

Information Documents

SG/Inf(2003)2 Addendum 24 January 2003

Addendum to the twenty-fifth interim report by the Secretary General on the presence of the Council of Europe's experts in the Office of the Special Representative of the President of the Russian Federation for ensuring Human Rights and Civil Rights and Freedoms in the Chechen Republic

Additional information  
provided by the Secretary General

### Introductory remarks

1. The present document provides additional relevant information on the situation of democracy, human rights and the rule of law in the Chechen Republic, Russian Federation, for the period from 4 December 2002 to 20 January 2003 (see decision of the Ministers' Deputies of 10 October 2000, CM/Del/Dec(2000)725, item 1.7)<sup>1</sup>.
2. At the beginning of the year, I appealed to the Russian authorities to investigate and prosecute all human rights violations, including those carried out by federal forces and I underlined that the Council of Europe's priorities in the Chechen Republic are to restore human rights and the rule of law, and bring normality back to civil and political life.
3. Lord Judd, Mr Rudolf Bindig and Mr Tadeusz Iwinski, Rapporteurs on the situation in the Chechen Republic for the Parliamentary Assembly Political Affairs, Legal Affairs and Migration Committees respectively, visited Moscow and the North Caucasus, including the Chechen Republic and Ingushetia, from 20 to 23 January 2003. They will report back to the Assembly on 29 January.

---

<sup>1</sup> This information has been collected by the Monitoring Department of the Directorate of Strategic Planning (DSP).

As concerns sources of information, the last sentence of para. 1 of the Committee of Ministers Declaration of 10 November 1994 on compliance with commitments accepted by member States of the Council of Europe reads:

*"the Committee of Ministers will take account of all relevant information available from different sources such as the Parliamentary Assembly and the [O]SCE"*. For more information concerning the Committee of Ministers monitoring procedures, consult document [Monitor/Inf\(2002\)1](#) rev, also on the Committee of Ministers Web Site: <http://www.coe.int/cm>.

4. The Commissioner for Human Rights of the Council of Europe, Mr Alvaro Gil-Robles, is planning to visit the Russian Federation, including the Chechen Republic, in February 2003.

## **I. SECURITY SITUATION**

5. On 9 January 2003, the Russian authorities confirmed that Ms Nina Davydovich, Head of the Russian NGO "Druzhba", had been released. She had been abducted in the Chechen Republic in July 2002. While thanking the Russian authorities for their efforts, Mr Kenzo Oshima, the United Nations Under-Secretary-General and Emergency Relief Coordinator, expressed his "extreme concern" about the fate Mr Arjan Erkel, a volunteer for the NGO Medecins Sans Frontiers, who was abducted in the neighbouring Dagestan in August 2002 (OCHA, 10/01/03).

## **II. HUMAN RIGHTS**

6. According to Human Rights Watch (HRW), the situation in the Chechen Republic represents the most intense human rights crisis in Europe (HRW, [2003 World Report](#), 01/03).

### ***a. State's obligation to protect everyone against terrorism***

7. While condemning the suicide bomb attack against the Chechen Administration building on 27 December 2002, international NGOs, in particular Amnesty International, stressed that the perpetrators must be brought to justice, but further indicated that the attack should not be exploited to justify targeting of Chechens in Moscow and other places in the Russian Federation (see AI, 28/12/02; see also HRW, 27/12/02; International Committee of the Red Cross, 20/01/03; Interfax, 15/01/02).
8. The Council of Europe/Russian Expert Group tasked with examining the 1998 Russian Federal Law on the Suppression of Terrorism recalled that the European Convention on Human Rights (ECHR) does not take a stand *vis-à-vis* the issue whether the army may be employed in the fight against the most threatening types of criminal offences. This issue is left to national legislation. The Group indicated that some European States allowed the army to assist the competent police forces in certain cases of emergency. That said, recourse to the armed forces should be taken, if it is allowed at all, only in very exceptional cases (see [Appendix 5](#) to doc. CM/Del/Dec(2002)820, item 10.2, 04/12/02; see doc. [SG/Inf\(2002\)51](#), para. 7).

### ***b. Lawfulness of anti-terrorist measures***

9. The aforementioned Expert Group further recalled that clarity in legislation is an indirect requirement of the ECHR and pointed out the need for the Russian Law on the Suppression of Terrorism to clarify certain aspects, e.g. the powers, limits and responsibilities of persons who conduct counter-terrorist action and interaction of the law with the Russian Code of Criminal Procedure (for more details, see [Appendix 5](#) to doc. CM/Del/Dec(2002)820, item 10.2, 04/12/02; in this respect, see doc. [SG/Inf\(2002\)51](#), para. 9).

*c. Prohibition of arbitrariness*

10. On 19 December 2002, the European Court of Human Rights (ECtHR) declared admissible six cases concerning alleged crimes committed by the Russian federal forces against civilians in the Chechen Republic in 1999-2000, in particular extra-judicial executions, torture and indiscriminate bombings. More than 120 similar applications have been submitted to the Court (ECHR; for more details, see ECtHR press release, 16/01/2003, at <http://www.echr.coe.int>).
11. International and Russian NGOs raised serious concerns about the climate of arbitrariness that still prevails in the Chechen Republic with respect to crimes allegedly committed by servicemen, including extra-judicial killings and robbery (see in particular [OMCT](#), 10/01/02; “Memorial”, 15/01/03; SCRF, 17/01/03).
12. In the context of the alleged firing at a bus by servicemen at a checkpoint between Gudermes and Grozny, the Head of the Chechen Administration, Mr Akhmad Kadyrov, indicated that the priority issues to be dealt with by his Administration are to put an end to killings of civilians and to ensure better control of the Russian federal forces (Interfax, 15/01/03).

*d. Arrest and custody*

13. Russian and Chechen NGOs continue to collect information about illegal arrests, in particular at checkpoints or during night raids. There are new cases of persons disappearing or being killed after – so it is alleged – having been held in custody by members of the federal forces or other law-enforcement bodies (see in particular “Memorial”, 15/01/03; SRCF, 8/1/03; Chechen Committee of National Salvation, 07/01/03).
14. In this context, on 13 January 2003, a mass grave was discovered on the Petrapavlosk road (Grozny). About 10 mutilated corpses were found, some of which could be identified. The Prosecutor of the Chechen Republic, Mr Vladimir Kravchenko, stated that a criminal investigation has been opened and that such acts were carried out by members of illegal armed groups. However, “Memorial” pointed out that some persons identified had been recently arrested and held in custody by the federal forces. “Memorial” therefore underlines that there are serious

grounds to believe that all persons found in the mass grave were recently detained by the federal forces. “Memorial” also recalled the state of investigations relating to the discovery of similar mass graves in the region (see RIA – Novosti, 14/01/03 and “Memorial”, 15/01/03).

*e. Freedom of expression and information*

15. According to a recent report released by the Centre for Journalism in Extreme Situations (CJES), the situation of the media is more or less the same as before October 1999. The civilian authorities exert pressure against journalists through organisational and legal means, whereas members of armed forces or illegal armed groups use physical threats, intimidation, kidnapping and killing to silence the Chechen press. As a result, no truly independent journalism can exist in the Chechen Republic (CJES, Report on the press in the Chechen Republic, 12/12/02).

## **II. RULE OF LAW**

16. Applications recently declared admissible by the ECtHR alleged a lack of effectiveness of judicial remedies with respect to crimes allegedly committed by servicemen in the Chechen Republic. In this connection, the Council of Europe Commissioner for Human Rights, Mr Alvaro Gil-Robles underlined that the rule of law and supervision mechanisms should be reinforced in order to fight against impunity of members of the federal forces as well as all other individuals working for State bodies (ECtHR, 16/01/03; Commissioner for Human Rights’ Office, 17/01/03).

*a. Functioning of the judicial system*

17. International and Russian NGOs expressed their concern about the climate of impunity prevailing in the Russian judicial system with respect to crimes allegedly committed by members of the federal forces against civilians in the Chechen Republic. The fact that the North Caucasus Military District Court relieved Colonel Yuri Budanov of criminal responsibility on grounds of 'temporary insanity' illustrates this situation. However, the Chief Military Prosecutor, Mr Alexander Savenkov, indicated that the court decision has been appealed by the prosecution (see IHF/Moscow Helsinki Group, 20/12/02; HRW, 31/12/02; AI, 02/01/2003; Interfax, 10/01/03).
18. According to the Chief Military Prosecutor, Mr Alexander Savenkov, 46 federal servicemen have been sentenced by military courts since October 1999 (six senior officers, 3 non-commissioned officers, 20 soldiers and 17 conscripts). Eleven of them were found guilty of committing murder, and 13 were convicted of rape (AFP, 10/01/03).

***b. Functioning of the prosecuting bodies***

19. According to the Advisor of the Russian President, Mr Sergei Yastrzhembsky, 159 judicial inquiries have been carried out with respect to misconduct of federal servicemen (AFP, 10/01/03).

**III. DEMOCRACY**

20. As indicated in Committee of Ministers Recommendation R(96)2, a local referendum can provide democratic solutions to situations of conflict and help strengthen local autonomy by reinforcing the individual's feeling of belonging to a community. In this context, the Special Representative of the President of the Russian Federation for ensuring Human Rights and Civil Rights and Freedoms in the Chechen Republic indicated that the holding of a constitutional referendum in Chechnya should be seen as a key factor contributing to the stabilisation of the Chechen Republic. According to the former Head of the OSCE Assistance Group in Chechnya, a referendum is needed as he feels it is necessary to legitimise the Chechen authorities. However, he expressed the view that it is too early to hold it in the current circumstances. He explained that the presence of 80,000 servicemen from the Russian armed forces and the Interior Ministry, a large number of internally displaced persons (IDPs) in the Chechen Republic and outside it, and the basically unstable situation that persists do not provide adequate conditions for holding a real referendum (Interfax, 05/01/03; see also Prague Watchdog, "Chechen human rights activists oppose the referendum on a Chechen constitution", 20/01/03).
21. The Russian authorities have indicated that they do not object to the presence of international observers during the constitutional referendum and subsequent elections (Interfax, 05/01/03).

**IV. HUMANITARIAN SITUATION**

22. According to the latest data from the Danish Refugee Council (DRC), the tent camps Alina, Bella, Satsita, Sputnik and Bart in Ingushetia currently accommodate more than 20,000 IDPs from the Chechen Republic. The National Committee on IDP of the Chechen Government, chaired by Mr Gidizov, sent representatives for the purpose of a repatriation campaign to all major IDP settlements on the territory of Ingushetia. According to some superintendents of the tent camps, the Committee representatives put direct and indirect pressure on Chechens in order to return as many of them as possible (UNICEF, 13/01/03). In the meantime, Mr Oleg Zhidkov, the Head of the Grozny administration, announced that three Temporary Accommodation Centres (TAC) are to be commissioned in the Chechen capital in mid-January. The facilities should accommodate up to 4,000 IDPs returning

from the neighbouring Republic of Ingushetia (RIA - Novosti, 12/01/03).