

**Information Documents**

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Addendum to the Seventeenth 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

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## **Introductory remarks**

1. In the present document, the Secretary General provides the Ministers' Deputies with additional relevant information on the situation of democracy, human rights and the rule of law in the Chechen Republic, Russian Federation, for the period 8 February 2002 to 30 March 2002 (see decision of the Ministers' Deputies of 10 October 2000, CM/Del/Dec(2000)725, item 1.7). This document consists of two parts: information on the situation in the Chechen Republic (Part I), as well as the main recommendations and appeals made by Council of Europe bodies, international and non-governmental organisations, and Russian institutions made during the period in question (Part II)<sup>1</sup>.

2. During his visit to the Russian Federation (15-16 January 2002), the Chairman of the Committee of Ministers, Mr Antanas Valionis, reiterated that the Council of Europe saw some progress in the human rights situation in Chechnya, but this progress was not yet as substantial as expected from a member state. In particular, there has not yet been sufficient progress in the investigation of cases regarding crimes allegedly committed by servicemen and persons of similar status against the civilian population, including allegations concerning mass killings. The Russian interlocutors provided the Chairman with the latest information concerning the investigation of violations of human rights in Chechnya. Information was also provided about the mechanisms of internal supervision inside the military and FSB, as well as about the general supervision by the prosecuting bodies of the observance of law and rules during the anti-terrorist operations. Special attention was devoted to "mop-up" operations carried out at the end of 2001 - beginning of 2002. The prosecuting bodies opened investigations into several reported cases. To conclude, the Council of Europe would be best continuing a long-term co-operative approach in support of the solution to the problems which still persist in Russia (for more details, see doc. [CM/Inf\(2002\)7](#), 21.2.2002).

## **I. Additional relevant information concerning the situation in the Chechen Republic**

### **Parliamentary Assembly (PACE)**

3. On 11 March 2002, the PACE Monitoring Committee approved its report on honouring of obligations and commitments by the Russian Federation. According to the co-rapporteurs, Mr David Atkinson and Mr Rudolf Bindig, the greatest problem remains compliance with the commitment to settle the conflict in Chechnya by peaceful means. In their opinion, the call to conduct a proper investigation into all cases of human rights violations and the abuse of power in the Chechen Republic, and to prosecute their perpetrators irrespective of their functions should be reiterated. However, given that work has been undertaken by the PACE/Russian State Duma

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<sup>1</sup> This information has been collected by the Monitoring Department of the Directorate of Strategic Planning (DSP). Concerning 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\(2001\)4](#), also on the Committee of Ministers Web Site: <http://www.coe.int/cm>.

Joint Working Group (JWG) since 2001, the co-rapporteur pointed out that problems related to the Chechnya conflict do not form part of their report (see PACE Report, doc. 9396, 26.3.2002, available on the Assembly's website: [assembly.coe.int](http://assembly.coe.int)).

4. For its part, the JWG met in Moscow on 20 March 2002 to discuss the human rights situation in the region and the state of progress regarding a political solution to the conflict. The Group met with Chechen representatives – including members of the Chechen Administration and NGOs from the region – who signed a memorandum on proposals for a political solution to the conflict in Strasbourg in November 2001 (see the latter memorandum in doc. [SG/Inf\(2001\)41 Add.](#)).

### **European Court of Human Rights**

5. Between 5 and 8 applications per month from the Chechen Republic are filed with the Court. Most applications concern alleged disappearances of relatives further to detention by the federal forces at checkpoints or during “mop-up” operations.

### **Organisation for Security and Cooperation in Europe (OSCE)**

6. The OSCE Assistance Group to Chechnya stands ready to assist the conflicting parties in the search for a political solution to the crisis. However, the Russian authorities do not appear prepared to accept OSCE involvement in this process so far, arguing that the political part of the Group's mandate has already been exhausted. Conversely, Chechen rebels call regularly for OSCE mediation (OSCE, information received by the UN High Commissioner for Human Rights, see Report mentioned below; in this connection, see also [SG/Inf\(2001\)41 Add. III](#)).

### **United Nations (UN)**

7. In her report on the situation in the Chechen Republic, the UN High Commissioner for Human Rights stressed the importance of a credible response from the Russian authorities commensurate with the scale of allegations of serious human rights abuses. She recommended an independent, wide-ranging inquiry as the most appropriate way to address concerns. She noted that, while a number of constructive mechanisms have been put in place, none possesses all the attributes which would normally be associated with such an independent inquiry. In the meantime, reports of serious human rights violations carried out by Chechen fighters against federal and local authorities and against civilians continue, including kidnapping and hostage-taking, and failure to observe international human rights and humanitarian law. The High Commissioner has urged those responsible to cease such attacks (see doc. E/CN.4/2002/38, 26.2.2002).

8. Representatives of the UN Office for the Coordination of Humanitarian Affairs (OCHA), the UN High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC) and several NGOs travelled to Grozny on 6 March 2002 to continue discussions with the authorities concerned on access to and freedom of movement in the Chechen Republic. The Head of the Chechen Administration, Mr Akhmad Kadyrov, assured the delegation that his

administration would facilitate the work of humanitarian organisations in Chechnya. He stated also that, while the return of internally displaced persons (IDPs) to Chechnya is a priority, any returns should be voluntary. The issue of access was resolved for the month of March and it was agreed that regular dialogue at the policy and technical levels between the administration and aid agencies should take place on a monthly basis in Grozny (OCHA, Humanitarian Action in the North Caucasus Information Bulletin 1-15.3.2002).

9. According to the Ingush authorities, the relevant federal authorities suspended bread distributions to IDPs from Chechnya as of 1 March 2002 because of the arrears to Ingush companies and organisations providing IDPs with food. There is a risk that the electricity and natural gas supply to all IDP camps will be cut off for the same reason. At the same time, UNHCR continued to identify newly-arrived IDPs in Ingushetia who were not registered by the authorities in the government's beneficiary database (OCHA).

10. According to UNICEF, the military presence in the Chechen Republic is promoting a feeling of insecurity amongst the IDP population which mainly explains, together with the lack of proper identification documents, reluctance to return (UNICEF Humanitarian Action: Northern Caucasus Donor Update, 19.2.2002).

### **International Committee of the Red Cross (ICRC)**

11. In late 2001, the Russian Government reaffirmed its willingness to extend the agreement which grants ICRC access to all persons detained in connection with the special operations carried out in the Chechen Republic and confirms, taking security constraints into account, unhindered access of ICRC humanitarian assistance to affected populations in Chechnya and the neighbouring areas of the Northern Caucasus region of the Russian Federation.

12. Since ICRC began visits to places of detention in the Chechen Republic and in other parts of the Russian Federation on 17 May 2000, it has provided the relevant authorities with five confidential reports, including its observations and recommendations concerning the treatment of detainees and conditions of detention.

13. ICRC representatives enjoy functional, fruitful and frank working relations with all civilian and military authorities in the Russian Federation, including the Chechen Republic (ICRC, information received by the Office of the Commissioner for Human Rights, see above-mentioned Report; in this connection, see also doc. [SG/Inf\(2001\)37 Add.](#)).

### **Russian institutions**

14. On 26 March 2002, the Russian Commissioner on Human Rights, Mr Mironov, indicated that the human rights situation has not improved in the Russian Federation. As concerns the Chechen Republic, massive human rights violations persist. He pointed out that federal servicemen often act upon their own initiative at checkpoints or during “mop-up” operations. He also stated that military actions are actually being pursued and servicemen as well as peaceful citizens continue

to die. The current living conditions of IDPs in Ingushetia can also be considered as a direct threat to the right to life (see interview of Mr Mironov in *Nezavisimaya Gazeta*, 26.3.2002).

15. On 27 March 2002, Lieutenant General Vladimir Moltenskoi, Commander of the united grouping of federal forces in Chechnya, issued Order N° 80 regulating “mop-up” operations in the Chechen Republic. According to the order, all special operations should be conducted under Mr Moltenskoi's personal instructions only. Russian soldiers are ordered to behave toward the local population with the utmost restraint and politeness. A report must be compiled, in three copies, on every detention. One copy is to be handed to the head of the local administration and a second to the chief of local police (see Russian Information Centre, 29.3.2002 as well as Glastnost Public Foundation (GPF), 30.3.2002; in this context, see also paras. 23 and 25 as well as recommendations to the Russian authorities in Part II).

16. On 4 March, the Chairman of the State Council of the Chechen Republic, Mr Malik Saidullayev, organised a round-table on the political settlement in the Chechen Republic. Deputies of the State Duma of the Russian Federation, politicians, experts, academics, and representatives of international organisations and NGOs participated. The Chairperson underlined the importance of holding elections to the transitional government bodies of the Chechen Republic and a referendum to adopt the Chechen Constitution in the near future as the last step towards a political settlement. He also announced the development of a procedure for disarming combatants and engaging them in peaceful life (see Russian Information Centre, 11.3.2002, and OCHA, Humanitarian Action in the North Caucasus Information Bulletin, 1-15.3.2002).

17. The Plenipotentiary Representative of the Russian President in the Southern Federal District, Mr Viktor Kazantsev, indicated that there is no need to pursue his contacts with the representative of Mr Aslan Maskhadov, Mr Akhmad Zakayev, since the latter is not able to exert any influence on the situation in Chechnya (Russian Informational Centre, 11.3.2002; see also [SG/Inf\(2001\)9](#)). In this connection, Mr Ruslan Aushev, former President of Ingushetia (now Representative of Ingushetia within the Federation Council), said that such contacts, certainly made further to European pressure on the Russian authorities, had not resulted in concrete decisions, mainly because Mr Kazantsev, due to his military role in the conflict, is not in a position to conduct political negotiations. Given that the Chechen residents morally support members of illegal armed formations, Mr Aushev also pointed out that an agreement should be reached with the latter. According to him, most Chechen fighters are fighting because relatives have been killed, while a very small number of them are defending extremist ideas (Russian Information Centre, 11.3.2002; see also interview of Mr Aushev in *Nezavisimaya Gazeta*, 12.3.2002).

18. In 2001, the prosecuting bodies sent to court 12 criminal cases of police officers accused of crimes against the population in Chechnya, bribe-taking or abuse of power. They are also investigating another 21 similar cases. Likewise, over 10 servicemen accused of similar crimes were sent to court in 2001. Since 1999, when the anti-terrorist operation was launched, 23 servicemen, including two commissioned officers, have been convicted by courts. During the

same period law enforcement agencies opened over 2,000 criminal cases against members of illegal formations and dozens of them have been convicted (Interfax, 9.3.2002).

19. According to the Chechen Prosecutor, Mr Vsevolod Chernov, an investigation into what happened in the village of Staryye Atagi in the course of a new “mop-up” operation on 8-10 March 2002 has resulted in the opening of four criminal cases (Interfax, 15.3.2002; see also “mop-up” operations in this village in doc. [SG/Inf\(2002\)2 Add.](#)).

20. In conjunction with 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, the Office of the Chechen Prosecutor has examined letters and other communications from citizens about missing persons between 1999 and 2001. The Russian authorities indicated that the Chechen prosecuting bodies have received 609 such communications. They further reported that units of the Internal Affairs Department of the Chechen Ministry of Internal Affairs have initiated search operations in connection with 222 of them. They stated that the prosecuting bodies continuously monitor the work of the field units in this regard and detective work has revealed the whereabouts of 112 missing persons. In connection with 387 reports, the Office of the Chechen Prosecutor has initiated criminal proceedings under Article 126 of the Criminal Code (abduction of persons). Meanwhile, the Russian authorities reported that an integrated central databank on missing persons was created at the information centre of the Internal Affairs Department of the Chechen Republic in order to co-ordinate searches for such persons (Information from the Russian authorities, received by the Office of the UN Commissioner for Human Rights, see above-mentioned report).

21. The Russian authorities indicated that the Chechen courts have heard 198 criminal cases to date. According to their information, Chechen municipal and district prosecutors have acted as State prosecutors in 79 cases, i.e. in 39.9 % of the criminal cases that have been heard (*idem*).

### **Non-Governmental Organisations**

22. The Forum on Early Warning and Early Response (FEWER) has identified a number of key obstacles to a political settlement in the Chechen Republic: inappropriate use of force toward the civilian population and impunity for those that commit atrocities and human rights abuses; xenophobia dividing Chechens and Russians; distrust between the Chechen civilian population and federal and local authorities; illicit economy of war that makes the conflict profitable for different groups (FEWER, 15.2.2002).

23. The Human Rights Centre “Memorial” welcomed Order N° 80 regulating “mop-up” operations in the Chechen Republic (see para. 15). The latter was issued further to a number of contacts between representatives of human rights NGOs and Russian state organs (including working meetings as indicated below). However, “Memorial” underlined that this Order should only be seen as a first step in the right direction (“Memorial”, 29.3.2002; see also, *inter alia*, para. 25 regarding problems of implementation of Order N°125 issued in May 2001).

24. On 28 February 2002, the Council for the Protection of Human Rights in the Chechen Republic held a second working meeting between representatives of human rights NGOs and state organs (for more information on the said Council and the first meeting, see [SG/Inf\(2001\)41 Add. III](#) and [SG/Inf\(2002\)2 Add.](#)). Several NGOs, including “Memorial” and the Society of Russian-Chechen Friendship (SRCF), indicated that the opinion of NGOs differs from that of prosecuting bodies as regards progress made with respect to investigations on alleged crimes committed on the Chechen territory. NGOs considered that the number of representatives of the federal forces who have been punished is far from reflecting the actual number of perpetrators of human rights abuses (Communiqué on the second meeting of representatives of human rights NGOs and of Russian and Chechen governmental organs, Znamenskoye, 28.2.2002). According to NGOs, the fact that victims and witnesses fear to refer to the organs of prosecuting bodies, or are allegedly threatened by servicemen, as well as the inefficiency of the prosecuting bodies experienced in a number of cases may explain this situation (see, for instance, SRCF Press Release N° 192, 4.3.2002, and “Memorial”, Chronicle of Violence, 14.2.2002).

25. In February 2002, the International Federation for Human Rights (FIDH) appointed a commission of inquiry, which went to Moscow and subsequently to Ingushetia in order to hear direct evidence of grave human rights violations in Chechnya, together with “Memorial”. The evidence collected by the commission confirmed that grave human rights violations are still being perpetrated on a daily basis in Chechnya. From the statements heard, it is evident that a veritable system which guarantees impunity for persons committing violations has been set in place, notably by forcing victims or their relatives to sign documents which absolve military personnel of all responsibility, through secrecy and lack of transparency, the systematic and deliberate disregard of Decree No.46 issued by the Prosecutor General of the Russian Federation and Order No.125 of the federal forces military command in Chechnya which, among other things, make it compulsory for representatives of the prosecuting authorities to be present during special operations. These various factors are compounded by flagrant disfunctionalities in the Chechen justice system and above all the blatant disproportion between the number of complaints lodged by the victims themselves or their families and the number of judicial enquiries with any chance at all of reaching a conclusion (FIDH, [communiqué](#), “Chechnya: ending a criminal system”, 8 March 2002; for more details, see [FIDH Report](#), “Terror and impunity: a planned system”, March 2002).

26. In this context, FIDH underlined the deliberate attitude of the Russian authorities at the highest level, who, among other things, “turn a blind eye” to the so-called “uncontrolled” groups within the Russian military and law enforcement forces (on this last point, see paragraph 15 of this document). In addition, violations of human rights and of international humanitarian law are still being committed by Chechen fighters. However, the seriousness of the acts committed by these fighters is in no way comparable to the violations perpetrated by the Russian forces, which are truly systematic and massive. According to FIDH, the isolation of Chechnya - keeping the conflict behind closed doors - is still a real obstacle to ending the violations being committed (FIDH).

27. Human Rights Watch (HRW) pointed out that Chechnya is the only place in Europe where civilians are being killed on a near daily basis. Concerning “mop-up” operations, HRW indicated



that they are ostensibly designed to seek out rebel fighters and their supporters and ammunition depots, but they are usually reactive, following Chechen military actions such as ambushes on Russian military columns or attacks on Russian checkpoints. According to HRW, they are routinely the occasion for abuse, particularly arbitrary detention and subsequent torture, ill-treatment, and “disappearances”. Servicemen also allegedly killed numerous civilians, both during and beyond the context of “mop-up” operations, in indiscriminate shootings. HRW also reported that masked soldiers conducted numerous night raids, detaining men who subsequently “disappeared” ([HRW Memorandum](#), 18.3.2002; see also [HRW Report](#), “Swept under: Torture, Forced Disappearances and Extrajudicial Killings during Sweep Operations in Chechnya”, February 2002 and relevant HRW recommendations in Part II).

28. Concerning freedom of expression and information, according to the Annual Report of the Observatory for the Protection of Human Rights Defenders, journalists were often subject to serious threats. For instance, Ms Anna Politkovskaya, a Russian journalist who persisted in reporting on alleged atrocities committed by Russian forces in Chechnya, received death threats and had to flee temporarily the country (Observatory for the Protection of Human Rights Defenders, FIDH and the World Organisation against Torture (OMCT), 2001 [Annual Report](#)).

29. Concerning the situation of IDPs, a new registration procedure is to be carried out, requiring the payment of a fee by the IDPs. Thus, due to the latter’s lack of financial means, around 60% of IDPs would remain unregistered and disappear from the official lists and would be no longer be counted as people in need of state support (SRCF, Press Release N° 200, 20.3.2002; in this connection, see also HRW, 18.3.2002).

## **II. Main recommendations and appeals made by Council of Europe bodies, international and non-governmental organisations, as well as by Russian institutions concerning the situation in the Chechen Republic (8.2.2002 – 30.2.2002)**

To the Committee of Ministers

- To reiterate its call on the Russian authorities to conduct a proper investigation into all cases of human rights violations and the abuse of power in Chechnya, and to prosecute their perpetrators irrespective of their functions (*see in particular PACE Monitoring Committee; see also HRW*)
- To encourage the Russian authorities to strengthen co-operation with the Council of Europe in order to ensure full compatibility of Russian legislation and practice with the Organisation’s principles and standards, especially with standards guaranteed by the European Convention on Human Rights and the Strasbourg Court’s case-law (*see in particular PACE Monitoring Committee; see, in this connection, HRW proposals below*)
- To set in motion a special investigation into Russia's compliance with its Council of Europe commitments, within the framework of its [1994 Declaration](#) on compliance with commitments accepted by member States of the Council of Europe. The



Committee of Ministers should take into account previous reports to it by the Secretary General and experts. These reports had concluded that Russia failed to respond adequately to the Secretary General's request, pursuant to Article 52 of the European Convention on Human Rights, for information on how the conduct of the Chechnya operation affected the Russian Federation's implementation of its commitments under the Convention (*see HRW*<sup>2</sup>)

(With respect to Council of Europe experts in the Chechen Republic)

- To instruct the experts to scrutinise progress made in the official investigations into the “mop-up” operations in Sernovodsk and Assinovskaya, with a view to determining whether such investigations fully comply with the standards for investigations into alleged human rights violations developed in the case-law of the European Court of Human Rights (see, *inter alia*, *Aksoy v. Turkey*, 18.12.1996). Other Council of Europe bodies should provide resources and expertise to assist in the analysis. The Council of Europe should inform the Chechen prosecuting bodies and the Russian Prosecutor General, as well as the Russian President, of any failure to uphold those standards (*see HRW*);
- To instruct the experts to visit Alkhan-Kala in particular to investigate the alleged extra-judicial executions of six men. Once Russian authorities open a criminal investigation into the abuses, the experts should be instructed to scrutinise and report to me on progress made in the investigation process (*see HRW*);
- To instruct the experts to scrutinise the conduct of detentions in Chechnya, with a view to determining whether methods employed by Russian state agencies are in accordance with Article 5 of the European Convention on Human Rights. The information should be made available to other Council of Europe agencies competent to make such a determination, in particular the European Committee for the Prevention of Torture. The Council of Europe should inform the relevant Russian authorities of any discovery that Russian forces have not upheld the standard required by Article 5 (*see HRW*).

To the Russian authorities

- To initiate political negotiations with Mr Maskhadov's representatives (*see in particular FIDH*)
- To give an explicit and detailed mandate to 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 (*see FIDH*)

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<sup>2</sup> For more details, see para. 4 of the [1994 Declaration](#) and, concerning the above-mentioned reports, see doc. [SG/Inf\(2000\)21](#) and [Addendum](#) as well as [SG/Inf\(2000\)24](#) and [Addendum](#), available on the Committee of Ministers website.

- To establish an independent national commission of inquiry that would ensure the effective investigation and prosecution of those responsible for violations of international human rights and humanitarian law (*see in particular HRW*)
- To instruct commanders of the United Group of Forces and all Russian Federation forces that are involved in “mop-up” or similar operations - including Ministry of Defence troops, OMON, Ministry of Interior troops, and Ministry of Justice troops - of the relevant principles of international human rights and humanitarian law and Russian criminal procedure that must be observed during “mop-up” operations. More specifically, they should be instructed, *inter alia*, that
  - No one shall be subjected to arbitrary arrest or detention (see European Court’s case-law relating to Article 5(1) of the European Convention)<sup>3</sup>;
  - A detention record must be kept regarding every detainee, as required by the *Cakici v. Turkey* Judgment of the European Court of Human Rights (judgment of 8 July 1999, para. 105).
  - Detainees must be informed of the grounds of arrest and any charges against them immediately, and should have immediate and regular access to lawyers of their own choice; ·
  - In accordance with Article 122 of the Code of Criminal Procedure (CCP), the prosecuting bodies must be informed in writing within twenty-four hours of any arrest, and must take action within forty-eight hours to either hold in detention or release the detainee;
  - Detainees should be informed of and granted the right to challenge their detention in a court, in accordance with Article 220 CCP;
  - Relatives of a detained person must be informed of the detention of their family member, the reason for and location of the detention, and must be allowed regular contact with detainees; ·
  - Detainees have the right to outside communication, including with the International Committee of the Red Cross;
  - No physical force may be used in respect of a detainee which has not been made strictly necessary by his/her own conduct;

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<sup>3</sup> For an analysis of this case-law relating to the judicial control of deprivation of liberty, see doc. [CM/Monitor\(2001\)14, Part I](#) (declassified), available on the Committee of Ministers website.

- No detainee may be extra-judicially executed, subjected to enforced disappearance, tortured or otherwise mistreated.
- To instruct commanders of the United Group of Forces that they bear responsibility for the implementation of the above-mentioned requirements, and that they will be held accountable for failure to ensure their general implementation throughout Chechnya (*see HRW*);
- To instruct all relevant Russian Federation forces that any violation of the above-mentioned requirements will be vigorously investigated, and that the perpetrators of such violations will be brought to justice (*see HRW*);
- Officials of the prosecuting bodies and local administration shall be present during all “mop-up” operations; these officials should enjoy full freedom of movement during the sweep operation, including full access to any places where detainees are held (*see HRW*);
- To implement the Body of Principles for the Protection of all persons under any form of Detention or Imprisonment. In particular, fully observe the safeguards delineated in Principle 12 (*see HRW*);
- To implement the UN Declaration on the Protection of All Persons from Enforced Disappearances, in particular regarding the requirements of article 10, to keep detainees in officially recognised places of detention; to maintain accurate information on detainees and their places of detention; and to promptly inform family members of the place of detention (*see HRW*);
- To hold all detainees only in officially recognised places of detention; to cease the practice of secret detention even if it takes place on the premises of an officially recognised detention facility (*see HRW*);
- To make publicly available regularly updated figures on the number of individuals arrested and charged for security-related crimes in Chechnya, with information on the nature of their alleged crimes and the places of their detention; to maintain accurate registers of detainees' names and places of their detention, and to make such registers readily available to detainees' families, counsel, and other legitimately interested persons (*see HRW*).