Parliamentary Assembly
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Resolution 1738 (2010)[1]
Final version

Legal remedies for human rights violations in the North Caucasus Region

Parliamentary Assembly

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 country's infrastructure; this has indubitably improved the living conditions of inhabitants after so many years of severe hardship.

2. The Assembly recalls its Resolution 1479 (2006) on human rights violations in the Chechen Republic: the Committee of Ministers' responsibility vis-à-vis the Assembly's concerns, in which it warned the Russian Federation about 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 several 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 friends and families of all victims of violence, including those of the recent Moscow Metro bombings, as well as those 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 the standpoint of safeguarding human rights and upholding the 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, as well as the functioning of justice and the democratic institutions, nonetheless continue to arouse the keenest anxieties: disappearances of government opponents and defenders of human rights 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 (their homes are set on fire; close relatives of the suspect or suspects are abducted or receive serious threats, etc.), a climate of continuous intimidation reigns over 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.

1. *Assembly debate* on 22 June 2010 (21st Sitting) (see Doc. 12276, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Marty; and Doc. 12301, opinion of the Political Affairs Committee, rapporteur: Mrs Brasseur). *Text adopted by the Assembly* on 22 June 2010 (21st Sitting). See also Recommendation 1922 (2010).

4.2. In Ingushetia, since the appointment of the new president, constructive dialogue has grown 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 in circumstances which have to this day not been fully elucidated. The Assembly encourages him to continue his policy towards a more stable situation in the republic through dialogue with civil society.

4.3. More recently, Dagestan also underwent a fresh outbreak of terrorist acts which have unfortunately prompted responses from 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 to it.

5. The suffering of the close relatives of thousands of missing persons in the region and their inability to grieve properly constitute a major obstacle to true reconciliation and lasting peace. The International Committee of the Red Cross (ICRC), 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. The setting-up of a high-level state committee on disappeared persons appears essential.

6. The Assembly takes note of the very numerous judgments of the European Court of Human Rights ("the Court") – 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 ("the Convention", ETS No. 5)) and the prohibition of torture (Article 3);

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

6.3. in a large number of cases, it also holds that the treatment meted out by the representatives of the security forces to the close relatives of the abducted persons constitute 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 promptly pay 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) on the United States of America and international law concerning the human rights violations committed by the United States and its allies in the name of combating terrorism, forcefully reaffirms its unequivocal condemnation of any act of terrorism, and remains convinced that terrorism can only be fought effectively while respecting fundamental rights and the tenets of the 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 by them, much less combated by them, are unacceptable acts to be unreservedly condemned;

9.2. these outrages and omissions erode the very co-existence at the heart of society, as they destroy the population's trust in the institutions, thus dooming to failure any attempt to contend effectively with the terrorist threat and instead favouring the rise of extremism;

9.3. human rights violations committed by the authorities end by conferring a status 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. On the other hand, lawful arrests, in accordance with 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 feed the spiral of violence further, all the more so 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 to 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 bewilderment 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, sometimes in a humiliating manner, 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 its authority. There are strong indications that the Chechen leaders, or at least circles close to them, were directly implicated in the murder of Umar Israilov on the streets of Vienna. In this respect, the Assembly invites the Austrian and Russian authorities to co-operate in order to fully elucidate this case.

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 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. provide the necessary conditions to ensure that victims of human rights abuses have access to justice and are free to exercise their rights to an effective remedy before the judicial authorities and enjoy adequate protection;

13.1.4. intensify co-operation with the Council of Europe in enforcing the judgments of the Court, 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;

13.1.5. 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 the justice system in dismantling the terrorist networks and criminal entities that exist within the security forces, as well as prevent further acts of violence and take the necessary general measures to effectively prevent such violations in future;

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

13.1.7. implement the proposals of the ICRC to resolve as far as possible the serious problem of missing persons, and create conditions favourable to renewed ICRC visits to detainees arrested and held in relation with the situation in the North Caucasus region;

13.1.8. 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, one of several factors causing social unease, ongoing radicalisation and crime;

13.1.9. give their earliest consent to the publication of the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) concerning the North Caucasus region;

13.1.10. promote initiatives at every level to enhance intercultural and interfaith dialogue in order to increase knowledge about the Caucasian populations and improve 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 from the executive and judicial authorities concerning the malfunctions observed in the region and mentioned in this resolution, as well as 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 refugees from the North Caucasus who have been harboured on their territory, and consider with the greatest care and caution requests concerning their extradition, in compliance with the European Convention on Human Rights.

14. The Assembly requests its Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) to pay particular attention to the evolution of the human rights situation in the North Caucasus. It pays tribute to the Council of Europe Commissioner for Human Rights and the 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.