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## TABLE OF CONTENTS

|                                                                       |    |
|-----------------------------------------------------------------------|----|
| 1. Buildings can be rebuilt, shattered lives cannot.....              | 1  |
| Enforced disappearances and abductions .....                          | 2  |
| Thousands missing.....                                                | 3  |
| Impunity .....                                                        | 4  |
| Recommendations.....                                                  | 5  |
| 2. Changing tactics, enduring abuses .....                            | 6  |
| Violations spread .....                                               | 8  |
| Chechen forces responsible for enforced disappearances .....          | 8  |
| International concern.....                                            | 10 |
| 3. No effective investigation.....                                    | 10 |
| Hidden identities? .....                                              | 11 |
| Inadequate official responses.....                                    | 12 |
| Problems of jurisdiction .....                                        | 13 |
| Official inaction amounts to inhuman treatment.....                   | 13 |
| 4. Reprisals against those seeking justice.....                       | 14 |
| Further enforced disappearances in reprisal .....                     | 16 |
| Intimidation of people pursuing European cases .....                  | 16 |
| 5. No accountability .....                                            | 17 |
| 6. Enforced disappearances in Chechnya: a crime against humanity..... | 18 |
| 7. Recommendations.....                                               | 20 |
| Recommendations to the government of the Russian Federation:.....     | 20 |
| Recommendations to the Chechen authorities:.....                      | 21 |
| Recommendations to Chechen armed opposition groups.....               | 22 |
| Recommendations to second governments.....                            | 22 |



# Russian Federation

## What justice for Chechnya's disappeared?

### 1. Buildings can be rebuilt, shattered lives cannot

*"They show only the building works, the rebuilding works, that's it. They don't show all the weeping mothers, those who are searching for their children."*

Mother searching for her son, a victim of enforced disappearance, June 2006

The Chechen Republic, in Russia's North Caucasus region, is officially "back to normal". After a referendum on a constitution for Chechnya in March 2003, subsequent presidential and parliamentary elections in the republic, and an amnesty for members of armed opposition groups, officials insist the conflict is over. The republic is the scene of a massive rebuilding project. Funds are being poured into the region to rebuild buildings and infrastructure wrecked during the military campaigns in the republic launched by the Russian federal forces in 1994 and again in 1999.

The recently appointed President of Chechnya, Ramzan Kadyrov, has stated that Chechnya is the "quietest region in Russia" and the safest.<sup>1</sup> Human rights groups, including Amnesty International, dispute that claim. While large-scale military operations have been reduced, the conflict continues and both sides are still committing human rights abuses.

While buildings and airports can be rebuilt, lives destroyed by the conflict cannot. There are no definitive numbers for civilian casualties of the conflict. The first Chechen conflict, from 1994 to 1996, claimed tens of thousands of lives. Estimates put the number of killed since 1999 during the second Chechen conflict at up to 25,000. Many of these were killed during the aerial bombardment of towns and villages in the first months of the conflict. Others died during fighting, or were killed after being rounded up in mass sweep operations. Many thousands of people are believed to be buried in unmarked graves around the republic: there are reported to be 52 registered sites of mass graves in Chechnya.

Other people have survived but their lives have been devastated by violations such as torture, including rape, arbitrary detention and looting of their homes. Many thousands have fled, and live as internally displaced people outside Chechnya.

Impunity for human rights abuses has prevailed. The authorities have failed in virtually all cases to investigate and prosecute the serious human rights violations, including war crimes, that have taken place over the course of the conflict. They have also failed to provide redress to the victims.

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<sup>1</sup> *Interfax* 20 February 2007

Bulat Chilaev and Aslan Israilov are believed to have been subjected to enforced disappearance by Russian federal forces. About 10 eyewitnesses saw them being bundled into a car by armed masked men in uniform at a main crossroads in Chechnya on 9 April 2006. Their whereabouts since that time are unknown. A military identity tag was later found near the crossroads and was identified as belonging to a member of the *Zapad* (West) battalion, a military intelligence unit under the Russian Federation Ministry of Defence. This individual claimed he had lost the tag and denied involvement in the arbitrary detention, and allegedly has since been killed. No one has yet been identified as a suspect in the investigation into the two men's enforced disappearance. Bulat Chilaev had been working as a driver for the NGO *Grazhdanskoe Sodeistvie* (Citizen's Assistance), whose work includes providing medical support to the displaced and others affected by the armed conflict.

## **Enforced disappearances and abductions**

*"Each mother worries about her child – because the situation is completely lawless, lawless, lawless. You don't know why it happens. If they took them away for something, please, tell us, tell us that they are suspected of something, take them away, get to the bottom of it, conduct an investigation. But two and a half months have already gone by ... where have they taken them?"*

Mother searching for her son, a victim of enforced disappearance, June 2006

Enforced disappearances by state agents and abductions by armed groups have been among the most shocking of human rights violations during the Chechen conflict; shocking both because of the scale on which this has taken place in the small republic, and because of the particular cruelty of this form of abuse.

Khamzat Tushaev, allegedly a former member of an armed opposition group, was last seen entering a compound of official buildings in the Staropromyslovskii district of Grozny, capital of Chechnya, on 8 June 2006. The day before, his wife had received a telephone call from a man who said he was from the prosecutor's office, asking Khamzat Tushaev to go to their offices. He and his wife arrived at the compound where at 10am, his name was recorded at the main entrance, and he was let into the compound, while his wife waited for him outside. At 5.30pm, his wife, worried that her husband had not yet returned, asked the guard to phone the prosecutor's office; reportedly, staff there told the guard that Khamzat Tushaev had not arrived at their offices for questioning. His wife has been unable to ascertain what happened to her husband.

The International Convention for the Protection of All Persons from Enforced Disappearance defines an enforced disappearance as:

*"the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support*

*or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.”(Article 2)<sup>2</sup>*

Enforced disappearances and abductions cause a particular agony for relatives of the victims. They are unable to determine whether the victim is dead or alive, unable to go through bereavement and unable to resolve legal and practical matters. For them the enforced disappearance continues without end, and for this reason it is considered a “continuing” violation by human rights courts.

## Thousands missing

*“Every day you think – where is he? Maybe he’ll come back today, maybe - tomorrow.”*

Mother searching for her son, a victim of enforced disappearance, June 2006

In a small republic of around 15,000 km<sup>2</sup>, with a population of less than one million people, it seems that everyone knows someone who has been forcibly disappeared or abducted, and many families have had more than one member go missing.

In June 2000, Russian federal forces rounded up Nura Said-Aliyevna Luluyeva, a 40-year-old mother of four, together with several other people including two of her cousins, at a marketplace in Grozny, and took them away. Their whereabouts were unknown until their bodies were found several months later in February 2001 in a mass grave near Khankala, the main Russian federal military base in Chechnya. Most of the 51 bodies there were in civilian clothing, some were blindfolded, and many had their hands or feet bound. Several of the people whose bodies were discovered were last seen alive in the custody of Russian federal forces.

The Russian non-governmental organization (NGO) Memorial has logged over 2,000 individual cases of enforced disappearances and abductions in Chechnya. Its own research is conducted in one-third of the territory of the Chechen Republic, and therefore does not represent the full extent of the violations. Memorial has estimated that in fact, between 3,000 and 5,000 men, women and children have gone missing in the Chechen Republic following what they term as abductions, arbitrary arrests and detentions since 1999. In the majority of those cases, state agents were allegedly responsible. Others estimate the figure as even higher.

The pervading atmosphere of fear in the region has led to people being increasingly reluctant to come forward, with many families preferring to use unofficial channels to secure the return of their relatives. As a result enforced disappearances and abductions are under-

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<sup>2</sup> The Russian Federation has not signed or ratified this treaty to date.

reported. While the reported number of enforced disappearances and abductions has decreased over the past years, such incidents are continuing to take place in Chechnya today.

Russian and Chechen officials have to some extent recognized the scale and gravity of the problem. As of 1 March 2007, up to 2,800 persons were listed as abducted, disappeared and missing in Chechnya, according to the Ombudsperson for Human Rights of the Chechen Republic, Nurdi Nukhazhiev. As of April 2005, the prosecutor's office in Chechnya had opened 1,814 criminal cases into the enforced disappearance or abduction of 2,540 people in Chechnya.

A Commission for the search for abducted and missing persons has been established by the Chechen Parliament. The Commission is chaired by Dukvakha Abdurakhmanov, Speaker of the Chechen Parliament, who has stated that the role of the Commission is to assist law enforcement agencies to do their job. He has been cited as telling relatives that the Commission would try to find out the fate of all missing persons by the end of 2007. The Chechen Ombudsperson has raised the issue, calling for a Federal Commission to be established by Presidential decree to tackle the failures in investigations.<sup>3</sup>

Since 1999, Amnesty International has documented dozens of such cases of individuals who were forcibly disappeared or abducted in Chechnya, or in neighbouring regions who are thought to have been taken to Chechnya. Some individuals were subsequently released. In other cases, their bodies were found, bearing signs of a violent death. However, in the vast majority of cases the whereabouts of the individuals remains unknown and no one has been prosecuted for the crime.

## **Impunity**

Amnesty International has been following in detail the progress of investigations into dozens of cases of reported enforced disappearances in Chechnya. In each, the public prosecutor's office has opened an investigation but with no discernible results. For all the thousands of instances where individuals have been forcibly disappeared in Chechnya, Amnesty International is aware of only a tiny handful of cases in connection with which a state official has actually been prosecuted – and in no cases has a state official been prosecuted for the enforced disappearance itself.

Meanwhile relatives continue their search, in many cases facing intimidation and threats of reprisals from officials for not giving up. They seek countless meetings at the offices of the public prosecutors to find out if there is any news; meet with international visitors who come to the region, in the hope that they might be able to have some influence on the local authorities; organize demonstrations in front of official buildings to protest against what they see as official indifference to the issue; and visit places rumoured to be the sites of mass graves, in case their relatives are buried there.

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<sup>3</sup> Spetsialnii doklad, 2006, [www.chechenombudsman.ru/index.php?option=content&task=view&id=98](http://www.chechenombudsman.ru/index.php?option=content&task=view&id=98)

Scores of people, despairing of finding justice in Russia, have turned to the European Court of Human Rights, but have faced additional intimidation, threats and violations as a result of this step.

The European Court issued its first ruling in a case concerning enforced disappearance in Chechnya on 27 July 2006. In *Bazorkina v. Russia*, the Court ruled that the Russian Federation had violated the right to life and the right to liberty and security as well as the right to an effective remedy (Articles 2, 5 and 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms). The case was brought by Fatima Bazorkina, the mother of Khadzhi-Murat Yandiev, who disappeared in February 2000. The court also ruled that the manner in which Fatima Bazorkina's complaints were dealt with by the authorities constituted inhuman treatment (Article 3).

The European Court has issued rulings in two other cases of enforced disappearance where the victim's whereabouts remain unknown: *Baysayeva v Russia*, and *Imakayeva v Russia*. A third case, *Luluyev and others v Russia*, concerns the enforced disappearance of three women whose bodies were discovered several months later in a mass grave near the Russian federal military base at Khankala. A fourth case, *Akhmadova and Sadulayeva v. Russia*, concerned the enforced disappearance and killing of Shamil Akhmadov. In all these cases, the European Court has ruled the Russian government has violated fundamental rights, including the right to life and the right to an effective remedy.

## Recommendations

Amnesty International has been working on the issue of enforced disappearances in Chechnya for many years.<sup>4</sup> In this briefing paper, which presents the nature of the violations and key areas of concern, Amnesty International is calling on the Russian federal and Chechen authorities to put a stop to the continuing enforced disappearances and address impunity for the violations. In particular the authorities should:

- Ensure that all past and current allegations of enforced disappearances are promptly, independently and impartially investigated and anyone reasonably suspected of responsibility for such abuses is brought to justice in independent, impartial courts established by law and in proceedings which meet international standards of fair trial;
- Ensure that full and impartial investigations into all sites of mass graves in Chechnya are immediately carried out by forensic experts in line with UN guidelines on the disinterment and analysis of skeletal remains, make available adequate resources for the purpose, including by fully equipping the forensic laboratory in Grozny; and seek and accept offers of assistance and cooperation from international experts, both in carrying out the work itself, and in training local personnel engaged in the work;
- create a single authoritative and comprehensive database of the names and details of all individuals who have gone missing, who have been subjected to enforced

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<sup>4</sup> See [www.amnesty.org](http://www.amnesty.org) for further information

disappearance, or abducted in Chechnya since 1999, drawing on information from law enforcement agencies and non-governmental sources, and also create a single official database logging details of all unidentified bodies found in Chechnya, and make both databases public and accessible to relatives of these people;

- Ensure witnesses to enforced disappearances, and relatives of the disappeared are protected against reprisals for their efforts to seek justice.

## 2. Changing tactics, enduring abuses

*"We are always on the road, looking for our daughters – we travel together"*

Mother of a young woman, victim of enforced disappearance

During the early years of the conflict, Russian soldiers from the federal army rounded up and took away many hundreds of men, women and teenage boys from the civilian population.

Many people were detained at road blocks, where their identity documents were supposedly checked against computer data, allegedly containing information on suspected members of armed Chechen groups and their relatives. They would be kept for some time at the checkpoint, and then taken to ad-hoc places of detention known as "filtration camps", where torture and ill-treatment were systematic.

Other people were taken away during so-called "zachistki" (military raids). During such raids whole areas or villages were surrounded for days at a time and Russian troops went from house to house, conducting searches, checking identity documents and detaining people. Some of these people were released, but many subsequently were forcibly disappeared. According to the Ministry of Internal Affairs, by the end of the summer 2000, 15,000 people in Chechnya had been detained in relation to the conflict.

On 14 December 2000 Said-Khusein Imakaev, a dentist, went to the village of Starye Atagi to buy a new winter coat. On his way home, his car was stopped at a road block by a group of masked men from the Russian federal troops. He was detained and was forcibly disappeared.

His father continued to search for his son, and 18 months later, he too was forcibly disappeared. Said-Magomed Imakaev was detained on 2 June 2002 along with four other men from the village of Novye Atagi by Russian federal soldiers. At 6.20am on 2 June, around 20 soldiers, travelling in armoured personnel carriers, arrived at his home on Ordzhonikidze street. They did not identify themselves or state the reason for their presence, but searched the house and took Said-Magomed Imakaev away.

Marzet Imakaeva, a school teacher, mother of Said-Khusein and wife of Said-Magomed, submitted an application to the European Court of Human Rights when all her efforts to find her son and husband failed. On 9 November 2006, the European Court of Human Rights ruled

that the Russian authorities had violated the rights to life, liberty and security of Said-Khusein and Said-Magomed Imakaev (or Imakayev) and had failed to effectively investigate their subsequent enforced disappearances.

Large-scale raids on villages and towns by Russian federal forces, which were common during the first two years of the armed conflict, subsequently gave way to more targeted operations. These were generally carried out at night, usually by armed men, in camouflage and often masked. They would arrive in a large number of military vehicles, with identity plates covered, and take people away to an undisclosed destination. Federal forces including the Russian Ministry of Defence, police officers from the Ministry of Internal Affairs on assignment in Chechnya, and members of the Federal Security Service have all been implicated in enforced disappearances.

In an interview with the Russian newspaper *Izvestia* on 28 March 2003 an unnamed officer, working for the department of military intelligence of the Ministry of Defence, admitted that the Russian federal forces had turned to such methods in order to avoid oversight of their actions by the prosecutor's office. While claiming that these raids in the night are necessary, he admitted: "sometimes innocent people end up in this.... And when we find out the truth, it turns out it is too late to correct something, the person is already gone."<sup>5</sup>

On 16 May 2003 at approximately 3am, 15-year-old Aminat Dugaeva and her sister-in-law, Kurbika Zinabdieva, were taken from Kurbika's home in Ulus-Kert, Shatoi district, by armed, masked men in dark blue uniforms who entered the village in military vehicles. Their whereabouts remain unknown.

The previous day, Russian federal forces had been checking passports in the village. The uniformed men reportedly entered only Kurbika Zinabdieva's house. They tied up Rumani Gekhaeva, Kurbika's mother, in the courtyard where she was unable to see what was happening. Rumani Gekhaeva told Amnesty International that she was not found until later in the morning, and it was only then that she realized that her daughter and Aminat Dugaeva had disappeared. The men had taken no clothes, but had taken documents regarding Kurbika Zinabdieva's health. She has a brain tumour and suffers from epilepsy, and is in need of constant medication.

A Russian spokesperson reportedly announced on local TV that two women from Ulus-Kert had been detained on suspicion of terrorism. Regional and local officials from the prosecutor's office gave no information to Aminat and Kurbika's mothers, and the prosecutor of Shatoi district even denied that the two had been detained, despite the earlier public announcement by other Russian officials to the contrary.

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<sup>5</sup> <http://www.izvestia.ru/politic/article31814>, also quoted in Amnesty International, *Russian Federation: Chechen Republic "Normalization" in whose eyes?* (AI Index: EUR 46/027/2004)

Aminat Dugaeva's mother, Zlikhat Dugaeva, a widow whose three other children live abroad, and Rumani Gekhaeva now devote most of their time to the search for their daughters. They have both filed cases with the European Court of Human Rights.

## Violations spread

The perpetration of serious human rights violations, including enforced disappearances and abductions, spread to other parts of the North Caucasus, in particular Ingushetia and Dagestan.

Bashir Mutsolgov, a teacher, lived in the small town of Karabulak, Ingushetia, with his wife and daughter. He had arrived with his family in Ingushetia in 1992 from Magadan in the Far East of Russia, where his family had been sent in 1944 under Stalin's regime.

In the afternoon of 18 December 2003, Bashir Mutsolgov was on his way home from his father's house. He was speaking to one of his pupils when several men in camouflage emerged from a car, hit the boy with their assault rifles, and dragged Bashir Mutsolgov into their car, a Niva. There was another blue Zhiguli involved in the incident, but both cars had their number plates covered with mud. A witness ran to a road post set up by the Ingush traffic police and urged them to have the cars stopped. However, both cars had a special permit to travel and the police did not dare to stop them.

Since then, the family has received no official information as to what happened to Bashir Mutsolgov. They reportedly learned from staff of the Federal Security Service (FSB) that Bashir had been detained at the FSB building in Magas, Ingushetia, before being transferred to the Russian federal military base at Khankala. Their informants also alleged that Bashir Mutsolgov had been tortured into signing a "confession". His family knows no more.

The public prosecutor's office has opened a criminal investigation into the "abduction" of Bashir Mutsolgov, but the investigation has been suspended several times, for failure to identify a suspect.

## Chechen forces responsible for enforced disappearances

Increasingly over the course of the conflict, Chechen security forces have been implicated in enforced disappearances, since the establishment in Chechnya of a Moscow-backed civilian administration. The interim head of government appointed in 2000 by President Putin, Akhmed Kadyrov, later was elected President of the Chechen Republic in October 2003. His Security Service was headed by his son, Ramzan Kadyrov, who subsequently became Prime Minister and is now President of Chechnya. Members of this security force as well as other armed men in informal groups under the control of Ramzan Kadyrov, became known locally as the *Kadyrovtsy*, and have allegedly been responsible for numerous serious human rights violations including enforced disappearances. Another Chechen security force, the so-called "oil regiment", was formerly part of the Security Service of the President of the Chechen Republic. Formally charged with ensuring the security of oil installations in the republic, it has also reportedly been implicated in enforced disappearances and unlawfully detaining

individuals on its base. In addition, Russian federal forces permanently deployed in Chechnya, headed by ethnic Chechen commanders and including ethnic Chechens in their number, the *Vostok* (East) and *Zapad* (West) battalions (part of the Ministry of Defence's 42<sup>nd</sup> Motorized Infantry Division), are alleged to be responsible for serious human rights violations, including enforced disappearances.

On 4 June 2005, security forces carried out a "special operation" in Borozdinovskaia, during which around 200 men were arbitrarily detained and ill-treated, at least one man was killed and 11 men disappeared.

Around 100 members of the security forces arrived in Borozdinovskaia in two armoured personnel carriers, over 10 UAZ-469 jeeps and several VAZ-2109 vehicles. They were dressed in grey military and camouflage uniforms, and, according to villagers were ethnic Chechen members of the *Vostok* battalion. Sulim Yamadaev, commander of the battalion, denied that the *Vostok* battalion was responsible for the 4 June raid. However, Khusein Nutaev, head of Shalkovskii district, reportedly told the television channel NTV on 16 June that "special services and federal structures had not worked properly and permitted the law to be violated".

The raid prompted a mass exodus over the border to neighbouring Dagestan of around 1,000 villagers, who have refused to return until the fate of the 11 men was made known.

There remain a large number of federal forces based in Chechnya, including from the Russian Federation Ministry of Defence, internal troops of the Russian Federation Ministry of Internal Affairs, and, in the mountainous areas, the federal border guards, part of the FSB. However, it is those security structures made up of ethnic Chechens, which are reportedly carrying out the majority of operations against members of Chechen armed opposition groups, during which enforced disappearances and other serious human rights violations continue to be reported.<sup>6</sup> The Russian Federation's Ombudsperson for Human Rights, Vladimir Lukin, has recently reportedly expressed concern that people still go missing in the Chechen republic.<sup>7</sup> Between December 2006 and February 2007, Memorial gathered information on the abduction or arbitrary detention of 26 people. Of these, 14 were released or bought out by relatives; three were found dead; four remained missing; and five were later "discovered" to be in detention undergoing investigation. These figures do not reflect the full picture.

While the number of reported enforced disappearances has decreased, the incidence of "temporary" disappearance, when individuals are arbitrarily detained and held in incommunicado detention, while the authorities deny knowledge of their whereabouts, is high. During the incommunicado detention, the individuals are at very high risk of torture and other ill-treatment, in order to extract a "confession", after which they are transferred to another place of detention where their detention is logged.

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<sup>6</sup> Memorial, Situation in the north Caucasus: November 2006-May 2007

<sup>7</sup> *Itar-tass* report, 5 April 2007

## International concern

The UN Working Group on Enforced or Involuntary Disappearances reported in January 2007 that it was “deeply concerned about the new cases that continue to occur in the Russian Federation”. It has sought a visit to Russia in September 2007. The majority of cases received by the Working Group from Russia are from the Northern Caucasus region, and since 1994, from Chechnya.<sup>8</sup>

The European Committee for the Prevention of Torture (CPT) issued a public statement in March 2007 highlighting torture in Chechnya, including the use of unofficial places of detention, where individuals are at heightened risk of torture as well as enforced disappearance.<sup>9</sup> Although the authorities in Chechnya have previously denied the existence of such facilities, the CPT statement cites information received from the Office of the General Prosecutor that investigations have established that two men were detained at the base of the Chechen Presidential Security Service in Tsenteroi in November 2004.

## 3. No effective investigation

*“I’ve got all the official replies – from the prosecutor’s office, from Putin’s office – but there’s no point to them. What am I going to do with these bits of paper? It’s not bits of paper I need.”*

A mother searching for her son who disappeared in 2002

*“When [my relative] was detained, for some reason we were sure he’d be released that same day .... Everyone started calling the department of internal affairs, the police, the FSB. They all said it was not a working day (it was a Sunday), they were looking for him, he wasn’t detained anywhere, they would sort it out tomorrow, and to wait until tomorrow... Then we were told to wait two or three days... Then we were told to wait a week. It’s now been three months... Now they don’t say wait – they say, do what you want. We don’t have him detained.”*

The aunt of a man who disappeared in 2006

Amnesty International calls on all governments to ensure that all complaints and reports of enforced disappearances are investigated promptly, impartially and effectively by a body which is independent of those allegedly responsible and which has the necessary powers and resources to carry out the investigation. An investigation should be undertaken even if there has been no formal complaint but there are reasonable grounds to believe a person has been subjected to an enforced disappearance. The methods and findings of the investigation should be made public.

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<sup>8</sup> Report of the Working Group on Enforced or Involuntary Disappearances, UN Doc A/HRC/4/41, 25 January 2007

<sup>9</sup> The CPT’s statements on the Russian Federation are available at <http://cpt.coe.int/en/>

Officials suspected of responsibility for enforced disappearances should be suspended from active duty during the investigation. Relatives of the disappeared person should have access to information relevant to the investigation and should be entitled to present evidence. Complainants, witnesses, lawyers and others involved in the investigation should be protected from intimidation and reprisals. The investigation should not be curtailed until the whereabouts and fate of the disappeared person is officially clarified. These requirements are reflected in the International Convention for the Protection of All Persons from Enforced Disappearances.

According to information available to Amnesty International, by March 2005, 302 criminal cases had been opened into the abduction of civilians in the North Caucasus involving the use of military hardware or sweep operations. The Russian Federation fourth periodic state report to the UN Committee against Torture, considered by the Committee in November 2006, cites 23 criminal cases opened against military personnel for suspected “abduction” under Article 126 of the Russian Criminal Code.

The results of these official investigations into enforced disappearances have almost without exception been inconclusive. The public prosecutor’s office typically opens a criminal investigation, under Article 126 of the Russian Criminal Code (“abduction”), when they are informed by relatives that someone has been detained or abducted. Thousands of such cases have been opened since 1999. Aslambek Aslakhonov, Adviser to President Putin, reportedly stated in April 2005 that from 1999 to 2004, 1,814 criminal cases had been opened into “the fact of disappearance” of 2,540 people. However, these investigations have, with one exception, never identified those individuals suspected of being responsible; the crimes are attributed to actions by unknown members of armed opposition groups, or unknown state agents.

## **Hidden identities?**

The manner in which arbitrary detentions have been carried out has obscured accountability for them. The language that the armed men speak – Russian, Chechen – the type of vehicles used, and their appearance, are often the only indications of their identity that witnesses can cite. Measures by the prosecutor’s office aimed at curbing arbitrary detention have been widely ignored during the conflict. These include Order 80, which prohibits security forces from wearing masks and requires Interior Ministry forces and police to announce their name, rank and purpose when entering civilian homes, and Decree 46 which states that officials from the prosecutor’s office and representatives of local authorities should be present during military raids. The use of masks was banned by the Minister of Internal Affairs for Chechnya in December 2004, although reportedly they continue to be used during operations.

Moreover, the number of different law enforcement agencies operating in Chechnya blurs accountability yet further, making it easier for different agencies to deny involvement in arbitrary detentions and enforced disappearances. However, even in cases where the evidence clearly indicates that Russian federal forces or Chechen security forces were responsible for an enforced disappearance, the prosecutor’s office fails to identify suspects and bring

prosecutions against them. A general of the Russian federal army captured on film giving the order to “finish off” a detained man whose fate remains unknown has yet to face prosecution. This general was named by the European Court of Human Rights in *Bazorkina v Russia*.

## Inadequate official responses

When someone is detained or abducted, the authorities' immediate reaction has usually been woefully inadequate. And once an investigation is opened, the steps taken to investigate the crimes are largely ineffective. The prosecutor's office appears unable to identify suspects and cases are routinely suspended. Cases are opened and suspended numerous times. A lawyer working in Chechnya told Amnesty International that in fact in the majority of cases of enforced disappearance in his district (over 200, since 1999) the circumstances of the initial detention were such that it would be possible for the prosecutor's office to successfully investigate and identify suspects. However, investigators have failed to take basic steps to track down the owners of vehicles or question members of the security forces, and so far not a single one of the investigations into these 200 cases has been completed. The UN Working Group on Enforced or Involuntary Disappearances reported in January 2007 that it “continues to be concerned about suspension of investigations in disappearance cases and wishes to remind the Government of its obligations to conduct thorough and impartial investigations for as long as the fate of the victim of enforced disappearance remains unclarified.”<sup>10</sup>

In addition, the authorities appear unable to guarantee the safety of lawyers, witnesses or even investigators in cases of enforced disappearance, which severely hampers the possibility of effective investigation.

The judgment of the European Court of Human Rights in *Baysayeva v Russia* illustrates the reluctance of police to take action.<sup>11</sup> Shakhid Baysayev was detained on 2 March 2000 and subsequently disappeared. His wife immediately informed the local police station and the prosecutor's office of the enforced disappearance. An investigation was opened on 10 May, but according to the Court, it was “plagued by inexplicable delays in performing the most essential tasks”. The European Court held: “... the stance of the prosecutor's office and the other law-enforcement authorities after the news of his detention had been communicated to them by the applicant significantly contributed to the likelihood of his disappearance, as no necessary actions were taken in the crucial first days or weeks after his detention. Their behaviour in the face of the applicant's well-established complaints gives a strong presumption of at least acquiescence in the situation and raises strong doubts as to the objectivity of the investigation.”

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<sup>10</sup> Report of the Working Group on Enforced or Involuntary Disappearances, UN Doc A/HRC/4/41, 25 January 2007, paragraph 361

<sup>11</sup> *Baysayeva v. Russia*, judgment 5 April 2007.

The Court also recorded that, "the prosecutors ... on several occasions ordered certain steps to be taken. However, these instructions were either not followed or were followed with an unacceptable delay.... the Court notes that in six years the investigation was adjourned and reopened at least twelve times. The applicant, notwithstanding her procedural status as a victim, was not duly informed of its progress, and the only information communicated to her concerned the adjournment and reopening of the proceedings."

## Problems of jurisdiction

One significant problem has been that the district civilian prosecutor's offices do not have jurisdiction to investigate the activities of military forces (of the Ministry of Defence, the FSB or the internal troops of the Ministry of Internal Affairs). Thus, in cases where military involvement is suspected, the investigation is handed to the military prosecutor's office to investigate. The military denies involvement, and the case is referred back to the civilian prosecutor's office. The case is effectively stuck in a legal limbo for years and fails to progress.

According to lawyers acting on behalf of families of missing people, the civilian prosecutor's office has no authority to require members of the military to attend questioning. Joint investigative groups formed of civilian and military prosecutors do not appear to have resulted in improved investigations.

For example, in the case of Bulat Chilaev and Aslan Israilov, who disappeared in Chechnya in April 2006, the prosecutor of Chechnya was unable to require a suspect from the *Zapad* battalion to attend questioning, as he was from a military body. According to NGOs, the prosecutor's office told them that the owner of the identity tag found near the scene was "too busy" to be questioned. The owner of the identity tag was allegedly killed a few months later in circumstances which are unclear to Amnesty International.

## Official inaction amounts to inhuman treatment

*"Even today I think, maybe today, tomorrow, they will give my son back to me, I have been thinking like that for one year and three months already. Every night he appears in my sleep and during the day I cry all the time... That is not a life anymore, for me everything came to a halt. I don't live; I just walk over the earth."*

Artur Akhmatkhanov's mother, Bilat Akhmatkhanova, speaking to Amnesty International in August 2004. Artur Akhmatkhanov, aged 22, was detained near his house on 2 April 2003, apparently by members of the Russian federal forces, and has not been seen since.

Khadzhi-Murat Yandiev was detained by Russian federal forces near Grozny in February 2000. A Russian general searched him, interrogated him, and then gave an order to "finish him off". Nobody has seen or heard from Khadzhi-Murat Yandiev since. His mother, Fatima

Bazorkina, learned about her son's detention from the television news, thanks to a *CNN* reporter who was at the time embedded with the military forces and filmed the encounter between Khadzhi-Murat Yandiev and the general.

The investigation was, according to the European Court of Human Rights, plagued by inexplicable delays. For example, the Russian general who interrogated Khadzhi-Murat Yandiev was only questioned four years and four months later. Other servicemen involved were not identified or questioned at all.

Moreover, the Court ruled that Fatima Bazorkina had suffered, and continues to suffer, distress and anguish as a result of the enforced disappearance of her son and of her inability to find out what happened to him. The Court stated that the manner in which her complaints had been dealt with by the authorities must be considered to constitute inhuman treatment.

Relatives have no access to the criminal file while the case is open or suspended, and are not informed of progress in the criminal investigation.

## 4. Reprisals against those seeking justice

*"In 2002, 2003, when I was searching for my son, I received countless anonymous notes saying – stop searching, otherwise we'll take you, we'll kill you. And at the beginning, they gave me an ultimatum not to search – who gave the ultimatum I don't know. But nevertheless I carry on the search."*

Mother searching for her son, a victim of enforced disappearance

Everyone who seeks justice for human rights violations in Chechnya faces a climate of hostility and menace. People searching for missing relatives are no exception. As a result, witnesses in enforced disappearance cases have been reluctant to come forward and relatives are increasingly hesitant to speak openly to human rights monitors.

Malika Akhmedova (not her real name), searching for her son who disappeared in Chechnya in 2002, told Amnesty International that she had been detained towards the end of 2005 by armed Chechen men in military uniform. Malika Akhmedova said that she had been seized early in the morning at her home and had been transferred to a cell in the basement of a building. She was threatened and shouted and sworn at in detention. It was cold and she was not given anything to eat or drink. Her detention was not registered and Malika Akhmedova's relatives who looked for her there were told that she was not being held there. She was released later that day. She said that the prosecutor's office in Chechnya had told her many times not to continue with the search for her son.

Families searching for their relatives have received death threats and anonymous phone calls. Some have reportedly been “advised” in a threatening manner by officials from the prosecutor’s office not to continue their search. Family members have been detained and beaten. Some have themselves become the victims of enforced disappearance. Due to fears for the security of the individuals concerned, it is not possible to make public many of the names or other details that would identify those individuals.

The result of such harassment and intimidation is that people already dealing with a terrible loss live in fear for their own lives. The sister of a man detained during a raid by Russian federal forces in Grozny in April 2005 who then disappeared, told Amnesty International representatives in September 2005 that she was afraid, hardly slept at home, and moved from place to place. She said that all she was concentrating on was discovering whether the body of a man awaiting identification in the morgue in Mozdok was that of her brother, and if so, having the body returned to her family for burial. She was not considering going any further with official complaints to the authorities.

Early one morning in March 2006, several military servicemen dressed in camouflage uniforms and wearing masks seized the son of Fatima Giseeva (not her real name) in the backyard of their house in a suburb of Grozny. He returned one and a half hour’s later, bruised and marked, complaining of a terrible headache. He suffered permanent damage to one of his eyes.

He said that he had been beaten by the military servicemen who had demanded that his mother withdraw her complaints about the enforced disappearance of her husband. Fatima Giseeva’s husband was detained by Russian federal forces in 2000 and subsequently disappeared. Fatima Giseeva has searched for him since then, calling on law enforcement agencies to investigate, and has submitted an application to the European Court of Human Rights.

Such reprisals go directly against the state’s responsibility for ensuring that investigations into serious human rights violations, such as enforced disappearances, are not hampered by intimidation or reprisals. Article 12(4) of the International Convention for the Protection of All Persons from Enforced Disappearances provides that: *“Each State Party shall take the necessary measures to prevent and sanction acts that hinder the conduct of an investigation. It shall ensure in particular that persons suspected of having committed an offence of enforced disappearance are not in a position to influence the progress of an investigation by means of pressure or acts of intimidation or reprisal aimed at the complainant, witnesses, relatives of the disappeared person or their defence counsel, or at persons participating in the investigation.”*

## **Further enforced disappearances in reprisal**

In the most extreme cases, relatives who vigorously pursue cases of enforced disappearance have themselves gone missing. For example, freelance journalist and humanitarian worker Elina Ersenoeva and her aunt were detained on 17 August 2006 in Grozny by armed, masked men and taken away in a car. While the aunt was released after a couple of hours, Elina Ersenoeva has not been seen since, and it is feared she has been subjected to enforced disappearance. Margarita Ersenoeva, Elina Ersenoeva's mother raised her daughter's case with officials in Chechnya and human rights monitors. She subsequently went missing, and is believed to be a victim of enforced disappearance or abduction. The whereabouts of both women remain unknown.

Yakub Magomadov reportedly disappeared in May 2004 in Moscow. Amnesty International fears that he may have been disappeared because he had appealed to the European Court of Human Rights regarding his younger brother Aiubkhan Magomadov, who disappeared in Chechnya on 2 October 2000.

Aiubkhan Magomadov was taken from his home in Kurchaloi by members of the Russian federal forces. He never returned home and his family continued to look for him throughout the Russian Federation. In 2001, having failed to find him, they lodged a complaint with the European Court of Human Rights.

Speaking to Amnesty International delegates in 2004, Yakub Magomadov reported that both he and his family had suffered reprisals since he had lodged the complaint with the European Court of Human Rights, but that he was not afraid to continue his search for his brother. He also said that he felt relatively safe as he lived in Moscow, not in Chechnya.

However, on 16 May 2004 Yakub Magomadov's family in Chechnya received a note from acquaintances who worked in the North Caucasus headquarters of the Russian federal military base at Khankala. According to the note Yakub Magomadov was being held at that base and had been tortured.

Yakub Magomadov and his family had earlier been threatened on a number of occasions. They were warned that they would "disappear" as well, if they did not stop looking for Aiubkhan. For example, in late 2003 Yakub Magomadov had gone to a prison in Taganrog, Rostov-on-Don, after hearing that his brother was held there. Reportedly, the prison authorities told him that he would regret it if he ever returned. After he had left the prison, he was reportedly pushed into a car by men in uniforms, who took his money and beat him, threatening him again that he would "disappear", if he continued to look for his brother.

## **Intimidation of people pursuing European cases**

The intimidation of applicants to the European Court of Human Rights has been followed in detail by the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe. In November 2006, the Committee received information from the

European Human Rights Advocacy Centre NGO relating to 23 instances of apparent reprisals against applicants to the European Court from the Russian Federation. The instances “range from oral threats to outright murder of the applicant or close relatives. Such threats are said to have emanated from a wide variety of persons in positions of authority, including members of federal or republic security forces (military, police, FSB), as well as from officials of prosecutors’ offices. None of the cases of killings of applicants or their relatives have, to date, been resolved.”<sup>12</sup>

## 5. No accountability

To Amnesty International’s knowledge, of the thousands of criminal cases opened, in only one has a person been convicted in connection with the enforced disappearance of a person in Chechnya, whose whereabouts remain unknown. The lack of effective prosecutions has resulted in a climate of impunity.

On 2 January 2001 at approximately 11am, 26-year-old Zelimkhan Muralov was detained in the Oktiabrskii district of Grozny, Chechnya, by police officers from the Oktiabrskii district police station on suspicion of possession of illegal drugs. His relatives have not seen him since. A court has confirmed that Zelimkhan Muralov was tortured in detention, and that state agents subsequently arranged his enforced disappearance.

The Oktiabrskii District Court in Grozny found in March 2005 that Sergei Lapin, a member of a special federal riot police unit (OMON) from the Khanty-Mansiisk region had punched, kicked and beaten Zelimkhan Muralov with a rubber baton over several hours in his office at the Oktiabrskii district police station. Other unidentified police officers were present. Zelimkhan Muralov suffered life-threatening head injuries, bruising and grazes on different parts of his body. The court also found that the following day, on 3 January 2001, unidentified police officers from the Oktiabrskii district police station, acting with the knowledge and agreement of Sergei Lapin, took Zelimkhan Muralov away in a car.

On 29 March 2005 the Oktiabrskii District Court in Grozny convicted Sergei Lapin of intentional infliction of serious harm to health under aggravating circumstances; exceeding official authority under aggravating circumstances; and forgery by an official. The court sentenced him to 11 years’ imprisonment and sent a special ruling to the head of the Khanty-Mansiiskii OMON, reportedly criticizing the conduct of the OMON unit serving in Chechnya in broader terms. However, Sergei Lapin was not prosecuted for “abduction” in relation to Zelimkhan Muralov.

The Supreme Court of the Russian Federation ruled in January 2007 that the case against Sergei Lapin should be re-heard. The re-trial was due to begin in May 2007.

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<sup>12</sup> See “Member states’ duty to co-operate with the European Court of Human Rights”, and “Memorandum on Threats to Applicants to the European Court of Human Rights in Cases from Chechnya” European Human Rights Advocacy Centre (EHRAC), published as appendix I, available at <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc07/EDOC11183.htm>

In November 2005 a criminal investigation was opened by the Office of the Prosecutor of the Chechen Republic against a commander and a lower-ranking officer, identified during the 2005 court hearings against their subordinate, officer Sergei Lapin, as involved in the torture and enforced disappearance of Zelimkhan Murdalov. The two men were placed on the federal wanted list in February 2006 but have yet to be arrested.

Zelimkhan Murdalov's family faced harassment and intimidation for seeking justice. As a result, his mother and sister left the country in search of security. Zelimkhan Murdalov's father, Astemir Murdalov, is still seeking information about his son's fate and whereabouts.

There are two other convictions of which Amnesty International is aware, which relate to enforced disappearances. One member of the *Vostok* (East) battalion was prosecuted following an investigation by the military prosecutor's office into the raid on the village of Borozdinovskaia (see section 2). He was convicted of "exceeding official authority" in connection with the raid and was given a three-year suspended sentence. However, to Amnesty International's knowledge, the offence of "exceeding official authority" did not relate directly to the enforced disappearance of any of the 11 missing men.

Colonel Yuri Budanov was convicted of the murder of Kheda Kungaeva, and of abuse of power on 25 July 2003. Kheda Kungaeva was abducted from her family home in the village of Tangi-Chu in Chechnya on 26 March 2000 by Russian soldiers under the command of Colonel Budanov. Colonel Budanov then strangled Kheda Kungaeva to death in his tent. However, he was not charged with the crime of abduction. He was sentenced to 10 years' imprisonment.

Furthermore, according to human rights monitors working in Chechnya, little or nothing is being done to identify the bodies buried in the numerous mass graves around Chechnya. No systematic work is being done to exhume, in accordance with international standards, the 52 registered mass graves in the republic. According to human rights monitors and the CPT, the Republican Forensic Medical Bureau in Grozny does not yet perform autopsies or other essential functions.

## 6. Enforced disappearances in Chechnya: A crime against humanity

Crimes against humanity are crimes against the international community and, as such, the entire international community has a shared obligation to investigate and prosecute such crimes regardless where they have occurred, who committed them or when they were committed. Crimes against humanity "warrant and entail individual criminal responsibility".<sup>13</sup> Under international law, any state may exercise jurisdiction over crimes against humanity.<sup>14</sup>

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<sup>13</sup> Elements of Crimes, adopted by the Assembly of States parties in September 2002, ICC-ASP/1/3.

<sup>14</sup> For a complete analysis, see *Universal Jurisdiction: The duty of states to enact and implement legislation* (AI Index: IOR 53/002-018/2001).

Since the conviction of Field Marshall Keitel at Nuremberg for carrying out enforced disappearances under Adolf Hitler's Night and Fog Decree of 7 December 1941, enforced disappearances have been recognized as crimes under international law. For example, enforced disappearance of persons is one of the 11 acts listed in Article 7 of the Rome Statute of the International Criminal Court (Rome Statute) that can constitute crimes against humanity. Most recently, the 2006 International Convention for the Protection of All Persons from Enforced Disappearance recognizes that enforced disappearances can constitute a crime against humanity under international law.<sup>15</sup>

Under the Rome Statute, enforced disappearances can constitute crimes against humanity when they have been "committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack."<sup>16</sup> As this report indicates, because of their number, scale, and systematic nature, and because they are part of a wider pattern of violations against the civilian population, including other acts that can constitute crimes against humanity (such as murder, torture and rape), the enforced disappearances committed from 1999 up to the present day during the second conflict in Chechnya clearly constitute crimes against humanity.<sup>17</sup> This report has documented credible, persistent reports of the involvement of state agents in enforced disappearance - - confirmed by the European Court of Human Rights in cases so far considered by that court, and admitted by some state officials. It also demonstrates a stark pattern of lack of effective investigation into reports, outright obstruction of efforts by relatives to determine the whereabouts or fate of disappeared people, and consistent impunity for perpetrators. Indeed, there has not been a single prosecution of any state agent for enforced disappearance committed during the second conflict in Chechnya. The complete failure over several years to investigate effectively and prosecute such crimes leaves little doubt that these acts have been committed with the acquiescence of state authorities.

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<sup>15</sup> International Convention for the Protection of All Persons from Enforced Disappearance, U.N. G.A. Res. 61/177, 20 December 2006, Preamble and Article 5.

<sup>16</sup> Rome Statute, Article 7 (1). The definition requires only that the prohibited acts be **either** widespread **or** systematic. The evidence in this report indicates that enforced disappearances in Chechnya are **both** widespread **and** systematic.

<sup>17</sup> See also Human Rights Watch *Worse than a War: "Disappearances" in Chechnya – a Crime Against Humanity*, March 2005.

## 7. Recommendations

Amnesty International has a number of recommendations to the federal and regional authorities in Russia, relating to enforced disappearances. These include in particular:

### **Recommendations to the government of the Russian Federation:**

- Condemn ongoing enforced disappearances, and end them immediately;
- Ensure that all past and current allegations of enforced disappearances are promptly, thoroughly, independently and impartially investigated and that, where there is sufficient evidence, anyone suspected of responsibility for such crimes is prosecuted in proceedings which meet international fair trial standards; ensure renewed and effective criminal investigations into all those cases where the European Court of Human Rights has found the investigation has been flawed;
- Consider assigning the civilian prosecutor's office with the jurisdiction to investigate all cases of suspected enforced disappearances, whichever military, security or law enforcement agency is suspected of being involved; and provide the civilian prosecutor's office with the mandate and authority necessary to be able to effectively investigate all such cases;
- Ensure that prompt, thorough, independent and impartial investigations into all sites of mass graves in Chechnya are immediately carried out by forensic experts in line with UN guidelines on the disinterment and analysis of skeletal remains; make available adequate resources, including by establishing an autopsy service at the forensic laboratory in Grozny; and seek and accept offers of assistance and cooperation from international experts, both in carrying out the work itself, and in training local personnel engaged in the work;
- Create a single authoritative and comprehensive database of the names and details of all individuals who have gone missing, who have been subjected to enforced disappearance, or abducted in Chechnya since 1999, and create a single official database logging details of all unidentified bodies found in Chechnya. Make both databases public and accessible to relatives of these people;
- Ensure the protection of all those who have petitioned the European Court of Human Rights and initiate independent and thorough investigations, without delay, into all allegations of reprisals in relation to applications filed with the European Court of Human Rights;
- Sign and ratify without delay and without any reservations the International Convention for the Protection of All Persons from Enforced Disappearance, make

declarations pursuant to Articles 31 and 32 recognizing the competence of the Committee on Enforced Disappearances to receive communications from individuals and states and enact effective implementing legislation;

- Facilitate the long-standing requests for visits to the Russian Federation, including Chechnya, by the UN Special Procedures, in accordance with their long-established terms of reference for missions, in particular the UN Special Rapporteur on torture, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, and the UN Working Group on Enforced or Involuntary Disappearances by setting dates for them to undertake missions in the near future.

### **Recommendations to the Chechen authorities:**

- Put a stop to arbitrary detention, torture and enforced disappearances in Chechnya;
- Ensure all detentions in Chechnya are carried out in accordance with proper procedures, meeting the strict requirements of international law and standards, including by ensuring detaining officials are identifiable by wearing visible ID numbers and for the registration numbers of vehicles to be clearly visible; ensuring all detentions are properly logged; providing medical examination of detainees on entering, transfer and release from detention, and ensuring accountability for any violations of such procedures;
- Condemn and end the use of secret detention, close all secret places of detention and ensure officials from the prosecutor's office have unhindered access to all places of detention;
- Ensure no one faces reprisals for seeking the truth about the fate of their disappeared relative; establish safeguards against reprisals in order to protect all complainants, including those who submit complaints to the European Court of Human Rights;
- Work together with the federal authorities and international experts to exhume the sites of mass graves in Chechnya in accordance with international standards. Ensure the sites are protected from any interference pending such exhumation;
- Work together with the federal authorities to create a comprehensive database of the names and details of all individuals who have gone missing, who have been subjected to enforced disappearance, or abducted in Chechnya since 1999 and to create a single official database logging details of all unidentified bodies found in Chechnya;
- Provide full reparation, including restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition, to the victims and their families.

### **Recommendations to Chechen armed opposition groups**

- Stop all direct and targeted attacks on civilians as well as indiscriminate and disproportionate attacks;
- Ensure full compliance with and respect for international humanitarian law.

### **Recommendations to second governments**

- In bilateral meetings to press the Russian authorities to carry out prompt, thorough, independent and impartial investigations into all allegations of enforced disappearances and whenever there are reasonable grounds to believe that enforced disappearances have been committed, even if there have been no allegations of such crimes;
- Ensure that the issue of the human rights situation in Chechnya is raised in all relevant inter-governmental meetings and bodies, and that appropriate action is taken to facilitate the end to abuses of international human rights and humanitarian law and impunity therefore;
- Ensure that people who have fled the conflict are not returned to Chechnya or other parts of the Russian Federation unless and until their safe and durable return with dignity is assured;
- Provide assistance where necessary to those facing reprisals due to applications to Russian courts or to the European Court of Human Rights;
- Offer expertise and training to the authorities in Chechnya for the development of the forensic capacity there;
- Exercise universal jurisdiction for war crimes and crimes against humanity committed during the second Chechen conflict.