

## **Council of Europe contribution for the 16<sup>th</sup> UPR session regarding the Russian Federation**

### **Prevention of Torture**

#### *CPT ad hoc visit in April/May 2011 (North Caucasian region)*

A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out an *ad hoc* visit to the North Caucasian region of the Russian Federation, from 27 April to 6 May 2011. The authorities of the Russian Federation have not yet requested publication of the CPT's report on the visit.

#### *CPT periodic visit in May/June 2012 (Russian Federation)*

A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a periodic visit to the Russian Federation from 21 May to 4 June 2012. The authorities of the Russian Federation have not yet requested publication of the CPT's report on the visit.

#### *Follow-up to the visits*

As a follow-up to the visits representatives of the CPT held a series of high-level talks with the Russian federal authorities. On 30 August and 2 September 2011 the discussions were focused on the findings made by the CPT during its April-May 2011 visit to the North Caucasian region, in particular concerning the activities of law enforcement agencies and investigations into possible ill-treatment by members of those agencies. In addition, the discussions on 21 May and 4-5 June 2012 also related to broader issues of co-operation between the Committee and the Russian authorities as well as the publication of CPT reports.

### **Council of Europe Commissioner for Human Rights**

#### *Visit in May 2011*

On 6 September 2011, the Commissioner for Human Rights, Thomas Hammarberg, published his report from the visit to the Russian Federation from 12 to 21 May 2011.

The report focuses on the following selected human rights issues <sup>1</sup>:

- I. Counter-terrorism measures<sup>2</sup>
- II. Abductions, disappearances, and ill-treatment<sup>3</sup>
- III. Combating impunity<sup>4</sup>
- IV. Situation of human rights defenders<sup>5</sup>

For each issue the Commissioner provides specific conclusions and recommendations.<sup>6</sup>

---

<sup>1</sup>A summary of the report appears on pp. 2-4.

<sup>2</sup> Section I, paras 17-32.

<sup>3</sup> Section II, paras 38-47.

<sup>4</sup> Section III, paras 54-64.

<sup>5</sup> Section IV, paras 72-79.

<sup>6</sup> Paras 33-37, 48-53, 65-71, 80-83.

The situation in the North Caucasus continues to present major challenges for the protection of human rights. The efforts made to improve the quality of life of the people living in the region should continue, but greater determination is needed to put an end to serious human rights violations, such as abductions, disappearances and ill-treatment of detained persons”, he said.

The continuing challenges to security in the North Caucasus amount to a serious ongoing crisis with consequences which extend beyond the region. “Such a crisis constitutes a test of the strength of State commitment to human rights principles. It is both possible and necessary to fight terrorism while respecting human rights, fundamental freedoms and the rule of law. While state authorities have a clear duty to protect the public from terrorism and the actions of illegal armed groups, counter-terrorism measures should be carried out in full compliance with human rights norms. The worthy aims stated by the Russian authorities of bringing peace and prosperity to the region can only be built on the solid foundation of commonly agreed values.”

The Commissioner supports efforts aimed at promoting reconciliation and reintegrating into society those who have abandoned the course of armed insurgency and recommends further efforts to dismantle the links between corruption, organised crime and terrorism and to prevent their nefarious influence from spreading in society.

The persistent patterns of impunity for serious human rights violations are among the most intractable problems of the North Caucasus and remain a source of major concern. “The situation in practice remains essentially unchanged since my previous visit in September 2009”<sup>7</sup>, states Commissioner Hammarberg.

“The absence of requisite determination is one of the main obstacles to pursuing accountability in cases where the responsibility of public officials is implicated. This makes it even more important for the Russian leadership to deliver the unequivocal message that impunity will no longer be tolerated. Not only should the investigating, prosecutorial and judicial authorities be sensitised to the important obligations which are incumbent upon them, but they should also be motivated to fulfil those obligations in a conscientious and impartial manner.”

Finally, the Commissioner expresses deep concern that the murder of Natalya Estemirova has still not been clarified and stresses that human rights activists continue to face serious obstacles in their work. “It is crucial to promote safe and favourable conditions for the work of human rights activists. Any attacks against such persons must be investigated effectively with a view to ensuring the criminal accountability and punishment of the perpetrators. Instances of intimidation, harassment, or threats against human rights activists should also be condemned unequivocally.”

Attached below is the Commissioner’s report from his visit in May 2011 and the comments received thereto from the Russian authorities.



CHR report visit May 2011.pdf



Comments Russian Authorities May visit :

### *Follow-up on the right to freedom of assembly*

On 9 September 2011, the Commissioner for Human Rights, Thomas Hammarberg, released his letter of 21 July 2011 addressed to the Government of the Russian Federation on his findings and observations on the right to freedom of assembly. “Freedom of assembly is crucial to supporting pluralism and democracy. The Russian authorities should review legislation and practice in order to uphold this fundamental human right”, he said.

---

<sup>7</sup> The Commissioner had visited the Chechen Republic and the Republic of Ingushetia in September 2009.

The general normative framework set out in the federal legislation on assemblies broadly complies with international standards, foreseeing – as in most other European states – a notification procedure which does not require the organisers of a meeting to seek authorisation from the authorities, but rather to inform them about their intention to hold a meeting. However, regulations or decisions promulgated by regional or local authorities have at times delimited this right more narrowly or in a different spirit. The Commissioner therefore recommends to the Russian authorities to ensure consistency between the federal legislation and regulations or decisions promulgated locally.

The absence of legal provisions on spontaneous assemblies in the current legal framework is also raised in the letter. Stressing that the ability to organise such events would be important when a delay might weaken the message, the Commissioner advises that legal provisions be introduced protecting the possibility of peaceful gatherings of this nature.

Actions by law enforcement officials have on many occasions been aimed at intervening in or dispersing assemblies considered unlawful by the authorities, despite compliance by organisers with the notification procedure envisaged in the law. “Force has often been used – at times excessively - and participants in assemblies have been apprehended and brutally treated by the police, even during peaceful events. Authorities should ensure that law-enforcement officials at all levels respect and protect the right to freedom of assembly and act lawfully in the context of such events. Appropriate training in the policing of public assemblies incorporating human rights principles should be provided on a regular basis to such officials.”

The Commissioner also recommends encouraging adherence to laws, regulations and human rights standards by law enforcement officials and holding them accountable for any illegal acts committed during an assembly. “A first step should be to impose the wearing of clear and visible identification signs during assemblies. Secondly, statistics about unlawful acts by law enforcement officials during assemblies should be gathered and made available.”

Another aspect hindering the exercise of the right to freedom of assembly relates to sanctions and penalties imposed after an assembly. “The principle of proportionality applies to liability arising after an assembly. The European Court of Human Rights has on several occasions found that subsequent sanctions have constituted disproportionate interference with the right to freedom of assembly and expression. Authorities at all level must ensure that any person charged with an offence relating to an assembly enjoy the right to a fair trial.”

The letter from the Commissioner for Human Rights and the comments from the Russian authorities are attached below<sup>8</sup>.



CHR letter.pdf



Russian authorities  
letter.pdf

### **Execution of judgments and decisions of the European Court of Human Rights**

On 31 December 2011, there were 1.087 cases pending before the Committee of Ministers (CM) for supervision of their execution, 134 of these cases were “leading cases”, i.e. raising a new structural /general problem and requiring the adoption of general measures, the other cases being “repetitive cases”. The 5 main cases or groups of cases revealing such structural problems are listed below:

- ❖ Failure or serious delay of the Administration in abiding by final domestic judicial decisions and violations of the applicants' right to peaceful enjoyment of their

---

<sup>8</sup> Available in Russian only

possessions (Art. 6§1, Art. 1 Prot. 1) and lack of an effective remedy in this respect (Art. 13). *Timofeyev* group and *Burdov No. 2* – pilot judgment (Application No. 58263/00)

- ❖ Non-respect of final character of judgments as a result of the use of supervisory review procedures (civil cases) - *Ryabykh* group (Application No. 52854/99)
- ❖ Poor conditions of pre-trial detention, including lack of adequate medical care; absence of an effective remedy - *Kalashnikov* group (Application No. 47095/99), *Klyakhin* (Application No. 46082/99,) *Ananyev and Others* (Application No. 42525/07) - pilot judgment
- ❖ Ill-treatment in police custody and ineffective investigations; excessive length of detention on remand - *Mikheyev* group (Application No. 77617/01)
- ❖ Violations resulting from and/or relating to the Russian authorities' actions during anti-terrorist operations in Chechnya in 1999-2004 (mainly excessive use of force, disappearances, unacknowledged detentions, torture and ill-treatment, unlawful search) - *Khashiyev* and *Akayeva* group (Application No.57942/00+)

The document attached presents a brief description of the violations and the last detailed decision taken by the Committee of Ministers and the responses given thereto by the respondent state.



Execution\_Arrets\_UP  
R 16th final\_RUS.doc

### **European Commission for Democracy through Law (Venice Commission)**

The Venice Commission adopted between 2009 and October 2012 a number of opinions on draft laws and on the constitutional situation in the Russian Federation. The complete list of the opinions adopted during that period, with hyperlinks to the texts of the opinions, appears below.



Venice Com RF.docx

### **Fight against racism and intolerance**

The next report of the European Commission against Racism and Intolerance (ECRI) on the Russian Federation will be published during 2013.

In its 2006 report, ECRI highlighted the following concerns: the problem of racial discrimination in the system of residence registration leaving members of visible minorities without access to basic rights; the escalation of racist violence, in particular perpetrated by young skinheads, and interethnic clashes; the spread of racist statements and publications, especially in the media; and the large numbers of foreign workers employed illegally and exposed to severe exploitation as well as racism and xenophobia.

### **Protection of minorities**

On 25 July 2012, the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities published its third Opinion on the Russian Federation, together with the Government's comments. The Advisory Committee identified the following Issues for immediate action

- Ensure that regional and local residency registration regimes comply with federal legislation and are implemented in a non-discriminatory and transparent manner and that the right to appeal is guaranteed for all persons; registration must not be made a precondition for accessing fundamental rights;
- Ensure that all instances of alleged police misconduct, abuse and violations of human rights are swiftly investigated, prosecuted and effectively sanctioned and that the persistent practice of 'ethnic profiling' is eliminated; take far more resolute measures to increase awareness and training of the police on equality and nondiscrimination provisions and on human rights in general;
- Take further and more resolute measures to prevent, investigate, prosecute and sanction effectively all instances of racially-motivated offences; condemn firmly, swiftly and unequivocally all expressions of intolerance, racism and xenophobia, particularly in politics and in the media; redouble efforts to combat the dissemination of racist ideologies in the population, particularly among young people;
- Ensure that firm legal guarantees for persons belonging to national minorities to learn and speak their languages are introduced in regional legislation and closely monitor their implementation; take measures to promote respect for linguistic and cultural diversity and increase the presence of minority languages and cultures in all areas of daily life;
- Intensify efforts, including financial, to implement the objectives contained in the Concept Paper on the Sustainable Development of Numerically Small Indigenous Peoples of the North, Siberia and Far East, in close co-operation with the persons concerned; take further steps to ensure that representatives of indigenous peoples are closely consulted on all issues of relevance to them; ensure that the aim of promoting the sustainable development of indigenous peoples is not jeopardised by simultaneous legislative developments that undermine their preferential access to land and natural resources.

The Advisory Committee's Opinion on the Russian Federation and the Government's comments are attached below. However, these documents have not yet been examined by the Committee of Ministers who, after having examined the document, will adopt a resolution on the protection of national minorities in the Russian Federation.



PDF\_3rd\_OP\_Russia  
nFederation\_en.pdf



PDF\_3rd\_Com\_Russi  
anFederation\_en.pdf

The Russian Federation has signed but not yet ratified the European Charter for Regional or Minority Languages. Thus, the country is not yet covered by the monitoring carried out by the Committee of Independent Experts under the Charter.

### **Action against Trafficking in Human Beings**

The Russian Federation has not yet signed or ratified the Council of Europe Convention on Action against Trafficking in Human Beings. Thus the country is not yet covered by the monitoring procedure set up under the convention.

### **Preventing and Combating Violence against Women and Domestic Violence**

The Russian Federation has not yet signed or ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence. For this reason, it is not yet concerned by the monitoring procedure under the convention.



Document1.docx

## **Social and economic rights**

The Russian Federation signed the Revised European Social Charter on 14 September 2000 and ratified it on 16 October 2009, accepting 67 of the Revised Charter's 98 paragraphs. It has not yet accepted the Additional Protocol providing for a system of Collective Complaints.

The conclusions on the first report provided by the Russian Federation will be published in December 2012.

Please see attached below the fact sheet.



RussianFed\_en.pdf