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The situation of IDPs and returnees in the North Caucasus region

Committee Opinion¹

Committee on Legal Affairs and Human Rights

Rapporteur: Ms Marieluise BECK, Germany, Alliance of Liberals and Democrats for Europe

A. Conclusions of the committee

1. The Committee on Legal Affairs and Human Rights congratulates the Committee on Migration, Refugees and Displaced Persons and its rapporteur, Mr Nikolaos Dendias, for the report on the situation of IDPs and returnees in the North Caucasus region. The report aptly presents the difficult social and economic situation of these particularly vulnerable population groups. It would nevertheless benefit from being supplemented from a legal and human rights perspective. Problems such as the continuing climate of impunity of perpetrators of serious human rights violations, in particular in the Chechen Republic, the precarious situation of human rights defenders in the region, including those looking after internally displaced persons (IDPs), refugees and returnees, and threats or even actual violence against persons who have fled from the region and are now living in other parts of the Russian Federation or abroad must also be addressed in the Assembly's resolution in order to provide a complete and well-balanced picture of the situation of the populations concerned. This is the purpose of the amendments proposed by the Committee on Legal Affairs and Human Rights.

B. Proposed amendments to the draft resolution

Amendment A (to the draft resolution)

In the draft resolution, after paragraph 8.1.8, insert the following paragraph:

“put an end to the impunity of perpetrators of serious human rights violations, including murder, enforced disappearances and torture, in particular by strengthening federal oversight over the activities of regional security and law enforcement bodies and by scrupulously implementing the numerous judgments of the European Court of Human Rights;”

Amendment B (to the draft resolution)

In the draft resolution, at the end of paragraph 8.2.5, add the following sentence:

“fully investigate and prosecute all criminal acts directed against such human rights workers as well as against returnees, including former prominent representatives of previous governments;”

1. Reference to committee: [Doc. 12398](#), Reference 3725 of 12 November 2010. Reporting committee: Committee on Migration, Refugees and Displaced Persons. See [Doc. 12882](#). Opinion approved by the committee on 12 March 2012.



Amendment C (to the draft resolution)

In the draft resolution, after paragraph 8.2.5, add the following paragraph:

“refrain from intimidating or pressuring Chechen refugees living in other parts of the Russian Federation or abroad to return to the Chechen Republic and to publicly submit to the current authorities; fully investigate the background of the murder of Umar Israilov in Vienna and prosecute also the instigators and organisers of this crime.”

C. Explanatory memorandum by Ms Beck, rapporteur for opinion

1. Mr Dendias’ report paints a well-balanced picture of the situation of IDPs, returned IDPs and refugees in the North Caucasus region, in particular as regards their difficult social and economic situation. It is the purpose of the present opinion and of the three amendments on behalf of the Committee on Legal Affairs and Human Rights to complete this picture by adding legal and human rights considerations.

Amendment A

2. It is obvious that IDPs and returned IDPs are exposed to the general human rights problems in the region. Arguably, they are even more exposed to human rights abuses as returnees arouse suspicion more easily than persons who never felt compelled to leave the region in the first place.

3. The last report of the Parliamentary Assembly analysing the human rights situation in the North Caucasus region was that of our former colleague Mr Dick Marty.² It is remarkable that his report, which provides a comprehensive and realistic picture of the climate of impunity prevailing in the region, and in particular in the Chechen Republic, had the support not only of the vast majority of the Assembly, but also of the Russian delegation itself. After almost two years, we may legitimately ask the question whether the strong message sent through this report was actually received and acted upon.

4. The Council of Europe’s Commissioner for Human Rights, Thomas Hammarberg, undertook a fact-finding visit to the region one year after Mr Marty, in May 2011.³ He asked his interlocutors from the law enforcement bodies what progress the special investigative structures had made, especially those which had been set up in order to investigate – as a matter of priority – cases in which the European Court of Human Rights had found “procedural” violations of Articles 2 or 3 of the European Convention on Human Rights (ETS No. 5) (right to life, prohibition of torture).⁴ When Mr Marty enquired, with the competent authorities, as to how many of these cases the special investigative unit had succeeded in elucidating, he was reminded that the structures in question had only just been created. One year later, Mr Hammarberg still felt obliged to conclude that “persistent patterns of impunity for serious human rights violations are among the most intractable problems of the North Caucasus and remain a source of major concern for the Commissioner”.⁵

5. More specifically, the Ministers’ Deputies, in a decision of 8 June 2011,⁶ “expressed deep concern at the lack of any conclusive results in the investigations, in particular in those cases in which members of the security forces may have been involved”. Similarly, the Assembly, in its [Resolution 1787 \(2011\)](#) on the implementation of judgments of the European Court of Human Rights, noted that “[r]egrettably, the alleged recent structural improvements of domestic investigation procedures have not as yet led to any tangible results; it is understood that the President of the Russian Federation has recently submitted to the Federal Assembly draft legislation on an integrated reform of the Ministry of the Interior”.⁷

2. “Legal remedies for human rights violations in the North-Caucasus Region”, [Doc. 12276](#) of 4 June 2010.

3. “Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to the Russian Federation from 12 to 21 May 2011”, Strasbourg, 6 September 2011, CommDH(2011)21, <https://wcd.coe.int/ViewDoc.jsp?id=1825257>.

4. In more than 180 judgments the Court has found violations by the Russian Federation of Articles 2 or 3 of the Convention for facts relating mostly to the Chechen Republic; about 60% of these cases concern the enforced disappearance of one or more relatives of an applicant (see the report by Mr Hammarberg (footnote 3), p. 3).

5. Ibid. (footnote 3), p. 8.

6. Available at: [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Del/dec\(2011\)1115](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Del/dec(2011)1115).

7. [Resolution 1787 \(2011\)](#), paragraph 7.7.2.

6. For my part, I intend to ask the competent authorities of the Russian Federation, yet again, to provide me with (tangible) results of progress achieved with respect to cases in which the Court has found a failure to investigate.⁸ I cannot but subscribe to the Assembly's statement that "[t]he actual elucidation of at least a significant part of these cases is indispensable in order to end the climate of impunity in this region".⁹

Amendment B

7. The situation of human rights defenders is of special relevance to returned refugees and IDPs, as the latter have a particularly strong need for the assistance and protection offered. The situation of human rights defenders in general, and of those who look after refugees and IDPs in particular, is still very difficult throughout the North Caucasus region, and in particular in the Chechen Republic. Our colleague Ms Mailis Reps organised a very interesting hearing on the situation of human rights defenders at the meeting of the Committee on Legal Affairs and Human Rights on 26 January 2012.

8. The up-to-date information provided by Tatyana Lokshina, Deputy Head of Human Rights Watch (Moscow), speaks for itself.¹⁰ According to her testimony, "harassment of human rights defenders continued and the working climate for civil society organisations and activists remained hostile". Most worryingly, she informed the committee that "most staff members of the Committee against Torture's Grozny office had to resign from their jobs by the end of 2011 as a result of pressure from the local authorities, typically carried out through approaching and threatening their family members. Several clients of the committee against Torture in Chechnya were also approached by law enforcement officials who threatened them with serious repercussions for their families if they dared continue their co-operation with the Committee and their quest for justice".

9. Such behaviour vis-à-vis human rights defenders and persons seeking their assistance is totally unacceptable in a member State of the Council of Europe – and even more so when it is directed against a group which was awarded the Assembly's Human Rights Prize in the same year! Also, the murders of Natalya Estemirova, a leading Chechen human rights defender, who was killed in 2009, and of two local activists, Zarema Saidulaeva and Alik Dzhabrailov, who were abducted a few weeks after Ms Estemirova (by persons identified by witnesses as law enforcement officials) and found dead hours later, are still unsolved. Last but not least, the case of Zarema Gaysanova, a staff member of the Danish Refugee Council abducted in Grozny on 31 October 2009, still remains unsolved.

10. Commissioner Hammarberg reports that "a series of requests made by investigators to law enforcement (internal affairs) officials for undertaking various investigative acts were disregarded in that case. Moreover, repeated instructions by investigators for summoning witnesses from a particular law enforcement unit were reportedly ignored".¹¹ The authorities assured Mr Hammarberg that the investigation was still open and was being pursued by a special unit of the investigative committee of the Chechen Republic. These emblematic cases were already raised by Mr Marty in his 2010 report for the Assembly, and Mr Hammarberg deserves praise for raising them in his turn. We owe it to these activists whose work was to a large extent dedicated to refugees and IDPs that we continue to use every opportunity to inquire about and demand tangible evidence of progress in these investigations.

Amendment C

11. The still unresolved human rights and security situation in the region is one of the reasons why exiled Chechens in particular, hundreds of thousands of whom still live in other regions of Russia and outside the Russian Federation, are still hesitating to return home, despite the difficulties – including sometimes blunt racist prejudice – they face in their new places of residence and their feelings of homesickness.

12. According to testimony I have received from exiled Chechens, the authorities in Grozny send out discomfiting and confusing signals. On the one hand, persons living in exile are warmly invited to return home, and even offered the provision of housing, sometimes even a car, in the event of their return. On the other hand, they are threatened in case of refusal by "envoys" who employ increasing pressure – for example by repeatedly intercepting them in the street, blocking their way, or expressing threats against family members

8. In my role as rapporteur on "Threats to the rule of law – Upholding the Assembly's authority"; under this mandate, I am required to follow up the implementation of earlier reports on the threats to the rule of law, including the report by Mr Dick Marty on "Legal remedies for human rights violations in the North Caucasus region".

9. Resolution 1787 (2011), paragraph 7.7.2. *in fine*.

10. The text of Ms Lokshina's intervention is available from the committee secretariat.

11. Report by Mr Hammarberg, op. cit. (footnote 3), p. 8.

who have remained in the country. The fatal outcome of another case of an exiled opponent who ignored urgent calls to return – Umar Israilov – is well known.¹² He was gunned down in the street in Vienna. His murderers – Chechens – were arrested by the Austrian police and convicted by a Viennese court. But this trial failed to shed light on the background of this murder, despite the courageous intervention, as an expert witness, of our former colleague Mr Dick Marty.¹³

13. A report submitted by Pax Christi¹⁴ in December 2011 documents a number of specific cases of threats and pressure against exiled Chechens in Poland and describes the somewhat surprising ease of co-operation between members of, respectively, Polish and Russian Chechen services based on long-standing personal ties. The perceived ease of movement of “kadyrovtsy” in Poland and elsewhere generates a feeling of deep insecurity and distrust vis-à-vis the authorities among exiled Chechens.

12. See *New York Times* of 6 October 2011, article on Ramzan A. Kadyrov, http://topics.nytimes.com/top/reference/timestopics/people/k/ramzan_a_kadyrov/index.html; the *Guardian* of 2 June 2011, “Chechens jailed over Vienna shooting – Austria convicts three men over death of exile who tried to bring Kremlin-backed Chechen leader to court on torture charges”, www.guardian.co.uk/world/2011/jun/02/chechens-jailed-vienna-shooting; FIDH, 6 June 2011, “Israilov case – Trial in Vienna: the victory of justice”, www.fidh.org/Israilov-case-Trial-in-Vienna-The.

13. Mr Marty’s testimony is reported extensively by the European Centre for Constitutional and Human Rights (ECCHR) in Berlin in the ECCHR trial summary entitled “The trial on the murder of Umar Israilov before the regional court for criminal matters in Vienna”, www.ecchr.eu/index.php/kadyrov_case.

14. Pax Christi Vlaanderen VZW, “Safety of Chechen asylum seekers in Poland”, report by Annemarie Gielen, Pax Christi Flanders, with the assistance of Bart Staes, MEP Greens/ALE, An Maes, Belgian Refugee Council, and Imran Ezheev, special adviser to Bart Staes on Chechen asylum seekers in the European Union – December 2011.