

COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

Conseil de l'Europe - *Council of Europe*
Strasbourg, France

REQUÊTE
APPLICATION

présentée en application de l'article 34 de la Convention européenne des Droits de
l'Homme, ainsi que des articles 45 et 47 du Règlement intérieur de la Cour

*under Article 34 of the European Convention on Human Rights and Rules 45 and 47 of the Rules
of Court*

I THE PARTIES

A. THE APPLICANT

1. Name of the Applicant **ISRAILOV**
2. First name **Umar Sharpudievich**
Sex: **Male**
3. Nationality **Russian**
4. Occupation **None**
5. Date and place of birth **1981, Chechnya, RF**
6. Permanent address **Withheld for security reasons.**
[REDACTED]
[REDACTED]
[REDACTED]
7. Telephone [REDACTED]
8. At present at [REDACTED]
[REDACTED]
[REDACTED]
9. Name of representatives [REDACTED]
10. Occupation of the representative [REDACTED]
11. Address of representative [REDACTED]
[REDACTED]

12. Telephone

Fax

*** EXPLANATORY NOTE**

This Application is extremely sensitive in nature. It alleges the direct involvement in, and instigation of, torture, inhuman and degrading treatment by the current prime minister of the Republic of Chechnya, Ramzan Kadyrov, and other top officials in the current administration in that republic. Due to the risk of repercussions and, particularly, in the light of the recent murder of Anna Politkovskaya who was in the process of writing an article that implicated Mr. Kadyrov directly in enforced disappearances and whose murder gave rise to widespread speculation of Mr. Kadyrov's involvement in it, the Applicant would like to keep his exact whereabouts undisclosed for the time being. The Applicant is willing to disclose his exact whereabouts whenever the Court considers that necessary. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

B. THE HIGH CONTRACTING PARTY

13. The Russian Federation

II STATEMENT OF THE FACTS

14.

Summary

14.1. On **15 April 2003**, officers of the Oil Protection Regiment of the Ministry of Interior of the Republic of Chechnya in Belgatol detained Umar Israilov, the Applicant, and two other young men. After a short stop at a local base, the Applicant was taken to an ad-hoc detention center in Argun, where he was interrogated and repeatedly beaten. The next day, at the order of current prime minister of Chechnya, Ramzan Kadyrov, he and the other men were taken to the main base of the Security Service of the President of the Republic of Chechnya (hereinafter: SB) in Tsentoroi. The Applicant was held at that base for about three months, during the first two weeks of which he was repeatedly and severely ill-treated and tortured, including by Ramzan Kadyrov personally.

14.2. After about three months, the Applicant was forced to join Ramzan Kadyrov's security forces. Initially, the Applicant served at the base in Tsentoroi as a guard. However, he essentially remained a prisoner as he was not allowed to leave the base at any time or visit with his wife or other relatives. Later, the Applicant was recruited into Kadyrov's body guards and traveled with Kadyrov around Chechnya, particularly to Gudermes and Grozny. At this point, the Applicant was able to visit with relatives. In the spring of 2004, the Applicant was appointed commander of the local unit of

the Presidential Security Service in his home village of Mesker-Yurt. In the summer of 2004, Kadyrov transferred the Applicant into a local police unit.

- 14.3. The Applicant had no choice but to work in Kadyrov's forces. He did not do so voluntarily. After Ramzan Kadyrov sent the Applicant to his home village of Mesker-Yurt with the explicit instruction to capture rebels—the people he had previously fought Russian forces with—he and his father decided that he had to flee Russia. In August 2004, the Applicant had a serious car accident and spent several months recovering. During this time, his father arranged travel documents for the Applicant, and in mid-November 2004 the Applicant and his wife left Russia for Poland.
- 14.4. Two weeks later, forces acting on the explicit orders of Ramzan Kadyrov detained the Applicant's father, his stepmother and his sister-in-law. On 27 November 2004, Ramzan Kadyrov called the Applicant on his Polish cell phone several times and told him that he had captured several members of his family and would kill them if the Applicant did not return home. The Applicant refused to come home. His stepmother was released that same evening, his sister-in-law about two weeks later. His father was held by Kadyrov's forces for more than eleven months.
- 14.5. The Applicant has since left Poland as he did not feel safe there. He currently resides in another country, with his wife and two children.
- 14.6. In May 2006 the Applicant's father and his family fled Russia. In September 2006, the Applicant's sister-in-law, who had been detained following his flight, left Russia as well.

- 14.7. With most of his immediate family now residing outside Russia, the Applicant submitted a detailed complaint to the prosecutor general's office in Moscow on 26 October 2006, requesting that a criminal investigation be opened regarding his unlawful detention and the torture and ill-treatment he was subjected to. The Applicant is currently awaiting a response. He will take all steps in his power to ensure that the abuses against him are properly investigated and the perpetrators brought to justice. He will keep the Court informed of developments in this process.
- 14.8. The Applicant alleges that he suffered from violations of **Article 3** due to the ill-treatment he was subjected to by various officers of the Presidential Security Service of the Republic of Chechnya over the course of the three months of his detention. In case the domestic investigation into his complaint to the prosecutor's office in Russia proves inadequate, the Applicant will also allege a failure to investigate his arguable claim of ill-treatment. The Applicant also alleges a violation of **Article 5** as he was held without any respect for due process. Finally, he will allege a violation of **Article 13** in respect of the authorities' failure to guarantee an effective remedy for the violations suffered in case the prosecutor's office's response to his complaint will not be adequate.

Background

- 14.9. The Applicant, Umar (Alikhan) Sharpudievich Israilov, was born in 1981 in the village of Mesker-Yurt in Shalinskiy district of the Chechen Republic of the Russian Federation. The Applicant grew up in the village of Mesker-Yurt in Shalinskiy district of Chechnya, where he lived with his grandmother, since his parents were divorced and lived with their respective new families. His father had

named his Umar but his mother's family called him Alikhan. As a result, he is known to many in Chechnya by that name.

- 14.10. In 1995, during the first Chechen war the Applicant's mother was killed as a result of shelling in the village of Meskert-Yurt. His two stepbrothers on his mother's side now live with their father. On his father's side the Applicant has one stepbrother and two stepsisters. In 2003, the Applicant got married to Malizha Sagieva, born in 1981. They have two children.
- 14.12. In 2001, during the second Chechen war, the Applicant contacted the commander of our village Dzhamaat (local rebel commander), Rezvan Osmaev, and expressed his desire to take part in resistance. At the beginning, he was collecting information about locations of mobile checkpoints to ensure that the rebels did not get ambushed. He met with Rezvan Osmaev on a weekly basis and passed the information to him. Later, he was provided with a weapon. He continued to live with his grandmother in Mesker-Yurt and occasionally went to the mountains for military operations. At some point it became dangerous for the Applicant to stay in the village and he started staying in different places, with different relatives.
- 14.13. In April 2003, the Applicant and two other young men, Movladi Kakhtsulov and Aslan Molaev, lived in a dug out shelter on the outskirts of Mesker-Yurt. They had to stay there because people had become too afraid to let them stay in their houses.

Capture and torture

- 14.14. Late in the evening on April 15, 2003, the three men went to the village of Belgotoy to buy food. Near the village, they were

detained by the local oil protection unit. The security officials tied the Applicant up, put him into the trunk of their car, and drove him, along with the two other men, to a base belonging to the Neftepolk (the Oil Protection Regiment), located between the villages of Mesker-Yurt and Belgotoy. Within an hour, the three men were taken to a base of Chechnya's Presidential Security Service (SB) in the town of Argun.

14.15. The SB was a paramilitary force commanded by Ramzan Kadyrov at the time. It was first constituted at the order of then president of Chechnya, Akhmad Kadyrov, as a force that was primarily charged with ensuring his security. Akhmad Kadyrov appointed his son Ramzan Kadyrov to lead the force. Ramzan Kadyrov recruited people from his clan and rebels who wanted to switch sides into the force, which quickly grew to count several thousand well-armed fighters. Before long, the force began to participate in operations that went well beyond the protection of Chechnya's president. By 2003, it was involved in counterinsurgency operations. The SB, together with a number of police units which were also closely controlled by Ramzan Kadyrov, like the Oil Protection Regiment, quickly gained notoriety among the population of Chechnya and their officers came to be referred to popularly as the "Kadyrovtsy."

14.16. The SB had its headquarters in Tsentoroi, the home village of the Kadyrov clan, where a number of bases were set up that contained, among others prisons. The SB also had local departments in villages throughout Chechnya, many of which also ran detention centers. Under Russian law, the SB did not exist and had no authority to conduct any law enforcement operations. Yet, the Russian government tolerated and even encouraged the operations of the SB. In 2004, Ramzan Kadyrov was awarded the hero of

Russia medal. He repeatedly spoke openly about the existence and operations of the force.

- 14.17. Following the murder of Akhmad Kadyrov and the installment of Alu Alkhanov as president of Chechnya, the SB was reformed a number of times. Several parts of the service were integrated into official police units, like the PPSM-II (patrulno-postovaya sluzhba militsii II). In 2004, the SB was renamed the Anti-Terrorism Center, which also had no basis in Russian law. Finally, in 2006, two military units were created on the basis of the SB, thus incorporating them into regular military and police structures.
- 14.18. Servicemen at that base put a bag over the Applicant's head, handcuffed him, tied his legs and threw him into the cellar. That same night, the Applicant was interrogated and beaten. The Applicant does not know how many people were interrogating me, but one of them was a man called Musa; he was the commander of the base of Security Service of the Chechen President from the village of Benoy. At some point he took the bag off the Applicant's head and asked the Applicant to look into his eyes. In the photograph in appendix 1 Musa is in the very middle of the lower row as indicated on the photograph. In appendix 2 is a better copy of that photograph that is unmarked.
- 14.19. Musa asked the Applicant about a gathering of rebels that was allegedly supposed to take place in the village of Chechen-Aul, where he believed the Applicant had been headed. He repeatedly asked about the location of the meeting, those participating, and the purpose of the gathering. When the Applicant stated that he did not know anything about the meeting, Musa and others started to beat him. The interrogation lasted all night. One of the interrogators hit the Applicant in the face with the rifle butt and

broke his nose. Shortly before dawn, Aslan and Movladi, the other two men, were thrown into the cellar where the Applicant was held.

- 14.20. At dawn, the head of the Argun police came with his guard to the facility. They also beat the Applicant and the other two detainees, accusing them of murdering a police officer in the town of Argun the day before. They beat the three men for about an hour and a half or two hours and tried to force them to sign some paper. They eventually left.
- 14.21. That same day, Musa interrogated the three men again, each separately. Musa asked the Applicant about weapons this time. The beatings continued but were less violent than the day before.
- 14.22. The next morning the three men were transported to Gudermes. They were taken to the so-called 'boxing club'. This boxing club is indicated on a diagram in appendix 3. There, the three men were shown to Ramzan Kadyrov, who looked at them, laughed and then ordered his men to take them to the village of Tsentoroi.
- 14.23. Kadyrov's men took all three men to the SB base in Tsentoroi. There, the Applicant and the two other men were put into a so called prison — two cells for detainees at the SB base. A plan of the base at Tsentoroi with the prison cells indicated is in appendix 4. There were already five detainees in the cells when they got there. The Applicant spent the next three months in detention there. The number of prisoners varied considerably. At some point there were up to thirty people in these two cells. The cells did not have any windows. The Applicant was not allowed to wash once during his three months in detention.

- 14.24. The five detainees that were in the cell with the Applicant were all in bad shape; all of them had been severely beaten. Three of them were rebel fighters: Shamil Gerikhanov and Aidamir Gushayev from Geldagen, and Umar Barkayev from Kurchaloy. A report by the Memorial Human Rights Center describing a television broadcast in which Gerikhanov and Barkayev were seen being interrogated by Ramzan Kadyrov's forces is appended in appendix 11. The three rebels were subsequently extrajudicially executed (see below).
- 14.25. On the first day in Tsentoroi, several officers of the Federal Security Service (FSB) from Dagestan interrogated the Applicant. The FSB officers and Kadyrov's guard beat the Applicant and tried to force him to sign a confession regarding the murders of seventeen people. At one point, Ramzan Kadyrov came in and watched the interrogation. On the photo in appendix 1, Ramzan Kadyrov is in the middle of the top row.
- 14.26. That same day, the Applicant and the other two men were taken out of their cell into the courtyard. In the front courtyard under an awning indicated in the diagram in appendix 4, Ramzan Kadyrov and his guards started beating the Applicant, who fell and lost consciousness. He came to his senses in the cell.
- 14.27. On the second day of his stay in Tsentoroi, the Applicant was taken to a gym at the base (also marked on the plan in appendix 4) and was interrogated there. The officers tied the Applicant to one of the exercise machines, and beat him. They asked him about Rezvan Osmaev, other rebels, weapons, and about the gathering in Chechen-Aul mentioned above. Similar interrogations and beatings of the Applicant took place in that gym every day throughout the first two weeks. The man in charge of most interrogations in the "gym" was one of the SB commanders and a confidant of Ramzan

Kadyrov; at the time, the Applicant knew him only by his nickname, Jihad. He worked with a group of interrogators who were beat the detainees. Jihad is the person to the right of Ramzan Kadyrov (for the spectator) in the photograph in appendix 1.

14.28. Ramzan Kadyrov was present at these interrogations in the gym or in the yard behind the gym approximately three times per week. He also personally participated in the beatings at the gym and in the yard behind the gym. He usually started by a hand blow and some kicks after which his body guards continued beating the Applicant. He frequently told the Applicant that he would not leave the base alive. Questions ranged from the meeting in Chechen-Aul to where the Applicant's weapons were to names of other rebels.

14.29. One evening in May or early June, Kadyrov's men took the Applicant out of his cell and brought him to the gym. In the gym, Ramzan Kadyrov showed the Applicant some sort of machine with a handle and told him that he had just obtained it and was going to try it out on him. Kadyrov's guards then forced the Applicant to sit down on the seat of one of the weight training machines and attached a wire to his ear, and another one to his little finger. Kadyrov then started to twirl the handle and electrocuted the Applicant, causing him severe pain the head and hand. Kadyrov laughed at the Applicant's reaction to the current. He repeated the procedure several times, each time inflicting electric shocks on the Applicant. After some time, Kadyrov's guards took the Applicant back to his cell.

14.30. Aslan Molayev and Movladi Kakhtsulov, the men who were detained along with the Applicant, both repeatedly witnessed how the Applicant was beaten. Both men were released from prison before the Applicant. Kakhtsulov was recruited into the SB and sent to

serve in Mesker-Yurt. Later, he was killed under unclear circumstances. Molayev was set free and immediately fled to Ingushetia, and then fled Russia and he currently lives in Western Europe, where he received refugee status.

- 14.31. After the first two weeks, the interrogations stopped. However, different SB officers or confidantes of Kadyrov repeatedly came to the Applicant's cells and beat him and the other prisoners. In particular, Adam Demilkhanov, the commander of the Neftepolk, beat him several times (Demilkhanov is the man in suit with a pink tie standing on the left in the photograph in appendix 5), as did Alvi (nickname Oskar), the SB commander in Tsotsin-Yurt (he is the man sitting in the front row all the way to the left in the photograph in appendix 1; the Applicant later learned that Alvi's last name is Usmanov), Jihad, and Zelimkhan Kadyrov (Ramzan Karyrov's late brother).
- 14.32. Once, after two weeks of imprisonment at the base in Tsentoroi, the Applicant and his cell mates were drinking tea in the corridor of the base's two cells. Suddenly a number of men, whom the Applicant had never seen before, came in and forced all the detainees, except for the Applicant, back into the cells. They then began to beat the Applicant with rifle butts and other objects. Several of the men then grabbed the Applicant and held him tight, while others lifted up the bottoms of his pants and then poked him with a hot metal rod. They poked him in the legs in several different places, including his left leg under the knee and his right foot below the big toe, about five or six times. This continued for about ten minutes. Then the men forced me back into the cell, the one farthest from the entrance. The Applicant never saw the men again. Scars from the poking with the hot metal rod remain visible

to this day, and have been registered by a medical examination upon the Applicant's arrival to Europe (see appendix 6).

- 14.33. Another time, one of the guards came into the Applicant's cell. He started hitting the Applicant on the head and then tried to shoot the Applicant in the foot when he got up. The Applicant managed to escape from the shot, but the bullet ricocheted and struck his lip. The guard called a doctor, and the doctor put stitches in his lip right there in the cell without any anesthesia. The guard ordered the Applicant not to mention anything to Ramzan Kadyrov or he would come and beat me every day. Scars from the bullet are still visible, and have been registered by a medical examination upon his arrival to Europe (see appendix 6).

Recruitment into the SB

- 14.34. After about three months, Ramzan Kadyrov summoned the Applicant to a big meeting and ordered one of his body guards to take him to the sauna [in Russian, "banya"]. The body guard handcuffed the Applicant and ordered him to get into a car. At this point, the Applicant was convinced that he was going to be killed. But the guard drove him to a banya in the village, took off the handcuffs and gave him clean clothes.
- 14.35. Upon return to the base, the Applicant received a military uniform and was conscripted into the SB. The Applicant was given no choice. Ramzan Kadyrov later told him that he had ordered the commander of the SB in Mesker-Yurt, a man known as Salakh, to execute him but that this commander had refused. Kadyrov had then decided to enlist the Applicant into his forces.

- 14.36. At first, the Applicant was posted at a checkpoint at the entry point to the base. He essentially continued to be a prisoner as he was not allowed to leave Tsenteroi at any time, including to visit his wife or other relatives. The Applicant rented a place to live in the village.
- 14.37. Initially, the Applicants relatives had no information regarding his whereabouts. Eventually, they were informed that the Applicant was being held in Tsenteroi by officers of the SB from Mesker-Yurt. Only after the Applicant was drafted into Ramzan Kadyrov's body guard was he allowed to see his wife and relatives. He saw his wife several times when she visited him in Gudermes and Kadyrov allowed them to see each other at a hotel. Later, when he was able move around more freely, he visited his father at his apartment in Grozny.
- 14.38. There were three SB bases in Tsenteroi – one was located in the centre of the village to protect Kadyrov's house, and two more at the outskirts of the village. A sketch of the village and the bases is included in Appendix 7. The Applicant served at the base where he had previously been detained himself. This base is located at the outskirts of Tsenteroi, close to the village of Alleroy. The gym where the interrogations and torture took place was also located at that base. Officers of the SB in Tsenteroi patrolled all routes in the village and the bases.
- 14.39. Many commanders of the Security Service had homes in Tsenteroi. Kadyrov always slept in Tsentotoi, and during the day he worked in Gudermes, in the so-called "Ramzan" boxing club. Furthermore, he regularly visited the base where the Applicant was serving. Whenever there were any well-known guerillas brought to that base, he would come every day. He interrogated and tortured them. The base was only a 5-7 minute ride from his house.

- 14.40. In the spring 2004, Kadyrov appointed the Applicant as the SB commander in Mesker-Yurt. Almost all members of his squad there were former guerillas from the village, who had either switched sides themselves or had, like the Applicant, been forced to join. Although the Applicant had been ordered to capture rebels—the very people he had fought against Russia with previously—he never detained any real guerillas, instead picking up people for minor regular criminal offenses.
- 14.41. The base was located on the premises of the former hospital on Lenin Street in the centre of the village. The Applicant appends a sketch of the base drawn in appendix 8. The Applicant commanded about 30 officers. Unlike other SB bases, the one in Mesker-Yurt did not have a special detention facility so detainees would be held in one of the rooms at the base. No procedures existed at the time to document in any way detentions or other operations.
- 14.42. In the summer of 2004, PPSM-2 was created and the Applicant was transferred into that unit. The Applicant was assigned to the town of Shali, where he worked under the supervision of an officer named Said-Emin Ismailov. The PPSM-2 unit in Shali was made up of three former rural SB squads: from Mesker-Yurt, Germenchuk and Shali. The Applicant was made commander of a platoon. His worked included setting up checkpoints, checking cars, and filing reports to Ismailov. From that time on, regular police procedures applied to all operations, including detentions.
- 14.43. In August 2004 the Applicant had a bad car accident. As a result he had a serious craniocerebral injury and spent a month in hospital, and after that more time recuperating at home in Mesker-Yurt. The Applicant also spent some time at a sanatorium in Kislovodsk.

- 14.44. From the moment the Applicant was sent as SB commander to Mesker-Yurt, his father had insisted that he should flee Russia before he became involved in abuses against his own people. His father, Ali Israilov, had been making arrangements for a passport in someone else's name so that he could leave the country under a different name. In the autumn of 2004, the documents were ready and on 13 November 2004 the Applicant went with his wife to Nazran, and then via Moscow to Poland to seek political asylum.
- 14.45. Two weeks after the Applicant's departure, on 27 November 2004, Kadyrov's forces detained his father, stepmother and sister-in-law. As he learned later, Kadyrov had sent Said-Emin Ismailov to his father's house to pick him up and bring him to Tsentoroi. When Ismailov came to the house, Ali Israilov was at work. Ismailov and his officers conducted a search of the house and forced the Applicant's stepmother, Shovda Viskhanova, to drive with them to Ali Israilov's place of work. There, they told Israilov to come with them and drove both of them to the base in Tsentoroi. SB officers also picked up Elza Sagieva (also known as Yakhita), the sister of the Applicant's wife, and drove her to Tsentoroi.
- 14.46. At the base in Tsentoroi, officers sought information on the Applicant's whereabouts. The Applicant's father was taken to the base's gym, where he was tied to an exercise machine and a billiard table and was repeatedly beaten and electrocuted. The Applicant's father insisted that the Applicant had traveled to Moscow for medical care and that he did not exactly know where he was at that point. The Applicant's stepmother was released after a few hours. His sister-in-law was taken to a cell at the base.

- 14.47. That same day, the Applicant received a phone call from Ramzan Kadyrov on his Polish cell phone. Kadyrov's men had evidently found the number in Ali Israilov's cell phone. Kadyrov He did not recognize the Applicant's voice and asked him to tell Alikhan, which is how he knew the Applicant, that he had captured his father and his wife, and the sister of his wife, and that he would capture all his relatives, his entire clan, and kill them all if Alikhan did not return. The Applicant told Kadyrov that he was talking to Alikhan and that he would not return home. The Applicant was sitting in a café with his wife and another woman at the time. He told his wife later that Kadyrov had detained her sister along with his father and stepmother.
- 14.48. Kadyrov called the Applicant several times more and again threatened to kill all his relatives. The Applicant again said that he would not return home. He eventually turned off his telephone. The Applicant in fact considered going back to Chechnya to rescue his father, stepmother, and his wife's sister but he was convinced that Kadyrov would kill him should he do so. He decided to stay away in the hope that when Kadyrov realized that his tactic had failed he would release the Applicant's relatives.
- 14.49. As mentioned above, the Applicant's stepmother was released that same day. His sister-in-law spent four days at the base in Tsentoroi after which she was transferred to a base in Gudermes. She was released after about two weeks. His father was held for more than eleven months in total. He was ill-treated only on the first day of his detention. Like the Applicant's sister-in-law, the father stayed at Tsentoroi for four days, three of which he was held in the gym and one in a prison cell. After that, he was moved, together with Elza Sagieva, to the SB headquarters in Gudermes, where both were

held in damp basement cells. The father was released on 4 October 2005.

- 14.50. After the phone calls from Kadyrov and as the refugee status determination procedure dragged out, the Applicant did not feel safe anymore in Poland. With the help of friends he left for a different country.

Abuses against Others

- 14.51. While imprisoned at the base in Tsenteroi, and later, when serving in the SB, the Applicant repeatedly witnessed how Ramzan Kadyrov and other commanders of the SB tortured and ill-treated detainees, and committed extrajudicial executions. For example, all three rebel leaders who were being held at the base in Tsentoroi when the Applicant first arrived there were tortured and executed.
- 14.52. The Applicant saw the injuries sustained by Shamil Gerikhanov from Geldagen as a result of torture and ill-treatment. One day, when guards brought him back to the cell where he and the Applicant were both held, Gerikhanov was all covered with blood, especially on the back of his body. He told the Applicant that the SB commander from Novogrozny had raped him by using the handle of a shovel and had tried to force him to confess to the killings of 70 or 80 people in Tsotsin-Yurt and Geldagen.
- 14.53. Shortly after the Applicant was forced to join the SB in June 2003, the Applicant happened to be in the front courtyard of the main base in Tsentoroi when Kadyrov summoned several commanders (including the SB commanders from Tsotin-Yurt, Geldagen, Kurchaloy and Bachi-Yurt). He told the commanders to take Gerikhanov away and kill him. Kadyrov also told them to dump the

body on the edge of a village so that his relatives would find his body. The Applicant then witnessed how Gerikhanov was thrown into a car in handcuffs and driven away. Later the Applicant heard Alvi Usmanov, the commander from Tsotsin-Yurt, brag that they had tortured Gerikhanov before riddling his body with bullets and dumping it at the outskirts of Geldagen.

- 14.54. Aidamir Gushayev, also from Geldagen, was shot when the Applicant was still imprisoned at the Tsenderoi base. One day, the Applicant heard from his cell how Ramzan Kadyrov interrogated him in the courtyard. He was asking him about some large sum of money. Kadyrov became increasingly agitated; then there were shots. Finally someone ordered that Gushayev's body be brought to the Gazavat cemetery. Gazavat cemetery was a cemetery on the outskirts of Tsenderoi where the Kadyrovtsy buried corpses that were not handed over to relatives.
- 14.55. As far as the Applicant is aware, Umar Barkayev, the third rebel who was being held in Tsenderoi when he was first brought there was handed over to the commander of battalion "Vostok." The Applicant later learned that Barkayev's body was later found at the outskirts of the village of Kurchaloy with many fractured bones.
- 14.56. The Applicant was also a witness (and reluctant participant) of the operation to capture Magomed Khambiyev, a well-known rebel commander. During a February 2004 sweep in Benoi village in which most of the forces loyal to Kadyrov participated, officers nearly captured Khambiyev. After he had managed to escape, Kadyrov, who always personally supervised major operations like this one, issued an order to detain his relatives. At the time, the Applicant worked in Kadyrov's body guard and personally heard him issuing the order to detain "all relatives." Kadyrov's forces

detained relatives of Khambiyev and brought them to Tsenteroi, where they were tortured. The Applicant refers to appendix 9 for a report by Rudolph Binding to the Parliamentary Assembly of the Council of Europe dated September 2004, which mentions this incident, and appendix 10 for a report by the Memorial Human Rights Centre, which also discusses these detentions. Later, Khambiyev turned himself in.

Attempts to Seek Justice

- 14.57. After his father and sister-in-law left Russia, the Applicant filed a complaint to the general prosecutor's in Moscow. He is currently awaiting a response. He intends to take all steps necessary to ensure that the abuses against him are properly investigation and the perpetrators be brought to justice.

III STATEMENT OF ALLEGED VIOLATION(S) OF THE CONVENTION AND/OR PROTOCOLS AND OF RELEVANT ARGUMENTS

15.

I. ADMISSIBILITY

A: Acceptance of the right of individual petition

15.1. On 5 May 1998 the Government of Russia ratified the Convention, thereby accepting the jurisdiction of the European Court.

B: In relation to Article 35(1) of the Convention

15.2. The Applicant submits that this application was filed with the European Court in accordance with the conditions of Article 35(1). He is currently exhausting existing domestic remedies.

II. MERITS

15.3. The Applicant submits that the following violations of his rights occurred in the present case:

Article 3 -- The treatment he was subjected to at the base in Tsentoroi, including the beatings, kicking, and electric shock, amount to torture as defined in the jurisprudence of the Court.

15.4. The Applicant submits that there is **sufficient evidence** to establish that he was subjected to maltreatment while in detention.

15.5. The Court has repeatedly held in its jurisprudence that when someone enters a detention facility in good health but has injuries upon his release, it is incumbent on the State to provide a plausible explanation of the origin of the injuries. In absence of such an explanation, the Court is willing to accept that the injuries were sustained as a result of a violation of Article 3 (see, among others, *Ribitsch v Austria*).

15.6. In the present case, the Applicant has provided detailed testimony regarding the ill-treatment he suffered. He has also submitted a forensic medical examination report which confirms the presence of injuries that are consistent with his story. Furthermore, Aslan Molayev witnessed on several occasions how the Applicant was beaten by officers of the SB, including Ramzan Kadyrov. Finally, a number of people can confirm that after his detention he had various injuries that he had not had before he was detained in April 2003.

15.7. The Applicant considers that the ill-treatment he was subjected to **reaches the threshold of torture.**

Article 5 (1, 2, 3, 4) – The State has violation to right to personal liberty

15.8. The Applicant asserts that his detention violated each individual provision of Article 5, as well as Article 5 as a whole.

15.9. By holding the Applicant in an unofficial detention center without access to the outside world, including to lawyers, officials of the prosecutor's office, or the courts, the State essentially negated the

provisions of Article 5 that are meant to protect the rights of persons deprived of their liberty. The Applicant thus asks the Court to find a violation of Article 5 as a whole.

- 15.10. Although the State had legitimate cause to detain him on 15 April 2003, it did not detain him in accordance with a procedure prescribed by law (Article 5(1)), he was not properly informed of the reasons for his arrest (Article 5(2)), he was not brought before a judge (Article 5(3)), and he did not have the opportunity to challenge his detention (Article 5(4)).

Article 3 and Article 13 – Effective Investigation and Remedy

- 15.11. If the prosecutor's office and the Russian courts are unresponsive to the Applicant's complaints about his treatment, the Applicant will also allege violations of Article 3 and 13.

IV STATEMENT RELATIVE TO ARTICLE 35 § 1 OF THE CONVENTION

16. Final decision (date, court or authority and nature of decision)
- 16.1. There is no final decision in the current case. The Applicant is currently in the process of exhausting domestic remedies. He will keep the Court informed of steps taken by the prosecutor's office in response to his complaint.
- 16.2. In case the Applicant, his relatives or witnesses identified in his complaint to the prosecutor's office face threats or intimidation, the Applicant may argue in future that there were special circumstances that absolved him from exhausting domestic remedies (as per *Akdivar v Turkey*) or that domestic remedies were ineffective, inadequate or illusory.
17. Other decisions (list in chronological order, giving date, court or authority and nature of decision for each of them)
- None.
18. Is there or was there any other appeal or other remedy available to you which you have not used? If so, explain why you have not used it.
- 18.1. The Applicant is currently pursuing a criminal complaint. He has submitted a complaint to the prosecutor's office. In case the prosecutor's office fails to open a criminal investigation into the abuses he suffered, the Applicant will seek to appeal this decision in the courts.

- 18.2. The Applicant will not file any civil claims for compensation as he believes a civil claim could not possibly provide an effective remedy as provided for by Article 13 of the Convention. If a criminal investigation into the abuses he suffered is opened and the case goes to trial, the Applicant will make a claim for compensation of moral and material damages in the course of those proceedings.

**V STATEMENT OF THE OBJECT OF THE APPLICATION AND
PROVISIONAL CLAIMS FOR JUST SATISFACTION**

19.

Finding of violations of as set out in § 15 above.

Just satisfaction, as appropriate for material and immaterial damage.

Compensation for legal and other procedural expenses (to be specified at a later date).

**1. VI STATEMENT CONCERNING OTHER
INTERNATIONAL PROCEEDINGS**

20.

None

2. VII LIST OF DOCUMENTS

21. See appendix.

2.

VIII. DÉCLARATION ET SIGNATURE
DECLARATION AND SIGNATURE

(Voir chapitre VIII de la note explicative)
(See Part VIII of the Explanatory Note)

Je déclare en toute conscience et loyauté que les renseignements qui figurent sur la présente formule de requête sont exacts.
I hereby declare that, to the best of my knowledge and belief, the information I have given in the present application form is correct.

Lieu/Place



Date/Date

8.11.06.

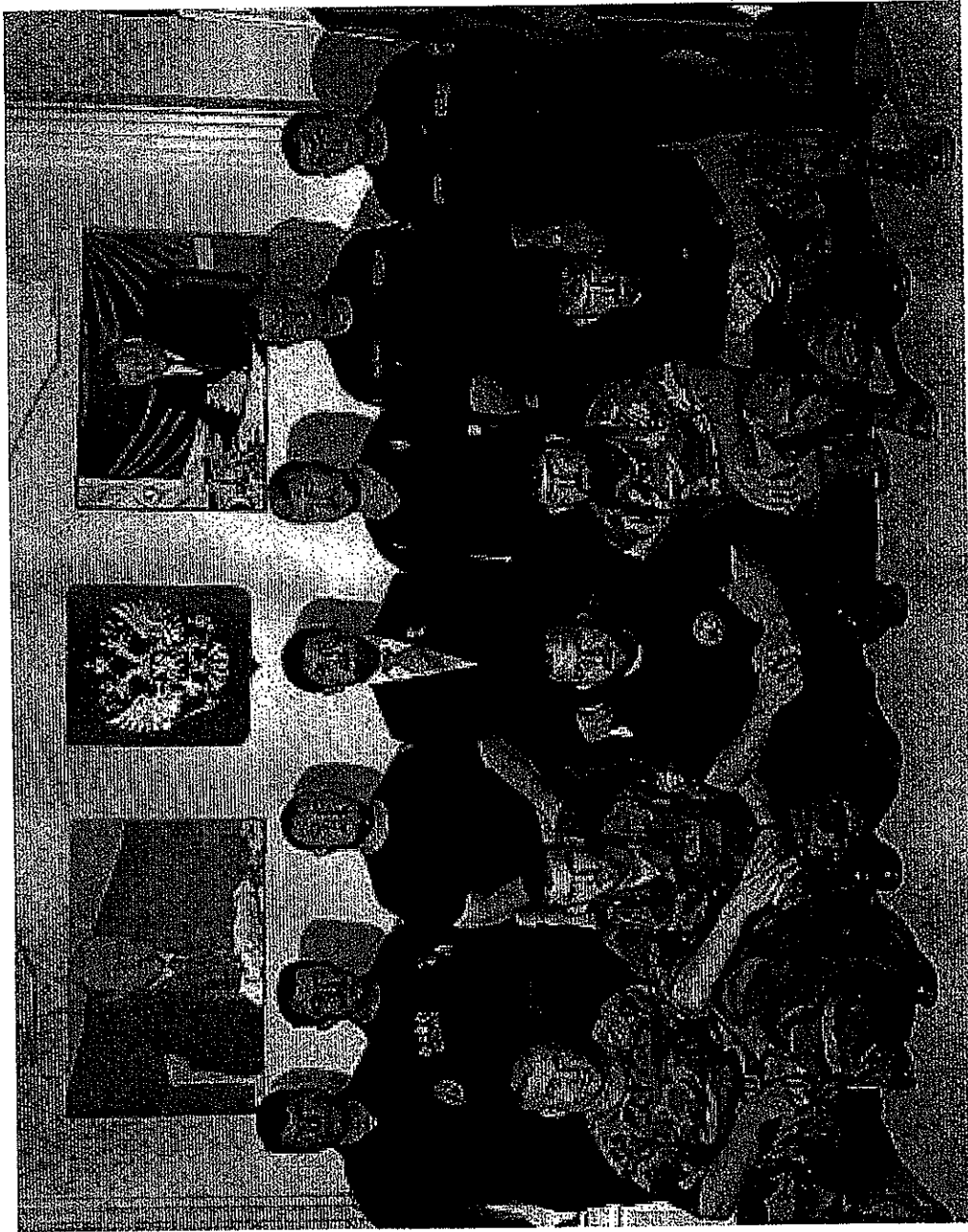
A handwritten signature in dark ink, appearing to be 'J.P.', is written above the signature line.

(Signature du/dé le requérant(e) ou du/de la représentant(e))
(Signature of the applicant or of the representative)

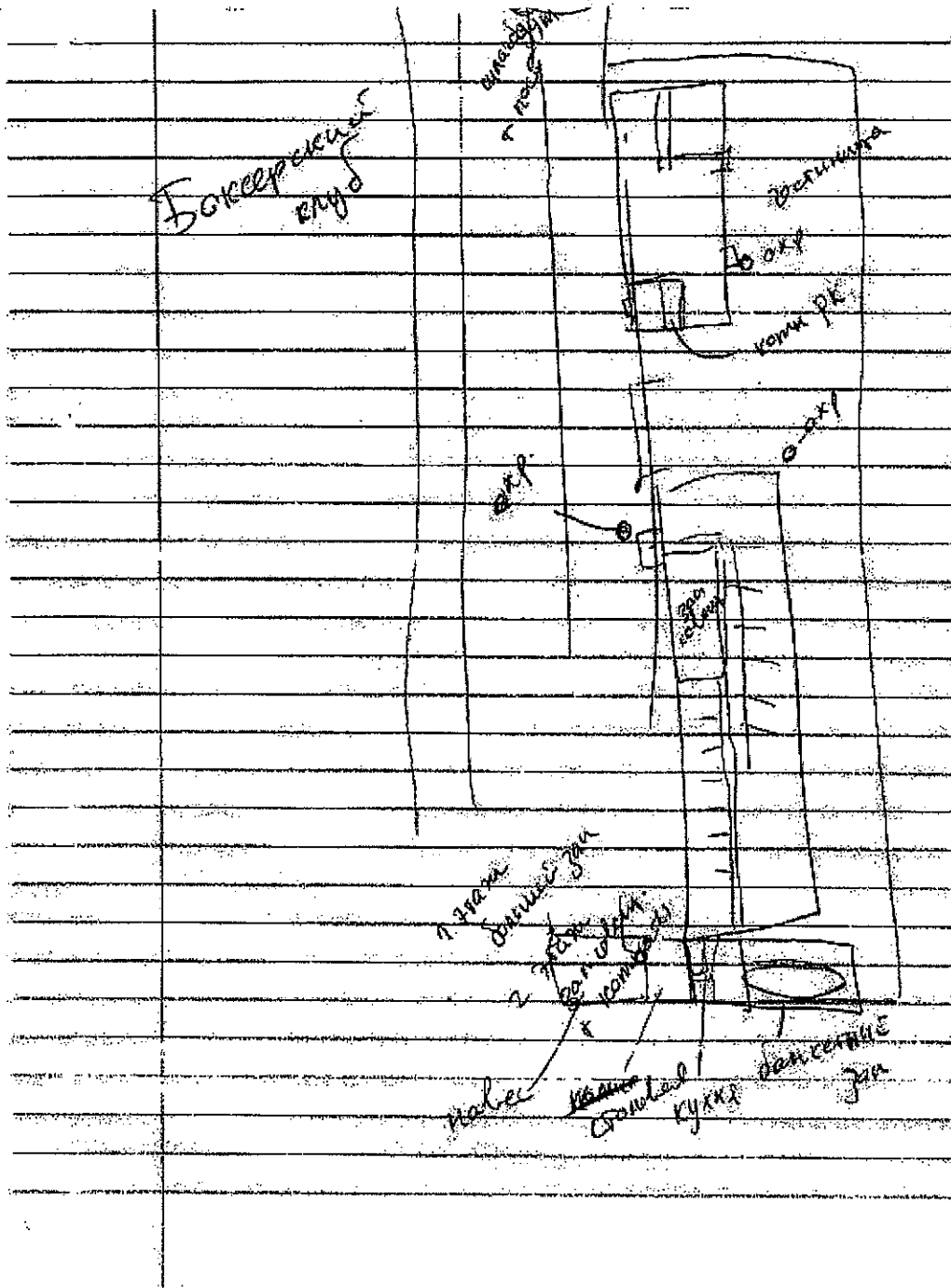
APPENDIX

- 1 – Photograph of Ramzan Kadyrov with his inner circle (with annotations)
- 2 – Photograph of Ramzan Kadyrov with his inner circle (without annotations)
- 3 – Diagram of the Boxing Club in Gudermes
- 4 – Diagram of the main base in Tsentoroi
- 5 – Photograph with Adam Demilkhanov
- 6 – Medical examination report of Umar Israilov
- 7 – Diagram of Tsentoroi village with various military bases
- 8 – Diagram of the base in Mesker-Yurt
- 9 – Report by Rudolf Bindig to the Parliamentary Assembly of the Council of Europe of 20 September 2004
- 10 – Memorial Human Rights Center report of 10 March 2004
- 11 – Memorial Human Rights Center report of 1 April 2003
- 12 – Birth Certificate of Umar Israilov

Appendix 2 – Photo of Ramzan Kadyrov with inner circle

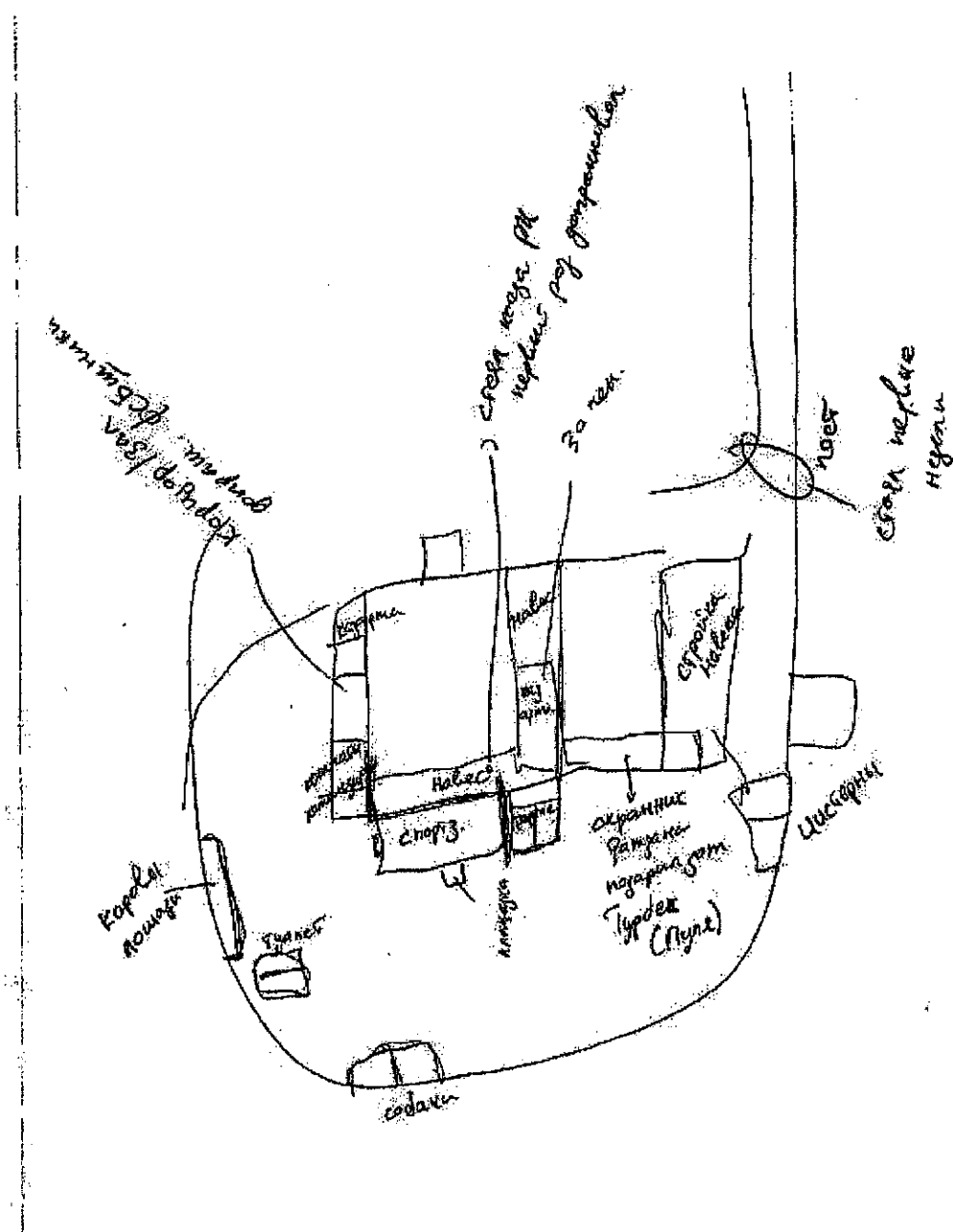


Appendix 3 – Diagram of Boxing Club in Gudermes



Note: The Applicant drew this diagram, which depicts the boxing club run by Ramzan Kadyrov in Gudermes, on 23 August 2006. The notes were made at his instruction.

Appendix 4 – Main SB Base at Tsentoroi



Note: The Applicant drew this diagram of the facility where he was held in the village of Tsentoroi on 23 August 2006. The notes were made at his instruction.

Appendix 5 – Photograph of Adam Demilkhanov



Demilkhanov is the man in the left of the picture, wearing a suit, pink tie and a medal. The man on the right is Ramzan Kadyrov.

APPENDIX

8

frans

Ao. Univ. Prof. Dr. Daniele U. Risser
 Facharzt für Gerichtliche Medizin
 Allgemein beeideter und gerichtlich zertifizierter Sachverständiger
 DEPARTMENT FÜR GERICHTLICHE MEDIZIN - MEDIZINISCHE UNIVERSITÄT WIEN
 A-1090 Wien, Sensengasse 2 - Telefon 4277/65701, Fax 4277/9657

Benjamin Ward

London

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An das
 Bundesasylamt
 EAST-OST
 05 14.374

Otto Glöckel Straße 24
 A-2514 Traiskirchen



REPUBLIK ÖSTERREICH
 BUNDEASYLAMT
 Außenstelle Traiskirchen
 Otto Glöckelstraße 24
 2514 TRAIISKIRCHEN
ausgehend
me

Wien, 14.10.2005

Betrifft:
 Umar ISRAILOV

Tgb.Nr.: 4050/05

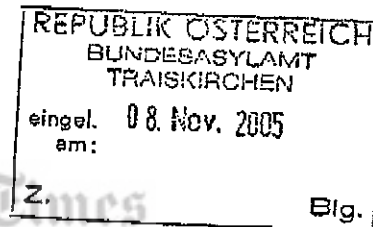
Der gefertigte Sachverständige erstattet in oben bezeichnetem Asylverfahren
 nachstehendes

GUTACHTEN

über die vom Asylwerber Umar ISRAILOV behaupteten Verletzungen bzw.

Folterspuren.

sk. Akt -> zum Akt



Ermittlung im Gerichtsauftrag:

Herr Umar ISRAILOV (Verfahrenskarte des Bundesasylamtes der Republik Österreich – AIS: 05 14374) erscheint am 06.10.2005 zur gerichtsärztlichen Untersuchung gemeinsam mit Herrn Guram CHOKHONELIDZE (Ausweis für Studierende Universität Wien – Matr.Nr. 0004596).

Herr CHOKHONELIDZE fungiert als Russisch-Übersetzer und erklärt Umar ISRAILOV, welche Form der Untersuchung durchgeführt wird.

Umar ISRAILOV wird aufgefordert, alle Verletzungen in chronologischer Reihenfolge zu nennen und den Entstehungsmechanismus anzugeben. Es wird sein Einverständnis eingeholt, dass Frau Schwarz, Fotografin am DGM der MUW, fotografische Aufnahmen anfertigt.

Eigene Angaben und Untersuchung:

180 cm groß und 78,5 kg schwerer (im bekleideten Zustand); junger Mann in altersentsprechendem Allgemein- und Ernährungszustand (Abb.1).

„Ich bin 23 Jahre alt und habe keinen Beruf erlernt.

Im April oder Mai 2003 wurde ich von tschetschenischen Soldaten in einen Keller gebracht und dort wurde ich geschlagen und getreten und ich wurde auch mit einer vorne heißen Metallstange am Fuß verletzt. Ich wurde mit diesem heißen Metallstück am Unterschenkel verletzt, sie haben mich damit gestochen. Das gleiche haben sie am rechten Unterschenkel gemacht.“

Befund:

Am rechten Fußrücken im Verlauf der Großzehe zeigt sich eine uncharakteristisch geformte, weiche, oberflächliche, etwas hyperpigmentierte, narbige Hautveränderung.

An der linken Unterschenkelvorderseite, am Übergang vom körpernahen zum mittleren Drittel, eine längsgestellte, 2 cm lange, bis knapp 1 cm breite, ovale,

3

etwas eingesunkene, flächenhafte Narbe, im Zentrum stellenweise hyperpigmentiert, im linken äußeren Anteil geringgradig wulstförmig aufgeworfen (Abb.2,3).

„Im Juli 2003 wurde ich in diesem Keller durch einen Streifschuss bzw. Trommelsplitter von einem Querschläger im Gesicht verletzt. Während ich aß, wollte man mir mit einem automatischen Gewehr in den Fuß schießen. Die Kugel ist am Boden abgeprallt, dann auf die Wand, dann auf die Decke und ein Stück von der Patrone hat mich unter der Unterlippe verletzt.“

Befund:

Unterhalb des rechten Unterlippenanteils eine längsgestellte, circa 2 cm lange und bis 0,8 cm breite, flächenhafte, etwas hyperpigmentierte Narbe (Abb.4).

GUTACHTEN

Bei der Untersuchung des 23-jährigen Umar ISRAILOV zeigten sich Narben unterhalb des rechten Unterlippenabschnittes, an der linken Unterschenkelvorderseite und im Bereich des rechten Fußrückens.

Als Entstehungsmechanismus für die Narbe unterhalb des rechten Unterlippenabschnittes ist eine umschriebene Gewalteinwirkung, wie sie auch von dem Mann in Form eines Querschlägers angegeben wurde, durchaus in Betracht zu ziehen.

Die Narbe an der linken Unterschenkelvorderkante lässt sich am ehesten durch eine tangentielle Gewalteinwirkung, wie z.B. im Rahmen einer

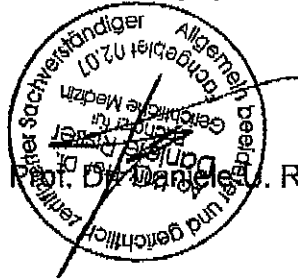
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Schürfung, erklären, wobei jedoch darauf hingewiesen wird, dass derartig gestaltete Narben auch nach Einwirkung von Hitze immer wieder beobachtet werden können.

Die oberflächliche Narbe am rechten Fußrücken lässt sich am ehesten durch eine oberflächliche, tangentielle Gewalteinwirkung, wie z.B. durch eine Schürfung, erklären.

Zusammenfassend kann somit aus gerichtsärztlicher Sicht gesagt werden, dass sich bei dem 23-jährigen Umar ISRAILOV mehrere Narben, wie sie in der Regel nach einem Heilungsverlauf von mehreren Monaten beobachtet werden können, fanden, für deren Entstehung verschiedene Verletzungsmechanismen, so auch die von dem jungen Mann angegebenen, in Frage kommen.

Ao. Univ. Prof. Dr. Daniel U. Risser



Gebühren siehe Anlage!

Bundesasylamt

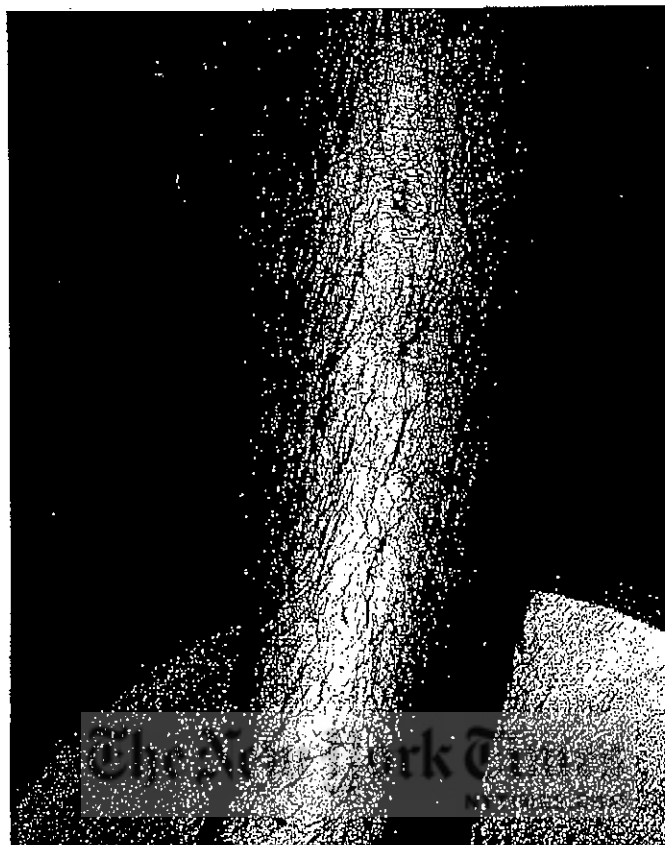
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ISRAILOV Umar

Abb. 1)



Abb. 2)



Bundesasylamt

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ISRAILOV Umar

Abb. 3)

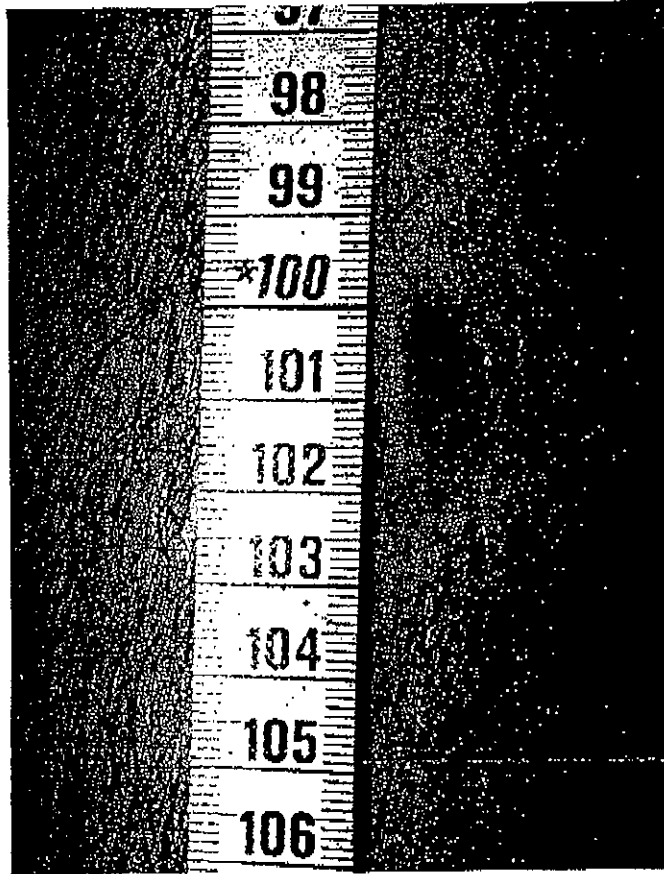
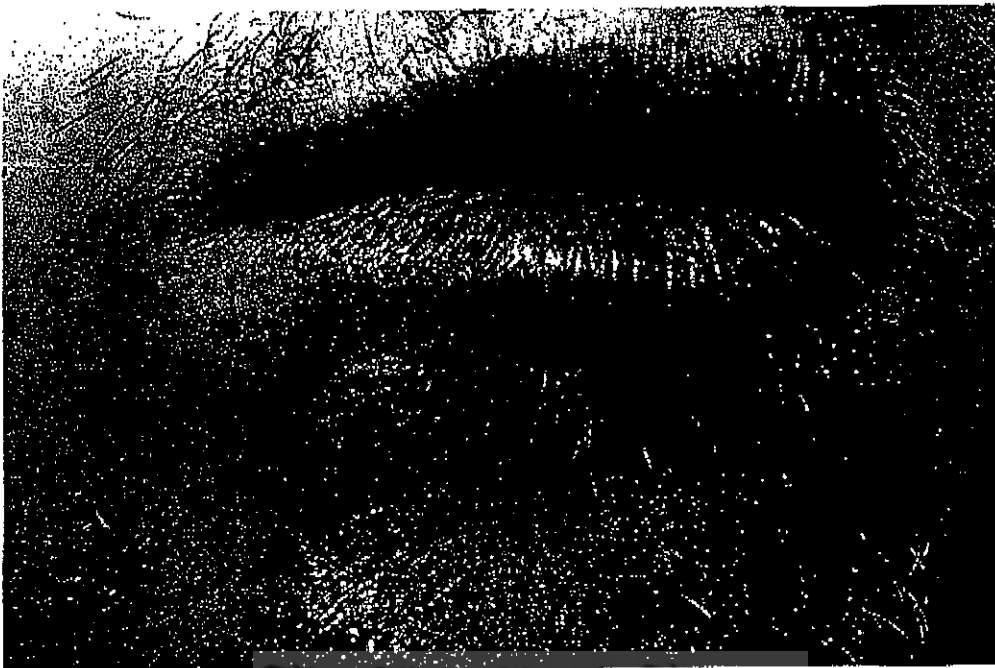
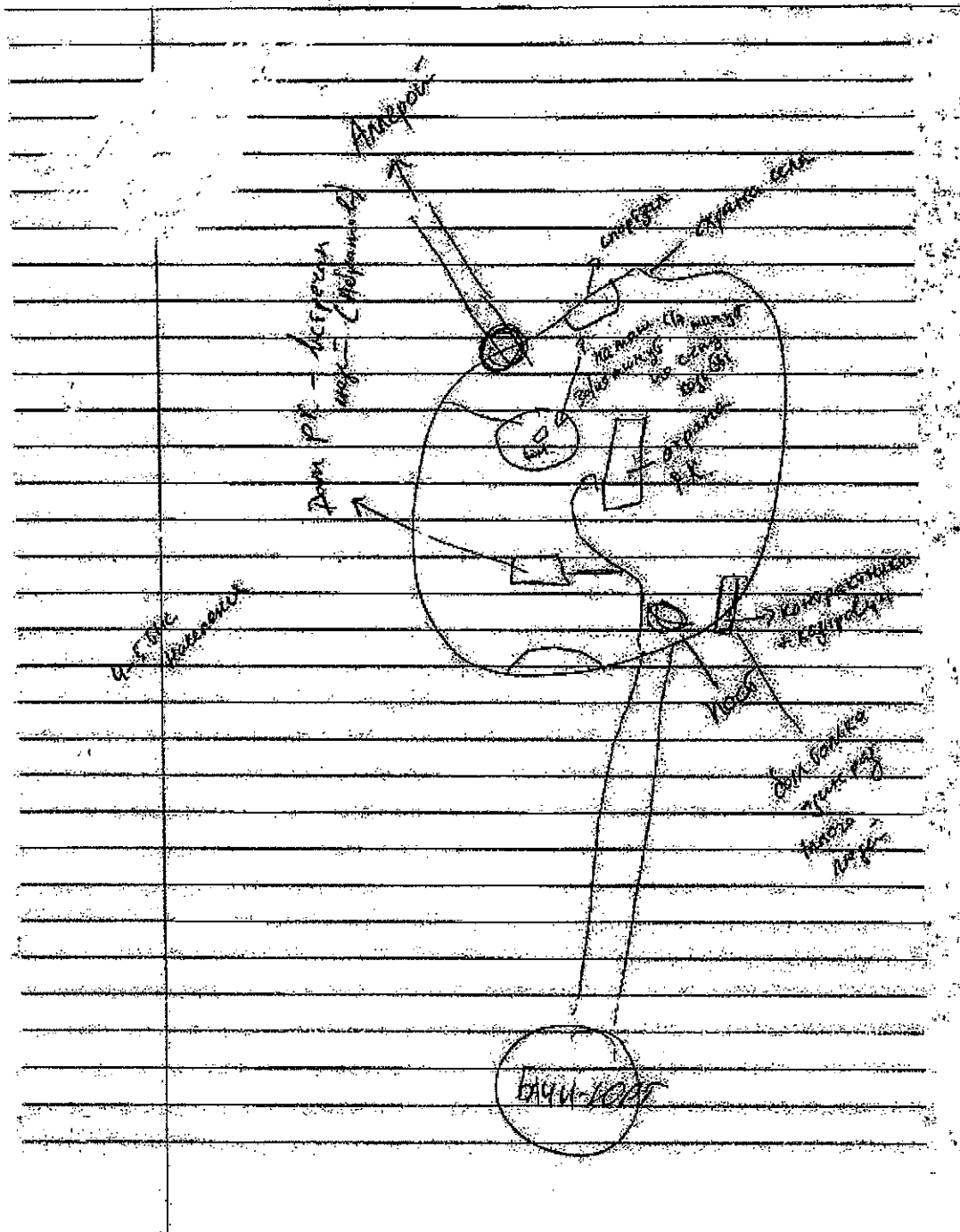


Abb. 4)

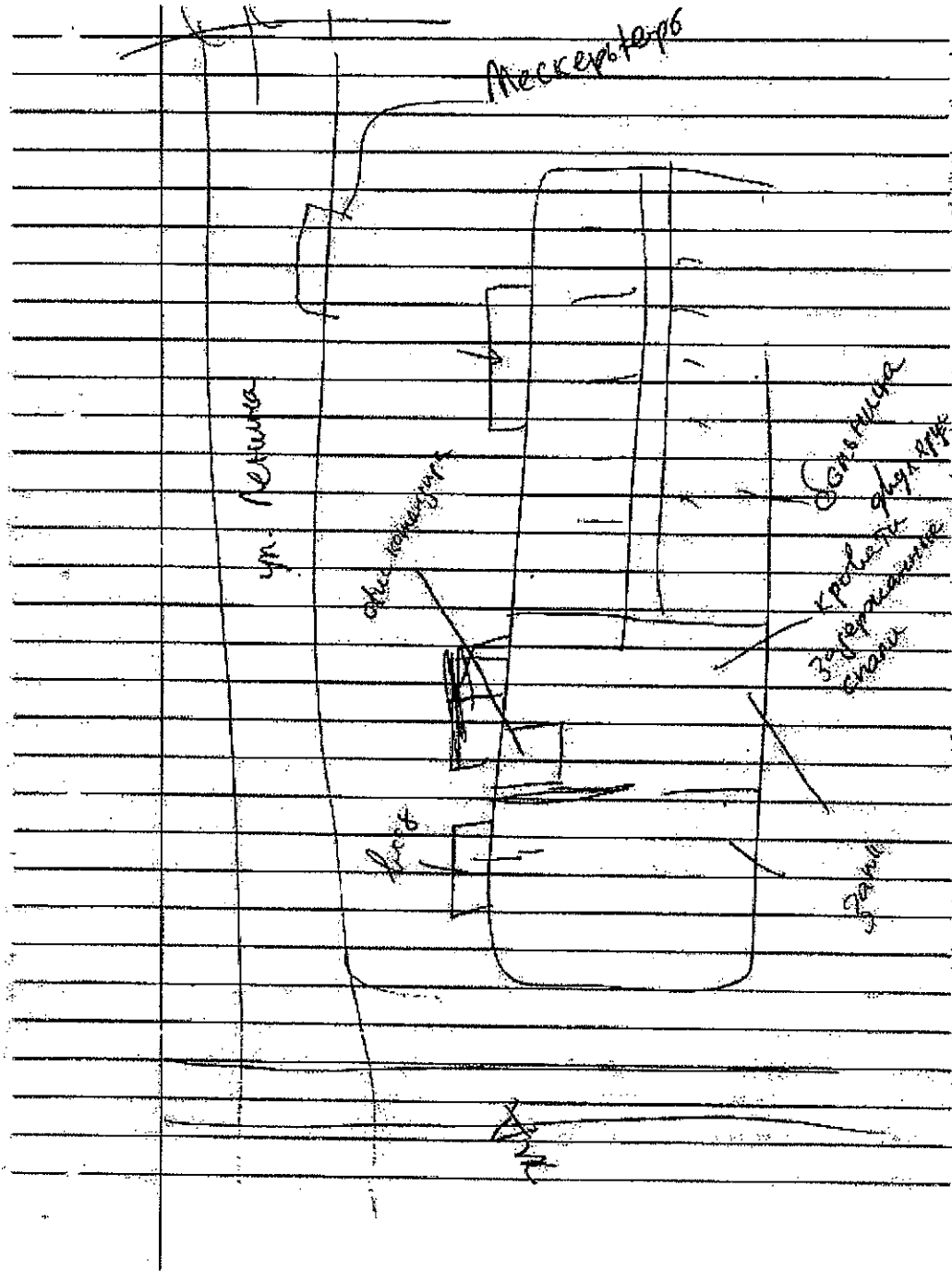


Appendix 7 – Diagram of Tsentoroi village with bases



Note: The Applicant drew this diagram of the village of Tsentoroi with its major bases on 23 August 2006. The notes were made at his instruction.

Appendix 8 – Diagram of SB Base in Mesker-Yurt



Note: The Applicant drew this diagram of the SB facility in Mesker-Yurt on 23 August 2006. Notes were made at his instruction.

Appendix 9 – Report by Rudolf Binding of 20 September 2004

The human rights situation in the Chechen Republic

Doc. 10283
20 September 2004

Report
Committee on Legal Affairs and Human Rights
Rapporteur: Mr Rudolf Bindig, Germany, Socialist Group

Summary

The human rights situation in the Chechen Republic remains catastrophic. The report strongly condemns human rights violations committed by all sides of the conflict, including the recent spate of despicable terrorist attacks against civilian targets, other killings committed by illegal armed formations and the numerous violations of human rights in the form of murder, forced disappearances, torture, hostage-taking, rape and arbitrary detention committed by members of different Federal and regional security forces during their "special" or "targeted" operations in the Chechen Republic and, increasingly, in neighbouring regions. The report concludes that a climate of impunity is still prevailing in the Chechen Republic due to the fact that the Chechen and Federal law enforcement authorities remain either unwilling or unable to hold accountable for their actions the vast majority of perpetrators of serious human rights violations. The draft resolution and recommendation make concrete proposals to help solve the human rights crisis and urge in particular

the Government of the Russian Federation to end the climate of impunity in the Chechen Republic;

the Russian State Duma to set up a Committee of enquiry to investigate the alleged abuses by different branches of the executive, in particular the different law enforcement bodies in the Chechen Republic and in neighbouring regions;

the Council of Europe's member states to use every opportunity, in their bilateral and multilateral relations with the Russian Federation, to recall the need to respect human rights also in the fight against terrorism and separatism;

the Committee of Ministers to ensure that the discussion and debate of the human rights crisis in the North Caucasus region of the Russian Federation remains a regular item on the agenda of the Committee of Ministers and Ministers' Deputies, to ensure that such discussions cover reports and the follow-up of the implementation of recommendations made to the authorities by all bodies and mechanisms of the Council of Europe and to urge the Government of the Russian Federation to put an end to reprisals taken against any person in relation to the filing of an application to the European Court of Human Rights.

I. Draft resolution [Link to the adopted text]

1. The Parliamentary Assembly stresses that the protection of human rights is the primary objective of the Council of Europe and it therefore solemnly condemns all criminal acts constituting serious human rights violations committed by all sides of the conflict in the Chechen Republic.

2. This includes in particular the recent spate of despicable terrorist attacks beginning with the downing of two airliners on 24 August 2004, the attack by a suicide bomber near Rizhskaya

Appendix 9 – Report by Rudolf Binding of 20 September 2004

station in Moscow on 31 August 2004 and finally the hostage-taking of hundreds of innocent children and their family members in Beslan and the horrific bloodbath on 3 September 2004. There can be no excuse whatsoever for any such attacks on innocent civilians.

3. The Assembly also unequivocally condemns all other killings by illegal armed formations, such as that on 9 May 2004 of the President of the Chechen Republic, Akhmad Kadyrov, also causing other victims, and the numerous deaths involved in the co-ordinated attacks by armed fighters in Ingushetia, the Chechen Republic and Dagestan on 22 June 2004 and a similar large-scale attack in Grozny on 20 August 2004. Both the death of innocent bystanders and the “targeted” killings of persons considered by terrorists as responsible for crimes left unpunished are totally unacceptable. The conflict in the Chechen Republic must be resolved by negotiation and criminals on all sides must receive their just punishment through appropriate judicial procedures.

4. The Assembly also strongly condemns the numerous violations of human rights in the form of murder, forced disappearance, torture, hostage-taking, rape and arbitrary detention committed by members of different Federal and pro-Russian Chechen security forces during their “special” or “targeted” operations in the Chechen Republic and, increasingly, in neighbouring regions.

5. As recent events show, the situation in the Chechen Republic is far from normal. Whilst the reconstruction of some social infrastructures and the promise of the payment of compensation to persons whose houses were destroyed is a positive factor, real economic development requires trust between the Government and the people. The Assembly continues to believe that there can be no peace and no sustainable political settlement in the Chechen Republic without bringing to justice the perpetrators of even the most serious human rights violations and without ensuring that no further such violations will be committed in future.

6. The dramatic human rights situation in the Chechen Republic described in the texts adopted by the Assembly in April 2003 has unfortunately not improved significantly since then. The number of “special operations” or “sweeps” by security forces has in fact significantly decreased, in particular since the end of 2003. But arbitrary detentions, often followed by the “disappearance”, torture or severe beatings of detainees and the theft or destruction of property at the hands of security forces (Chechen and Federal) but also of certain rebel groups, are still occurring on a massive scale, especially as seen against the background of the small population of the Chechen Republic and the losses already suffered in previous years. A new frightening trend is that of hostage-taking of relatives of suspected terrorists in order to force them to give themselves up by threatening their relatives with torture and murder. Such methods are totally unacceptable criminal acts that must be stamped out by the Federal authorities.

7. The constitutional referendum of March 2003 and the elections for the Chechen President in October 2003 and August 2004 have given rise to new types of violations of the European Convention on Human Rights (ECHR) which now also concern the people’s right to free elections (Article 3 of Protocol No 1 to the ECHR) and to freedom of expression (Article 10 of the ECHR).

8. The climate of impunity diagnosed by the Assembly in Resolution 1323 (2003) and Recommendation 1600 (2003) appears to be spreading to Ingushetia, where a number of abuses took place in 2003 and early 2004 that are reminiscent of those taking place in the Chechen Republic and which have remained largely unpunished. The conflict in the North Caucasus appears to be spreading like an epidemic, threatening the rule of law throughout the Russian Federation.

9. Regarding the elucidation of the crimes described in the report underlying Resolution

Appendix 9 – Report by Rudolf Binding of 20 September 2004

1323 (2003) and Recommendation 1600 (2003), very little progress has been made and new crimes committed in the meantime have not been met with any more successful action by the Chechen and Federal prosecutors.

10. Whilst 799 complaints were registered in 2003 with the Military Prosecutor's Office, only three cases were referred to the courts in the same year. The 13 sentences passed by military courts in 2003 concerned investigations started between 2000 and 2002.

11. The Chechen civilian prosecutor's office received 4763 applications in 2003, including 554 from the Office of the Special Representative. In the same year, the civilian prosecutors initiated 419 criminal cases, 15 of which were referred to court. 128 applications were transmitted to the Military Prosecutor's Office, which in turn transmitted 60 applications to the civilian prosecutor's office.

12. These figures are similar to those for the year 2002 and those received for the first months of 2004 do not look better. There is thus very little progress in the prosecution of perpetrators of human rights violations by the national law enforcement bodies.

13. The Assembly is outraged that serious crimes have been committed and have not yet been elucidated against applicants and family members of applicants to the European Court of Human Rights. Such acts are totally unacceptable as they may deter applications to the Court, which is the centrepiece of the human rights protection mechanism established by the European Convention on Human Rights.

14. The preventive measures recommended by the Council of Europe Commissioner for Human Rights, in particular as regards the modalities of special operations or "sweeps" carried out by security forces, such as the effective identification of all participants in such operations and the rapid and strict prosecution of any violations of the rules, have yet to be implemented.

15. Consequently, the conclusions drawn by the Assembly in Resolution 1323 and Recommendation 1600 (2003) remain valid: a climate of impunity is prevailing in the Chechen Republic due to the fact that the Chechen and Federal law enforcement authorities are still either unwilling or unable to hold accountable for their actions the vast majority of perpetrators of serious human rights violations.

16. The Assembly therefore, reiterating its exhortations in paragraphs 9 and 10 of Resolution 1323 (2003),

- i. urges the Government of the Russian Federation to end the climate of impunity in the Chechen Republic,
 - a. by vigorously investigating and prosecuting all violations of human rights, without regard to the identity of the perpetrators;
 - b. by implementing the recommendations of the Council of Europe Commissioner for Human Rights;
 - c. by sending a clear signal from the highest political level that all security and law enforcement officials must respect human rights in the execution of their duties at all times;
 - d. by enabling systematic monitoring by national and international human rights organisations of human rights violations as well as of the measures taken by the competent authorities to track down and punish perpetrators;

Appendix 9 – Report by Rudolf Binding of 20 September 2004

- e. and by facilitating access to the region by the national and international news media;
- ii. urges the Russian State Duma to set up, as a matter of urgency, a parliamentary committee of inquiry to investigate the alleged abuses by different branches of the executive, in particular the different law enforcement bodies in the Chechen Republic and in neighbouring regions such as Ingushetia, including the apparent dysfunctioning of the military prosecutor's office in charge of the region;
- iii. urges the member states of the Council of Europe to :
 - a. use every opportunity, in their bilateral and multilateral relations with the Russian Federation, to recall the need to respect human rights also in the fight against terrorism and separatism ;
 - b. continue applying the Geneva Convention relating to the Status of Refugees in granting political asylum to applicants from the Chechen Republic, recalling that local human rights activists, lawyers and relatives of suspected independence fighters are among those most vulnerable to disappearance, torture and other most serious human rights abuses;
 - iv. supports the recommendation made by the Committee for the Prevention of Torture (CPT) in its Public Statement of 10 July 2003 that members of the federal forces and law enforcement agencies be reminded, through a formal statement emanating from the highest political level, that they must respect the rights of persons in their custody, that any violations will be the subject of severe sanctions and urges the Russian authorities to authorise without further delay publication of all reports of visits to the North Caucasus region by CPT experts;
 - v. welcomes the positive trend towards the establishment of regional ombudsmen in the Russian Federation and the initiative by the Commissioner for Human Rights of the Council of Europe and the Ombudsman for Human Rights of the Russian Federation to promote the establishment of a regional ombudsman for the Chechen Republic.
- ii. Draft recommendation [Link to the adopted text]
 1. The Assembly refers to its Resolution ... (2004) on the Human Rights Situation in the Chechen Republic, recalling that the continuing massive violations in the Chechen Republic are by far the most serious human rights issue in any of the Council's member states and that the credibility of the whole Organisation depends on its ability to convince the Russian Federation to meet its commitments in this respect.
 2. Considering the insufficient progress in holding perpetrators of human rights violations responsible, the Assembly reiterates all the recommendations addressed to the Committee of Ministers in Recommendation 1600 (2003).
 3. In view of the gravity of the human rights situation in the Chechen Republic, the Assembly recommends to the Committee of Ministers to ensure that the discussion and debate of the human rights crisis in the North Caucasus region of the Russian Federation remain a regular item on the agenda of the Committee of Ministers and Ministers' Deputies and to ensure that such discussions cover reports and the follow-up of the implementation of their own recommendations as well as recommendations made to the authorities by all other bodies and mechanisms of the Council of Europe including: the Secretary General, the Parliamentary Assembly, the Commissioner for Human Rights, the Committee for the Prevention of Torture, the Venice Commission and European Commission against Racism and Intolerance;
 4. The Assembly invites the Committee of Ministers, in particular, to

Appendix 9 – Report by Rudolf Binding of 20 September 2004

- i. urge the Government of the Russian Federation to end the climate of impunity in the Chechen Republic ,
 - a. by vigorously investigating and prosecuting all violations of human rights, without regard to the identity of the perpetrators;
 - b. by sending a clear signal, at the highest level, that all security and law enforcement officials must respect human rights in the execution of their duties at all times, and that any violations will be subject to severe sanctions;
 - c. by putting an end to reprisals against any person taken in relation to the filing of an application to the European Court of Human Rights, ensuring that all allegations of such crimes are investigated promptly, thoroughly and independently and that all persons found responsible for such crimes are brought to justice;
 - d. by enabling systematic monitoring by national and international human rights organisations of violations committed by all sides and of the measures taken by the competent authorities to track down and punish perpetrators;
 - e. by establishing as soon as possible an independent Ombudsman for the Chechen Republic, who shall receive and process complaints about human rights violations in the region and continue the work of the former Special Presidential Representative's Office, also making use of the files established by the latter, with the support of the Council of Europe experts;
 - f. and by facilitating access to the region by the national and international news media;
- ii. step up the Council of Europe's co-operation with the Government of the Russian Federation, focusing on the development of the rule of law in the Chechen Republic and on concrete improvements of the human rights situation of the population of the Chechen Republic, in order to contribute to the implementation of the requests under sub-paragraph 4.i.

III. Explanatory memorandum

by Mr Rudolf Bindig, Rapporteur

A. Introduction

1. This report is based on Order 586 in which the Assembly instructs its Committee on Legal Affairs and Human Rights to report back to it at one of its 2004 part-sessions on the implementation of Resolution 1323 (2003) and Recommendation 1600 (2003), as well as of the recommendations of the Council of Europe Commissioner for Human Rights.

2. As its predecessor, this report is again based on information made available by the competent Russian Federal and Chechen authorities, international organisations, NGO's and journalists. I would again like to single out Memorial, Human Rights Watch (HRW), Stichting Chechnya Justice Initiative (SCJI), Amnesty International (AI) and the Moscow Helsinki Group (MHG) for their especially valuable assistance.

3. I should like to thank especially the Russian Delegation to the Assembly for organising my fact-finding visit to Moscow and the Chechen and Ingush Republics, together with Mr Gross, during the first week of June 2004, and the Russian, Chechen and Ingush authorities for their hospitality during our visit.

Appendix 9 – Report by Rudolf Binding of 20 September 2004

4. In accordance with the Order, this report will concentrate on following up the development of the human rights situation in the Chechen Republic since the adoption of the above-mentioned resolution and recommendation in April 2003, and in particular the implementation of the Assembly's and the Commissioner's recommendations.

5. The report will be sub-divided into two parts: first, it will look into the follow-up given to last year's recommendations, including an update on the results of the investigations into some of the most serious crimes described in last April's report. Second, it will sum up the evolution of the human rights situation since last year.

B. Implementation of Resolution 1323 (2003) and Recommendation 1600 (2003) and the Commissioner's recommendations

i. Resolution 1323

Item 9.i. (Chechen fighters should immediately stop their terrorist activities and renounce all forms of crime; any kind of support for Chechen fighters should cease immediately):

6. It is clear that terrorist and other criminal activities by Chechen fighters has not stopped. The tab of incidents kept by the Secretary General's experts on a monthly basis is telling. Almost daily, armed rebels have attacked Russian or Chechen security forces, killing and maiming hundreds of servicemen during 2003 and early 2004[1], but also representatives of local administrations, polling stations, and other administrative buildings. Terrorist attacks on targets outside the Chechen Republic have also continued, as sadly evidenced by the recent spate of terrorist attacks beginning with the downing of two airliners on 24 August, the attack by a suicide bomber near Rizhskaya station in Moscow on 31 August, and finally the hostage-taking of hundreds of innocent children and their relatives in Beslan, which has ended in the horrific bloodbath on 3 September. Other examples include the double suicide bombing of a rock concert in Moscow in July 2003 killing the attackers and 15 other persons, the attack on a passenger train in Yessentuki/North Caucasus (at least 42 killed) on 5 December 2003, that on the hotel "National" in Moscow on 9 December 2003 (6 killed, 12 injured), and on the Moscow metro on 6 February 2004 (40 killed, 134 injured). Most of these abominable crimes have not yet been fully elucidated. The Russian authorities hold Chechen "bandits", or international terrorists responsible, flatly refusing to differentiate between Chechen nationalist oriented rebels and other, more radical field commanders and terrorist organisations. Representatives of Mr Maskhadov have consistently condemned any attacks on what they call "civilian targets", claiming that their leader had given strict orders to avoid hitting any such targets.

7. With respect to the murder of President Kadyrov on 9 May 2004, the rebel "field commander" Shamil Bassayev has claimed responsibility for the attack, whilst more moderate rebel leaders have distanced themselves from the attack.

8. As regards the coordinated attacks by armed fighters in Ingushetia, the Chechen Republic and Dagestan on 22 June 2004 killing nearly 100 persons, representatives of the rebel side have declared that these were part of the new strategy of "large-scale military operations" announced by their leader in May 2004, replacing the "needle-prick tactics" of recent years that had prompted the Russian side to claim that the rebel forces had been practically eradicated. They claimed that 4000[2] fighters had participated in a series of large-scale attacks throughout the region, targeting military objectives and law enforcement officials who had "blood on their hands" and who had enjoyed impunity for too long. Some civilian casualties, which they regretted, had been caused by the security forces' indiscriminate use of heavy weapons such as tanks and multiple rocket launchers in populated areas.

9. I deeply regret and condemn the new escalation of violence, including the attack on 13 July 2004 on the Acting President, Mr Abramov, whom we met in June and who impressed us

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with his pragmatic commitment to reconstruction and social progress, and the assassination of the leader of the Chechen branch of the United Russia party. I have also made this clear to all my interlocutors on the Chechen rebel side, stressing that any executions, and even more so extrajudicial ones, are totally unacceptable to the Council of Europe. I also took the initiative for a declaration by the Bureau of the Assembly on 25 June condemning these attacks, but also warning against any unlawful responses by the security forces.

The recent horrors show once again that this conflict cannot be resolved by military means alone. Crimes committed on all sides must be punished by appropriate judicial means. Impunity provokes new unlawful acts and leads to further escalation of violence.

Item 9. ii. (Russian forces to be better controlled and discipline enforced: all relevant military and civilian regulations, constitutional guarantees, international law, including humanitarian law and in particular the relevant provisions of the Geneva Conventions and the protocols thereto, and the European Convention on Human Rights as well as the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, should be fully respected during all operations, including full co-operation with the prokuratura before, during and after such operations):

10. This item is also the object of the Council of Europe Human Rights Commissioner's recommendations, which the Russian side has accepted, but has not yet fully implemented. This subject has also been specifically taken up by the CPT (cf. appended Public Statement dated 10 July 2003).

11. It appears from studying a large number of descriptions of individual special operations carried out by federal forces submitted by human rights organisations that some improvement can be found compared to similar operations in earlier years, especially as concerns "collateral damage" inflicted on bystanders. Also, it appears that a larger number of arrests of suspects by federal forces is followed by a "happy ending" in the form of the release of such detainees, often after the valiant intervention of family members, neighbours and, in a number of cases, of law enforcement officials.

12. But it must be stressed that the implementation of such "targeted" or "special" operations - terms that have taken the place of those of "mop-up operations" or "sweeps" used earlier - is still far from the standards of the ECHR that the Russian Federation has subscribed to, and that the Commissioner has translated into practical recommendations. Disciplinary problems remain rampant, including problems such as alcoholism and corruption, which are still an important cause for numerous violations of fundamental rights of the Chechen population. Many cases of random shooting, beatings and looting are still reported as taking place during such operations. The best preventive remedy - the effective identification of all participants in such operations, and the rapid and strict prosecution of any violations of the rules, which are indeed in place - is still not being used systematically. On the contrary, such operations still take place primarily at night, and with all participants wearing masks. It has also been pointed out repeatedly that the increased "targeting" of special operations, which are limited to individual buildings or street sections, makes it more difficult for witnesses of abuses to speak out without being identified, as the number of witnesses is very much reduced.[3]

Item 9 iii. (in so far as the security situation allows, troops shall be confined to their barracks or withdrawn from the Chechen Republic altogether)

13. The number of Federal servicemen (regular military forces, special forces of the Ministry of the Interior/Omon, and of the FSB) posted in the Chechen Republic has remained substantially the same as in early 2003, at about 70.000. The withdrawal of about 1.200 men announced in March 2003 seems to be compensated by the stationing of an extra 1.200 Omon troops announced by the President in May 2004 during his visit after the assassination of

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President Kadyrov.

14. These forces are also by no means confined to barracks. The security situation, as illustrated by the higher number of violent incidents, may indeed justify the need for continued, visible presence of security forces – provided they fulfil their role correctly, in line with the recommendation in item 9 ii. of Resolution 1323 (2003).

Item 9 iv. (all those suspected of committing abuses be thoroughly investigated and, if found guilty, severely punished in accordance with the law, regardless of their rank and position)

15. This recommendation, which is absolutely central both as a precondition for national reconciliation and a lasting political settlement, and as the best possible preventive measure against new abuses, has unfortunately not been successfully implemented.

16. I have requested detailed information, from the office of the Prosecutor General of the Russian Federation, and from the Chief Prosecutor of the Chechen Republic, on the results achieved concerning the investigation of a selection of crimes that have been brought to my attention from different sides.

17. Concerning the crimes listed in the April 2003 reports, the replies received were the following (the full text of my questions and of the replies received is appended):

18. As to the murder of numerous civilians in Alkhan-Yurt in December 1999, the preliminary investigation has been suspended in view of “contradictory evidence on the circumstances”, the relatives of the persons buried in the mass grave “not giving consent” to exhumation[4].

19. As to the mass executions in Novye Aldy and Novaya Katyama suburbs of Grozny (February/April 2000), the answer was merely that the “preliminary investigation continues”[5].

20. No reply was given as to the progress of the cases of the abduction of Ruslan Sh. Alikhadzhiyev (on 17 May 2000)[6] and of the killing of Madina Mezhieva and Amkhad Gekaev.

21. As regards the mass grave in the “Zdorovye” dacha estate and the special operation in the village of Mesker-Yurt, the “preliminary investigation continues”.

22. The cases of the abduction of S. Imakayev and of the murder of Kh. Yandiev (both pending before the European Court of Human Rights) are still being “investigated by the military prosecutor’s office”. [7]

23. Some progress seems to have been made only with regard to the cases of the murder of the former head of administration of the village of Alkhan-Kala, M.K. Umazheva, and of the torture of Alaudin Sadykov. In the former case, two wanted “bandits” were identified as perpetrators, one killed in the meantime “when he showed armed resistance”. In the latter, three interior ministry staff were identified as participants in the crime. One committed suicide, two others are sought by the police.

24. Concerning the cases brought to my attention after March 2003, of the 24 cases I submitted, I did not receive any reply for 10 cases. Whilst one case is still being checked up, two are being “investigated by the Military Prosecutor’s Office”. In another case, I was told that my information was mistaken, as the presumed kidnap victim, Mr N. Gatiev, had been arrested by court order for participation in illegal armed formations. In six other cases, I was told that “the preliminary investigation continues”, in four other cases the preliminary investigation has been suspended, two of which (a case concerning the murder of a village chief, Mr Tsitsayev,

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and a mine explosion near the village of Assinovskaya) after participants of the “bandit groups” who committed the crime were identified and are being sought. In one case, finally, that of the abduction and ill-treatment of Mr Z. Murdalov, a serviceman, Mr Sergei Lapin, has been indicted and is being tried before the Supreme Court of the Chechen Republic. But I have learnt in the meantime that the proceedings against him have been suspended since October 2003, after he failed to appear in Court, because of his inability to stand trial due to mental illness. At the same time, Mr Lapin, after he was first dismissed from OMON, was reinstated as a police officer in the city of Nizhnevartovsk, where he was reportedly recently awarded a medal “For Protecting Public Order”.

25. The replies show that even after many years, no progress has been made in holding responsible the perpetrators even of such well-documented cases as those submitted to the Russian authorities for their comments. Interestingly, most of the exceptions, i.e. cases in which progress has been made towards identifying perpetrators, concern mostly attacks on village administration heads and security staff or other crimes attributed to rebel fighters.

26. The lack of progress in the Imakaev case is particularly worrying, as it directly affects access to the European Court of Human Rights[8]. I am deeply worried that another crime against an applicant to the Court in Strasbourg, Zura Bitiyeva, involving the murder of the applicant, of her husband, Ramzan Iduyev, their son Idris Iduyev and the applicant's brother, Abubakar Bitiyev, has occurred and has not yet been elucidated. Only a one year old child survived the attack, which took place on 21 May 2003 in the Kalinovskaya settlement near one of the main military bases in the Chechen Republic. According to eyewitnesses, a group of 15 armed men in camouflage uniforms had committed the above-mentioned killings of Mrs Bitiyeva and her family. Later the same morning, two other men – Turpal Imailov and Islambek Gadiyev – were shot in their homes, allegedly by the same group. In addition, I have been informed, in much detail, about several other cases in which family members of Strasbourg applicants have been harassed, threatened or even become victims of crimes.

27. As regards prosecution statistics for 2003 and early 2004, these are unfortunately as dismal as those for 2002 that have prompted the Assembly to adopt Resolution 1323 and Recommendation 1600 (2003):

28. In 2003 and early 2004, the Office of the Special Representative for Human Rights in the Chechen Republic received 1799 applications, 547 of which concerning cases of missing persons, 71 of which were transmitted to the Military Prosecutor's Office, and 554 to the Chechen Republic Prosecutor's Office.

29. Following 799 complaints registered in 2003 with the Military Prosecutor's Office (of which 367 contained information on kidnapping/illegal detention of 496 residents), investigators of the Military Prosecutor's Office investigated 10 criminal cases on applications of Chechen residents, i.e. 1.25% of complaints. Of these, 3 cases were referred to the courts in 2003. The military courts passed 13 sentences in 2003 (two of which concerned investigations started in 2000, five started in 2001, and 6 started in 2002).

30. The Chechen civilian prosecutor's office received 4763 applications in 2003, including 2242 concerning “illegal methods of investigation”, and 554 applications received from the Office of the Special Representative. In 2003, the civilian prosecutors initiated 419 criminal cases, 15 of which were referred to court. 128 applications from residents were submitted to the Military Prosecutor's Office, which in turn submitted 60 applications to the territorial prosecutor's office during the same period.

31. It should be noted that the number of actual violations is likely to exceed that of official complaints, as I was told by human rights activists that in a number of documented cases victims and their families have been discouraged from filing complaints by threats of reprisals.

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32. In a number of cases, promising investigations by civilian prosecutors were aborted as soon as concrete leads point at the implication of members of the security forces.

33. As a result, it must be said that the climate of impunity noted in the 2003 report is still prevailing.[9]

Item 9 v. (the recommendations of the Council of Europe Commissioner for Human Rights shall be implemented immediately by the Russian Federation)

34. According to information received by the Human Rights Commissioner's Office, the recommendations, though accepted by the Russian authorities, are yet to be implemented. The Commissioner is planning to travel to the Chechen Republic in the near future and will take up this issue.

Item 9. vi. (the Russian Federation authorise the publication of the reports of the CPT without further delay):

35. The Russian authorities, in June 2003 have still not allowed the publication of the reports of the CPT on its six visits to the Chechen Republic, the most recent one in May 2003. The CPT has nevertheless issued, on 10 July 2003, a "Public Statement" (text appended hereto) pursuant to Article 10 para. 2 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The CPT noted that there is "continued resort to torture and other forms of ill-treatment by members of the law enforcement agencies and federal forces operating in the Chechen Republic and that the action taken to bring to justice those responsible is slow and – in many cases – ultimately ineffective", and made a number of recommendations.

36. The Assembly should throw its own weight behind the recommendations of the CPT, which are the result of very thorough investigations during the six visits to the most important detention facilities in Chechen Republic, including the notorious ORB-2[10] in Grozny, and insist that the Committee of Ministers finally hold a thorough discussion based on the CPT's findings.

Item 10 i. (better co-operation from the Russian authorities with national and international mechanisms of redress, both judicial and non-judicial)

37. As regards cooperation by the Russian authorities with the European Court of Human Rights, in the absence of contrary public information, it must be presumed that Russia is fulfilling her international obligations as State Party to the ECHR. In this context, it should be stressed that it is in Russia's own interest to elucidate as soon as possible the crimes committed against applicants to the Strasbourg Court and members of their families (in particular, the Imakaev and Bitiyeva cases), and to efficiently protect all other applicants.

38. As regards non-judicial mechanisms of redress, the office of the Special Representative of the President of the Russian Federation for Human Rights in the Chechen Republic set up in 2000 and last held by Mr Sultygov was abolished by presidential decree in January 2004. I share the worries expressed by the President of the Assembly, Peter Schieder, and the Council of Europe's then Secretary General Walter Schwimmer. The justification given by a spokesperson of the Kremlin that the then newly elected President of the Chechen Republic, Achmad Kadyrov, in fact already fulfilled the function of a representative for human rights is unsatisfactory, for two reasons: the first is that according to many reports from human rights defenders working in the Chechen Republic, the different security forces under the command of former President Kadyrov and his son, Ramzan Kadyrov, are themselves suspected of being responsible for a considerable share of the disappearances and other human rights violations; the second is that in those cases in which members of Russian forces

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are suspected of such violations, it is notoriously difficult for Chechen law enforcement officials to take successful action[11].

Item 10 ii. (call on member states of the Council of Europe to pursue all avenues of accountability with regard to the Russian Federation without further delay, including interstate complaints before the European Court of Human Rights and the exercise of universal jurisdiction for the most serious crimes committed in the Chechen Republic)

39. No interstate complaint has been introduced before the European Court of Human Rights, and no country has exercised universal jurisdiction with regard to crimes committed in the Chechen Republic.

Item 10 iii. (if the efforts to bring to justice those responsible for human rights abuses are not intensified, and the climate of impunity in the Chechen Republic prevails, the international community should consider setting up an ad hoc tribunal to try war crimes and crimes against humanity committed in the Chechen Republic;

40. As regards efforts to bring to justice those responsible for human rights abuses, it can hardly be said that they have been intensified, given the statistics cited above. The number of staff working for the military prosecutor's office in the region[12] has not changed since 2002. In view of these numbers, it must be said that a climate of impunity still prevails in the Chechen Republic. Nevertheless, the call for an international ad hoc tribunal, whilst welcomed by some NGO's, has remained unheeded by the international community.

Item 10 iv. (urges the Russian Federation to ratify the Statute of the International Criminal Court without delay)

41. Following the signature of the Rome Statute on 13 September 2000, a number of senior politicians have spoken in favour of ratification[13], and inter-ministerial work and expert consultations on necessary implementing legislation are under way[14]. Still, a final decision on ratification does not yet seem to be taken at the highest level.[15]

ii. Recommendation 1600 (2003)

Item 3. i. (call on the Committee of Ministers to reorient its assistance programmes in the North Caucasus towards an amelioration of the human rights situation in the Chechen Republic as the priority objective, and allocate sufficient funds to these programmes to make a real difference)

42. The Council of Europe experts attached to the office of the Special Representative for Human Rights in the Chechen Republic, Mr Sulygov, were withdrawn for security reasons in April 2003, after a bomb went off very close to their vehicle. Their task had been mainly to help monitor the human rights situation in the region and help in the registration of complaints from the population. Whilst the withdrawal of the experts was initially considered as only temporary, they were unable to return to Chechnya until the end of 2003, by which time a new agreement was reached between the Russian Federation and the Council of Europe. An exchange of letters between the Minister of Foreign Affairs of the Russian Federation, I. S. Ivanov, and the Secretary General, W. Schwimmer[16] spells out the details of the agreement, following which the permanent presence of Council of Europe experts is replaced by their involvement, at the request of the Russian side, in the implementation of concrete tasks within the framework of the agreed programme of cooperation in Chechnya. This programme includes items such as expertise in the legislative field in the Chechen Republic, the development of local self-government, psychological and social rehabilitation of women and orphans, human rights training for law-enforcement organs and local police and penitentiary institutions as well as seminars and training of Chechen students in the field of human rights. For security reasons, all

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activities with the exception of the library project are for the time being planned to take place outside the region. The new programme of cooperation, whilst quite modest in its approach, seems to correspond mostly to the priorities set by the Assembly. Its implementation is scheduled to begin in August with a seminar on election law in Moscow, in view of the presidential elections foreseen at the end of that month.

43. In my view, it is regrettable that a permanent presence of Council of Europe experts in Chechnya is no longer foreseen, though it must be said that their actual possibilities for action were always quite limited in view of the precarious security situation and their narrowly-defined mandate.

44. I was told during my mission to Chechnya that the database of human rights complaints the Council of Europe experts helped establish in Mr Sultygov's office has been preserved and continues to be used by the current head of the office, Mr Nukhachiev. The Office of the Special Representative received 1799 new applications in 2003 and early 2004, 547 of which concerned cases of missing persons. The Office submitted 554 applications to the Chechen Republic Prosecutor's office. Unfortunately, despite our requests, we were unable to pay a visit to this office, which had been moved from Znamenskoye to Grozny, during our mission in June 2004.

Item 3. ii. (ensure that non-governmental organisations active in preventing and documenting human rights violations in the Chechen Republic, as well as those assisting their victims in different ways, are involved in the said assistance programmes)

45. The reply of the Committee of Ministers to Assembly Recommendation 1600 (CM/AS(2003)Rec1600final) dated 2 June 2003 states that the Council of Europe is in constant contact with NGO's active in the Chechen Republic and that they are involved in the assistance programmes whenever possible. The NGO's I consulted with in preparation of this report have let me know that they have not yet been involved in any of the Council of Europe's assistance programmes.

Item 3. iii (take all possible measures to increase the effectiveness of the current mandate of the Council of Europe experts working in the Office of the Special Representative of the President of the Russian Federation for Human Rights in the Chechen Republic as regards their possibility of influencing the human rights situation)

(see above para. 42 to 44, comments on item 3.i.)

Item 3. iv. (urge the Government of the Russian Federation to fully comply with the recommendations addressed to it in paragraphs 9 and 10 of the above-mentioned Resolution 1323)

46. The Committee of Ministers states in its reply to Recommendation 1600 adopted on 28 May 2003 that regular discussions have taken place, since June 2000[17], in the Deputies on the basis of reports by the Secretary General on the work of the Council of Europe experts present in Chechnya under the item "Contribution of the Council of Europe towards restoration of the rule of law, respect of human rights and democracy in Chechnya". Whilst the reply indicates that relevant recommendations by the Assembly are being taken into account during these discussions, a formal decision to urge the Government of the Russian Federation to comply with the above-mentioned Assembly's specific recommendations has not been taken. In particular, a reference to such a decision is not included in the Committee of Ministers' reply to Recommendation 1600. This omission marks a further step down in the strength of the Committee of Ministers' reaction from its reply to Assembly Recommendation 1593 on the Evaluation of the prospects of a political solution to the conflict in the Chechen Republic, adopted by the Deputies on the same day. In this document it is still said that "[I]n accordance

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with paragraph 4 of the recommendation, the Committee of Ministers duly brought the Assembly's Resolution 1315 (2003) to the attention of the Government of the Russian Federation" – though without, as paragraph 4 of Recommendation 1593 had called for, pressing for expeditious action on it.

Item 4. (petition to the Committee of Ministers by virtue of paragraph 1 of its 1994 Declaration on compliance with commitments and recommendation to the Committee of Ministers to instruct the Secretary General to take specific measures under paragraph 4 of the said Declaration)

47. The Committee of Ministers' reply to Recommendation 1600 does not include any express mention of the 1994 Declaration on compliance with commitments.[18] The Committee has also not taken a decision on any other occasion to give instructions to the Secretary General to "make contacts, collect information and furnish advice on the human rights situation in the Chechen Republic", as recommended by the Assembly. This omission is all the more regrettable as Paragraph 4 of the 1994 Declaration has been used several times before in response to concerns expressed by the Parliamentary Assembly[19].

48. The Assembly must continue reminding the Committee of Ministers as the Council of Europe's executive organ that the continuing massive human rights violations in the Chechen Republic are by far the most serious human rights issue in any of the Council's member states and that the credibility of the whole Organisation depends on its ability to convince the Russian Federation to meet its commitments in this respect[20]. In my opinion, the Committee of Ministers has done a poor job on this count, for "geopolitical" reasons, which have become less and less acceptable in recent times to the public opinions of many countries belonging to the Council of Europe and beyond.

C. The evolution of the human rights situation in the Chechen Republic since 2003

i. Global assessment of the situation – statistics by "Memorial"

49. The dramatic human rights situation in Chechnya described in the texts adopted by the Assembly in January and April 2003 has unfortunately not improved significantly since then. The number of "special operations" or "sweeps" by the security forces seems to have somewhat decreased, in particular just before the referendum in March and the presidential election in October, and since the end of 2003. But arbitrary detentions, often followed by the "disappearance", torture or severe beatings of detainees, and the theft or destruction of property at the hands of security forces (Chechen and Federal), but also of certain rebel groups, are still occurring on a massive scale, especially as seen against the background of the small population of the Chechen Republic, and the losses already suffered in previous years.

50. Statistics kept by "Memorial" reveal a total of 495 abductees for 2003 (177 in the first five months of 2004), of whom 156 (92) were released or ransomed back, 52 (13) found dead, and 287 (72) are still missing. The number of persons killed in the Chechen Republic in 2003 was 446 (117 in the first five months of 2004), of which 297 (57) civilians, 72 (20) law enforcement officials, 1 (4) head of administration, 38 (12) presumed members of "rebel" forces, and another 38 (24) unknown persons. Whilst the statistics show a slight improvement for the beginning of 2004, the effects of the "change of strategy" announced by the rebels as shown in the large-scale attacks at the end of June are not yet taken into account. "Memorial" stresses that the numbers for the entire Chechen Republic may be three to four times higher than its figures based on the incomplete monitoring of 25-30% of the territory. The true number of abductions is thus likely to be closer to 1500-2000 for 2003, and that of killings only just below. The significance of these numbers in relation to Chechnya's population estimated at between 800.000 and 1 million is obvious. There is hardly a family that has not suffered a death or a disappearance.

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51. A depressingly familiar picture is painted by the description in the Report by the Moscow Helsinki Group and "Memorial" Human Rights Centre (Chechnya 2003, Political Process through the Looking Glass) of a dozen of individual incidents, which took place in just over a week in early September 2003[21]. "Unknown armed people in masks and military uniforms" driving unmarked armoured or other vehicles, breaking into houses, beating up and abducting residents[22]; people arrested by Russian federal forces, some of them never to be seen again, others abandoned after being severely beaten up and tortured[23]; "chaotic gunfire" in urban districts[24], artillery attacks on villages[25], land mines killing inter alia a mother of nine and another of eight children and maiming other women and children[26].
- ii. New categories of violations of the European Convention on Human Rights in the wake of the constitutional referendum and the Chechen presidential election
52. The constitutional referendum of March 2003 and the election for the Chechen presidency in October 2003 have given rise to new categories of human rights violations, now also including the people's right to free elections (Article 3 of Protocol No. 1 to the ECHR) and to freedom of expression (Article 10 ECHR), in addition to continuing violations of the right to life (Article 2 ECHR), the prohibition of torture (Article 3 ECHR), and the rights to liberty and security (Article 5 ECHR), and to the protection of property (Article 1 of Protocol No. 1), etc..
53. Violations of the Chechen population's democratic rights were committed on the side of those in power by way of gross manipulations of the electoral process[27], including an unfettered use of administrative resources for one-sided propaganda, the intimidation and sometimes physical aggression and annihilation of adversaries, as well as by manipulating electoral lists and vote counts (including recourse to numerous "dead souls").
54. A terrifying example[28] is the account of an incident on 9 September 2003, in the Starpromyslovy district of the city of Grozny, in the Katayama settlement, on Zhukovsky street: gunmen, presumably from the security service of Kadyrov, in cars without license plates (windows covered with Kadyrov's portraits) stopped Bislan Khayauri for an ID check. After the inspection, they shot him dead using their assault rifles. Then they blocked off the neighbourhood where the house of the Khayauri family was located. Having fired at the house, the gunmen broke into it and partially destroyed, partially stole the property from the house. The victim's father was a coordinator of the elections headquarters of Malik Saidullaev, one of the candidates for the Chechen presidency. Katayama residents are sure that Bislan's assassination and the sack of the house were acts of deterrence and revenge on the part of Kadyrov's supporters against backers of Saidullaev.
55. Violations of the people's democratic rights were also committed by armed rebels who in turn attacked candidates and their supporters, as well as polling stations, in a number of violent incidents, some of which could have made many more victims but for the vigilance of the security forces.
56. An example[29] is that of Abdul-Wahid, mufti of the Vedeno district and his bodyguard, who were killed on 26 August 2003 in the village of Elistanzhi. According to villagers, a group of armed Chechens took them from their house at night and one of the killers read out some sort of an order, after which the mufti was shot dead and his bodyguard stabbed to death. Villagers point out that Abdul-Wahid was a close friend of Ahmat Kadyrov.
57. Another example[30] is the coordinated attack on the local TV station in the village of Sernovodsk in the Sunzha district, when Magomed Astamirov, the station's director, was forced at gunpoint to play a videocassette with fighting scenes and an address by A. Maskhadov. Three other groups of paramilitaries simultaneously seized an electric power plant, opened fire on the local police station, and destroyed the local pre-election headquarters of Mr Kadyrov,

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after which they fired their guns in Lenina and Kirova streets, shouting "Allah Akbar!" and telling onlookers to go home and watch the local TV channel. Fortunately, there were no casualties.

58. On 2 September 2003, Saipuddin Tsitsayev, head of the administration of the village of Chechen-Aul near Grozny was killed at dawn, by unknown armed persons in masks who stormed in his house, dragged him into the yard and shot him dead[31]. According to the Russian authorities, participants of the "bandit" group who committed this crime have been identified in the meantime and are being tracked down.

59. These incidents are but examples chosen more or less at random. They illustrate together with other abuses the point of view of all NGO's active in the region that the referendum and the presidential elections in 2003/2004 did not meet minimum standards for democratic elections.

60. Moreover, I share the NGO's point of view that the security and human rights situation in Chechnya are still such that truly democratic elections could not take place this summer. Under the prevailing security conditions, meaningful election observation was also not possible. For these reasons, I declined the invitation to be present during the presidential election at the end of August, as I feared that my presence could be abused to lend international legitimacy to an exercise that is not, and cannot be termed a democratic election.

iii. Climate of impunity still prevailing in Chechnya, and spreading to Ingushetia

61. The climate of impunity diagnosed by the Assembly in Resolution 1323 and Recommendation 1600 is unfortunately still prevailing in the Chechen Republic[32], and it appears to be spreading to Ingushetia, where a number of abuses took place in 2003 and early 2004 that are reminiscent of those taking place in the Chechen Republic[33].

62. The replacement on the side of the Federal forces of large-scale "mop-ups" by smaller "targeted operations" has been described by NGO representatives as a false progress. Whilst fewer persons are affected by such operations, they amount in their view to quasi-legalised "death squad" activities. Because of the much smaller number of potential witnesses, it is also more dangerous for victims' relatives to complain, as informers can be identified and subjected to reprisals much more easily.

63. A new frightening trend is that of hostage-taking of relatives of suspected rebel fighters in order to oblige them to give themselves up. A prominent case was that of Magomed Khambiev, who "voluntarily" surrendered to the Chechen authorities on 8 March 2004. On 1 March 2004, a large-scale "special operation" had been carried out in Grozny, Benoi and Nozha: Yun leading to the arrest of about 20 of his relatives. An ultimatum was then allegedly addressed to Mr Khambiev via the elders that they would "all be shot" unless he surrendered himself. After his surrender, the Khambiev family members were released again. [34] Ramzan Kadyrov, son of the assassinated President and leader of the "presidential guard" has reportedly proposed to punish not only the fighters themselves but also their relatives. [35] Some incidents reported by Memorial in May 2004 and by IHRF in September 2004 [36] seem to show that these are not empty threats [37]. Needless to say that this goes straight in the face of the European Convention of Human Rights, which allows for the punishment only of those who committed criminal offences themselves, not their relatives.

64. During our meeting in June, the President of Ingushetia, Mr Zyazikov, impressed us with his candid recognition of growing security problems in his Republic. Insisting that "Ingushetia is not Chechnya", he pledged that every disappearance would give rise to serious prosecutorial investigation. He had also steadfastly refused requests from certain organisations for permission to use vehicles without license plates. When we mentioned that we had seen such vehicles during our visit, he severely admonished the Minister responsible, in our

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presence. When we raised the case of the missing prosecutor, Rachid Ozdoev[38], he assured us of the unquestionable credibility of his father, who had earlier on the same day informed us personally of the circumstances of his son's disappearance, at the "Memorial" office in Nazran. President Zyazikov assured us that he would do his utmost to clarify this case, and the other disappearances that have recently occurred in his Republic[39]. He fully agreed with our suggestion that the country urgently needs more law enforcement officials such as Rachid Ozdoev, who do their job with courage and determination, to serve and protect all law-abiding citizens, and who go after those who break the law, whoever they may be.

65. I am particularly saddened by the deterioration of the situation in Ingushetia, in particular after the series of coordinated attacks at the end of June 2004, as this Republic has shown a most impressive readiness to help the large number of refugees who crossed its borders during the two Chechen wars. With some help from the international community, for which President Zyazikov expressed his republic's gratitude, the Ingush people, who number 480.000, accommodated over 500.000 refugees. I will not go into any details as regards the situation of the Chechen refugees in Ingushetia, who have been subjected to different types of pressures to make them return to Chechnya, as this is the topic of my colleague Iwinsky, who is preparing a report on the situation of the refugees for the Migration Committee.

66. I share worries expressed by NGO representatives that the situation in the Chechen Republic can be likened to a cancer that threatens to spread throughout the Russian Federation. Members of the security forces who have spent some time in Chechnya and are rotated to other regions of the Federation are at risk of bringing home methods they have learnt and got away with in Chechnya. The nationalistic tone prevailing in many media, and the anti-caucasian sentiment spreading in the general population, and even in the courts, especially in the newly introduced jury trials[40], is also negative fall-out of the conflict in the Chechen Republic.

67. I have prepared, in Appendix I, a selection of individual cases of abuses that have been brought to my attention by different NGO's to raise in my report as examples, with the hope that public attention may contribute to their resolution.

68. The cases presented in some more detail in Appendix II are of particular significance to me personally, as they were brought to my attention by the suffering relatives who attended the meeting I had with them together with Andreas Gross at the Memorial office in Nazran.

69. The Kaplanov case[41] shows that not all abductions, not even all those committed by members of the security services, have a "political" background. But it also illustrates the reasons for the lack of confidence of citizens in the local, "street-level" law enforcement bodies. By contrast, several of the victims' relatives we met, desperate as they were, implored us to inform President Putin of their plight – saying that if only he knew what is really going on, he would personally ensure that law and order be restored, and their relatives freed.

70. This attitude is reflected in the position of the main Russian and international non-governmental human rights organisations, who asked us to plead for the temporary instauration of a state of emergency, or direct presidential rule, and for the postponing of any elections until law and order would be restored in such a way. As parliamentarians working for human rights and democracy, Mr Gross and I were rather surprised that organisations such as Memorial, and regional representatives of other human rights groups pleaded for the introduction of martial law and the postponement of elections. They explained that they preferred calling a spade a spade, and hoped for a clear-cut assumption of responsibilities in such a case.

71. By contrast, the Federal and Chechen authorities continue to bet on "normalisation", refusing any talks with the secessionist camp, which they attempt to stamp out by any means. Progress towards "normal life" is expected from planned injections of federal funds to further

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social development: reconstruction of social infrastructures, housing, disbursement of compensation promised to those whose houses or apartments were destroyed during the fighting.

72. During our mission in June, the Russian organisers made it a point of honour to show us a number of realisations in this sense, in Grozny and in Znamenskoye, including two camps for returning refugees (one consisting of small houses, the other a high-rise block of apartments), several schools, a kindergarten, an orphanage, a maternity hospital, a woodcrafting workshop, reconstructed administrative buildings, and last but not least Grozny University, which has re-opened. These realisations are of course positive signs that efforts are made, and bear fruit. But in view of the complete destruction of Grozny – it was enough to look out of the window as we were transported in a convoy of armoured vehicles from one point to the other – these efforts, however laudable, appear futile. Durable economic reconstruction and development necessitates the population's trust in those governing them. Such trust in turn requires respect for human rights, in particular by members of the different law enforcement bodies. This truism must be repeated again and again, and the Council of Europe owes it to its important member state, the Russian Federation, not ever to give up.

D. Conclusion

73. The human rights situation in the Chechen Republic remains catastrophic, and is threatening to spread to other regions of the Russian Federation, undermining the rule of law. The authorities' efforts to improve the social situation have produced some results, but durable social and economic progress requires regaining the people's trust. This in turn necessitates bringing to justice the perpetrators of the most serious human rights violations and taking the necessary measures to avoid the repetition of such abuses.

74. For this reason, I propose to reiterate the appeals to the Russian authorities, and to the illegal armed formations, to take the necessary measures to put an end to the climate of impunity prevailing in the Chechen Republic, as spelt out in the draft resolution, and in the recommendations by the CPT and by the Council of Europe Commissioner for Human Rights.

75. I also propose, in the draft recommendation, to continue reminding the Committee of Ministers as the Council of Europe's executive organ that the massive human rights violations in the Chechen Republic are by far the most serious human rights issue in any of the Council's member states and that the credibility of the whole Organisation depends on its ability to convince the Russian Federation to meet its commitments in this respect.

APPENDIX I

A selection of Individual Cases of Human Rights Abuses

1. Eliza Gaitamirova "disappeared" on 15 January 2004. She had been arrested in December 2003 and held in a place of detention in Nalchik in Kabardino-Balkaria until 1 January 2004. A number of Chechen men were held alongside Ms Gaitamirova, but the relatives were given no information concerning their whereabouts[42].

2. Imram Ezhiev, head of the Society of Russian-Chechen Friendship's information centre in the northern Caucasus, regional coordinator of the Moscow Helsinki Group and a member of a working group on human rights in Chechnya organised by the Presidential Human Rights Commission: he has been detained at least 17 times, last on 29 January 2004, shortly after he accompanied the head of the Russian Presidential Human Rights Commission, Ella Pamfilova, on a visit to IDP camps in Ingushetia. Several officers allegedly hit him on the back and beat his head against the wall, while threatening to hand the men over to the Russian federal forces, where they would "disappear" without a trace. Mr Ezhiev claimed that the police officers read

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the medical documents he carried with him and knew that he had a spinal injury when they hit his back. The next morning, Ms Pamfilova learnt that the men had been detained and upon her insistence, they were let go later that day. In March 2003, Mr Ezhiev had also been taken from his car by armed, masked men and held for approximately three days, during which he was reportedly tortured. His cousin Akhmed Ezhiev was shot and killed at his home in Shali on 18 December 2002.

3. In an “urgent action” dated 16 July 2004, Amnesty International informs about a new worrisome incident in which more than 40 police officers raided the Society’s office in Karabulak/Ingushetia on 12 July. According to AI, most of them wore masks and camouflage and carried machine-guns. They searched the office without showing an arrest warrant and apparently confiscated six videotapes, four computer discs and files containing testimonies of victims of human rights violations against civilians by Russian federal forces in Chechnya, as well as the names of the alleged perpetrators, and details of vehicles used to abduct civilians. Imran Ezhiev arrived during the search and told the police that their activities were illegal without a warrant. One officer allegedly shouted at him that it was illegal that he was born, and that he was a Chechen, and threatened that they would find something criminal about him. One of the human rights defenders of the Russian-Chechen Friendship Society, Khamzat Kuchiev, was arrested on suspicion of involvement in terrorism, shortly after the police claimed they had found two small plastic bags full of powder. Imran Ezhiev called the head of the Presidential Human Rights Commission, Ella Pamfilova, in Moscow, for help. She reportedly called the President of Ingushetia and asked him to intervene. As a result, Khamzat Kuchiev was released a few hours later, and the police apparently apologised to him, but asked that the NGO should not publicise the incident further. The Society nevertheless filed a complaint with the Office of the Procurator of Ingushetia, for illegal search of its office, arbitrary detention of Mr Kuchiev, and alleged fabrication of evidence.

4. Amnesty International remains seriously concerned for the safety of Imran Ezhiev and other members of the Society.

5. Aslan Davletukaev’s mutilated body was found on 16 January 2004 near Gudermes in Chechnya. Mr Davletukaev had been working with the Society for Russian-Chechen Friendship and had reportedly been kidnapped by Russian federal forces on 10 January.[43]

6. Arthur Akhmatukaev, a member of the Society for Russian-Chechen Friendship, who had recently married the niece of Imran Ezhiev (cf. above), “disappeared” after he was taken away on 4 August 2003 by Russian soldiers in an armoured vehicle.[44]

7. Aslan Shakhidovich Usmayev of the village of Tsentrovaya was found dead on 1 September 2003 in the eastern suburbs of Gudermes, near a filling station, some 150 m from a local police station. He had undergone an operation at Gudermes city hospital no. 2. On 31 August, at midnight, armed persons wearing masks arrived in a UAZ jeep and stormed into the hospital kidnapping A. Usmayev and a friend of his looking after him in the hospital. The same night Usmayev’s friend was released. The murder was not reported to the law enforcement bodies.[45]

8. Musa Khamkhoev and Ibragim Khashagulgov were killed and Akraham Kashaguigov wounded in an alleged attack on a civilian car by a military helicopter on 25 March 2004 near the Ingush village of Sleptsovskaya[46].

9. Maidat Tsitsaeva and five of her children were killed in the aerial bombing of her house in the village of Rigakhoy, in the Vedeno region of Chechnya.[47]

10. Zelimkan Muralov disappeared on 2 January 2001. A member of the military, Sergej Lapin, has been prosecuted. The high-profile criminal proceedings are still going on.

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11. Ramzan Musaevich Shaipov was abducted on 8 May 2004 from his home at 23 Lenin Street in Chiri-Yurt (Shalinski region) by Russian-speaking, unidentified men in camouflage uniforms. During his arrest, the soldiers used violence against his wife, three-year old son and small baby, which they threw on the floor. His wife saw the kidnapers making their escape in unmarked vehicles (Niva, Zhiguli-7 and Gazel). At the time, two Armoured Personnel Carriers were stationed on the edge of the village. Soldiers broke into the houses of the Shaipovs' neighbours (the Astamirov and Aidamirov families) and went on the rampage, beating up inter alia 78-year-old Aldan Astamirov. Shaipov's relatives complained to the regional department of internal affairs of the Shalinski region, convinced of his innocence. The inhabitants of Chiri-Yurt, incensed by the arbitrary detention, set up a barricade on the road between Chiri-Yurt and Novye Atagi, demanding Shaipov's release. Soldiers tried to disperse the picket by opening fire with automatic weapons over the heads of the crowd, but the civilians did not give way. The soldiers finally withdrew, but the Chechen authorities have nevertheless not responded to the demands of the inhabitants of Chiri-Yurt.[48]

12. Adam Medov disappeared on 15 June 2004 in Karabulak. On 17 June in the evening, his family was informed that their son was in the ROVD police station of the Sunzha district. Family members gathered at the police station, and policemen even offered two of his brothers to see him, although they were subsequently prevented from doing so. At about 23h30, policemen informed the family that Adam was being taken away, one ROVD police officer accompanying him to the "Kavkaz" checkpoint at the border to Chechnya. Since then, nothing is known about Adam Medov's whereabouts, and ROVD police now deny that he was even at their station on 17 June at the said time[49].

13. Rasukhan Evloev and Ibragim Ismailov disappeared on 11 March 2004 near Nazran. At a traffic police checkpoint, ten armed camouflaged persons, one of whom allegedly showed an FSB identity card, forced the two young men to board one of their cars (VAZ-21099) and took them away, not to be seen since[50].

14. Temur Khambulatov was arrested on 18 March 2004 at his house in the village of Saveljevskaja, by a group of armed masked men travelling in military vehicles who told his mother that they belonged to the FSB and were taking her son to the nearest police station. On the next day, his mother was informed that he died in custody, most likely after having been severely tortured. The Prosecutor's Office of Naursky regiona initiated criminal case # 40560.[51]

15. Said-Magomed Aliev, an employee of the Czech "People in Need Foundation", was detained in Grozny on 14 April 2004, by armed masked persons. Five days later, his body was found by a sheppard.[52]

16. Zelimkhan Isaev was detained on 9 May 2004 by a group of about 15 armed, masked men. He was brought to the Urus-Martan ROVD (police) station. Only on 12 May, a lawyer hired by his family was allowed to see him. According to the lawyer, he showed traces of severe torture and needed urgent medical care. On 16 May at 11h30, he died of his wounds.[53]

17. Ibragim Tsurov, an Ingush lawyer and member of the Bar of Chechnya, worked as a lawyer at the Khankala military base in Grozny. On 26 April 2003, his car, in which he drove in the company of three servicemen who also worked in Kankhala, was overtaken by two other cars and several armed men in mask stopped his car, beat him and placed him in the boot of their car. They drove off and left the three servicemen standing unharmed. Mr Tsurov was never seen again. On 18 June 2003, the Grozny city prosecutor's office opened an investigation and eventually referred the case to the Military Procuracy. The military procuracy opened an investigation, although it had refused to do so earlier. After more than a year, there

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has been no progress on the case. Mr Tsurov's sister has desperately searched for her brother and even travelled to Kankhala, where she identified her brother's car in the yard of the base. In attempting to obtain further information, she was threatened by military officials.

APPENDIX II

Cases transmitted during the meeting in Memorial's Nazran office

1. Kidnapping of Bashir Adamovich Mutsolgov, born 1975, teacher, married with one very young daughter: On 18 December 2003, Bashir Adamovich Mutsolgov left his father's house to go to his own home, 50 m away. A white "Niva" jeep with tinted windows and its number obscured by mud (only the region of registration was visible, no. 26) pulled up, and armed men in uniform without insignia and black masks hit him in the stomach with a machine-gun butt and threw him in the car.

2. A passer-by informed police at the Karabalakskiy station, who gave chase and stopped the abductors, one of whom showed a special pass from the Regional Operational Force. The police let them go apparently without actually examining the pass. The abductors (in cars identified in the text) disappeared in the direction of the federal Rostov-Baku road. Persistent inquiries revealed the involvement of the Directorate of the Federal Security Service of the Russian Federation responsible for the Republic of Ingushetia and the Chechen Republic and the Regional Directorate for the North Caucasus. Mr Mutsolgov was held in an underground cell at the FSB Directorate in Magas and taken the following day to Khankala in the Grozny district. This information was provided by staff of the aforementioned directorates who wished to remain anonymous. They also stated that he had been tortured and beaten into signing a confession to crimes of which he knew nothing. To date no other information is available on Mr Mutsolgov's whereabouts, the reason for his abduction or his state of health. The ill health of Mr Mutsolgov's elderly parents is made worse by not knowing what has happened and officials' refusal to say.

3. Abduction of Timur Mukhammedovich Yandiyev (born 1979): his son was abducted outside the Ingushenergo plant in Nazran on 16 March 2004 by six masked men in camouflage uniforms driving Gazel and Niva cars without registration numbers. The incident was witnessed by the Ingushenergo security staff, who telephoned the police.

The cars passed the Kavkaz-20 border post on the Ingushetian-Chechen border in the direction of Grozny, showing a Russian special services pass.

The prosecutor's office in Nazran has lodged criminal proceedings[54].

4. Letter dated 2 June 2004 from a retired federal judge, Boris Ozdoyev, whose son, Rashid Ozdoyev, born 1975, was abducted.

5. Rashid Ozdoyev worked in the prosecutor's office for ten years, the last two as assistant prosecutor of the Republic of Ingushetia, with responsibility for supervising the application of the law in the FSB Directorate for Ingushetia.

In that capacity he had criticised, verbally and in writing, the murders and abductions committed by FSB special operations staff and mobile detachments of the Ministry of Internal Affairs. He had handed the last such written statement to the Prosecutor General's office and the State Duma MP, Bashir Kodzoyev, when on a further training course in Moscow in early March.

6. On his way home, on 11 March, he was abducted in the Verkhniye Achaluki area of the Malgobek district of Ingushetia by members of the FSB and a mobile unit of the Russian

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Ministry of Internal Affairs, in three cars. Only four days later, at the father's insistence, did the prosecutor's office lodge criminal proceedings for abduction.

7. The father had to resort to making his own inquiries and an FSB officer in Ingushetia indirectly involved in the abduction had given details of witnesses having seen Rashid Ozdoyev driven to an FSB garage. Over two months later, the investigator had not yet managed to officially question those individuals, supposedly because the head of the FSB directorate, S.B. Koryakov, would not allow this. The father has a taped statement from the aforementioned FSB officer that his son was abducted on Koryakov's orders. His repeated petitions to the country's highest authorities have been ignored.

8. He says that the number of killings and abductions in Ingushetia has fallen thanks to the efforts of the Novaya Gazeta correspondent, Anna Politkovskaya, but the parents of over 40 abductees remain without news. Their only hope is that an international organisation will bring this to the attention of the Russian President.

9. We raised Mr Ozdoyev's case during our meeting in June with Ingush President Zyazikov, who emphatically and publicly promised us to personally follow up this case. On 2 August 2004, Novaya Gazeta published an article with the answer from Deputy Prosecutor General Sergej Fridinsky to an inquiry of Duma Deputy Vladimir Ryzhkov regarding Mr. Ozdoyev's case, which does not appear to answer all the questions raised by the Deputy, and by Mr Ozdoyev's father.[55] The further progress of investigations in this important case may well give an indication of the political will of the competent federal authorities to deal with alleged abuses of local FSB officials.

10. Petition to the head of the section supervising criminal investigations of the Prosecutor's office, A.N. Mazhidov, from Khadzhat Daudovna Kaplanova:

11. Her home was forcibly entered by masked armed men who arrived in a vehicle with 40-42 marked on the side. They searched the house demanding arms, US dollars, Russian money and gold items. Not obtaining these, they took away her son Isu Gilchiyevich Kaplanov (born 1965), her son-in-law, Ruslan Abuyazidovich Sadulayev (born 1962) and a neighbour, Movsar Musaitov. The subsequent criminal case, no. 13093, established that the abductors were the servicemen Dmitri Viktorovich Tikhonov, born 1971 and resident at ul. Zavodskaya 38/15, Yekaterinburg, and Sergey Borisovich Morozov, resident at ul. Vostochnaya 22-314, Sverdlovsk. The deputy head of operations, Magomed Akhmedovich Batayev, has stated that the abductees were taken to Khankala.

12. Mrs Kaplanova was aware of the involvement of Ayub Tsitsiyev, who had befriended her son at business college and lent him 1,000 US dollars with subsequent demands for interest. She had notified the investigator, R. Ibragimov. Tsitsiyev was questioned as a witness and admitted to hiring the aforementioned soldiers to collect the debt. Failing to collect the debt, they had taken her son and son-in-law away.

13. She had repeatedly sent intermediaries to ask Tsitsiyev to hand over the abductees, with promises that the debt would be paid, but he had categorically denied his involvement in the abductions. However, he did admit involvement, linked to the debt, to the case investigator M.A. Antipov in June 2003. She now calls for a criminal prosecution of Tsitsiyev.

14. The case investigator Klindukhov asked her to pay 65,000 roubles to Tsitsiyev, which she refused to do. Following her complaint to the prosecutor about the investigator, the case was handed to another investigator.

15. She asks for assistance in locating and obtaining the release of her son and son-in-law. The following page (page 9) is a letter adding that the prosecutor, Yu.A. Ponamarev, had gone

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to Yekaterinburg to take statements from the soldiers who had abducted her son (Tikhonov and Morozov) but they had been on a working trip to Moscow. After repeated trips to Yekaterinburg the investigator M.A. Antipov had obtained statements from them confirming their involvement. A statement from Tsitsiyev was also on the case-file, but it had disappeared when the case had been passed to another investigator. She complains of an ineffective investigation, which is now at a standstill.

APPENDIX III

Questions by Mr Bindig

(sent to the Russian authorities ahead of the fact-finding visit)

A. Introduction

As Rapporteur for the Committee on Legal Affairs and Human Rights on the human rights situation in the Chechen Republic, Mr Bindig has been invited to visit Chechnya during the first week of June, together with his colleagues, Mr Gross of the Political Affairs Committee, and Mr Iwinski, of the Committee on Migration, Refugees and Population.

The purpose of this visit is to prepare the factual basis, in the most professional and neutral manner, of the report that he has been asked to prepare, and which he is hoping to submit to the Committee on Legal Affairs and Human Rights as soon as possible after his visit.

In order to prepare the visit, and thereby the future report, in the most efficient way, Mr Bindig would be most grateful if you could transmit the following questions to the competent Russian authorities, in particular to

Mr Vladimir Ustinov, the Procurator General of the Russian Federation,

the Chief Prosecutors of the Chechen and Ingush Republics, and the Chief Military Prosecutor responsible for the Chechen Republic;

Mr Vladimir Lukin, the newly appointed Commissioner on Human Rights in the Russian Federation, who I was informed is acting for the time being as the Russian federal coordinator for cooperation with the Council of Europe for the promotion of human rights in the Chechen Republic, and

the President of the Chechen Republic, Mr Akhmad Kadyrov, who I was informed has assumed his full constitutional responsibilities for human rights in Chechnya, including the supervision of the Office of the former Special Representative of the Russian President for Human Rights in Chechnya, Mr Sultygov, and to the said Office itself.

The first set of questions (below B.) is of a more general, statistical nature, mainly intended to update the information concerning the year 2002 as presented in the letter of Mr Sultygov dated 28 February 2003 (Ref. No. A7-13/148)[encl.1]. The second set of questions (below C.) concerns the progress of ongoing procedures in individual cases that were either already mentioned in Mr Bindig's previous report (Doc. 9732 dated 13 March 2003) [encl. 2] and in the letter dated 28 February 2003 from Mr S. N. Fridinskiy to Mr Sultygov (Ref. No. 46-1879-03)[encl.1], or that have been brought to his attention since then. The sources quoted are enclosed in photocopy for more convenient reference.

Whilst Mr Bindig will need the replies in order to complete his report later in June, he would be most grateful if he could be provided with part of this information before his planned visit in the

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first week of June so that any points that may need further clarification can be raised during the meetings foreseen then.

As you can see also from the selection of the individual cases in Appendix II, which include a number of terrorist outrages that are likely to be the responsibility of the one or other rebel faction, it is Mr Bindig's intention to reach the fairest possible conclusions on the human rights situation in the Chechen Republic and on the efforts of the law enforcement structures to punish all those responsible for violations, regardless of their status or rank.

B. General/statistical questions

1. a. How many applications from individuals and groups of individuals has the Office of the Special Representative received in 2003, and since the beginning of 2004?

b. How many of these concerned cases of missing persons?

c. How many cases has the Office of the Special Representative submitted respectively to the Chechen Republic Prosecutor's Office and to the Military Prosecutor's Office in 2003, and since the beginning of 2004?

2. a. How many applications has the Military Prosecutor's Office received in 2003, and, separately, since the beginning of 2004 (including those submitted by the Office of the Special Representative) ?

b. How many staff members (professional staff/support staff) are dealing with these applications? How has the number of staff evolved since 2002?

c. How many of these applications have led to the institution of criminal cases?

d. How many of these cases were referred to the military courts?

e. How many of the applications received (above a.) were transmitted to the civil prosecutor's office?

f. How many convictions have resulted from the cases referred to the military courts (above c.)?

g. What is the total number of convictions in 2003 and, separately, since the beginning of 2004?

h. How many of these convictions concern cases instituted in 2000 (24), 2001 (251) and 2002 (145)?

i. How many servicemen were convicted over the course of 2003?

j. How many of the servicemen convicted in 2003 were officers?

k. What was the breakdown of the servicemen convicted in 2003 according to the type of offenses concerned (in particular, murder, rape, assault/battery, theft)?

3. a. How many applications has the office of the Chief Prosecutor of the

Chechen Republic received in 2003, and, separately, since the beginning of 2004 (including

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those transmitted by the Office of the Special Representative) ?

b. How many staff members (professional staff/support staff) are dealing with these applications? How has the number evolved since 2002?

c. How many of these applications concerned serious violations of human rights (disappearances, murders, torture, assault/battery) ?

d. How many of these applications (above b.) have led to the institution of criminal cases?

e. How many of these cases (above c.) were referred to the Criminal Courts?

f. How many of these cases (above d.) have resulted in convictions?

g. How many of the applications (above b.) were transmitted to the military prosecutor's office?

C. Questions on the follow-up given to specific cases[56]

1. Cases already mentioned in Mr Bindig's previous report (doc. 9732 of 13 March 2003) [encl.2] and in the letter dated 28 February from Mr S. N.Fridinskiy to Mr Sultygov (Ref. No. 46-1879-03) [encl.1]

a. Murder of civilians in the village of Alkhan-Yurt in December 1999 (case no. 49152)

b. Mass execution in the Novye Aldy suburb of Grozny (case no. 12011)

c. Murder of civilians in the Novaya Katayama suburb of Grozny (cases no. 12131 and 12038)

d. Abduction of Ruslan Shamiyevich Alikhadzhiyev (case no. 22025)

e. Mass grave in the "Zdorovye" dacha estate (case no. 21037)

f. Special operation in the village of Mesker-Yurt, Shalinskiy district (case no. 59113)

g. Abduction of S.-M. Imakayev (case no. 59140)

h. Murder of the former head of administration of the village of Alkhan-Kala, M.K. Umazheva (case no. 56185)

i. Killing of Madina Mezheva and Amkhad Gekaev on 27 October 2001 (doc. 9732 para. 31)

j. Murder of Khadzhimurat Yandiev (doc. 9732 para. 33)

k. Torture of Alaudin Sadykov (doc. 9732 para. 41)

2. Cases brought to Mr Bindig's attention after March 2003

a. Murder, on 2 September 2003, of Saipuddin Tsitsayev, head of the administration in the village of Chechen Aul (MHG/Memorial, p. 30) [encl.3]

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- b. Kidnapping, on 4 September 2003, of Irskhan Khaditovich Edilkhanov at 5 Melnichnaya street in the village of Khamby-Irze in the Achkoi-Martan district (MHG/Memorial, p. 30) [encl.3]
- c. Kidnapping, on 7 September 2003, of five local residents in the village of Chiri-Yurt in the Grozny rural district (MHG/Memorial, p. 30) [encl.3]
- d. Murder of three women, and maiming of three children, in a terrorist mine explosion, on 9 September 2003, in the village of Assinovskaya in the Sunzha district (MHG/Memorial p. 30/31) [encl.3]
- e. Murder of Aslan Davletukaev, kidnapped on 10 January 2004 and found dead and mutilated on 16 January near Gudermes (IHF press release of 23 January 2004) [encl.4]
- f. Kidnapping of Ruslan Soltakhanov, on 13 February 2004 (IHF press release of 26 February 2004 [encl.5]/AI UA86/04 of 27 February 2004 [encl.6])
- g. Detention and killing of Roustam Dzakalaev, on 3 February 2004, in the village of Sleptovskaja, Ingushetia ("Memorial" Bulletin February 2004) [encl.7]
- h. Kidnapping, on 19 February 2004 in Osman-Yurt (Republic of Dagestan), of Nariman Gatiev ("Memorial" Bulletin February 2004) [encl.7]
- i. Kidnapping, on 25 February 2004 in Urus-Martan, of Khasan Dombaev and Aset Dombaeva ("Memorial" Bulletin February 2004) [encl.7]
- j. Killing of Umar Zabiev, wounding of Tamara Zabieva, on 10 June 2003 near the village of Galshki (Zunzhenskij district) in Ingushetia – case no. 23 60 00 32 of 11 June 2003 (HRW "Spreading despair", Sept. 2003, p. 18-19) [encl.8]
- k. Kidnapping, on 4 July 2003, of Ali Astamirov (AFP journalist) in the center of Nazran (Ingushetia)
- l. Murder of Zura Bitiyeva, Ramzan Iduiev, Idris Iduiev and Abubakar Bitiyev, Turpal Ismailov and Islambek Gadiev on 21 May 2003 (IHF/Still in a State of Terror, p. 11) [encl.9]
- m. Ill-treatment of numerous residents of Samashki (Achkoy Martan district) during a "sweep operation" (zachistka) at the beginning of May 2003 (IHF/Still in a State of Terror, p. 12) [encl.9]
- n. Kidnapping of Khamzat Osmayev on 12 January 2004 in the village of Plievo, on the outskirts of Nazran (Ingushetia) (AI UA 21/04 of 14 January 2004) [encl. 10]
- o. Killing of Isa Magomedovich Musayev on 15 September 2003 in the village of Avtury in the Shali district (MHG/Memorial, Chechnya 2003, p. 47) [encl.3]
- p. Extrajudicial executions of nine persons from Duba-Yurt in early April 2004 (HRW press release, 13 April 2004) [encl.11]
- q. Criminal investigation no. 45031 into the death of Samil Said-Khasanovich Akhmadov and alleged intimidation of Larisa Sadulaeva
- r. Extrajudicial execution on 10 April 2004 of Anzor Pokaev at his parents' home in the village of Starye Atagi

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- s. Disappearance of Animat Dugaeva and Kurbiqa Zinabdleva on 16 May 2003 in the village of Ulus-Kert (criminal case no. 54016 opened on 4 July 2003)
- t. Disappearance of Zelimkhan Murdalov on 2 January 2001 (criminal case no. 15004 of 7 January 2001) – progress of the criminal proceedings against Sergei Lapin charged with Murdalov's ill-treatment and kidnapping, since the trial began in October 2003 in Grozny
- u. Death on 8 April 2004 of Maidat Tsitsaeva and five of her children in the aerial bombing of her house in the village of Rigakhoy in the Vedeno region of Chechnya [IHF/encl. 12]
- v. Disappearance, on 15 January 2004, of Eliza Gaitamirova, subsequent to her arrest in December 2003 and her detention in Nalchik (Kabardino-Balkaria) until 1 January 2004.
- w. Abduction, on 11 March 2004, of Rashid Ozdoev, an Ingush deputy prosecutor, near the village of Verkhnye Achaluki (AI/HRW/Memorial 8 April 2004) [encl.13].
- x. Attack on a civilian car by a military helicopter on 25 March 2004 near the Ingush village of Sleptsovskaya killing Musa Khamkoev and Ibragim Khashagulgov. (AI/HRW/Memorial 8 April 2004) [encl.13].

APPENDIX IV

APPENDIX V

Information on the investigation of criminal cases on crimes committed

on the territory of the Chechen Republic and indicated in

part "C" of the request submitted by Mr R. Bindig

1. Persons, who committed crimes, who were identified and against whom criminal proceedings were instituted, or who were declared for federal search and will be detained:

- a) Criminal proceedings were instituted against Sergei Lapin, who is accused of ill-treatment of Z. Murdalov who was abducted. The criminal case is referred to the Supreme Court of the Chechen Republic.
- b) Criminal case ? 12088 was initiated on torture of A. Sadykov. Participants in the crime are identified. They are staff members of the Khanty-Mansiysk interior bodies: Moskvina - committed suicide, Abdullaev and Zakharov are declared for search.
- c) Criminal case ? 56185 was initiated on the murder of the former head of administration of the village of Alkhan-Kala M. Umazheva. It was proved that she was murdered by A. Mashugov on the order of the bandit group leader Kh. Tazabaev. Both were declared for search.

On February 23, 2004 Kh. Tazabaev was killed during the operation on his detention near the village of Ali-Yurt of the Nazran region (Republic of Ingushetia) when he showed armed resistance. A. Mashugov is still declared for search.

d) Information about kidnapping of N. Gitiev is not true. Criminal proceedings were instituted against him and he was arrested by the decision of the court for participation in illegal armed formations and illegal bearing and storage of arms and ammunition. On April 19, 2004 the

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criminal case was referred to court with a sentence.

2. Preliminary investigation suspended, operative-and-search operations are carried out on identification and detention of persons who committed crimes:

Criminal cases:

a) Criminal case ? 49152 - discovery of the bodies of A. Asuev, I. Usmanov, I. Muradov and M. Sultanov in Alkhan-Yurt with traces of fire(arm) injuries. There are contradictory evidence on the circumstances of causing body injuries. They may be a result of shelling of federal forces by members of illegal armed formations as well as exchange of fire between them.

The bodies were buried by the relatives before the examination by the investigation group and medical experts. The relatives do not give consent to exhumation.

b) Criminal case ? 42152 - murder of head of administration of the village of Chechen-Aul S. Tsitsayev and injury of his son, militiaman. Participants of the bandit group who committed this crime were identified. Operative-and-search activities are carried out, criminals are declared for search.

c) Criminal case ? 44070 -mine explosion of the workers of the state farm "Assinovuskiy" near the village of Assinovskaya - 2 women died and 5 were wounded.

Judging by the type of explosion mechanism a conclusion may be drawn that it was laid by participants of illegal armed formations. Persons who committed this act are in operational search.

d) Criminal case ? 48023 - murder of t. Ismailov, I. Gadiev, R. Iduev, Z. Bitieva, A. Bitiev in the village of Kalinovskaya. Operative activities are carried out in order to identify persons who committed this crime.

3. Preliminary investigation continues on the following criminal cases:

a) Criminal case ? 12011 - on (mass) murder of civilians in the Novye Aldy suburb of Grozny,

b) Criminal cases ? 12131, 12038 - on murder of civilians in the Novaya Katayama suburb of Grozny;

c) Criminal case ? 21037 - mass grave in the "Zdorovye" dacha estate;

d) Criminal case ? 59113 - special operation in the village of Mesker-Yurt;

e) Criminal case ? 35002 - abduction and murder of A. Dovletukayev from the village of Avtury;

f) Criminal case ? 37016 - kidnapping of A. Dombayeva;

g) Criminal case ? 22116 - killing of I. Musayev in the village of Avtury in the Shali district;

h) Criminal case ? 32025 - kidnapping and murder of 8 residents of the village of Duba-Yurt of the Shali district;

i) Criminal case ? 34046 - kidnapping and murder of A. Pokayev;

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j) Criminal case ? 54016 - kidnapping of K. Zinabdiyeva and A. Dugayeva in the village of Ulus-Kert of the Shatoy district.

4. Criminal cases investigated by the military prosecutor's office:

on kidnapping of S. Imakayev;

on disappearance of Kh. Yandieva;

on death of S. Akhmadov;

on death of M. Tsitsayeva and her children;

Information of the detention and further discharge of 5 residents of the village of Chiri-Yurt of the Groznensky district is being checked (up).

APPENDIX VI

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Public statement concerning the Chechen Republic of the Russian Federation

(made on 10 July 2003)

1. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has carried out six visits to the Chechen Republic since the outbreak of the conflict which began in October 1999. During these visits, the Committee has interviewed in private hundreds of persons about their experiences whilst detained, and held talks with scores of federal and republican officials.

The CPT has witnessed for itself the extreme difficulties confronting the federal and republican authorities in their efforts to restore the rule of law and achieve a lasting reconciliation in this part of the Russian Federation. Acts causing great loss of life and human suffering have been, and continue to be, committed by combatants opposing federal power structures. The CPT condemns these acts and fully understands the need for a strong response from State institutions. However, that response must never degenerate into acts of torture or other forms of ill-treatment; a State must avoid the trap of abandoning civilised values.

2. On 10 July 2001, the CPT issued a public statement concerning the Chechen Republic. It was prompted by the Russian authorities' failure to cooperate with the Committee in relation to two matters: the carrying out of a thorough and independent inquiry into events at the Chernokozovo detention facility during the period December 1999 to early February 2000; and action taken to uncover and prosecute cases of ill-treatment of persons deprived of their liberty in the Chechen Republic in the course of the current conflict.

Subsequently, some steps forward have been made. The Russian authorities have issued a number of orders and instructions aimed at reinforcing control over the operations conducted by the federal forces. The structures of the civil and military prosecutors' offices have been developed, and mechanisms for better co-ordination between them introduced. In the law enforcement sphere, there has been a progressive transfer of functions to Chechen Internal Affairs structures. Reference can be made to the gradual restoration of the court

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system and the resumption of lawyers' activity. The CPT also wishes to highlight that in the course of its most recent visits, hardly any allegations were received of ill-treatment by staff working in Ministry of Justice establishments in the Chechen Republic, namely SIZO No 2 in Chernokozovo and the recently re-opened SIZO No 1 in Grozny.

3. However, in spite of sustained efforts by the CPT over the last two years, the Russian authorities have failed to tackle effectively major problems related to the Committee's mandate. There is continued resort to torture and other forms of ill-treatment by members of the law enforcement agencies and federal forces operating in the Chechen Republic. Further, the action taken to bring to justice those responsible is slow and – in many cases – ultimately ineffective. Consequently, the CPT has been obliged to make this second public statement.

4. In the course of the CPT's visits to the Chechen Republic in 2002 and, most recently, from 23 to 29 May 2003, a considerable number of persons interviewed independently at different places alleged that they had been severely ill-treated whilst detained by law enforcement agencies. The allegations were detailed and consistent, and concerned methods such as very severe beating, the infliction of electric shocks, and asphyxiation using a plastic bag or gas mask. In many cases, these allegations were supported by medical evidence. Some persons examined by the delegation's doctors displayed physical marks or conditions which were fully consistent with their allegations. Documentation containing medical evidence consistent with allegations of ill-treatment during periods of detention in law enforcement agencies was also gathered.

The allegations of ill-treatment received by the CPT concerned law enforcement establishments (Departments of Internal Affairs and certain Federal Security Service facilities) throughout the territory of the Chechen Republic and related to both official and unofficial places of detention. As regards the latter, the Military Base at Khankala was referred to repeatedly.

5. One establishment stands out in terms of the frequency and gravity of the alleged ill-treatment, namely ORB-2 (the Operative and Search Bureau of the North Caucasus Operations Department of the Chief Directorate of the Russian Ministry of Internal Affairs in the Southern Federal District) in Grozny.

ORB-2 has never appeared on any official list of detention facilities provided to the CPT. However, persons certainly are being held there, on occasion for very lengthy periods of time. In the course of its visits in 2002, the CPT received a large number of allegations of ill-treatment concerning this establishment which were supported in several cases by clear medical evidence gathered by its delegation. During the CPT's most recent visit to the Chechen Republic, in May 2003, further allegations were received, once again supported in some cases by medical evidence.

When the CPT re-visited ORB-2 in May 2003, it was holding 17 persons, some of whom had been there for several months. The persons detained were extremely reluctant to speak to the delegation and appeared to be terrified. From the information at its disposal, the CPT has every reason to believe that they had been expressly warned to keep silent. All the on-site observations made at ORB-2, including as regards the general attitude and demeanour of the staff there, left the CPT deeply concerned about the fate of persons taken into custody at the ORB.

The CPT has repeatedly recommended that a thorough, independent inquiry be carried out into the methods used by ORB-2 staff when questioning detained persons; that recommendation has never been addressed in a meaningful manner. To argue that "a formal, written complaint is required for action to be taken" is an indefensible position to adopt given the climate of fear and mistrust which currently pervades the Chechen Republic, and constitutes a dereliction of responsibility. The CPT calls upon the Russian authorities to put a stop to ill-

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treatment at ORB-2 in Grozny.

6. In the course of its visits to the Chechen Republic in 2002 and 2003, the CPT has gathered a considerable amount of information pointing to human rights violations during special operations and other targeted activities conducted by federal power structures, involving ill-treatment of detained persons and forced disappearances.

During the May 2002 visit, the CPT's delegation met public prosecutors, military commandants and members of the local administration in Argun, Kurchaloy and Urus-Martan. They stated that large-scale special operations took place according to the provisions of Order No 80 of 27 March 2002 by the Commander of the Allied Group of Forces for the conduct of "anti-terrorist operations" in the North Caucasian region, with the participation of prosecutors, and that there were no complaints about illegal detention and subsequent disappearances. However, a certain number of targeted activities by unidentified forces were apparently conducted without prior notification to the local military commanders and prosecutors. The delegation's interlocutors spoke of the appearance at night of units, whose members wore masks and drove in vehicles without number plates, and who took away Chechen inhabitants to unknown locations. Prosecutors said that they were powerless to find out who had performed such activities and to locate the whereabouts of the persons detained. Some of the detained persons subsequently reappeared, but were apparently so terrified that they refused to talk about what had happened to them, let alone lodge complaints; others had disappeared without trace or their bodies, frequently mutilated, had subsequently been found.

In its visit report, the CPT recommended that immediate measures be taken to exercise due control over all special operations and targeted activities in the Chechen Republic. In this connection, the Committee stressed the need for civil and military prosecutors to exercise close supervision, for complete lists to be drawn up of all persons detained for checks, and for information about their whereabouts to be provided without delay to their relatives.

7. The information at the CPT's disposal indicates that serious problems remain in this area. According to reports received by the Committee, including via the Council of Europe's experts based in Chechnya, the Prosecutor of the Chechen Republic has assessed that from among the 565 criminal cases concerning abductions opened in 2002, there exists evidence in approximately 300 of the involvement of members of the federal forces. This matter was expressly raised with the Prosecutor by the CPT's delegation when it met him in May 2003, and he did not contest the assessment attributed to him. As regards 2003, senior members of the Chechen Administration spoken to indicated that the problem of "disappearances" continued unabated (the figure of 233 being mentioned for the first four months of the year), and that there was evidence of the involvement of members of federal forces in a significant proportion of those cases. The Military Prosecutor of the Allied Group of Forces also acknowledged that there were cases of human rights violations by members of federal forces, including abductions during targeted activities; he referred to one specific case in January 2003, in respect of which trial proceedings would soon be opened. However, he emphasised that these violations were crimes by individual officers and were not a reflection of State policy.

The fact that the existing orders and instructions are not always respected is explicitly acknowledged in Order No 98/110 of 23 April 2003 by the Commander and Military Prosecutor of the Allied Group of Forces. Hopefully, this latest text will prove more effective than its predecessors. It is incumbent upon the Russian authorities to take adequate steps to ensure that operations by their forces are conducted in accordance with the law and standing orders and instructions, and that any violations committed during such operations are thoroughly and expeditiously investigated. In this connection, the CPT wishes to emphasise the importance of prosecutors being present not only during large-scale special operations but also when targeted activities are carried out; for the time being, such a presence is not guaranteed.

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8. As regards action taken to bring to justice those responsible for acts of ill-treatment, illegal detention and disappearances on the territory of the Chechen Republic, to date it has proven largely unproductive. A considerable number of cases have been opened in relation to crimes committed by members of the federal forces and law enforcement agencies. However, from the information provided by the Russian authorities to the CPT, it is clear that only a low proportion of cases have resulted in judicial proceedings, and that very few have led to sentences. Specific reference should be made to the investigations into violations committed by members of federal power structures during the special operations in Alkhan-Kala in April 2001, and Sernovodsk and Assinovskaya in July 2001; they have been slow and inconclusive, apparently due to the inability to identify the specific perpetrators. This can only contribute to a sense of impunity.

The CPT calls upon the Russian authorities to provide the Offices of the Prosecutor of the Chechen Republic and the Military Prosecutor of the Allied Group of Forces for the conduct of "anti-terrorist operations" in the North Caucasian region with the staff, resources and facilities necessary for the effective investigation of cases involving allegations of ill-treatment, illegal detention and disappearances.

In this connection, the need to substantially reinforce the forensic medical services in the Chechen Republic must be highlighted. At the present time they are not able to provide the support required by the criminal justice system to deal with the problems referred to above. The Forensic Medical Bureau of the Chechen Republic faces enormous limitations in terms of resources, equipment and staff, and there are still no possibilities to perform full autopsies on the territory of the Republic. The CPT calls upon the Russian authorities to take the necessary steps, as a matter of priority, to enable the Forensic Medical Bureau of the Chechen Republic to function adequately.

9. On numerous occasions in the course of its dialogue with the Russian authorities, the CPT has stressed the importance of members of the federal forces and law enforcement agencies in the Chechen Republic being reminded, through a formal statement emanating from the highest political level, that they must respect the rights of persons in their custody (including those detained during special operations and targeted activities) and that the ill-treatment of such persons will be the subject of severe sanctions. A direct message of this kind from that level would provide crucial - much needed - support to existing measures designed to counter ill-treatment in the Chechen Republic. As far as the CPT can ascertain, such a message has not yet been delivered in a clear manner; it should be, without further delay.

10. In making this public statement, the CPT remains fully committed to continuing its dialogue with the Russian authorities. The Committee is determined to pursue its co-operation with the Russian authorities in order to assist them to abide, both in the Chechen Republic and elsewhere in the Russian Federation, by the fundamental principle that "no one shall be subjected to torture or to inhuman or degrading treatment or punishment". Failure to comply with that principle will render it impossible to create the climate of confidence which is an essential prerequisite for rebuilding civil society in the Chechen Republic.

Reporting committee: Committee on Legal Affairs and Human Rights

Reference to committee: Order No. 586 (2003)

Draft resolution and draft recommendation adopted by the Committee on 16 September 2004 with respectively 16 votes in favour, 3 votes against and no abstentions and 20 votes in favour, 3 votes against and 1 abstention

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Members of the Committee: Mr Lintner (Chairperson), Mr Marty, Mr Jaskiernia, Mr Jurgens (Vice-Chairpersons), Mrs Ahlqvist, Mr Akçam, Mr Aleuras, Mr Alibeyli (alternate: Mr R. Huseynov), Mr Arabadjiev, Mr Arias Cañete, Mrs Arifi, Mr Ates, Mrs Azevedo, Mr Barquero Vazquez, Mr Bartumeu Cassany, Mrs Batet Lamafia, Mrs Bemelmans-Videc, Mr Berisha, Mr Bindig, Mr Bokeria, Mr Bruce, Mrs Christmas-Møller, Mr Cilevics, Mr Coifan, Mr Dell'Utri, Mr Engeset, Mrs Err, Mr Fedorov, Mr Fico, Mr Frunda, Mr Gedei, Mr Goris, Mr Grebennikov, Mr Gündüz, Mrs Hajiyeva, Mrs Hakl, Mr Holovaty, Mr Ivanov, Mr Jakic, Mr Jurica, Mr Kaufmann (alternate: Mr Gross), Mr Kelber, Mr Kelemen, Mr Kovalev, Mr Kroll, Mr Kroupa, Mr Kucheida, Mrs Leutheusser-Schnarrenberger, Mr Manzella, Mr Martins, Mr Masi, Mr Masson (alternate: Mr Hunault), Mr McNamara, Mr Monfils, Mr Nachbar, Mr Nikolic (alternate: Mr Jovašević), Mr Olteanu, Mrs Ormonde, Mrs Pasternak, Mr Pavlov, Mr Pehrson, Mr Pellicini, Mrs Pétursdóttir, Mr Piscitello (alternate: Mr Budin), Mr Poroshenko, Mrs Postoica, Mr Pourgourides, Mr Pullicino Orlando, Mr Raguz, Mr Ransdorf, Mr Rochebloine, Mr Rustamyan, Mr Spindelegger, Mr Stankevic, Mr Symonenko (alternate: Mr Shybko), Mr Takkula, Mr Varvitsiotis, Mr Wilkinson (alternate: Mr Lloyd), Mrs Wohlwend, Mr Zhirinovskiy, Mr Žižic

N.B. The names of those members who were present at the meeting are printed in bold.

Secretariat of the Committee: Mr Schokkenbroek, Mr Schirmer, Mrs Clamer, Mr Milner

[1] The average death toll per day resulting from incidents reported in different media was between 1.5 (mid-September 2003) and more than 10 (July/August 2003), according to the "Chechnya in brief" reports regularly presented by the Secretary General's staff. Whilst it is often difficult to assess which side was responsible for a given incident, the involvement of armed rebels is quite apparent in most cases involving firefights with Federal or Chechen security forces, attacks on such forces using mines or roadside bombs, and attacks on representatives of the pro-Russian Chechen administration and its locales.

[2] Other sources put the number of fighters involved at about 1500, and the official tally reproduced in most media, which only refer to events in Ingushetia, speaks of about 200.

[3] Chechnya – Last Appeal before Oblivion, Report on Moscow-Ingushetia mission, December 17-24, 2003 (Anne Le Tallec, ACAT (Action des Chrétiens pour l'Abolition de la Torture), April 2004).

[4] IHF commented that in other cases (below) relatives had agreed to exhumations, which had nevertheless not been carried out.

[5] The mass executions have given rise to a detailed report by Memorial which points to the presence of Omon troops from St Petersburg and Ryazan troops in the area at the relevant time.

[6] a description of the military operation including the use of armoured vehicles and helicopters leading to the capture of the former Speaker of the Chechen Parliament can be found in the Amnesty International Urgent Action Bulletin, AI Index: EUR 46/42/00, 13 September 2000.

[7] According to information received by SCJI, this is no longer the case. In a letter dated 10 July 2004 to Marzet Imakaeva, the prosecutor's office informed her that the criminal investigation into her husband's abduction was closed for "lack of a criminal offense". The letter states that Russian military servicemen had detained her husband in accordance with the law and had later released him. Mrs Imakaeva takes note of the official confirmation of her husband's detention by Russian troops, which contradicts the Government's earlier

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submissions in the case, including a memorandum of 26 September 2003 to the Strasbourg Human Rights Court, in which the Government representative states that “unidentified” persons in camouflage uniforms detained S.-M. Imakaev and that there is “insufficient” evidence to suspect the involvement of Russian federal forces. But Mrs Imakaeva finds implausible the scenario presented by the Government regarding her husband's alleged release, and intends to appeal against the prosecutor's office's decision to close the criminal investigation.

As regards the case of Khadjimurat Yandiev, SCJI informed me that the Military Procuracy of military unit 20102 had refused to open a criminal case on the grounds that no crime had been committed. The military procuracy referred to the fact that the victim's body had never been located and that on the video footage of his arrest by federal forces (which also shows that Kh. Yandiev was beaten during his arrest and that the commanding officer ordered him to be executed) the actual execution was not shown.

[8] At the meeting in Moscow on 31 May with Deputy General Prosecutor Sergeij Fridinskij, we were told that the allegedly “disappeared” Mrs Imakaeva had turned up in the United States, where she had obtained political asylum. I asked (HRW) for clarification, who gave me the following information: the Imakaev family members who left for the United States several months ago are:

1. Marzet Imakaeva (applicant)
2. Seda Imakaeva ~24 (Marzet's daughter), Shamil Imakaev, ~4 (Seda's son, Marzet's grandson)
3. Magomed-Emir Imakaev~18 (Marzet's son), his wife, Kheda Imakaeva,~16.

The ones who disappeared (and have unfortunately NOT reappeared in the United States, or anywhere else), are:

1. Said-Khusein Imakaev (Marzet's son), disappeared in December 2000, was 23 then
2. Said-Magomed Imakaev (Marzet's husband), disappeared June 2, 2002.

[9] This is also the conclusion of the major non-governmental human rights organisations.

[10] The Operative and Search Bureau of the North Caucasus Operations Department of the Chief Directorate of the Russian Ministry of Internal Affairs in the Southern Federal District.

[11] according to the replies received from the Russian authorities, the Chechen Republic Prosecutor's office transmitted 128 applications to the Military Prosecutor's Office in 2003. In the same year, the Military Prosecutor's office, which had also received 799 applications directly from Chechen residents concerning wrongful acts of servicemen, investigated a total of 10 criminal cases, and referred 3 to the courts.

[12] 94 prosecutors and investigators in seven subordinate prosecutors' offices in the region

[13] for example, Former Justice Minister Pavel Krasheninnikov and State Duma deputy speaker Vladimir Lukin, cited in CICC/Europe/CIS/Russian Federation (6 May 2002)

[14] a conference on this topic was held in Moscow on 4-5 February 2004 by the Russian Association of International Law

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[15] see Pravda.ru of 7 May 2002 : “PACE, which seems to be versatile for views and members, constantly criticizes Russia for its violation of human rights in Chechnya and passes proper resolutions. The PACE resolutions, happily, do not oblige us to anything. Though the ICC is another thing. The ICC could institute criminal proceedings.”

[16] completed by a letter dated 28 June 2004 from Mr Lukin, the Human Rights Ombudsman of the Russian Federation designated as the Federal interlocutor for the purposes of the joint programme between the Russian Federation and the Council of Europe, addressed to the Director General of Political Affairs of the Council of Europe, Mr Schumann.

[17] This date coincides closely with the petition of the Committee of Ministers by the Secretary General under the 1994 Declaration of the Committee of Ministers on the fulfillment of commitments; see below under Item 4.

[18] I was informed that earlier drafts of the reply had included a reference to the seizure, in June 2000, of the Committee of Ministers by the Secretary General under para. 1 of the 1994 Declaration.

[19] in relation to Ukraine in 2001, Georgia in 2001, 2002, and 2003 and Moldova in 2002 (cf. doc. Monitor/Inf (2004) 1 dated 22 January 2004).

[20] The International Helsinki Federation for Human Rights, in a public appeal dated 27 October 2003 extensively citing Assembly Recommendation 1600, has strongly urged the Committee of Ministers to address the Chechnya question.

[21] pages 30-31.

[22] for example, on 4 September 2003, at around 4.45 am “agents of an unknown law-enforcement structure of the Chechen Republic” arrested and drove away in a gray UAZ-452 vehicle without license plates Irskhan Khaditovich Edilkhanov (born in 1984) living at 5 Melnichaya street in the village of Khamby-Irze (Lermontovo) of the Achkhoi-Martan district.

[23] on 7 September 2003 arrest of five local residents by Russian federal forces in the village of Chiri-Yurt in the Grozny rural district. According to the sources cited in the report (p. 30), two of the detainees were abandoned on the outskirts of the village after being severely tortured and beaten up. The whereabouts and fate of the other three detainees are unknown.

[24] On 10 September 2003 around 11 pm in the Avtarkhanovsky (Leninsky) district of Grozny. According to residents, the fire came from the federal forces check-point at the end of the sixth microdistrict. Residents spent the night in fear, but luckily, there were no casualties.

[25] 7 September 2003: town of Urus-Martan; 11 September 2003: village of Makhety in the Vedeno district (no casualties, but serious damage to property).

[26] 9 September 2003: Mart Makhauri (mother of eight), Rosa Adayeva (mother of nine, including a baby of 9 months) and another woman (a still unidentified refugee) killed and three children injured in the explosion of a “self-made” landmine in the village of Assinovskaya in the Sunzha district on their way from a tomato field. The mine exploded under the tractor carriage transporting the women and children. On the scene of the explosion, a plastic bottle with a remote control and lines going sideways were discovered. A demining unit demined another similar mine at the scene of this terrorist attack that failed to explode. A criminal case was initiated by the prosecutor’s office of the Sunzha district.

[27] An edifying testimony is that of Alexander Mnatsakanyan, in: Chechnya 2003, Political

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Process through the Looking Glass, Moscow Helsinki Group/Memorial, p. 11: "Generally speaking, when it comes down to electoral violations, officials immediately get hit with an odd mix of blindness and visions. They saw lines to ballot boxes in deserted Grozny. They also watched inspired and merry people. But they somehow overlooked the fact that a French journalist took part in the voting after he produced his French (sic!) passport. It came unnoticed that scores of people, for the sake of an experiment, were voting as "new arrivals" at several polling stations. They failed to see a huge armed red-neck standing right behind a person watching closely what he was writing in the ballot. I, on the other hand, saw that with my own eyes."

[28] source: "Memorial" Human Rights Centre, in: Chechnya 2003 [...], p. 26.

[29] Source: Russian-Chechen Friendship Society, in: Chechnya 2003, Political Process Through the Looking Glass, MGH/Memorial, p. 21

[30] described in some more detail by "Memorial" HumanRightsCenter in: Chechnya 2003 [...], p. 31

[31] source: MHG/Memorial, Chechnya 2003, Political Process through the Looking Glass, p. 30

[32] References to the "prevailing climate of impunity" in the Chechen Republic are also made in the Secretary General's information document on the Council of Europe's response to the situation in the Chechen Republic (SG/Inf(2004)3 dated 16 January 2004, para. 54) and in the US Department of State's Country Report on Human Rights Practices - 2003 on Russia (page 3, with reference to my 2003 report, and page 13: "a climate of lawlessness, corruption and impunity flourished"); see also FIDH report (no. 328/2) titled "Chechnya - Terror and Impunity: a Planned System", and a paper dated 20/06/2004 by Memorial on "How the Procuracy helps to organise impunity in Chechnya"; as regards the still most disappointing law enforcement statistics, see above para. 27-31.

[33] see "Ingushetia : Enforced « disappearances », extrajudicial killings and Unlawful Detentions, December 2003 – June 2004", IHF, 4 August 2004

[34] source : Caucasian Knot /News /2004.

[35] according to NTV (cited in www.lenta.ru, 9 June 2004), Ramzan Kadyrov said:

"We shall punish their relatives in compliance with the law. They are helping the bandits and they keep saying that they are helping their relatives, their brothers and sisters. But no, it is the bandits that they are helping. We shall punish their relatives in compliance with the law. And if there is no such law, we will ask for it. We will address the State Duma of the Russian Federation with a request to adopt such a law so that they could be punished. Without this the war in Chechnya shall never be over."

[36] the case of Sultanbek Kagirov, detained on 10 December 2003, allegedly in order to oblige one of his brothers, who is a rebel fighter, to turn himself in.

[37] In a special operation on 2 May 2004 in Noibera village (Gudermes region), Veziev Pakhrudi, aged 50, resident in Zhukov Street, was allegedly detained by "Kadyrov's men", on the accusation that his son was a member of the Chechen armed resistance. Also on 2 May, in Alleroi village of Kurchaloevski region, Kadyrov's men allegedly set fire to the house of Said-Hasan Turlaev, whose son, according to villagers, belongs to the armed resistance. For a considerable time, the security services allegedly refused to allow Said-Hasan's 22-year-old

Appendix 9 – Report by Rudolf Binding of 20 September 2004

daughter to leave the burning house, whose life was saved only by the intervention of the neighbours. The Buzurkaev family home was also burnt; their son also belongs to the armed resistance. 9 relatives of members of the illegal armed forces were taken hostage (Sheikh-Akhmed Buzurkaev, 50, Ramzan Avdarkhanov, 70, Ahmed Avdarkhanov, Aslan Butzugov, Arsen Minkailov, Isa El'siev, and three members of the Aisultanov family. Butzugov, El'siev, Minkailov, Buzurkaev, R. Avdarkhanov, and one member of the Aisultanov family were later released; as to the fate of the other 3 hostages, there was no information as of the end of May.

On 4 May, again in Alleroi village, Taus Buzurkaeva was allegedly arrested without the Procurator's sanction by internal affairs ministry troops under the command of Roman Ediev, formerly a member of Kadyrov's security services. She was accused of being the mother of a member of the illegal armed forces (source: Memorial Bulletin, May 2004).

[38] cf. Appendix II. para. 4 pp.

[39] see also Appendix I para. 3: President Zyazikov has apparently intervened personally, following a call for help by the Society of Russian-Chechen Friendship, to have one of its activists, Khamzat Kuchiev, freed from illegal detention by security forces.

[40] Family members of the victims of Captain Ulman, who was acquitted by a jury in Rostov-on-Don on 29 April 2004 because he killed his civilian victims by order of his superior, whom we met at the "Memorial" office in Nazran, told us about the humiliation they suffered in the courtroom. They were under the impression that the members of the jury, who openly fraternised with the accused, saw the victims and their relatives as the true culprits. The acquittal has been appealed by the Military Prosecutor's office. On 26 August, the Russian Supreme Court has annulled the judgement of the Rostov court. The case will be retried before another military tribunal.

[41] presented in Appendix II. para. 10 – 15.

[42] source: AI note 24 February 2004 ; this case is one of those about which I had asked for information prior to my visit to Chechnya, and for which I did not receive a reply yet.

[43] source : AI note 24 February 2004

[44] source : AI note 24 February 2004

[45] source : « Memorial » Human Rights Centre, in : Chechnya 2003 [...], p. 22.

[46] source : AI/HRW/Memorial 8 April 2004; case submitted to the Russian authorities for comments, no answer received to date.

[47] source : IHF/Memorial 22 April 2004 ; case submitted to the Russian authorities for comments ; according to the reply received, it is being "investigated by the military prosecutor's office".

[48] source : Memorial Bulletin May 2004.

[49] The IHF report dated 4 August 2004 on Enforced Disappearances in Ingushetia (p. 9-10) provides further detail on this case and informs that "Memorial" forwarded a complaint from Mr Medov's relatives to the EctHR in Strasbourg on 16 June 2004, which is said to be treated by priority.

[50] Further detail in the above-mentioned IHF report of 4 August 2004, p. 8.

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[51] Further detail in the above-mentioned IHF report, pp. 4–6.

[52] Further detail in the above-mentioned IHF report, pp. 6-7.

[53] Further detail in the above-mentioned IHF report, pp. 7-9.

[54] The IHF report on enforced disappearances of 4 August 2004 (p. 8) has reprinted extracts of a letter dated 22 April 2004 (2/581) by the Ingush Prosecution Service to the father of the abducted, which shows that the numbers of the special “tags” by the alleged kidnappers presented during the checkup correspond to codes of actual (official?) cars.

[55]cf. IHF, Ingushetia : enforced « disappearances », extrajudicial killings and unlawful detentions, December 2003-June 2004, 4 August 2004, p. 4-5.

[56] Please note that in order to save space and avoid repetition, the incidents referred to are not each time described as “alleged”. As long as legal certainty has not been established by a court judgment, it must be understood that all the incidents brought to the attention of Mr Bindig can only be “allegations”, albeit substantiated ones.

<http://assembly.coe.int/main.asp?Link=/documents/workingdocs/doc04/edoc10283.htm>
Accessed on 2-27-06

Appendix 10 – Memorial Human Rights Center Report of 10 March 2004

MEMORIAL HUMAN RIGHTS CENTER

Voluntary Surrender" of Magomed Khambiev

10.03.2004

Magomed Khambiev, a well-known field commander from Aslan Maskhadov's inner circle and Minister of Defense of the Chechen Republic of Ichkeria, voluntarily put down his weapons and surrendered. On March 8, 2004 in the village of Tsentora, M. Khambiev was presented in this light by Ramzan Kadyrov, the "head of security" for Akhmad Kadyrov.

A few political commentators hurried to call his speech pre-election PR, like the destruction days earlier of Ruslan Gelaev. However, in reality, this event is significantly more complicated. The speech was not only about the alternative methods but also about new distribution of roles in conflicts with separatists. This issue can be interpreted differently. Either a new legal regime was introduced in Chechnya, and it separated from the Russian Federation, but then where is the "restoration of constitutional order?" Or, did the authorized regime alter the entire Russian territory, and what actually occurred was an overthrow?

For the people unfamiliar with the situation, Magomed Khambiev's surrender to federal Chechen officials came as a complete shock. In contrast to the "radical" enemies of yesterday, who were created through unions due to the war, Khambiev was with Maskhadov from the very beginning, during the previous war, and during the times between wars. Khambiev did not walk away from Maskhadov during the last years, like different earlier well-known field commanders like Ruslan Gelaev did. As a matter of fact, throughout the duration of the last military campaign Magomed Khambiev was the separatist's Minister of Defense. Therefore, his voluntary surrender was perceived as absolutely inconceivable.

However, under close examination, there is nothing strange about this. In this situation created around Khambiev, his family, and tens of hundreds of close and distant relatives, Khambiev had no other escape. Human Rights Center "Memorial" has its own version of the events surrounding Khambiev.

According to Ramzan Kadyrov and publications in the newspaper "Kommersant," at first nine of Khambiev's militants were arrested in a few villages in the Nozhai-Urtovskii region "without a single shot." They were given a choice: jail or "surrender with confession." They chose the latter (also, according to the information of the regional operative staff, 21 people from Khambiev's detachment put their weapons down.) Later, in the village of Benoa Khambiev's home was blocked off, but Magomed was lucky enough to run away. Only his relatives and men who had been living in the home were held. Soon all but two were released, and Ramzan Kadyrov said to those released, "Persuade Khambiev to surrender or bring him to us, and we will let the rest go." As a result, March 8, 2004, Khambiev was either captured, persuaded by his relatives, or he voluntarily surrendered. Ramzan Kadyrov gave a somewhat different account of the events to the newspaper "Russkii Kur'er." "We surrounded his home in Benoa and for three days negotiated." A reporter asked, "So, you gave him an offer he couldn't refuse?" Kadyrov answered, "Yes, he had no other way out." On the first day of the "siege" 16 people surrendered, on the second day three people, and on the third day, Magomed Khambiev himself.

As we can see from the evidence, even the events from one of these sources don't exactly coincide.

Information received from different sources paints a picture which differs from Ramzan Kadyrov's presentation of the situation. A correspondent of "Kavkazskii Uzel" Syltan Abubakarov noted from a reference of one of M. Khambiev's relatives that "on March 1, 2004 massive special operations were conducted in Grozny, Benoa, and in Nozhai-Urta," during which militants of a governmental faction captured 20 of M. Khambiev's relatives. Then, through his relatives an ultimatum was set forth: If Magomed Khambiev does not surrender, then all of these [all the captured relatives] will be shot to death. After some time "M. Khambiev was captured in the home of one of his relatives..."

Below we present the information which was collected by the Human Rights Center "Memorial" from various sources such as residents of the Nozhai-Urtovskii region and Khambiev's relatives.

At the end of February in Gudermes there was a "parade," a general parade of those who are under Akhmad Kadyrov's power such as security services and the department of the police for special operations (OMOH) as well as those not under his control such as special "East" battalion under the command of Sulim Yamadaev, those in the Chechen battalion for special operations of the Main Distributive Administration (IPY), and the general staff of the Minister of

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Defense of the Russian Federation Said-Magomed Kadyrov. Having arrived to the parade, Kadyrov and mufti Samaei announced to those who had gathered that they declare a Jihad against the Chechen opposition and that this Jihad is justified (in contrast with others, including the Jihad Kadyrov declared in the first war).

These declarations reached the mountainous Nozhai-Urtovskii region. A procession of vehicles numbered more than one hundred cars, such as '99 "Khyguli," UAZ-469, UAZ-452 motorcycles; for their help the federal authorities had given them an armored car and helicopter. On February 29, 2004, mass arrests, or rather seizures, began in the village of Mesketa, Benoa, and Turty-Khutor. The main target was relatives of Umar and Magomed Khambiev, who both occupied high positions in Aslan Maskhadov's government. In the village Turty-Khutor about half the residents were captured in much the same way with no regard to sex or age.

The detainment of Khambiev's relatives was not limited to the Nozhai-Urtovskii region. In Grozny on March 1, 2004, 19-year old freshman medical student Aslambek Khambiev was abducted directly after class. They also arrested Shyta Khambiev, a sixth-year student. A mass protest began; students gathered in front of government buildings and demanded the liberation of their classmates. At first the authorities tried to threaten the students but then entered negotiations, promising to find and liberate the hostages. As a result, Aslambek Khambiev was released. On March 4, 2004, he was thrown out of a car in the village of Benoa and found in a semiconscious, beaten condition. On March 9th, 2004 he was located in a regional hospital in critical condition. The fate of Shyta Khambiev is still unknown.

Finally, an earlier unprecedented practice occurred. Around different populated points in Chechnya, supporters of Kadyrov arrested and abducted Khambiev's female relatives who had already married and left their native villages. During the detainment of Aslambek Khambiev's sister, who was living with her husband and children in Gudermes, her juvenile son was critically injured. They took her together with her husband, who was subsequently set free. She alone was kept at Ramzan Kadyrov's base.

According to the information from workers in the Ministry of Internal Affairs of Chechnya, sixteen people, including five women, were arrested and delivered to official holding places. Of those captured, apparently there were from 40 (low estimation given by relatives) to 200 (according to residents). People were held in various places such as in the Isolation for Temporary Confinement (IVS) of the Nozhai-Urtovskii Regional Department of Internal Affairs, in buried cisterns used for gas on the outskirts of Benoa, and in Gudermes at Ramzan Kadyrov's base for "security services" and in Sulim Yamadaev's special battalion, the latter two being illegal places of confinement.

Soon thereafter began the "special operation" against Magomed Khambiev. Through intermediaries the demands were delivered to Magomed Khambiev: give yourself up, or the fate of your relatives, including elders and women, will be grave. It was clear that these were not empty threats.

After this ultimatum, Magomed Khambiev "voluntarily" surrendered. What's more, the residents of Chechnya did not understand nor did they accept his choice. To pay for his own freedom with the freedom and lives of his relatives would mean a violation of understood, unofficial, cultural laws and traditions. In this way this "operation" was not limited to one siege on one house during the course of three days. For a week and a half not only in the Nozhai-Urtovskii region, but also throughout all of Chechnya, including Gudermes and Grozny people not even involved with Magomed Khambiev or guilty of being his relatives were arrested. They basically forced him to surrender. They accomplished their goal. It is true that their means of attaining this goal, the holding of hostages, threats, and blackmail are troubling. It seems that by using these methods, they are branding themselves as terrorists.

Shamil Basaev in Budennovske, Salman Raduev and Turpal Atgireev in Kizlyara and in Pervomaiskii, Movsar captured hostages in Moscow at the Dubrovka Theater and then presented his demands to the government. These people are justly called terrorists. The same or almost the same means were used against these very separatists. Of course it is possible to say that they themselves are former separatists, Kadyrov and Yamadaev. Incidentally, during their own time they also did not object to abducting people.

But this would be an obvious simplification. In the first Chechen war, hostages and "human shields" were widely used by the authorities. Additionally, between the years 1994 through 1996 these people implemented a hostage paradigm in Chechnya which showed an enormous wave of abductions in 1997. Near the end of this war in August 1996 "exploits of Shamil Basaev" occurred again in Grozny when he captured nine city hospitals.

Usually the use of hostages is carefully kept quiet, but in the case of Khambiev, the situation was almost advertised except during the last days when they tried clumsily to cover it up.

If now they are destroying "opponents" of the federal government by using Chechen fighters and groups then why wasn't this same method used five years ago? Then through Turpal Atgireev a consultation with Moscow was conducted to help liquidate the offensive leaders of the extremists and of the abductors by the officials of Ichkeria. That

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this was possible in the first place is indicative of the events during the 1999 in the village of Bamut, where under the leadership of the head of the administration came forward against the well-known "Vakhabist" and Ruslan Khaikhorov's abductors. However, Atgireev was arrested in Moscow, and negotiations were spoiled. Then, five years later, all of Chechnya was destroyed, tens of thousands of people were killed or died, hundreds of thousands became refugees, and the Federal Center, as a matter of fact, "blessed" Chechen groups' use of harsher methods. These groups acknowledge that these past five years have been lost in vain and has uselessly crippled people's fate.

Just as the use of hostages in conflicts with partisan and rebel movements are not new to the Russian Federation, nor were they new to the Soviet Union.

In 1921 rebel and partisan forces acted precisely in this manner during the suppression of Antonov's uprising around Tambov. They captured and shot many residents of the village, declared them hostages, and shot someone to demonstrate that they were serious. After this episode the remaining people in the village began collaborating with the USSR to catch the "criminals." Others started acting against the rebels with no less powerful means as chemical weapons.

At the end of the 1940's a hostage situation was used in the Baltic regions and in West Ukraine. In these places entire families of partisans called "lesnye braty" and supporters of Bander were arrested and sent to Siberia, and by the power of security sector of the government national partisan movements were suppressed.

However, much has drastically changed. An international legislation has developed. Now the use of hostages by the government, by force, or those acting in this nature, will be, from the point of view of international rights, war criminals and even more terrible than terrorists. The country has changed; a somewhat democratic Russian Federation has turned its back from its totalitarian past. Russia joined a pact on human rights, under which the use of hostage situations should have been terminated. Finally, the wars in Chechnya began precisely under the slogans like "Restoration of Constitutional Order," "Struggles with Terrorism," and one of the main focuses was the capture of hostages.

Will it be specified within the bounds of which authorized regime do these aggressive "Kadyrov" groups act? The seizure of hostages is absolutely prohibited not only in a peaceful life, but even in regimes in a state of emergency or those acting during the course of armed conflict of standard international human rights is the seizure of hostages not permissible.

Then of what kind of "restoration of constitutional order" could the speech be about? More likely, it is a return to separatism (in the sphere of rights it is a return, and in other spheres will soon be), so to say, to a new dialectal turn.

It is horrible when criminals and terrorists take hostages; however, it is even worse when this is done in the name of the government because the distinctions between power and criminals and between legal and illegal is obliterated. The open use of hostages in the Chechen Republic could mean a return to the past for all of Russia. The return, on one hand, can be seen in Chechnya five years ago at the end of the 1990's, and on the other hand this practice can be seen a half century ago in Stalinist Russia, a practice that was looked fondly upon.

The majority of people who were arrested by "Kadyrovs" during the "special operations" for the capture of Magomed Khambiev were freed. The situation probably would have been worse if Khambiev's entire family had not been deported (as well as all the people they were connected with). It would have been worse if "federal authorities" had driven away those arrested, and then had their remains been found. It should not be said that this outcome is better because there is no better choice in conflicts between these horrible and monstrous people

Appendix 11 – Memorial Human Rights Center Report of 1 April 2003

Interrogation of guerilla fighters.

01.04.03

Late at night in the village of Geldagan, Kurchaloev district, the local television channel showed a video of an interrogation of two guerilla fighters – Shamil Gerikhanov, a resident of Geldagan, and Umar Barakaev, a resident of the village of Kurchaloy. The interrogation was conducted by members of the sub-division headed by Ramzan Kadyrov, and it was at their initiative that the video was shown. During the interrogation the guerilla fighters spoke about how they and their friends conducted murder of local residents who were worked in various levels of government.

On April 6, this same video was shown on the local television channel of the village of Kurchaloy, except this time the head of the Temporary Directorate of Internal Affairs [police] and the head of the administration of the district were informed that the viewing of the video was about to take place. However, no one from the local authorities tried to prevent the screening of the video.

As a result of this act by the subordinates of Kadyrov, the relatives of the victims declared bloody vengeance on the relatives of Barakaev and Gerikhanov.

допрос боевиков

01.04.2003

Поздно вечером в с. Гелдагана, Курчалоевского района по местному каналу телевиденья была показана видеозапись допроса двух боевиков – Шамиля Гериханова, жителя с. Гелдагана и Умара Баракаева, жителя с. Курчалой. Допрос вели сотрудники подразделения, подчиняющегося Рамзану Кадырову, по их же инициативе и была продемонстрирована эта видеозапись. В ходе допроса боевики рассказывали о том, как они с товарищами занимались убийством местных жителей, работавших в разных структурах власти.

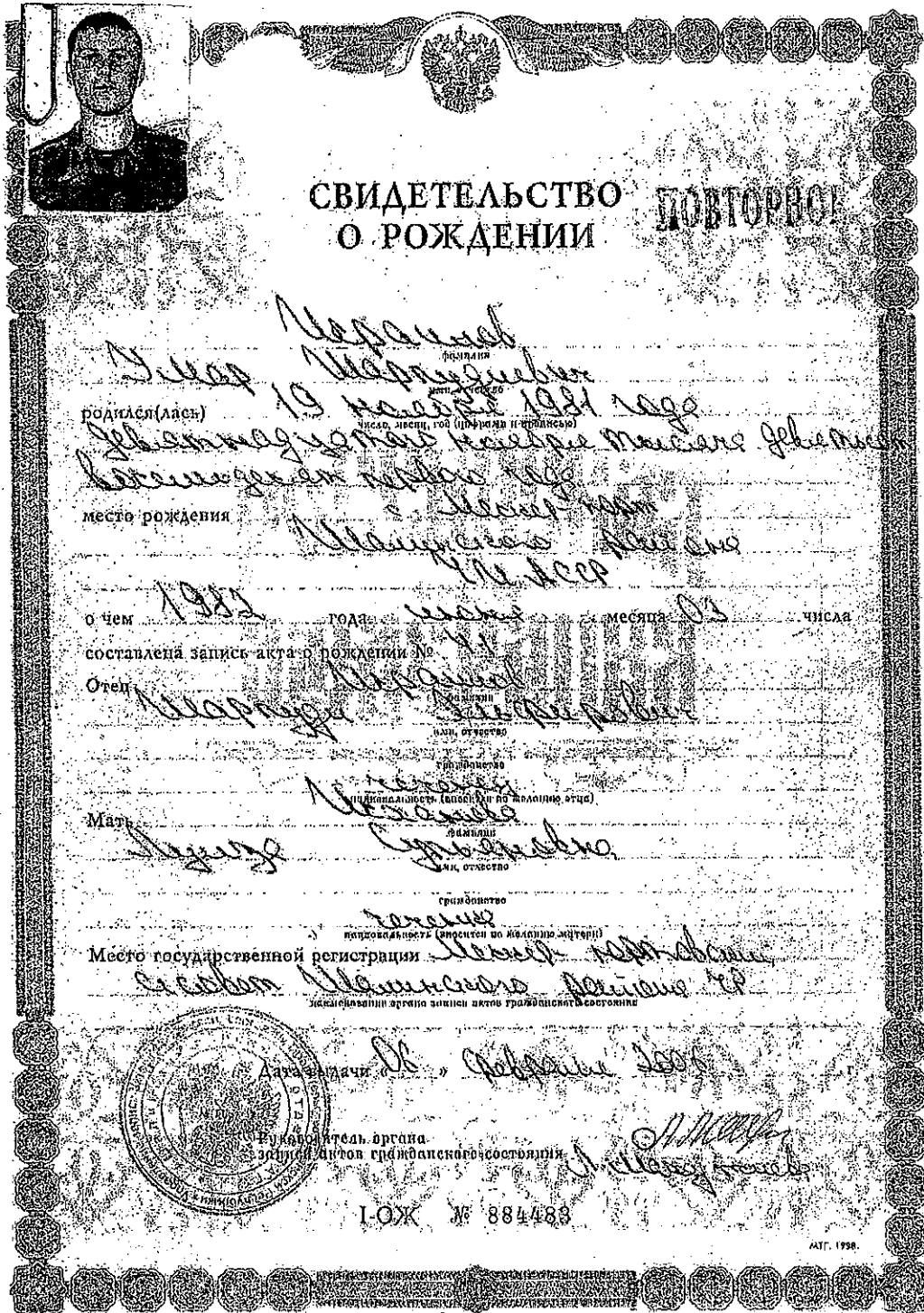
6 апреля эта же видеозапись была продемонстрирована по местному каналу с. Курчалой, но на этот раз прокурор района, начальник ВОВД и глава администрации района были поставлены в известность о том, что готовится демонстрация этой видеозаписи. Однако никто из официальных властей не попытался предотвратить показ данного видеоматериала.

Итогом такой деятельности подчиненных Рамзана Кадырова, стало объявления кровной мести родственникам Баракаева и Гериханова некоторыми родственниками потерпевшей стороны.

Информация Представительства ПЦ "Мемориал" в Назрани.

<http://www.memo.ru/hr/hotpoints/caucas1/index.htm>

Appendix 12 – Birth Certificate of Umar Israilov



СВИДЕТЕЛЬСТВО О РОЖДЕНИИ **ПОВТОРНОЕ**

Имя: *Умар Исраилов*
Фамилия: *Исраилов*
родился(лась) *19* *мая* *1981* года
числа, месяц, год (проставить инициалы)
Место рождения: *Дзержинский район Нижегородской области*
место рождения
о чем *1982* года *мая* месяца *03* числа
составлена запись акта о рождении № *41*
Отец: *Исраилов Исраилович*
Мать: *Исраилова Светлана Ивановна*
Место государственной регистрации: *Сасовский район Нижегородской области*
Дата выдачи: *06* *апреля* *2000*
И. И. [подпись]
L-ОЖ № 884488
ИЗГ. 1998.

The photograph of Umar Israilov in the upper left corner is not part of the birth certificate. The birth certificate was scanned with the photograph on it.