



Information Documents

SG/Inf (2001) 29 19 September 2001 Revised

Eleventh and Twelfth interim reports by the Secretary General on the presence of the Council of Europe experts in the Office of the Special Representative of the President of the Russian Federation for ensuring Human and Civil Rights and Freedoms in the Chechen Republic

Periods from 1 to 30 July 2001 and 10 to 31 August 2001

Eleventh interim report

1. This is the eleventh interim report by the Secretary General on the activities of the three Consultative experts of the Council of Europe working with the Office of Mr Vladimir Kalamonov, Special Representative of the President of the Russian Federation for ensuring human and civil rights and freedoms in the Chechen Republic.
2. The experts, Mr Thomas Kattau, Ms Eva Konecna and Mr Plamen Nikolov, continued to deal with the applications, to meet with the applicants and to work on the registration system of the archive, as described in my previous reports. The experts further continued their consultative work in the Office.
3. The experts carried out the following visits to: Grozny (18 and 25 July 2001), the Naurskiy District (19 July 2001) and the Nadterechnyy District Court in the village of Benoy-Yurt (19 July 2001).
4. During the aforesaid period, the experts met with Mr Kalamonov who visited Chechnya between 24 – 26 July 2001. The experts participated in the meeting of the Joint Working Group with the Prokuratura held *in camera* on 25 July 2001 in Grozny (see part I for more details).
5. On 19 July 2001, the Minister of Justice of the Russian Federation, Mr Chaika, visited the Office in Znamenskoye. The experts participated in the Minister's visit to the two district courts of Naur and Nadterechny and to the pre-trial detention facility in Chernokozovo.
6. On 14 July 2001, the Vice-Head of the UNHCR Regional Office in North Caucasus, Mr Koussidis, visited the Office in Znamenskoye and met with the CoE experts.
7. On 1–2 July 2001, mop-up operations were carried out in the villages of Assinovskaya and Sernovodsk, causing many people to leave for Ingushetia (see part IV). The mop-up operations had started after the killing of five federal policemen near Sernovodsk. During the respective operations, the federal troops raided the schools as well as the local hospital. The heads of the administrations of those villages threatened to resign. Mr S. Ilyasov, Head of the Chechen Government, and Mr A. Kadyrov, Head of the Chechen Administration, denounced these actions of the federal forces as excessive and demanded an

independent investigation. Government officials and representatives of the military command, as well as by the civil and military prosecutors of Chechnya visited the villages concerned. A special commission from the Prosecution office was set up in order to carry out an investigation on the spot. A team of more than 30 prosecutors worked on the complaints. The result of the investigation has not yet been announced. Six servicemen of the federal forces were reported to be detained. The CoE experts met with the Head of the Sernovodsk administration and with some of the applicants from that region to verify the complaints.

8. In July, several operations for the control of documents were carried out in the Kurchaloy District. Some unlawful practices, in particular rude treatment of detained persons and loss of property had been reported from that district.
9. Further operations for the control of documents were carried out in the village of Samaski located in western Chechnya and the Achkoy-Martan District, Vedeno and Shali District. These operations were not of the mop-up type, but merely involved the control of documents. The respective authorities (FSB, prosecutor's office, police and heads of administrations) were present and no human rights violations were reported.
10. The number of checkpoints in the northern part of Chechnya has decreased. On the way from Znamenskoye to the Chechen borders with Northern Ossetia only one out of five checkpoints remained.
11. On 25 July 2001, the CoE experts attended the first meeting of the Consultative Council of the Chechen Republic held in Grozny. It is expected that the Consultative Council being a pre-parliamentary body would play an important role in drafting the new Constitution of the Chechen Republic, as well as in preparing the legal basis for elections in Chechnya.

I. The session of the Joint Working Group with the Prokuratura held in Grozny on 25 July 2001

12. At the meeting of the JWG, the CoE experts raised the following individual cases and other issues of concern:
 - i. The lack of progress in investigating the individual cases of the 52 bodies discovered in "Zdorovye" near Khankala by the end of February 2001; the shelling of Noviye Enikali which caused the death of six civilians on 15 March 2001; and the shelling of Grozny University killing six students on 20 December 2000.

- ii. The recent allegations of human rights violations in Sernovodsk with two missing persons (1-2 July 2001) and the raided hospital in Kurchaloy (15-16 June 2001).

13. The experts expressed their concern as regards the constant problems experienced by the Chechen population:

i) Presence of prosecutors and the respective civilian authorities during the mop-up operations

14. In connection with the mop-up operations in the western part of Chechnya, strong political pressure was put on the military forces, so that other authorities like prosecutors, heads of local administrations, religious leaders would be invited to participate in the mop-up operations carried out. The Prosecutor's Office asked the local authorities to lodge any complaints on crimes committed during such operations to the respective district prosecutor. Positive results of the presence of the prosecution has been witnessed since mid-July in Grozny.
15. It is recognised that a majority of the federal servicemen lack training in police operations in urban areas and human rights awareness is low.

ii) Activities of the Ministry of the Interior's troops

16. The Office paid specific attention to the special task force units of the Ministry of the Interior, located in the Chechen Republic. These forces were in principle subject to supervision of the civilian prosecutors. In case of difficulty in identifying which troops were carrying out the mop-up operations - the military forces or the Ministry of the Interior special task units - neither the civilian prosecutors nor the military prosecutors dealt actively with alleged crimes committed by those special task force units.

iii) Lack of or insufficient identification of military vehicles

17. The problem of lack of identification of military vehicles, especially those participating in the mop-up operations, continues. This issue has been raised several times since last spring at different levels. In July, the Prosecutor's Office of the Chechen Republic promised to deal with the matter and raised it at the highest level.

iv) Withdrawal of complaints

18. After the mop-up operations in Assinovskaya and Sernovodsk, about 70 lodged complaints were later withdrawn. Information on the intimidation of witnesses became apparent. According to the prosecutors' offices, applicants lodged many complaints on a very emotional level directly after the mop-up operations had been completed. According to the local administration representatives, the withdrawal of complaints was connected to the fact that the federal forces had returned the property lost during the mop-up operations.

II. *Role of local administrations*

19. At present, tensions between the Chechen administration representatives and the respective federal armed forces (commandants' offices) were reported. Tension rose with the transfer of the power from the military to the civilian authorities. It is planned that military commandants will be subordinated to the heads of the district administrations.

III. *Withholding of documents*

20. During the mop-up operations, identity papers were withheld and not returned after being checked by military forces. As a result, many men did not have proper identification papers, which puts them at risk of future detainment or other measures of "document controls". After the mop-up operations in Sernovodsk, ten people did not have their identification documents returned. The situation was similar in the Kurchaloy district where 20 local inhabitants did not get their documents back.

IV. *Missing persons*

21. As a result of the mop-up operations carried out in July, applications for the search of missing people lodged with the Office have increased rapidly. These applications outnumbered those on social problems, which dominated the statistics from March-May 2001. The applicants complained that the male population was arrested in large numbers during the mop-up operations mentioned (an alleged 200 persons in Assinovskaya).

V. *Socio-economic situation*

22. On 26 July, the President of the Russian Federation signed a Decree separating the federal and the republican property in the Chechen Republic. The Chechen administration received all types of property in such areas as education, health care and social infrastructure. The transfer to the local administration would include, besides the titles of property, future financing from the federal budget. The Chechen government commented that the Decree would speed up the reconstruction in education and health care areas.

VI. *Judiciary*

23. A new court has started to work in the Urus-Martan district. For the time being, there are ten district courts functioning in the Chechen Republic. The two district courts of Grozny, at that point sitting in the Naurskiy District Court and the Nadterechnyy District Court, will be moved to Grozny as soon as the security situation permits. The premises for district courts in Grozny have already been prepared.
24. As far as the protection of judges is concerned, the situation remains unsatisfactory. The Ministry of the Interior is responsible for the personal protection of the judges. At present, only the President of the High Court is provided with around the clock protection. The Ministry of the Interior is responsible for organising the personal protection of judges.

VIII. *The UNHCR's visit*

25. The UNHCR representatives visited the Office in order to discuss the possibility of increased co-operation in the field between the CoE experts and UNHCR.
26. The total number of refugees from Chechnya located in Ingushetia has decreased by about 10 000 over the last month, a decrease in numbers for the first time since the last conflict began. This decrease was mainly attributed to the fact that many refugees returned to Chechnya over the summer months. In general, about 1500 refugees commuted between Ingushetsia and Chechnya in each direction every day. The UNHCR recorded the net refugee intake in Ingushetsia during the period of the described mop-up operations (7–9 July 2001) making a total of approx. 120 refugees. A great majority have returned to Chechnya in the meantime. The current year's harvest seems to be exceptionally rich, which, according to the authorities, will facilitate the return of refugees from Ingushetia.

IX. *Relations with the OSCE*

27. Relations with the OSCE AG in Chechnya are good. Experts of both organisations met on a regular basis. They discussed co-ordination meetings with other international organisations working in the North Caucasus as well as the need for a closer co-ordination between the CoE, UNHCR and OSCE in field operations.

X. *Activities of the Office in Znamenskoye and the branch offices*

i) Work of the Office and sub-offices

28. In July 2001 the majority of the applications submitted to the Office concerned missing persons and crimes committed by the federal forces during the mop-up operations in the western part of Chechnya. After these mop-up operations the Office received 175 applications, of which 70 were later withdrawn.

ii) Work on the registration system in the archive

29. The experts continued to work on the registration system of the archive to facilitate the follow-up of the cases. They prepared a model memorandum for the clients as a step towards increasing confidence in the Office's commitment to following matters up.

iii) List of solved cases

30. Work on a list of solved cases registered in the archive has started. The list will be ready by the beginning of September 2001.

iv) List of cases to be closely followed by the experts

31. The experts prepared a list of human rights cases to be closely followed by the Office. Each of the respective cases would be followed by one CoE expert, one lawyer working in the Office, and by a head of the respective sub-office.
32. The list included cases discussed by the Joint Working Group, as well as some additional cases of a sensitive nature. Their development will be indicative for the trend in the investigation of the alleged crimes committed by the federal forces.

v) Training of judges

33. Organising a training programme for judges working in Chechnya is imperative. This programme is to be organised by the Council of Europe in co-operation with the OSCE.

34. The experts have drafted a training programme for judges in Chechnya. A questionnaire prepared by the experts will be distributed to judges in the near future to identify their needs. It should be emphasised that in the field of legal training the CoE has gained significant experience through its previous activities in the Northern Caucasus. Specific information gathered and contacts already established with the judiciary in the Chechen Republic could allow the Council of Europe to play a leading role in such programmes in the region.

vi) Training of lawyers

35. Mr Kalamenov stressed the importance of training lawyers in Chechnya, including those working in the Office. Training should be devoted to preparing documents addressed to the courts, and representing and defending applicants at the courts. The lawyers in the Office require training on the new Russian legislation, particularly on administrative and criminal procedures.

Twelfth Interim Report

1. This is the twelfth interim report by the Secretary General on the activities of the three Consultative experts of the Council of Europe working with the Office of Mr Vladimir Kalamenov, Special Representative of the President of the Russian Federation for ensuring human and civil rights and freedoms in the Chechen Republic.
2. After a summer break between 31 July and 10 August 2001, the experts Mr Guy-Michel Brandtner, Mr Thomas Kattau and Mr Plamen Nikolov resumed their work. Mr Brandtner replaces Ms Eva Konecna whose contract ended on 31 August.
3. Ms Eva Hubalkova returned as an ad hoc expert from 10-22 August 2001 to finalise the setting-up of the archive and registration system. Both the archive and the registration system are now fully operational and in use. In addition, a follow-up system was introduced in the office, which enables the staff to monitor deadlines, keep applicants informed on a regular basis and, above all, check on the progress of cases.

POLITICAL AND SECURITY SITUATION

4. Since July 2001 security has become more difficult in Chechnya. The Russian media and the Chechen authorities issue reports almost every day on roadside bombs, car bombs and attacks on federal forces. This has limited the movement of the experts. In August the experts were only able to travel to Shelkovskoy and Natshalnyik.
5. The overall political situation in Chechnya is overshadowed by the deteriorating security situation. Frequent explosions have intensified the tension in the Republic: missing persons continue to be reported after operations by the federal forces; so far the comparatively quiet regions (such as Znamenskoye, where the experts are based) have also been affected by incidents. Officials of local and regional authorities continue to be targets of terrorist attacks. The civilians are the main victims. A senior member of the Znamenskoye local administration was attacked in his car in mid-August between Grozny and Znamenskoye. His son, who was with him, was killed.

6. At the same time, Mr A. Kadyrov, Head of the Administration of the Chechen Republic, and Mr S. Ilyasov, Prime Minister of the Government of the Chechen Republic, stressed that the situation is stable. According to Mr Ilyasov the difficult security situation is attributed to the isolated acts of terrorism committed by mercenaries, many of whom are foreigners. He claims that these acts are financed from abroad. The federal authorities and the Administration of the Chechen Republic in Grozny point out that the overall situation is improving and reconstruction is progressing.
7. On the other hand, experts' reports do not always support these statements. Reconstruction of Chechnya is barely visible. Increased security measures and the presence of troops dominate daily life in Chechnya. Applications received in the Office suggest that there are still a considerable number of cases where people have disappeared and alleged misconduct by armed forces, as well as severe problems in the social and health fields. Znamenskoye experienced two demonstrations, on 17 and 24 August. Chechens from across the republic expressed their dissatisfaction with the present situation. Demonstrations were held outside Mr Kalamonov's and the OSCE AG's offices.

SOCIO-ECONOMIC SITUATION

8. The socio-economic situation remains very complex with extremely high unemployment, modest resources for investment in public utilities and a slow reconstruction process. Thousands of refugees, accommodated by host families, are an increasing burden (in some towns up to 8% of the local population are refugees hosted in families) and receive hardly any assistance or humanitarian aid. There is an indication of growing hardship and tolerance by the host families is wearing thin.
9. The health sector appears to be in great need. The experts receive requests for medical aid, instruments, technology and above all medication. Many complaints refer to inadequate medical treatment due to inadequate resources. An increase in the number of TB cases and absence of proper medical means to deal with this are visible.
10. The local government has effectively no other resources than the monies sent under the federal programmes. The inability to collect taxes or effectively introduce levies by the local and regional government is counter productive. Most local administrations expect the federal government to foot the budget of the local authorities. Unfortunately, the experts did not witness many efforts to generate revenue from economic activities carried out in Chechnya. Undoubtedly there are problems in the sector of production, but trade and agriculture, which apparently generate profits at the moment, do not seem to contribute in any way to the public finances.

The Joint Working Group with the General Prosecutor's Office of the Russian Federation

11. On 21 August 2001 the 7th meeting of the Joint Working Group was held in Grozny with Mr V.A. Kalamonov in the chair.
12. Prior to this meeting the experts reminded Mr Kalamonov to present tangible results in cases of missing persons and alleged human rights violations to the Council of Europe. Mr Kalamonov believes that progress is underway. He mentioned the fact that Mr V. G. Chernov had replaced the Prosecutor of the Chechen Republic recently.
13. The meeting was held with the participation of Mr A Kh. Kadyrov, Head of the Administration of the Chechen Republic, and Mr S Ilyasov, Prime Minister of the Government of the Chechen Republic, the Prosecutor of the Chechen Republic, the Military Prosecutor of the Chechen Republic, the Deputy to the Head of Department for the Internal Affairs of the Chechen Republic and Military Commandant of the Chechen Republic. The meeting was open to the Russian mass media (TV and press). Several heads of local administrations were also present, as well as the staff working in the branch offices of the President's Special Representative's Office. For the first time, at the initiative of Mr Kalamonov, plaintiffs who had lodged complaints on missing persons were present.
14. According to the Prosecutor of the Chechen Republic, Mr Chernov, 2160 criminal offences were reported during the past seven months. 40% of the investigations have been completed so far. Out of these, 490 cases concerned killings, 187 alleged acts of terrorism (in comparison with 163 terrorist acts committed throughout 2000).
15. The experts explained that the Council of Europe wished the mission to succeed in every respect but it would like to see notable and visible progress of criminal procedures to be opened concerning alleged breaches of human rights in Chechnya. Mr Chernov insisted that his Office pays special attention to the crimes committed by members of the federal forces. A number of "joint acting groups" have been set up between the Federal Security Service, the Ministry of the Interior and the Prosecutors Office in order to accelerate the proceedings of investigations. The Prosecutor's Office carried out investigations in 40 cases supposedly connected with criminal activities of terrorist groups (Dzhamat's group, Khaupkhanov's group, Samtiev's group etc.). To date 37 persons are being detained on charges of terrorist activities, criminal charges pending.

Follow-up to complaints

16. The experts pointed out several specific cases, which they observe more closely, together with the Office of the President's Special Representative:
- a. In the case of 51 bodies discovered in the village of "Zdorovye" at the end of February 2001, 45 further Prosecutor's investigators from Stavropol, Krasnodar and Rostov na Donu were sent to Chechnya in order to speed up the investigation. So far 24 bodies have been identified. However, identification of a group of members of the federal military forces that allegedly killed these people will be a lengthy procedure as military groups have changed frequently during the year and a half before the mass grave was discovered.
 - b. In the case of the excessive mortar shelling at Grozny University and the killing of five students on 20 December 2000, the investigation proceedings were brought immediately after the incident had taken place. They were stopped on the grounds that the soldiers acted out of "particular necessity". The superior prosecution office now reviews this conclusion. A final decision has not yet been taken.
 - c. In the case of the shooting, which took place in Novye Enikaly and resulted in the death of six locals on 15 March 2001, criminal proceedings have been instituted on two grounds. One part that involves charges against the members of the federal military forces was transmitted to the Military Prosecutor, and the second part, concerning possible illegal actions of the locals, is now in the hands of the Prosecutor of the Chechen Republic. Mr Kalamenov asked the Military Prosecutor, as well as the Prosecutor of the Chechen Republic, to provide him with further information concerning the stage of the proceedings giving a two week deadline.
 - d. In the case of two people who have been missing since 1-2 July 2001, after the mop-up operation carried out in Sernovodsk, the Prosecutor of the Chechen Republic said he could not provide any new information. He said that the registration numbers of the military vehicles which took part in the operation were identified, but the military group concerned had already left Chechnya. Two relatives of these missing persons were present at the meeting at Mr Kalamenov's invitation. They expressed their dissatisfaction with the progress of the investigation accusing the Prosecutor of the Chechen Republic of neglect.

- e. In the case of the disappearance of ten citizens of the village Alkhan-Kala, during the mop-up operation from 19-21 April 2001, the head of the local administration had requested from the military prosecutor information about the stage of the investigations, without success.
 - f. In the case of allegedly illegal actions carried out in Kurchaloye on 16-17 June 2001, criminal charges had been filed without response.
17. The prosecutors present at the meeting were unable to provide any information on these matters. In this context the Prosecutor of the Chechen Republic claimed that his staff were overworked and dealt with matters at a maximum capacity. It should be taken into account that there is a significant backlog of cases, like in the courts. The prosecutors have to catch up, as there have been neither proper investigations nor functioning judiciary for nearly 2 years in Chechnya. In addition, the new incoming cases have to be dealt with as well. This would pose a serious capacity problem for any prosecutor's office or court. The working conditions, communication systems and security measures in present day Chechnya do not allow for efficient work. Intimidation of witnesses continues to pose an obstacle in prosecuting cases or obtaining a conviction, despite the announced protection measures. It should be taken into account that the civilian prosecution system and the courts have been newly set up, in a comparatively short period of time, and have only just started to function fully. Under these circumstances, it is difficult to generate speedy procedures in order to obtain swift results.

Alleged violations by troops

18. In referring to further issues addressed by the experts, the Military Prosecutor and the Military Commander of the Chechen Republic gave assurances that all military vehicles in the Chechen Republic are undergoing a check concerning correct registration. The experts had reported on several occasions that they noticed regularly unmarked military vehicles and soldiers without identification badges on the territory of Chechnya.
19. The Prosecutor General of the Russian Federation adopted Order no. 46 "concerning the control on mop-up operations carried out on the territory of the Chechen Republic". This follows a directive for co-operation between the regional prosecutors and military forces on carrying out the mop-up operations. Under the new Order no operation can be carried out without the presence of a prosecutor. Moreover, participating soldiers have been informed about required appropriate behaviour during these operations.

20. The Prosecutor of the Chechen Republic assured the experts that investigation of the crimes allegedly committed by the members of the federal military forces are also dealt with and that ten cases had been brought to the courts. A further 62 cases, which had already been closed by the prosecution, would be reviewed.
21. Reports from the experts state that, in discussions held with local prosecutors in Chechnya, evidence was not visible that prosecutors were investigating cases brought against armed forces. All efforts appear to be targeted towards alleged acts of terrorism and ordinary crime. The only explanation given was the often-recorded unwillingness of witnesses to testify. On the other hand, experts were assured at the meeting of the Joint Working Group that local administrations and police are capable of protecting witnesses in fear of intimidation.
22. In general, statements by the new Prosecutor of the Chechen Republic indicate that, under his authority, further effective measures to bring human rights violators to justice have been put into place. Reviewing already closed files is a promising first step, as is increased inter-agency co-operation. It remains to be seen how far these new steps can influence the number of pending complaints which remain unanswered.

Missing Persons

23. The Unit for Criminal Searching at the Department for Internal Affairs of the Ministry of the Interior of the Russian Federation in the Chechen Republic is said to have received 577 applications concerning missing persons, out of which 325 applications were brought directly to the Office of the President's Special Representative. Of all applications, 340 resulted in searching proceedings and 167 in criminal proceedings. So far, 75 missing persons have been found on the territory of the Chechen Republic in 2001 as a result of the formal searching procedure.

The Office

24. Together with the staff lawyers from the Office, the experts started to implement administrative measures to ensure an effective follow-up of cases. This includes monitoring of deadlines, models for reminder letters, preparing and advising plaintiffs of legal remedies in cases of non-action on complaints, regularly updating plaintiffs on the procedure, as well as preparing concrete cases for presentation at the Joint Working Group.

25. There is now an efficient warning system to check whether deadlines for replies from the concerned authorities have been respected. Nearly 2000 files have been checked so far in order to assess required follow-up action. Some 390 reminder letters have already been sent. Of this figure, some 45% concern complaints lodged with the Prosecutor of the Chechen Republic, 12% with the Military Prosecutor and 43% with local administrations, regional prosecutors, the migration service etc.
26. As a further result of the newly introduced follow-up measures, a list of solved cases has been drawn up, which amount to date to 287, of which 28 concern missing persons. No computerised mechanism is yet in place to identify the number of solved or finalised complaints lodged with the Office.
27. The experts report that the staff in the Office appear to be highly motivated in doing follow-up work. The lack of follow-up had created some doubts about the effectiveness of the Office among the population. The new follow-up work and the policy to keep applicants informed on an ongoing basis may help to rectify this image. If the follow-up mechanisms are thoroughly applied and professionally handled they will constitute important tools to bring the complaints to court more swiftly

Relations with the OSCE

28. The experts maintain contacts with OSCE AG and were briefed about their recent activities during two informal meetings. In addition, the AG receives persons who lodge complaints on killings and missing persons. The OSCE registers the complaints and refers them to Mr Kalamanov's Office. A comprehensive list with the complaints lodged was sent to the Office.
29. On a further issue involving the disappearance and possible arrest and detention of a person, the experts received a formal letter from the OSCE AG requesting assistance in the matter. The experts referred the issue to the head of the Office. It was possible to clarify the whereabouts of the person who was detained by the FSB. The detainee and his family were then supplied with a lawyer identified by the Office.

Humanitarian Aid

30. Most major humanitarian aid programmes and organisations are still not operational on the territory of the Chechen Republic. There is a great demand for humanitarian aid on the side of IDPs living in camps but also of those living in host families. The majority of international aid organisations presently based in Nazran, Ingushetia, still hope to return or enter Chechnya this year. This, however, depends on the assessment of the security situation.