
74. http://site.voila.fr/tsk/dossiers/esp/jcb11m.html
75. Personally I prefer the word "criminal" to "terrorist", as those involved see the latter as a badge of honour.
76. Resolution 1479 (2006).

by Mr Bindig, given the continuing relevance of his assertions in the light of current events: "This lack of consistency, not to say the use of double standards, on the part of the Committee of Ministers is deeply regrettable as the Assembly and the Committee of Ministers share the common objective to improve the human rights situation in Chechnya. By petitioning the Committee of Ministers to use its own monitoring mechanism and thereby demonstrate its own effectiveness, the Assembly has shown its readiness to create synergies with the Council's executive organ. However, the Committee of Ministers seems no longer interested in monitoring the human rights situation in Chechnya within the framework of its Declaration on compliance with commitments or, indeed, within any other framework. It seems that a decision of some kind, explicit or implicit, has been taken by the Committee of Ministers, and by two successive Secretaries General, to stop monitoring the human rights situation in Chechnya, without informing the Assembly. Responsibility for so doing has, in effect, been placed on the European Court of Human Rights the Committee for the Prevention of Tortureand, to a lesser extent, the Council's Human Rights Commissioner".[77] What can we add, other than an expression of our puzzlement and dismay at such an attitude? According to Article 46 (2) ECHR, the Committee of Ministers is responsible for supervising the execution of the Court's judgments. Such execution obviously cannot be confined to matters of payment of compensation to applicant parties. There are more than 150[78] judgments finding extremely serious violations of the fundamental rights in the same region, without any genuine action being taken on the root causes of this situation.

49. This is undeniably one of the Council of Europe's main problems. To sit back and leave things as they are, argue that we have to consider matters of political balance, merely tick off the judgments as they are churned out at an impressive rate and confine ourselves to simple accounting control would be to deprive the Institution of all credibility. Worse, it would mean the end of the institution. At a recent colloquy an eminent lawyer, who is also a highly respected former judge of the European Court of Human Rights, made this cynical remark on this situation: "In any case, gas is now more important than human rights". Who can disagree with him? And there is another consideration. If the Court were to continue issuing judgments on the North Caucasus at the same rate finding a systematic lack of effective investigations, it is plausible that, failing appropriate action by the Committee of Ministers, certain member states might envisage submitting an inter-state application within the meaning of Article 33 of the Convention. This provision in no way requires the applicant state(s) to have suffered prior direct damage; such applications can also be submitted in order to defend the system and heritage of values of the Convention, where the integrity of the latter is seriously threatened by repeated and continual violations, in the absence of proper implementation of the relevant defence mechanisms.

50. In 2003, on a proposal from Rudolf Bindig, the Assembly recommended setting up an international criminal tribunal for the Chechen Republic[79] in order to send out a strong signal, in the full awareness that the United Nations Security Council would never take such a decision. Although the idea is far from inappropriate, we would prefer to continue to believe in the will and capacity of the Russian authorities to deal with the problem in the North Caucasus, to restore justice and ensure a climate of peace. We realise that this is an enormous challenge. As stated above, lasting peace presupposes a duty to tell the truth. For many years, non-governmental organisations[80] have been collating impressive documentation (in the form of personal testimonies, films, videos and documents) on the events in the region. These archives have an historic value and could certainly help promote this work of remembrance and truth. The Council of Europe might co-operate with the Russian authorities in this endeavour.

51. Religious extremism, in this case the violent forms of Islamic fundamentalism, is not an exclusive problem for the North Caucasus but is a potential threat to all countries. This points to the need for a wide-ranging international debate on the subject. Repression alone will never eliminate this phenomenon on their own: they must be accompanied by a cultural, economic and political debate. Extremism needs a specific type of soil to take root and grow. This requires us to extend our analysis to all situations worldwide in which entire generations have known nothing but humiliation and injustice. The fight against terrorism is also, and above

77. Doc. 10774, paragraph 86.
78. The constant flow of judgments continues as I write, once again the Court finding violations of the right to life and the absence of any effective investigation: see *Shakhabova v. Russia,* Application No. 39685/06, and *Suleymanova v. Russia,* Application No. 9191/06, of 12 May 2010; and *Dzhabrailov and others v. Russia*, Application No. 3678/06, of 20 May 2010.
79. Recommendation 1600 (2003), paragraph 3.v.
80. Including the Society for Threatened Peoples (Gesellschaft für bedrohte Völker, Bern); this NGO has launched a project entitled "Chechen Archive" in co-operation with Chechen partners with a view to collecting, analysing and classifying as much documentary material as possible (see www.gfbv.ch We might also mention Stas Dmitrievsky's team, which has produced a work entitled "An international tribunal for Chechnya", Moscow, July 2009; Natalya Estemirova provided a great deal of the research for the preparation of this work. She was assassinated on the launch day for the book in Moscow.

all, a fight against universal injustice. When democracies resort to illegal action to combat terrorism they are admitting an initial failure, a preliminary victory for the terrorists, whose aim is precisely to destroy our democratic institutions. Abductions (also known as "extraordinary renditions"), torture (others use the euphemism of "reinforced interrogation techniques") and secret prisons negate justice and the rule of law. They transform the criminals into fighters and give them the legitimacy to oppose states which resort to illegal methods. Institutions which combat terrorism by the same means as the terrorists are only creating and fuelling a groundswell in their favour, which can only strengthen them and give them martyr status – which is exactly what they want.

52. We are perfectly well aware of the complexity of the situation in the North Caucasus and of the extraordinary difficulties facing the Russian authorities. Nor should we forget the country's recent history. The implosion of the former Soviet Union, the ensuing chaos and the consequent suffering for the population represented a gigantic challenge for the leaders of this enormous country. Impressive results have been obtained over the last few years, which convinces us that the country has the capacity and resources for resolving the Caucasian crisis. I am absolutely convinced of the need for Russia to be part of the European family and for the Russian people to aspire to share the same values, as we can see from the many initiatives and activities of civil society. We can only encourage the authorities to be more heedful of these non-governmental organisations, involved as they are in promoting the fundamental rights of their fellow citizens. Although some of our interlocutors told us that they co-operated with the NGOs, we often noticed an attitude of condescension towards these organisations, a lack of any real desire to establish genuine dialogue. Memorial and many other NGOs are committed to promoting Russian society, and therefore cannot be regarded as enemies: they must be taken as valuable partners capable of co-operating positively in the quest for solutions, in the interests of the whole country and its population. On 12 January 2010, Memorial sent a letter to President Medvedev concerning a particularly shocking abduction (described in Appendix II). In this letter, Svetlana Gannushkina of Memorial reiterated a fundamental truth: "A crime of this kind committed by representatives of the state authorities is one of the most dangerous types of terrorist act because it destroys society by undermining its trust in the law." President Medvedev very recently met with NGOs working in the North Caucasus.[81] We read his speech just as we were finalising this report. The president's contribution is particularly noteworthy, because, in our view, the tone is changing, and we consider this approach, which is very different from what we have seen in the past, as a positive sign, even if there are still many outstanding problems.

53. Brute force can never overcome terrorism. There are too many examples proving this fact. While criminal repression is vital, other avenues must also be explored, for example understanding the causes of so much violence, attempting political dialogue with the moderate forces of rebellion and implementing strategies to divide the rebel forces. As they themselves freely admit, the Italian police and judicial authorities vanquished terrorism and have made major headway against the Mafia thanks to "judicial collaborators" (*pentiti).* This strategy was enshrined in a law setting out the conditions under which individuals who have been involved in offences can have their sentences considerably reduced if they co-operate with the judicial authorities in establishing the truth and helping dismantle criminal organisations. The *pentiti* played a decisive role in eradicating the "Red Brigades". It is difficult to compare different countries, cultures and historical periods, but the Russian law enforcement agencies, judiciary and legislature would do well to carefully consider adopting similar strategies. Their current approach would seem very different indeed. A suicide bomber who spontaneously renounced triggering the explosion and gave herself up to the police, thus facilitating the arrest of various individuals, was not treated any more leniently by the courts: she was sentenced to twenty years' imprisonment.[82] This is no way to encourage terrorists to discontinue their activities, which would not only prevent terrorist attacks but also help dismantle the terrorist networks.

54. Last July we invited Natalya Estemirova, the Memorial representative in Grozny, to attend a hearing organised by our committee in Paris, on 11 September, on the subject of this report. No sooner had she confirmed her attendance than we received the news of her abduction and assassination. We were devastated by this news. This remarkable woman had always worked to promote the rights of the weakest members of society. When the Chechen President decreed compulsory wearing of the Islamic headscarf in all public places, she replied with dignity that such a directive was a matter for the family rather than for the state. Such an obligation is also contrary to the principle of religious freedom as defined by the European Convention on Human Rights, and in fact has never been proclaimed in Ingushetia or Dagestan. Natalya Estemirova, like many of her colleagues, interpreted the concept of courage in accordance with the admirable

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81. The meeting took place on 19 May 2010; see http://eng.kremlin.ru

82. The woman in question was Zarema Muzhakhoyeva, who had been preparing to commit a suicide bomb attack on a Moscow café and was sentenced in April 2004 (Yulia Yuzik, op. cit.); see also "La vengeance des 'veuves noires'",*Le Monde,* 30 March 2010.

definition set out by Jean Jaurès: *"*Courage means seeking the truth and stating it." This is also what Anna Politkovskaya expressed through her pen and her action: "I live my life and I write what I see." The murders of these two remarkable women, like those of virtually all the other human rights defenders, are still going unpunished. As the editorial of a major European newspaper has put it, "The North Caucasus needs a little more rule of law, not more repression".[83]

83. "Barbarie – répression, la spirale caucasienne"*,Le Monde,* 3 April 2010.

Appendix 1 – List of cases transmitted to the Russian authorities

1. Murder of Anna Politkovskaya, journalist

2. Murder of Natalya Estemirova, human rights activist (Memorial, Grozny)

3. Lapin case: proceedings initiated against persons accused of being jointly responsible for the crimes, cited in the book by Stas Dmitrievsky published in 2009 (*An international tribunal for Chechnya*) in collaboration with Ms Estemirova?

4. Murder of Madina Yunusova (July 2009) – one of the last cases covered by Ms Estemirova

5. Murder of Zarema Sadulayeva and her husband Alik Dzhabrailov, human rights activists in the Chechen Republic

6. Abduction in July 2008 of Zurab Tsechoyev, human rights activist and applicant to the European Court of Human Rights (regarding the disappearance of his brother Tamerlan, who disappeared at the same time as Rashid Ozdoyev, see below)

7. Disappearance in March 2004 of Rashid Ozdoyev, public prosecutor in Ingushetia, "whistle-blower"

8. Murders of Stanislav Markelov, lawyer, and Anastasia Baburova, journalist

9. Assassination attempt on Yunus-Bek Yevkurov, President of Ingushetia

10. Death in a police car of Magomed Yevloyev, Ingush journalist

11. Murder of Maksharip Aushev, Ingush journalist

12. Abduction in 2008 of Mohmadsalah Denilovich Masayev and investigation into the accusations he published prior to his abduction (unlawful detention at Tsentoroy in 2006)

13. Murder in Vienna of Umar S. Israilov (who had accused R. Kadyrov of torture)

14. Abduction of Zarema Gaisanova, human rights activist, on 31 October 2009

15. Case of Lt Gen. V. Shamanov: proceedings initiated following the judgment of the European Court of Human Rights regarding the events in Katyr-Yurt in February 2000? Results?

16. The *Bazorkina v. Russia* case, Application No. 69481/01, judgment of 27 July 2006: proceedings initiated against General Baranov?

17. The "North-East" case: proceedings initiated against the perpetrators of the fatal shooting of unconscious terrorists during the freeing of the hostages?

18. Abduction and ill-treatment of Vagap Tutakov in September 2007

19. Violent death of Rizvan Khaikharoyev on 31 May 2006 in Nesterovskaya/Ingushetia (accusation of "public execution" carried out by Chechen agents against the wishes of Ingush police officers)

20. Disappearance of Ibragim Gazdiev (on 8 August 2007 in Magas – accusations against the Ingush FSB)

21. Abduction of Idris Tsizdoev (Republic of Ingushetia)

22. Abduction of Mr Rustam Kagirov (Chechen Republic)

23. Murder of the three Ilaev brothers (Chechen Republic)

24. Abduction of the Albekovs, father and son; public extrajudicial execution of Rivzan Albekov (Chechen Republic)

25. Abduction and murder of Batyr Albakov (Republic of Ingushetia)

26. Abduction, killings and staged combat in the village of Gubden (Republic of Dagestan)

27. Abduction of Apti Zaynalov (the Chechen Republic)

28. Acts of torture within premises of Malgobek interior department (Republic of Ingushetia)

Appendix 2 – Presentation of cases illustrating the malfunctioning of the judicial system

Abduction and disappearance of Zarema Gaisanova who worked for the Danish Refugee Council, a humanitarian NGO

1. At around 3 p.m. on 31 October 2009 in Grozny, a "special operation" was carried out by unidentified officers of units of the law enforcement agencies, during which Ali Hasanov, a member of an illegal armed faction, was killed. While searching the house next to Zarema Gaisanova's, the officers opened fire on Ms Gaisanova's house, killing Ali Hasanov. During the shooting exchange, a fire broke out in Ms Gaisanova's house, a large part of which burned down. At around 5.30 p.m., Ms Gaisanova was taken from her home, apparently by the law enforcement officers carrying out the operation. Criminal proceedings were initiated following this abduction. On the official website of the Chechen Republic Interior Ministry, the Minister of the Interior said that the special operation in Grozny on 31 October 2009, during which Mr Hasanov had died, had been carried out on the orders of the Chechen President, Ramzan Kadyrov. Witnesses of the incident said that they had seen the President and the Interior Minister at the site of the operation, the former giving an interview on the "liquidation" of the outlawed rebel fighter, Hasanov. Ms Gaisanova's mother then approached the President of Ingushetia, the Investigation Committee and the Chechen prosecution service to assist her in finding her daughter. In November 2009, during a conversation with Ms Gaisanova's mother, the investigator in charge of the case said that he had learned that her daughter was alive but that the investigators had no access to her. According to human rights activists and those close to Ms Gaisanova, officials of the Leninski district internal affairs department in Grozny (suspected of having carried out the special operation in question) repeatedly ignored the orders of the investigator in charge of the case, sabotaging the investigation process. The non-governmental "mobile human rights defence units", whose remarkable work we have already commended,[84] have taken an interest in this case. According to correspondence provided to us, the investigator in charge, Mr Tamayev, on three occasions[85] ordered the internal affairs department to take a number of specific procedural measures (identification and summoning of witnesses, identification and summoning of officers who took part in the special operation, etc.). These orders were ignored, in blatant violation of Russian legislation.[86] The investigator subsequently sent a "protest" to the internal affairs department, also informing, in two reports, the acting head of the Grozny Department of Investigation. Igor Kaliapin, head of the Committee against Torture's "mobile units", acting as the victims' legal representative, wrote to the Chechen Minister of the Interior to inform him of the police's failure to comply with the prosecution service's instructions in this case.[87] The Minister, in his reply to Mr Kaliapin, promised to take this information into account and said that tangible measures would be taken in connection with this case. Meanwhile, Ms Gaisanova's family has referred the matter to the European Court of Human Rights. To date, Zarema Gaisanova has not been found.

2. In the course of the meetings we have had with the Chechen Prosecutor, the Director of the Investigation Committee and with the Minister of the Interior, I was assured that the police and the prosecution investigators co-operated very well. Nonetheless, the minister did eventually acknowledge the problems raised in Mr Kaliapin's letter.

3. The written comments sent to us by the Chechen Prosecution Department regarding this case (No. 66094) confirm that a "special operation" targeting a certain A. A. Hasanov, member of an illegal armed faction, had indeed been carried out on the date and at the location indicated. It appears from the replies from the Minister of the Interior and the director of the regional FSB that "the abduction of Z. I. Gaisanova by law enforcement officers has not been confirmed". Seven officers from the Argun police station who took part in the operation apparently saw nobody other than A. A. Hasanov.

4. On 16 April 2010, Memorial published a document on the shortcomings of the investigation into the disappearance of Ms Gaisanova. Drawing on the various statements made by those in charge of the investigation and on the material provided by the Russian authorities under the urgent procedure initiated before the European Court of Human Rights, this document shows, in a very convincing way, the clear contradictions in this case and the authorities' prevarication.

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84. See paragraph 12 of the explanatory memorandum.
85. On 20 and 27 November and 6 December 2009.
86. According to the Russian Federation Code of Criminal Procedure (Article 21.4 and Article 152.1), the police authorities are required to carry out the instructions of the investigator within ten days.
87. The same problem occurred in the Askhabov case (see section 2 below).

Abduction and disappearance of Abdul-Yezit Askhabov, Chechen Republic

5. In the middle of the night, around 3 a.m., on 5 August 2009 in Shali, three armed individuals wearing masks and camouflage clothing, broke into the Askhabovs' house. Without giving any explanation, they took Abdul-Yezit Askhabov to an undisclosed destination. According to the neighbours' statements, the abductors used three vehicles. Mr Askhabov's family members immediately informed the police and the head of the regional administration and that same morning filed a complaint with the regional internal affairs department, the prosecution service and the local FSB (federal security services).

6. In the morning of 7 August 2009, while outside the building of the Shali regional internal affairs department awaiting news of the whereabouts of her son, the victim's mother Tamara Askhabova, together with other women from the Askhabov family, were removed by police officers, on the pretext of avoiding any "trouble" in the official building. Members of Mr Askhabov's family then went to Grozny, to the prosecution authorities. They were received by Umarpasha Hakimov, a co-worker with the Chechen Republic ombudsman, who in the presence of Tamara Askhabova called the Shali regional internal affairs department and was told that the head of department was not there at that time. He was given another number (probably that of the deputy head) which he immediately dialled. Mr Hakimov then spoke to someone who told him that Mr Askhabov was being held and that he was the brother of an "emir" (in the Chechen Republic, this term refers to the leaders of illegal armed factions). Mr Hakimov insisted that he should be released and added that "even if he is the brother of an emir, you have no right to detain him beyond the legal time limit". He assured Mr Askhabov's family that he would provide them with all the necessary assistance.

7. On 16 or 17 August (Mr Askhabov's mother is not sure of the precise date), at around 11 p.m., armed men in camouflage clothing but not masked, broke into the Askhabovs' house to carry out a search. They said that they had come from Khankala (where the largest federal military base in the Chechen Republic is located). However, according to the victim's mother, they were all Chechens. In one of the bathrooms in the house, they very quickly found a hiding place, the existence of which they could not have been aware of unless Abdul-Yezit Askhabov had previously spoken to them about it. Eventually, criminal investigations were initiated following the abduction of Abdul-Yezit Askhabov. It was only one month after his abduction that the investigator in charge of the case went to the Askhabovs' house for the first time. The whereabouts of Mr Askhabov are still unknown. According to his mother, Abdul-Yezit Askhabov has been visually impaired since childhood and would be unable to use a weapon of any sort.

8. Abdul-Yezit Askhabov's brother, Yusup Askhabov, had been a member of the illegal armed factions, but had left them. According to his family, the hiding place referred to above was used to hide Yusup Askhabov who feared reprisals from the law enforcement agencies. It is claimed that he was killed in the centre of Shali on 28 May 2009 by officers of the town's regional internal affairs department. That same day, when identifying Yusup's body, his father was violently beaten by police officers after expressing the wish that Allah would take him into His care. According to Yusup's father, the head of the Shali regional internal affairs department, Magomed Daudov (also known as "Lord"), took an active part in this beating. Yusup's father subsequently said that he had had to spend two weeks in hospital. This case is also described in the correspondence handed to us by the Committee against Torture's "mobile units" and also illustrates the lack of police co-operation with the prosecution investigators.

Abduction of Apti Zainalov, Chechen Republic

9. This was one of the last cases on which Natalya Estemirova from Memorial was working before her murder. Apti Zainalov, a resident of the Chechen Republic, convicted and imprisoned for membership of an illegal armed faction in 2005 then released in 2006, disappeared on 26 June 2009. On 2 July 2009, an individual (who preferred to remain anonymous) told the Memorial human rights defence centre that a young man named Apti, who was wounded and showed signs of having been tortured, was to be found in the Achkhoy-Martan hospital. On 3 July 2009, a representative of Memorial went to the hospital. Through a half-open door in the hospital ward, he saw four armed men in uniform, belonging in all probability to the Ministry of the Interior. A young man was lying in bed, with a bandage round his head and bruising to the face. Subsequently, a nurse told him that the patient's name was Apti Zainalov. It is claimed that the nurse added that it was forbidden to speak to this patient, that he had been taken away from the hospital on several occasions and that he had obvious signs of having been tortured. The Memorial representative who had seen Apti Zainalov in the hospital recognised him from a photograph provided by his mother. The following day, Apti's father, accompanied by a Memorial representative, once again tried to visit him in hospital, but the guards posted at the entrance to the ward prevented them from going in.

10. On 7 July 2009, the victim's mother, Aima Zainalova, accompanied by Natalya Estemirova, was received by the prosecutor of the Achkhoy-Martan region. She filed a complaint and asked him to help her get her son back. The prosecutor passed Aima Zainalova and Natalya Estemirova on to two prosecution officials, asking them to "clarify the situation". After waiting for the head of the Achkhoy-Martan internal affairs department for one and a half hours in the prosecutor's office, the two officials finally agreed to go themselves to the internal affairs department. Once there, they left Aima Zainalova and Natalya Estemirova outside the department building, never reappearing. Aima Zainalova eventually returned to the hospital where she saw her son being taken away by two armed guards and put into a vehicle.

11. On 8 and 9 July 2009, Aima Zainalova brought the matter to the Chechen Prosecutor, the head of the Achkhoy-Martan Department of Inter-district Investigations and the head of the Investigation Department of the Russian Federation's Investigative Committee for the Chechen Republic, asking them to initiate criminal proceedings following the abduction of her son and to take the necessary steps to find him. Subsequent to 9 July 2009, unidentified vehicles began following Natalya Estemirova and Ahmed Gisayev, the two Memorial workers looking into this case.

12. On 15 July 2009, Natalya Estemirova was abducted in Grozny and her body was found in Ingushetia. On 15 July 2009, Memorial filed an application before the European Court of Human Rights, complaining of a violation of Articles 3, 5 and 13 of the European Convention on Human Rights (*Makayeva v. Russia*, Application No. 37287/09). The application was notified to the Russian Federation authorities on 20 July 2009. In August 2009, Ahmed Gisayev was subject to pressure and threats from unidentified law enforcement officers. He reported this to the investigator in charge of the case, who, however, took no action to offer him protection. Memorial then decided to move Mr Gisayev away from the Chechen Republic in order to guarantee his safety.

13. The comments on this case (File No. 74032) by the Chechen Prosecutor General's office are very detailed. They include lists of witnesses questioned, requests for information addressed to various security service agencies, places inspected, etc. The specific and precise observations by members of Mr Zainalov's family, submitted by Memorial, are neither refuted nor confirmed; in fact they are not commented on at all. All the same, given the large number of witnesses and the long list of investigation activities the authorities say they have undertaken, there is some room for optimism and hope that the case will be clarified, if the authorities are willing to do so, in the near future.

Abduction of Idris Tsizdoyev, Republic of Ingushetia

14. On 26 May 2009, at around 4 a.m. in Malogbek in Ingushetia, Idris Tsizdoyev (born in 1981), while preparing for morning prayers with his brother Adam Tsizdoyev (born in 1979), was forcibly removed from his home by several individuals. When Adam Tsizdoyev asked them where they were taking his brother, they replied that they simply wanted to talk to him and would release him within a few minutes. Adam could hear the cries of his brother being beaten in the street. Ten or so minutes later, the abductors left taking Idris Tsizdoyev in their vehicle. Adam Tsizdoyev immediately informed the Malogbek regional internal affairs department.

15. he information on the abduction was immediately notified to all police stations. A vehicle fitting the description given by Adam Tsizdoyev was stopped by police officers. At an ID check, the head of the Malogbek regional internal affairs department identified one of the abductors as Lieutenant-colonel Adlan Akhmetov from ORB-2.[88] The latter claimed to have arrested and then taken Mr Tsizdoyev to the town of Magas. It would appear that the head of the Internal Affairs Department received a telephone call ordering him to allow the abductors to pass. The matter was brought to the attention of the Investigation Department of the Investigation Committee for Chechnya, the Malogbek regional internal affairs department, the Ingush Ministry of the Interior, the public prosecutors of the Chechen Republic and Ingushetia and the Prosecutor General of the Russian Federation in order to shed light on what had happened to Idris Tsizdoyev. Several human rights defence organisations, and the Chechen, Ingush and federal ombudsmen were informed of the matter.

16. However, to date, nobody has been able to find Idris Tsizdoyev. Officers from ORB-2 officially informed the Investigation Committee that on 26 May 2009 no operation had been carried out in Ingushetia and nobody had been arrested. A criminal investigation has been initiated into the facts as described. In August 2009, the

88. Operations and investigation bureau of the Russian Ministry of the Interior based in the Chechen Republic. ORB-2 has been described by several international organisations and NGOs as one of the central elements in this system of widespread torture.

case was transferred to the General Investigation Department of the Investigation Committee of the Russian Federation prosecution service for the southern federal district. However, none of the abductors has been identified in the investigation and no action has been taken against Adlan Akhmetov.

17. In our view, once again, the precise facts available to the investigators should make it possible to solve this case and prosecute those responsible, if the authorities so wish.

Abduction of Alikhan Markuyev, Chechen Republic

18. Svetlana Gannushkina, from Memorial, told us about a letter she had sent to President Medvedev on 12 January 2010, in which she described a particularly odious case relating to the abduction on 28 July 2009 of Alikhan Markuyev, who nonetheless had been granted an amnesty after voluntarily handing himself over to the authorities and leaving the illegal armed factions. What distinguishes this case is that an anonymous person in the police had sounded the alarm even before the crime took place: on 19 October 2009, this person informed the Memorial office in Moscow that Mr Markuyev and three others reported missing in the Chechen Republic (including Rasukhan Elpiev, a 15-year old boy) were in fact being held by the police in a detention facility in Gudermes. The person said that it was planned to dress the detainees in camouflage clothing and then kill them, stating afterwards that they were members of a rebel armed faction killed during a special operation. Memorial immediately informed the offices of the Chechen Prosecutor General and Minister of the Interior. The reply came on 22 October 2009 to the effect that “the information could not be confirmed”. However, on 27 November 2009, the body of a man who had been shot was found on the outskirts of Serzhen-Yurt, with a submachine gun lying by his side. His family were told that he had been killed during a “special operation”. Ms Gannushkina told President Medvedev that Memorial was aware of a series of similar abductions, in which the victims’ parents had even refused to report the matter to the authorities and make public what had happened, out of fear for their own lives and those of other family members.

Appendix 3 – Programme of the rapporteur's visit to the Russian Federation (22-27 March 2010)

Moscow

Monday 22 March 2010

9.30 a.m.-10.30 a.m.	Deputy Prosecutor General of the Russian Federation, Mr V. Grin
	(with the participation of representatives of the Military Prosecution and the Investigative Committee under the Prosecution Service of the Russian Federation)
12 noon-12.45 p.m.	Deputies of the State Duma for the Republics within the North-Caucasian Federal District (NCFD)
1 p.m.-2.30 p.m.	Working lunch with the members of the Russian delegation to the PACE and deputies of the State Duma and members of the Federation Council for the Chechen Republic, Dagestan and Ingushetia
3 p.m.-4 p.m.	Deputy Director of the Russian Federation Federal Service for Execution of Sentences, Mr A. Smirnov
4.30 p.m.-5.30 p.m.	Chairperson of the Council on Civil Society Institutions and Human Rights under the President of the Russian Federation, Mrs E. Pamfilova
6 p.m.-8 p.m.	Representatives of Memorial

Tuesday 23 March 2010

9 a.m.	Representative of the Red Cross
11 a.m.	Deputy Chairperson of the Russian Federation Government, and the Plenipotentiary of the Russian Federation President in the North-Caucasian Federal District (NCFD), M. A. Khloponin

Ingushetia (Nazran and Magas)

Wednesday 24 March 2010

9.30 a.m.-10.30 a.m.	Prosecutor of the republic, Mr Y. Turygin
11 a.m.-12 noon	Minister of the Interior *ad interim*, Mr M. Gudiev
12 noon-12.30 p.m.	Representatives of Ingush civil society
12.30 p.m.-1.30 p.m.	President of the Republic, Mr Y.-B. Evkurov
3.45 p.m.-4.45 p.m.	Head of the Regional Department of the Ministry of Justice of the Russian Federation, Mr H. Ilyasov, and the Head of the Penitentiary Department, Mr M. Gagiev
5 p.m.-7 p.m.	NGO representatives

Chechen Republic (Grozny and Gudermes)

Thursday 25 March 2010

11 a.m.-12.00 noon	President of the republic, Mr R. Kadyrov
12.15 p.m.-1.45 p.m.	Ombudsperson of the republic, Mr N. Nukhazhiev
2 p.m.-3 p.m.	Lunch hosted by the President of the Chechen Republic
3.20 p.m.-4.20 p.m.	Minister of the Interior, Mr R. Alkhanov
	Head of the Penitentiary Department, Mr A. Iriskhanov

	Representative of the Ministry of the Interior in the federal district of the North Caucasus, Colonel-General E. Lasebin
4.30 p.m.-5.45 p.m.	Prosecutor of the republic, Mr M. Savtchin
	Military prosecutor, Mr M. Toporikov
	Head of the Investigations Department, Mr V. Ledenev
6 p.m.	NGO representatives

Dagestan (Makhachkala)

Friday 26 March 2010

12.30 p.m.-2.30 p.m.	Ministry of the Interior, Investigations Committee, Prosecutor, Penitentiary Department
3.45 p.m.-4.45 p.m.	NGO representatives
4.45 p.m.-5.45 p.m.	Representatives of civil society in Dagestan
5.45 p.m.-6.30 p.m.	Ombudsperson of the republic, Ms Uma Omarova
6.30 p.m.-8 p.m.	NGO representatives

Saturday 27 March 2010

9 a.m.-9.45 a.m.	President of the Republic of Dagestan, Mr Magomedov
9.45 a.m.-11.15 a.m.	Transfer to Derbent
11.15 a.m.-3 p.m.	Representatives of civil society in Derbent