



Information Documents

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Twenty-sixth 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 20 January to 18 February 2003

1. This is the 26th 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, working 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 during the period from 20 January to 18 February 2003.
2. The experts carried out a number of visits to Grozny and several towns and villages of the Chechen Republic. They accompanied Council of Europe delegations and held a number of meetings with officials (for more detailed information, see Appendix I).

I. SECURITY SITUATION

3. Security measures in the Chechen Republic, including checkpoints, have been reinforced since the beginning of January 2003. According to the experts' protection unit, rebel activities have increased due to the forthcoming referendum. Moreover, the experts noted that additional troops were deployed along the roads.
4. The military in northern Chechnya is being replaced by troops of the Federal Ministry of Interior whilst the number of the military in the southern districts has increased, notably in the Urus-Martan and Nozhajyurt Districts. This creates tensions between various units of the military and contributes to weakening the competencies in the relevant districts.

II. HUMAN RIGHTS

5. The human rights situation has considerably worsened since the New Year 2003. The number of disappearances has increased. The Office of the Special Representative registered 63 such cases in January 2003. According to the prosecutor of the Achkhoy-Martan and Sunzhenskiy Districts, cases of disappearances are almost impossible to investigate due to lack of evidence. In this connection, a meeting between district civilian prosecutors and the Prosecutor of the Chechen Republic was held in February 2003.

a. The State's obligation to protect everyone against terrorism

6. Special operations were generally replaced by "targeted measures" undertaken on the whole territory of the Chechen Republic, which led to an increased number of missing persons. According to the Military Prosecutor in the Chechen Republic, Order No. 80 of General Moltenskoi fails to prevent human rights abuses when targeted measures are implemented as it applies to special operations only. In addition, note should be taken that, in some cases, targeted measures are not carried out by military forces but by troops of the Federal Ministry of Interior.

b. Arrest and custody

7. According to information provided to the experts and as indicated in previous reports, illegal arrests and custody have become a frequent practice when targeted measures are undertaken. There are some cases where such arrests have resulted in disappearances. In this respect, the Prosecutor of the Chechen Republic has declared that if the person accountable for an illegal arrest cannot be found, the hierarchical superior in the relevant law-enforcement agency having been unable to prevent a detainee from disappearing should be brought to justice.
8. Servicemen from the Saratov region located in a Grozny suburb are known to be particularly brutal when they carry out special operations and undertake targeted measures. An illegal detention centre is allegedly located within their military base - where the former "Grozny Transport Company I" was located. Mr Khamidov, Deputy Head of Chechen Administration for Security Forces, as well as the Prosecutor of the Chechen Republic together with the Military Prosecutor visited the military base in question in January 2003. During their respective visit, traces of blood in detention cells were identified. However, no detainee was found. On 13 January 2003, shortly after Mr Khamidov's visit, eight dead bodies were found near the military settlement.
9. In the meantime, the decrease in number of legal arrests has been confirmed since the entry into force of the new Russian Code of Criminal Procedure in July 2002. Under Article 108-3, the arrest should be authorised by a judge and not by a prosecutor anymore. The low number of legal arrests may be explained by the lack of judges already identified in previous reports and/or by the fact that prosecutors may have become more cautious before submitting a request for arrest to a judge (see notably SG/Inf (2002) 51 and SG/Inf (2002) 47).

c. Absolute prohibition of torture

10. Cases of torture or inhuman and degrading treatment have been reported. They occurred whilst persons had been arrested and interrogated by members of the federal forces. Those who have been released are allegedly threatened with death if they lodge complaints. Medical staff in hospitals, where these persons are often treated after their release, refuse to give medical expertise, as they are afraid of possible retaliation measures.

III. RULE OF LAW

a. Functioning of the judiciary

11. As highlighted in previous reports, the lack of judges remains an urgent matter as it affects the smooth functioning of the judiciary, including its new tasks which consist in issuing arrest warrants (see also SG/Inf (2002) 47, para. 16).
12. On the basis of the President of the Russian Federation's Order of 8 October 2002, the military garrison court of the Chechen Republic was established with its seat in Grozny. However, the military court has not started working, as the President of the Russian Federation has not yet appointed the judges.

b. Functioning of the prosecuting bodies

13. The Joint Working Group (JWG) between the prosecuting bodies and the Office of the Special Representative was held on 23 January 2003. The Military Prosecutor of the Chechen Republic provided the experts with statistical data concerning crimes allegedly committed by servicemen (reproduced in Appendix II). Only half of criminal investigations opened against servicemen have been described as successful. In 2002, there has been a reduction in number of criminal investigations opened against servicemen. The Military Prosecutor indicated that there are objective and subjective reasons preventing the prosecuting bodies from successfully investigating complaints and bringing the perpetrators to justice:
 - i) the climate of insecurity in Chechnya;
 - ii) obstruction and pressures from military forces with a view to hiding crimes allegedly committed by federal forces;
 - iii) the lack of professionalism of some staff members of the prosecutor's office. In this respect, note should be taken that deeply rooted Chechen traditions are often cited as a major obstacle during the investigation, especially as far as forensic examinations and witnesses' testimonies are concerned.
14. The Deputy Head of Administration in charge of Security Forces confirmed that the co-operation between the prosecuting bodies and the Chechen Administration has improved since November 2002. Indeed, joint working groups between the civil and military prosecuting bodies and local administrations were created in all districts on 30 November 2002. The JWGs contributed to the release of a total of 20 persons detained after special operations and targeted measures carried out in Grozny, Shali, Argun and Gudermes.

15. However, the civilian prosecutor of Groznenskiy District considered that the level of co-operation between military and civilian prosecuting bodies was not sufficient.

c. Functioning of the police, security and military forces

16. The Chechen Interior Vice-Minister, Mr Dakayev, informed the experts that 4,500 policemen of various ranks are currently operational. 30 percent of the Chechen Interior Ministry's staff is to be recruited through contracts and will come from other entities of the Russian Federation, as there is a tremendous lack of professionally skilled police staff in the Chechen Republic. 13 districts out of 18 are now under the responsibility of the permanent police department of the police of the Chechen Interior Ministry. The five southern districts remain under the control of the federal temporary police.
17. Mr Dakayev confirmed that there is an urgent need to train new staff. 1,500 policemen should be trained in the Russian Federation in 2003. In this respect, the establishment of the Police Academy of the Chechen Republic contributes to increase the qualification of policemen, especially higher-ranking staff.
18. The Military Prosecutor informed the experts that his Office does not investigate presently any complaint on bribery at checkpoints. Such complaints fall under the competence of the civilian prosecutor's office as checkpoints are under the responsibility of the Interior Ministry of the Russian Federation, whereas the military forces at checkpoints ensure an additional protection to the Interior Ministry's troops. In this connection, the experts were informed that the checkpoint "Kavkaz" on the borders between Chechnya and Ingushetia is – so it is alleged – one the most expensive, with a compulsory bribe of 50 rubbles to obtain clearance.

d. Protection of witnesses

19. Many witnesses seem to refuse to give testimonies, as they are afraid of possible consequences. The views expressed by representatives of the law-enforcement agencies and the judiciary on the need for a special law on the protection of victims, witnesses and other persons who possess information relevant to criminal proceedings from intimidation is divergent (in this connection, see SG/Inf (2002) 47). However, some judges had expressed the view that a specific text, applicable in the sole territory of Chechnya, should be examined in the light of the particular situation in the Republic and the specific cultural tradition that hinders free testimony against other Chechens. However, the major obstacle for an adequate implementation of such a legislative measure would be the lack of financial and human resources available.

IV. DEMOCRACY

20. As far as the referendum is concerned, people are not yet well informed on its scope and content. The referendum is seen as a plebiscite for or against a political solution and not for or against the proposed constitutional and legal texts. The only alternative for the population to express itself against the draft texts – which might be interpreted by the authorities as a “NO” to a political settlement as a whole – is to call a “hotline” set up by the Initiative Group created to promote the idea of a referendum (IG) and to make proposals for amendments. It should be recalled that, according to the draft text of the Constitution, the latter cannot be amended for one year following its adoption by referendum. Moreover, very few people have access to telephone lines. If they do, they are unlikely to call the IG to voice objections to the project as members of the IG are very often members of the Chechen Administration who have temporarily given up their function and may go back to their original place of work after the referendum.
21. Human rights remain the first priority for the local population. In this regard, Chechen inhabitants hope that the referendum will lead to the setting up of a legal framework and democratic institutions that will first of all allow them to find their missing relatives and avoid further disappearances and, at last, bring political, social and economic stability in the Republic.
22. According to the information provided by staff members of the Office, the majority of the Chechen population considers the adoption of a Chechen Constitution as essential and will be participating in the referendum. It is, however, unclear to what extent they genuinely feel the need for the adoption of a Chechen Constitution at this particular moment.
23. Lord Judd’s recommendation to postpone the date of the referendum was met with rather negative reactions from the official authorities but also from traditional structures (Councils of Elders) and religious authorities. They saw it as an attempt to slow down the process for a political solution. However, the Chechen population is also convinced that no adequate conditions – in particular in terms of security - are yet met.
 - a. *Information about the draft Constitution*
24. The text of the draft Constitution and the electoral laws were published in a special edition of the republican newspaper *Vesti Respubliki*, No. 3, on 19 December 2002. The Chechen version of the texts is being prepared by a specialist of the Grozny University upon the request of the Chechen Government.

25. All over the Republic, weekly meetings are organised in mosques with a view to discussing the draft. The Councils of Elders of Chechen villages also play an important role in these discussions. It is assumed that the position of its members towards the referendum will orientate to a great extent the opinion of the local population. The IG is also involved in the dissemination of the draft Constitution. The 47 members of the IG are deployed in all districts. Each member is dealing with a targeted public in his/her district (teachers, social services, police...).

b. Preparation for the referendum

26. Twenty district electoral commissions have been set up since 15 December 2002. One district commission consists of five, six or seven members, depending on the number of voters registered in the district. Complaints concerning abuses related to the referendum should be investigated as follows: local electoral commissions, district electoral commissions, Chechen electoral commissions, District Court, the final recourse being the Supreme Court of the Republic.
27. On 23 March 2003, 3 ballot papers of three different colours will ask in both Russian and Chechen the following questions: Do you accept the draft constitution proposed? Do you accept the law on the organisation of presidential elections? Do you accept the law on the organisation of parliamentary elections? The voter will have to tick the appropriate box. One single ballot box will be available in each polling station.

c. Registration of voters

28. The lists of voters are being prepared by the district electoral commissions, which will then provide the Chechen Central Electoral Commission with copies 30 days before the referendum. The lists of voters will be published 25 days before the referendum and posted on public places, notably in local electoral commissions seats.
29. All people bearing the relevant documents proving their residence in Chechnya will be entitled to vote. People living outside Chechnya and still registered on the inhabitants' registry are requested to come and vote in the Chechen Republic. No proxy or vote by correspondence has so far been foreseen. Concerning internally displaced persons (IDPs) living in Chechnya, those registered in the town's registry would vote in their place of (temporary) residence. It appears that no authority has so far been informed on the right to vote of IDPs living outside Chechnya.

30. According to the Russian Electoral Law, military servicemen have the right to vote in their place of permanent service. Servicemen will be granted this right in the nearest polling stations to their barracks, as well as, in some cases, in special polling stations set up to facilitate their voting.

V. THE OFFICE OF THE SPECIAL REPRESENTATIVE

31. The Office has focused on cases of disappearances and, in this respect, initiated the following activities:

a. setting up of an Office of the Special Representative/Prosecuting bodies joint database on missing persons, which will be made available on an Internet site: the database will include a list of missing persons registered in the Office of the Special Representative and the prosecuting bodies. Representatives of the prosecuting bodies as well as the Grozny Office of the Special Representative indicated that they need CoE assistance in technical matters for implementing this project.

b. effective and prompt forwarding of complaints: the Office will submit newly registered complaints on missing persons to the military prosecutor's office without delay through the Office of the Deputy Head of the Chechen Administration for Security Forces, Mr Khamidov, in order to allow the prosecuting bodies to start promptly an investigation, if so required.

c. the experts are currently working on improving the Office's electronic system for the registration of complaints by taking the European Court's system as a model. This database is to be extended to branch offices after testing the system and when technical conditions will be met.

Appendix I**Experts' meetings and movements within the Chechen Republic****1. Specific meetings**

- i) Mr Aleksandr Vasilievich Makritskiy, Military Prosecutor in the Chechen Republic
- ii) Mr Aleksandr Viktorievich Nikitin, Deputy Prosecutor of the Chechen Republic
- iii) Mr Mausur Khamidov, Deputy Head of the Chechen Administration in charge of Security Forces
- iv) Mr Alexander Ivanovich Kuznetsov, Judge at the Supreme Court of the Russian Federation
- v) Mr Khassan Taimaskhanov, Chairman of the Initiative Group for holding the referendum
- vi) Mr Abdul-Karim Arsakhanov, Chairman of the Chechen Electoral Commission
- vii) Mr Shaid Vakhaevitch Khamaldayev, Head of Groznenskiy District Administration
- viii) Mr Burayev Shamil Dusievich, Head of Achkhoy-Martan District Administration
- ix) Mr Yakob Kadyrov, President of the Chechen Bar Association

On 23 January 2003, the Joint Working Group (JWG) between prosecuting bodies and the Office of the Special Representative met in Grozny in the presence of the experts. The experts also took part in the meeting of all heads of administration of the Nadterechniy District held in Znamenskoye on 28 January 2003. On 29 January, they also met with representatives of the International Committee of the Red Cross from the North Caucasus mission.

2. Council of Europe delegations accompanied by the experts

- 22 January 2003: PACE delegation
- 12 February 2003: Council of Europe's Commissioner for Human Rights, Mr Alvaro Gil-Robles, accompanied by the Director of Political Advice, Mr Marc Scheuer

3. Specific places visited by the experts

Apart from their regular visit to Grozny, the experts visited the following places:

- Achkhoy-Martan District (13.02.03)
- Groznenskiy District - Tolstoi-Yurt village (29.01.03)
- Khankala military base (30.01.03)

Appendix II

**Statistical data provided by the Military Prosecutor of the Chechen Republic
on criminal cases instigated by the prosecutor's office concerning crimes
committed by servicemen against the civilian population since October 1999**

1. Criminal investigations

Number of investigations conducted:	162
in 2002:	44
- number of investigations completed:	97
in 2002:	33
- number of cases referred to military courts:	57 (73 individuals)
in 2002:	18

Crimes investigated include:

- hooliganism (50 cases)
- theft (18 cases)
- murder (14 cases)
- rape (2 cases)

2. Results

- Estimated rate of successfully investigated cases:	50%
- Closure of criminal cases ¹ :	40
- Suspension of criminal cases	15
- Servicemen not found guilty	15

Servicemen condemned by a military court:

- since October 1999	47	(7 officers)
- in 2002	24	(4 officers)

Statistics on disappearances were not provided by the Military Prosecutor

¹ The majority of closed cases concern the activities of federal forces during military action against the Chechen combatants.