



Information Documents

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Twenty-seventh 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

Period from 19 February to 13 May 2003

1. This is the 27th interim report by the Secretary General covering the activities of the three Council of Europe experts, Mr Guy-Michel Brandtner, Ms Eva Konecna and Ms Marine Trévisan, providing consultative expertise to 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.
2. The experts were not present in the Chechen Republic from 19 to 28 March 2003, including 23 March 2003 when the referendum was held.
3. On 21 April, while leaving the Grozny Office of the Special Representative, a roadside bomb targeted the convoy of four vehicles transporting the Council of Europe experts and their protection unit. The two experts did not suffer any physical injury but four members of the protection unit suffered contusions and were hospitalised in Rostov-on-Don. The experts returned to Strasbourg.
4. The Secretary General has asked the Russian authorities to provide him urgently with a full report on the results of the investigation. The incident is considered as extremely serious in that it is the first time that the Council of Europe staff were deliberately targeted in an attack.
5. On 12 May 2003 a truck loaded with explosives rammed into a compound of buildings of regional administration, security and law enforcement agencies in Znamenskoye, Nadtrechniy District of the Chechen Republic. According to information available on 12 May 2003 – at least 40 people were killed, more than 100 injured, around a dozen of buildings damaged. The explosion left a crater of about 18 metres in diameter, 4-5 metres deep. Znamenskoye is the place where the Council of Europe staff has been residing and working since June 2000. The statement on the explosion issued jointly by the Secretary General and the President of the Parliamentary Assembly is attached as Appendix III.
6. During the period 19 February – 21 April 2003, the experts met with representatives of Russian and Chechen authorities, including the prosecuting bodies as well as representatives of the Chechen civil society (see Appendix I). The experts also participated in the meeting of the Joint Working Group, between the Office of the Special Representative and the Prosecution, held on 12 March 2003 at the Office of the Prosecutor of the Chechen Republic located in Grozny. They visited the Chernokozovo pre-trial detention centre and two premises for temporary detention in the Zavodskoy and Leninskiy Districts of Grozny.
7. The experts also continued to fulfill additional tasks in accordance with their current mandate (see Part VI of the present document).

I. SECURITY SITUATION

8. In the light of the events of 12 May and 21 April 2003, and against the background of the global political and security situation in Chechnya, the Secretary General is still evaluating the consequences of these incidents with a view to continuing the work of the Council of Europe staff in the Chechen Republic.
9. The period before the referendum was marked by a number of bomb attacks, especially at checkpoints and the future polling stations and by aggressions of members of electoral commissions. Regular “targeted measures” and special operations had been carried out by the federal forces throughout the Republic.
10. On the very day of the referendum, on 23 March, no major incident or violence was reported.
11. The number of checkpoints has been reduced in Grozny. The situation was stabilised until early April. Following an explosion of a roadside bomb killing eight civilians on 3 April, special operations and “targeted measures” were carried out by the federal forces in the city of Grozny and in the Shali and Vedeno Districts.
12. By the end of April, the security situation had considerably deteriorated in Chechnya. Attacks on members of law-enforcement agencies have intensified compared to the pre-referendum period.

II. HUMAN RIGHTS

13. According to the Prosecutor of the Chechen Republic, Mr Kravchenko, 1,700 abductions have taken place since the beginning of the anti-terrorist operation in Chechnya 1999. 1,163 criminal cases were opened on abductions, of which 565 in the year 2002.

a. State’s obligation to protect everyone against terrorism

14. The Prosecutor of the Chechen Republic indicated that there are still reports about gross human rights violations during special operations and when “targeted measures” are undertaken. This shows that military forces are not applying Order No. 80 by General Moltenskoi. According to him, the military commands in the districts bear responsibility for this as they fail to control the behaviour of federal forces operating on their respective military area.

15. In this respect, a meeting between the representatives of the civilian and military prosecuting bodies devoted to the situation in the Chechen Republic was held in Moscow at the beginning of March. It was emphasised that the *Prokuratura* should be present during special operations and when “targeted measures” are carried out in order to supervise the implementation of Orders No. 46 by the Prosecutor General and No. 80 by General Moltenskoi. The Military Prosecutor of the three Northern Districts (Nadterechniy, Naur and Shelkovskoy Districts), Mr Polyakov, informed the experts that military prosecutors are present in some 70% of special operations conducted under his jurisdiction.

b. Arrest, custody and pre-trial detention

16. According to the Prosecutor of the Chechen Republic, it appears that in 300 cases, missing persons have been illegally arrested by military troops. As an example, three men were reported missing after being arrested on 16 March 2003 at the “Kavkaz” checkpoint close to the borders between Chechnya and Ingushetia. The “Kavkaz” checkpoint is known to be a place where such problems often arise.

17. When visiting IVS facilities – premises for temporary detention under the authority of the Ministry of Internal Affairs - in the Zavodskoy and Leninskiy Districts of Grozny, the experts were told that these premises are used for detainees under investigation, usually detained in the Chernokozovo SIZO (pre-trial detention centre under the authority of the Ministry of Justice), who have to be present in the city for the purposes of investigation. The duration of the detention in those facilities should not exceed 10 days. The conditions of detention are quite poor (no fresh air, no natural light). However, the cells were said never to be overcrowded. Detainees met by the experts indicated that food and medical care are adequately provided. However, they pinpointed that their right of access to a lawyer is most problematic. In addition, they did not always feel active support or assistance from their lawyers.

18. When visiting the Chernokozovo SIZO, the experts were told that it accommodated 170 detainees, including seven women and two teenagers. Detainees have made no particular complaint during the visit.

III. RULE OF LAW

a. The judicial system

19. Various interlocutors underlined that judges and lawyers fear for their life in the Chechen Republic. According to the human rights centre “Memorial”, it appeared that judges had refused to try cases out of fear for their lives.

b. The prosecuting bodies

20. A new Agreement on the Establishment of the Joint Working Group between the Office of the Special Representative and the *Prokuratura* was concluded on 14 March 2003. Among others tasks, the Agreement provides the basis for joint meetings between the relevant bodies concerning human rights issues, yearly joint analysis of identified violations of the Russian law, joint visits to the Chechen Republic and the mutual co-operation in examining and resolving applications concerning the observance of the Constitution and other laws of the Russian Federation in the Chechen Republic (see Appendix II).
21. At the meeting of a Joint Working Group¹ between the Special Representative's Office and the prosecuting bodies held on 12 March 2003, the following issues were identified as the most problematic in terms of safeguarding human rights in the Chechen Republic: i) human rights violations committed by members of the federal forces during special operations and when "targeted measures" are implemented; ii) disappearances of persons, especially at night; iii) prevailing climate of impunity resulting from the fact that responsible persons are not brought to justice; iv) lack of adequate detention facilities; v) lack of adequate means to carry out efficiently forensic examination. Concerning the latter issue, the Prosecutor of the Chechen Republic explained that the lack of resources to carry out forensic examination in the Chechen Republic made the work of the *Prokuratura* difficult as it slowed down the investigation. There is a serious need for material assistance in this respect.
22. The discrepancy between the number of applicants who sought advice in the Special Representative's Office and those lodging written complaints shows the mistrust of the Chechen population towards the authorities. In the period between 15 October 2002 and 15 March 2003, out of 1,835 applicants who orally complained to the Office about the disappearances of relatives, only 300 lodged a formal complaint with the Office. The unsatisfactory replies received from the *Prokuratura* also contributed to this situation. In this respect, the following statistical data were gathered in the Office of the Special Representative in terms of replies from various authorities in the Chechen Republic in the aforesaid period: i) *Prokuratura* of the Chechen Republic: 159 queries – 98 replies; ii) Military *Prokuratura* of the Chechen Republic: 47 queries – 11 replies; iii) Military Command: 58 queries – 8 replies; iv) Ministry of the Interior: 98 queries – 65 replies.

¹ Participants: i) Mr A.-Kh. A. Sultygov, Special Representative; ii) Mr Kravchenko, Prosecutor of the Chechen Republic; iii) Mr A.G. Chernaev, Deputy Prosecutor of the Chechen Republic; iv) Mr M. B. Baskhanov, Head of Department of Justice of the Ministry of Justice; v) Mr N.C. Sharabardin, First Deputy of the Military Prosecutor of the Chechen Republic; vi) Mr Nurdi Nukhazhiev, Head of the Special Representative's Office in Grozny and three representatives of the branch offices.

23. According to the Military Prosecutor of the three Northern Districts (Nadterechniy, Naur and Shelkovskoy Districts), Mr Polyakov, an average of 8 cases of violations of civilians' rights by servicemen was sent yearly (since 1999) by the military prosecutor of the above-mentioned districts to the courts located in the adjacent regions of the Chechen Republic. These cases concerned mainly torture, robbery and murder. No court decision has been delivered on these cases yet.

IV. DEMOCRACY

a. Post Referendum

24. The staff members of the Office informed the experts about the following percentage of participation in the referendum: i) 96% in Achkhoy-Martan District, 70.6% in the city of Argun, 97% in Nadterechniy District, 90% in Naur District, 97% in Shali District, 96% in Shelkovskoy District, 96% in Urus-Martan District, 100% in Vedeno District. Several interlocutors stated that the main reason why people voted in the mountainous districts was out of fear of retaliation by federal forces.
25. According to information made available to the experts, the percentage of participation in the city of Grozny varies. According to the human rights centre "Memorial", 312 persons were counted to have physically voted at a specific polling station during the day; in the same polling station the chairman of the local electoral commission stated that by 11.00 a.m. 1,400 voters had cast their votes. Most of the voters apparently came to the urban polling stations late afternoon, reassured by the absence of any terrorist attack or military action.
26. Many people explained to the experts that the Chechens had taken part in the referendum to reject the conflict and hoping for a return to "normal life". Nevertheless, the recent upsurge of violence from both sides has already raised disappointment amongst the people. Expectations were very high for a quick return to a peaceful life, and a step backwards could deeply affect their behaviour and possibly radicalise the attitude of citizens who opposed the present Chechen authorities but were ready to co-operate in building new democratic institutions.

b. Follow-up to the Referendum

27. Discussions concerning the Treaty on the Division of Competencies between the Russian Federation and the Chechen Republic are the focal point of public attention. The idea of a broad autonomy with economic and political powers to be granted to the Chechen Republic is widely supported by the population. Whilst the Treaty is still under discussion and its date of signature not yet known, it seems that the Treaty might be concluded between the federal centre and the future elected President of the Chechen Republic.
28. The issue of amnesty is also one of the main topics presently discussed within the Chechen population, although no draft of the amnesty law has yet been made public. Moreover, the Russian media announced that the amnesty law could enter into force by the end of May, following a vote by the State Duma. Information presently available shows that the draft would propose amnesty to all crimes with the exception of 3 categories: murders, house bombings and abduction crimes. It is rather unclear whether the future law will apply to members of illegal armed groups or to all, including representatives of federal and republican police, security and military forces who committed such crimes and offences. It is feared that the law on amnesty may be used to “wipe out” serious violations committed by members of the federal forces, thus leaving the population with a feeling that, in the name of reconciliation, these crimes will be left unpunished. It was also announced that the Special Representative, Mr Sultygov, has drafted a programme for the rehabilitation of one hundred former “rebels”, who could be accommodated in neighbouring republics.
29. In this connection, the “Social Entente” initiated by Mr Sultygov in 2002 has been transformed to a “Memorandum on the Social Agreement”. Within the framework of this Memorandum, meetings between former deputies of the Parliament under the Maskhadov presidency, members of illegal armed groups and staff members of the Office could be held.

V. ADDITIONAL TASKS

a. Assistance in electoral matters

30. From 4 to 6 March, training in Good Practice in Electoral Matters was organised in Nazran (Ingushetia) for members of electoral commissions and the Initiative Group for holding a referendum. Council of Europe experts² provided the participants with an overview of the European experience in electoral matters, from the drafting of electoral rules to the observation of elections all over Europe. This training was an opportunity to assess concrete needs in technical and legal expertise in electoral matters.

b. Assistance in developing a system of education

31. From 11 to 13 April, a human rights seminar for students from the Chechen State University located in Grozny was organised in Nazran. Council of Europe and Russian experts³ provided students with information on the European Convention on Human Rights and its case law as well as on the human rights standards in the Russian law.
32. On 29 March and on 12 April, the experts carried out a needs assessment mission to the Chechen State University with a view to establishing a human rights library.

c. Assistance in training of civil servants and staff of law enforcement agencies

33. From 24 to 26 April 2003, two ad hoc experts – Ms I Köck (Austria) and Mr A Stevns (Denmark) carried out a needs assessment mission to prepare a programme for human rights training of staff of law enforcement agencies, local police and prison staff. In Ingushetia they met with senior representatives of law enforcement agencies, police and prison staff from Chechnya and Ingushetia. These experts are in the process of preparing their report.

² Prof. Bernard Owen (France), Secretary General of the Centre for Comparative Studies on Election (Paris) and Mr Henning Gjellerod (Denmark), Honorary Associate of the PACE.

³ Mr Bill Bowring (Professor of Human Rights and International Law at the London Metropolitan University); Mr Victor Baiesu (lawyer at the Registry of the European Court of Human Rights); Mr Valery Viktorovich Bogatyriov (Deputy Head of the State Law Department at the Vladimir Law Institute); Mr Boris Yakoblevich Gavrilov (Deputy Director of the Prosecution Department of the Russian Ministry of Internal Affairs); Mr Vladimir Illitch Roudnev (Research fellow at the Comparative Law Institute attached to the Government of Russian Federation); Mr Vladimir Viacheslavovich Mamchoun (Lecturer of administrative law at the Vladimir Law Institute).

Appendix I**Meetings held between the Council of Europe experts and Russian and Chechen officials working in the Chechen Republic in the period between 19 February and 20 April 2003*****Chechen Government***

Mr M. B. BASKHANOV, Head of Department of Justice of the Ministry of Justice (12.03.03)

Prosecuting bodies

Mr KRAVCHENKO, Prosecutor of the Chechen Republic (12.03.03)

Mr A.G. CHERNAEV, Deputy Prosecutor of the Chechen Republic (12.03.03)

Mr N.C. SHARABARDIN, First Deputy of the Military Prosecutor of the Chechen Republic (12.03.03)

Mr Konstantin Sergeyevich POLYAKOV, Inter-territorial Military Prosecutor of the Nadterechniy, Naurskiy and Shelkovskoy Districts (15.03.03)

Mr Ivan Borisovich KULINICH, Senior Assistant to the Prosecutor of Naurskiy District (02.04.03)

Prison authorities

Mr Khanif RAKHMATULLIN, Commander of the SIZO in Chernokozovo (02.04.03)

Judiciary in the Chechen Republic

Mr Anarbek YANDAROV, President of the Court for the Naur and Shelkovskoye Districts (18.03.03)

Civil society

Ms Natalya ASTEMIROVA, Human Rights Centre "Memorial" - Nazran Department (25.03.03)

Mr Dokka ITSLAEV, Human Rights Centre "Memorial" - Urus-Martan Department (25.03.03)

Ms Katia SHAKARATANSKAYA, Human Rights Centre "Memorial" - Moscow Department (25.03.03)

Ms ABDUKHADZHIYEVA, Head of the "Chechen Women's Union" (former non-governmental organisation "Heart Hope") (18.03.03)

Mr Deni YAKHYAEV, Director of the "Coalition" organisation (18.03.03)

Mr Ruslan Abdulayevich AKHMAYEV, "Optimum" (18.03.03)

Educational institutions

Mr Baudi Dadaevich BAKHMADOV, Dean of the law faculty, University of Grozny (29.03.03 and 19.04.03)

Chechen media

Mr Magamed TASUEV and Mr Aslan ALIEV, newspaper “Stalitsa Plus” (25.03.03)

Mr Khasmagomed MAGOMAEV and Mr Musa SADULAEV, information agency “Groznoy-Inform” (25.03.03)

Mr Zamid ALUBOV, newspapers “Vesti Respublikiy” (25.03.03)

Electoral Commissions

Ms Aichat Saiputinovna ZAKAEVA, President of the District Electoral Commission of the Nadterechniy District (22.02.03)

Nozhai-Yurt District

Mrs Isita Magomedovna GAIRIBEKOVA, Head of Administration of the Nozhai-Yurt District (04.04.03)

Mr Yuri Vladimirovich KHROMOV, Deputy to the Military Commandant of the Nozhai-Yurt District (04.04.03)

Mr Miser-Pasha CHAPAEV, Deputy to the Military Commandant of the Nozhai-Yurt District (04.04.03)

Mr Vakha Movladinovich ESTEMIROV, Assistant to the District Prosecutor (04.04.03)

During this period experts also met with Chechen officials and inhabitants of the following Chechen villages: Bankin-Yurt village in the Nadterechniy District.

Appendix II

Moscow, 14 March 2003
Unofficial translation from Russian

Agreement on the Establishment of the Joint Working Group

In order to improve the joint activities for ensuring human rights and freedoms of citizens of the Russian Federation, as provided in Chapter 2 of the Constitution of the Russian Federation, the European Convention on Human Rights of 1950, and in accordance with the federal law “On the *Prokuratura* of the Russian Federation”, and the Decree of the President of the Russian Federation no. 736 of 12 July 2002,

The undersigned,

Mr A-Kh. A. Sultygov, Special Representative of the President of the Russian Federation for ensuring Human Rights and Civil Rights and Freedoms in the Chechen Republic, Mr A.N. Savenkov, Deputy General Prosecutor of the Russian Federation – Chief Military Prosecutor, and Mr S.N. Fridinskyi, Deputy General Prosecutor of the Russian Federation,

Agree to:

1. Establish a joint working group comprising the staff of the Office of the Special Representative of the Russian Federation and the organs of the *Prokuratura* of the Russian Federation.

2. The composition of the joint working group will be as follows:

- Head of Department for ensuring activities of the Special Representative of the President of the Russian Federation for ensuring Human Rights and Civil Rights and Freedoms in the Chechen Republic of the Main Territorial Department of the President of the Russian Federation – Mr K. L. Yegorov (the head of the joint working group);
- Head of the main Military Prokuratura Department for supervision and observance of laws during the investigation of crimes of– A.A. Nikulishchin (the deputy head of the joint working group);
- Acting Head of the Office of the Special Representative of the President of the Russian Federation – L.-K. K. Alimkhanov;

- Acting Head of the Department of the Government of the Chechen Republic for ensuring of activities of the Special Representative of the President of the Russian Federation in the Chechen Republic – N. S. Nukhazhiev;
- Acting Prosecutor of the Chechen Republic – V. P. Kravchenko;
- Military Prosecutor of the United Groups of Military Forces in charge of anti-terrorist operation in the North Caucasus region of the Russian Federation – A.V. Mokritskyi;
- Special Assistant of the Chief Military Prosecutor – A. G. Mishin;
- Senior Military Prosecutor of the main Military Prokuratura Department for supervision and observance of laws during the investigation of crimes - S. V. Bokov;
- Staff Member of the Department for ensuring activities of the Special Representative of the President of the Russian Federation for ensuring Human Rights and Civil Rights and Freedoms in the Chechen Republic of the Main Territorial Department of the President of the Russian Federation – E.V. Runenkova;
- Senior Assistant of the Prosecutor of the Chechen Republic – A.S. Magomadova.

The composition of the joint working group can be changed by the undersigned if necessary for operational reasons.

3. Functions of the joint working group are as follows:

- to ensure cooperation between 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 and the organs of *the Prokuratura* of the Russian Federation in examining and resolving applications of citizens of the Russian Federation concerning the observance of the Constitution and other laws of the Russian Federation in the Chechen Republic;
- to carry out joint visits to the Chechen Republic to assess the current state of respect of laws ensuring rights and freedoms of citizens; to take measures preventing possible violations of the Constitution of the Russian Federation;
- to hold joint meetings concerning respects for basic human rights and civil rights and freedoms in the Chechen Republic and to take measures to rectify identified violations of laws.
- to carry out a yearly joint analysis of identified violations of the Constitution and other legal instruments of the Russian Federation;
- to draft and present to the state authorities joint general proposals with a view to ensuring human rights and freedoms in the Chechen Republic.

4. The Special Representative of the President of the Russian Federation shall inform the Main Military Prokuratura, the Office of the General *Prokuratura* of the Russian Federation in the South Federal District about violations of rights and freedoms of citizens in the Chechen Republic, which came to his knowledge.
5. The Main Military Prokuratura and the Office of the General Prokuratura of the Russian Federation in the South Federal District shall provide the Special Representative of the President of the Russian Federation with information about supervision and actions taken in follow-up to his requests concerning the observance of right and freedoms of citizens as well as the results obtained.
6. The Agreement enters into force on the date of its signature. The Agreement on the Establishment of the Joint Working Group of 26 March 2001 is considered *as null and void*.

[Signed]

The Special Representative of the President of the Russian Federation for ensuring Human Rights and Civil Rights and Freedoms in the Chechen Republic, A-Kh. A. Sultygov,

The Deputy General Prosecutor of the Russian Federation – Chief Military Prosecutor, A.N. Savenkov

The Deputy General Prosecutor of the Russian Federation, S.N. Fridinskyi,

Appendix III***Council of Europe strongly condemns terrorist attack in Chechnya***

Strasbourg, 12.05.2003 – Council of Europe leaders Parliamentary Assembly President Peter Schieder and Secretary General Walter Schwimmer have strongly condemned the terrorist attack against administrative buildings in the Chechen town of Znamenskoye earlier today.

The attack, which is reported to have killed at least 40 people and injured many more, is the most serious incident since the referendum in the republic at the end of March.

“The civilised world can feel nothing but contempt for those who use indiscriminate violence against innocents in order to achieve their political objectives. The people of Chechnya have known nothing but war and destruction for years; today, they need and want nothing but peace and hope for a better, more stable future,” said Peter Schieder.

“The only way to achieve this is by giving up the violence, engaging in political dialogue and respecting human rights. Those responsible for terrorist acts such as this most recent one in Znamenskoye should know that they are, first and foremost, acting against the interests and the will of the Chechen people,” he added.

Secretary General Walter Schwimmer explained that Council of Europe staff have been working towards improving the human rights situation in Chechnya for the past three years, in the Znamenskoye office of President Putin’s Special Representative for Human Rights. “Znamenskoye is therefore very close to the heart of our Organisation, and Council of Europe staff have established many close professional and personal relations with local residents there,” he said.

“Unfortunately this is not an isolated incident. Violence, which continues to be an everyday occurrence in Chechnya, is no solution to political problems and only leads to more violence,” added Walter Schwimmer. “Just last month Council of Europe experts were the target of a bomb attack, and I urge all of those involved to intensify their efforts to bring all perpetrators of violence to justice and to restore calm to the region,” he said.

President Peter Schieder and Secretary General Walter Schwimmer also extended their condolences to the families of the victims.