

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	256
Land:	Rusland
Kilde:	Council of Europe
Titel:	Commissioner for Human Rights. Human rights situation in the North Caucasus Federal District (Kabardino-Balkaria, North Ossetia-Alania, the Chechen Republic and Ingushetia).
Udgivet:	6. september 2011
Optaget på baggrundsmaterialet:	23. november 2011



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



Strasbourg, 6 September 2011

CommDH(2011)21
Original version

REPORT

**by Thomas Hammarberg
Commissioner for Human Rights of the Council of Europe**

**Following his visit to the Russian Federation
from 12 to 21 May 2011**

Issues reviewed:

Human rights situation in the North Caucasus Federal District
(Kabardino-Balkaria, North Ossetia-Alania, the Chechen Republic and Ingushetia)

Summary

Commissioner Thomas Hammarberg and his delegation visited the Russian Federation from 12 to 21 May 2011. In the course of the visit the Commissioner held discussions on the most serious human rights problems in the North Caucasus Federal District with representatives of the Investigating Committee of the Russian Federation and with local authorities, as well as non-governmental organisations.

Since the Commissioner's previous visit, there has been an increased emphasis on the socio-economic development of the North Caucasus Federal District, and the implementation of a strategy aiming to improve the investment climate, fight corruption and address unemployment is ongoing. Despite these positive steps to improve the quality of life of the people living in the region, the situation in the North Caucasus continues to present major challenges for the protection of human rights.

The Commissioner paid particular attention to the persisting problem of impunity for serious human rights violations, and seeks through the present report to identify remaining obstacles to accountability and to formulate recommendations with a view to ensuring that those responsible for such violations are brought to justice.

The present report focuses on the following major issues:

I. Counter-terrorism measures

The number of security incidents in Chechnya and Ingushetia has declined following a relative peak in 2009, and the frequency of such incidents in North Ossetia-Alania is comparatively low. Nevertheless, some of the incidents reported in the recent period from those republics have been of a very serious nature. Moreover, the increase of violence in Kabardino-Balkaria has led to the imposition of a counter-terrorist operation (CTO) regime in certain areas, including around Mount Elbrus.

The continuing challenges to security in the North Caucasus amount to a serious ongoing crisis with consequences which extend beyond the region. Undoubtedly, such a crisis constitutes a test of the strength of State commitment to human rights principles. The Commissioner has consistently emphasised the principle that it is both possible and necessary to fight terrorism while respecting human rights, fundamental freedoms and the rule of law. While state authorities have a clear duty to protect the public from terrorism and the actions of illegal armed groups, counter-terrorism measures should be carried out in full compliance with human rights norms. If, in the context of counter-terrorist operations, state actors use methods which are unlawful and/or violate human rights, this undermines the very values which must be defended from the enemies of democracy. The worthy aims stated by the Russian authorities of bringing peace and prosperity to the region can only be built on the solid foundation of commonly agreed values.

The Commissioner supports efforts aimed at promoting reconciliation and reintegrating into society, e.g. through education and employment opportunities, those who have abandoned the course of armed insurgency. Further efforts must also be made to dismantle the links between corruption, organised crime and terrorism and to prevent their nefarious influence from spreading in society.

II. Abductions, disappearances, and ill-treatment

The Commissioner is deeply concerned by the persistence of allegations and other information relating to abductions, disappearances and ill-treatment of persons deprived of their liberty in the North Caucasus. While the number of abductions and disappearances reported in Chechnya may have decreased in the more recent period as compared to 2009, the situation remains far from normal.

The Commissioner noted the existence of a programme on fighting against abductions and establishing the fate of missing persons in the North Caucasus, and recommended the systematic application in practice of rules for law enforcement officials against the wearing of masks or non-standard uniforms without badges, as well as against the use of unmarked vehicles, in the course of investigative activities.

The Chechen authorities, as well as the Ombudsman of that republic, reiterated to the Commissioner their concerns about the lack of progress in obtaining the full truth about past disappearances and missing

persons who are presumed dead in connection with the previous armed conflicts in Chechnya. In this connection, the Commissioner supports the proposal of the Council for Civil Society Institutions and Human Rights under the President of the Russian Federation for creating an interdepartmental federal commission to determine the fate of persons who have gone missing during the entire period of counter-terrorism operations in the North Caucasus.

III. Combating impunity

The lack of effective investigations into human rights violations where law enforcement or other security officials are implicated has been raised repeatedly by the current Commissioner and his predecessor. The European Court of Human Rights has by now examined nearly 200 cases in which it found violations of Article 2 (right to life) and/or Article 3 (prohibition of torture and inhuman or degrading treatment) in relation to actions of security forces in the Chechen Republic and other parts of the North Caucasus Federal District. The violations have related to unlawful killings, disappearances, and torture and ill-treatment attributable to the security forces, as well as a failure to investigate such crimes effectively. The persistent patterns of impunity for such serious violations are among the most intractable human rights problems of the North Caucasus and remain a source of major concern to the Commissioner.

There have certainly been a number of positive steps, such as the establishment of the Investigating Committee structures, the increased support to victim participation in criminal proceedings, and the promulgation of various directives such as the Guidelines of the Supreme Court on victim participation and the instructions of the Prosecutor General and the Investigative Committee regarding the conduct of investigations. The Commissioner formed the impression that the Investigating Committee structures at different levels have the requisite professional capacity for investigating complex criminal cases. However, as representatives of the Investigative Committee have acknowledged themselves, there are many instances of investigations continuing virtually indefinitely without producing results. Moreover, in cases where officials belonging to law enforcement agencies or other security structures are themselves implicated in crimes, the Commissioner has serious doubts about the extent to which the necessary cooperation with the investigative authorities can be secured in practice from those bodies.

Ensuring that the competent authorities at all levels have a thorough understanding of the internationally-accepted principles for effective investigations and their application in practice is a necessary – though not sufficient – condition for guaranteeing the effectiveness of investigations. In the Commissioner's experience, a key ingredient for ensuring accountability is that the requisite will exists for doing so. Based on all the information at his disposal, including his visits to the North Caucasus and his extensive discussions with the authorities and with civil society, the Commissioner considers the absence of requisite determination to be one of the main obstacles to pursuing accountability in cases where the responsibility of public officials is implicated. This makes it even more important for the Russian leadership to deliver the unequivocal message that impunity will no longer be tolerated.

Not only should the investigating, prosecutorial and judicial authorities be sensitised to the important obligations which are incumbent upon them, but they should also be motivated to fulfil those obligations in a conscientious and impartial manner. Obviously, this presupposes that investigating authorities are placed in a position – and have the means and the authority - to secure the full cooperation of the law enforcement and security structures whose members may be implicated in the offences concerned. In addition, if it is proven that a violation of the right to life or the prohibition against torture has occurred, an appropriate criminal penalty must be imposed on those responsible; to fail to do so can only contribute to a climate of impunity.

IV. Situation of human rights defenders

Human rights activists continue to face serious obstacles in their work and can be exposed to significant risks. In settings which present considerable challenges to the protection of human rights, it is all the more important to ensure that those persons and organisations which engage in human rights monitoring activities are able to go about their work freely and without undue impediments. Any attacks against such persons must be investigated effectively with a view to ensuring the criminal accountability and punishment of the perpetrators. Instances of intimidation, harassment, or threats against human rights activists should also be condemned unequivocally.

Whereas at times the Commissioner encountered scepticism on the part of certain officials about the motives and the effectiveness of non-governmental organisations, there also appeared to be a degree of acknowledgment of the valuable contribution that the engagement of various civil society organisations could bring to the reconciliation process in the North Caucasus. For his part, the Commissioner would like to pay tribute to the Human Rights Centre “Memorial” and other human rights organisations for their continued commitment to fulfilling their mission in the region, despite the challenges and risks involved. He reiterates his recommendation about the need to promote safe and favourable conditions for the work of human rights NGOs. Moreover, sustained efforts should be made to promote an open and meaningful dialogue between the authorities and civil society in the region.

Human rights structures such as the institutions of regional ombudspersons and ombudspersons for children can play a key role in promoting awareness of European and international human rights standards and norms and ensuring that people living in the region are able to enjoy them fully in practice. The authorities should respect their integrity and independence, thus enabling them to perform their duties properly and effectively.

Introduction

1. The Council of Europe Commissioner for Human Rights, Thomas Hammarberg, visited the Russian Federation from 12 to 21 May 2011. The main aim of the visit was to review the human rights situation in the North Caucasus. To this end, the Commissioner visited the capitals of four republics in the North Caucasus Federal District: Kabardino-Balkaria (Nalchik), North Ossetia-Alania (Vladikavkaz), the Chechen Republic (Grozny) and Ingushetia (Magas and the former capital Nazran). In the course of the visit, the Commissioner also held talks in Moscow, and made an address on 20 May at the conference "Alarm and Hope" organised on the occasion of the 90th anniversary of the birth of the major human rights thinker and activist, Andrei Sakharov.¹
2. In Moscow, the Commissioner had useful discussions with the Deputy Minister of Foreign Affairs, Grigoriy Karasin, the Deputy Head of the Investigative Committee,² Vasily Piskaryov, as well other representatives of that body, the Russian Federal Ombudsman, Vladimir Lukin, and the Chairman of the Council of Civil Society Institutions and Human Rights under the President of the Russian Federation, Mikhail Fedotov.
3. During his first visit to the Republic of Kabardino-Balkaria, the Commissioner met Speaker Anuar Chechenov and other Members of the Parliament. The Commissioner also held discussions with the Prime Minister, Ivan Gerter, the Ombudsman, Boris Zumakulov, as well as representatives of the Public Chamber. In addition, he met with the Deputy Head of the Investigative Committee of the Russian Federation, Boris Karnaukhov, together with representatives of the Chief Investigative Directorate of the North Caucasus Federal District and the Investigative Directorate of the Republic of Kabardino-Balkaria. In the course of his visit, the Commissioner visited the Pre-trial establishment (SIZO) No. 1 in Nalchik, and met the recently-appointed Head of the Federal Service for the Execution of Punishments (FSIN) for the Republic, Vasily Fyodorov.
4. In the Republic of North Ossetia-Alania, the Commissioner met the Speaker of Parliament, Larisa Khabitsova, the Deputy Prime Minister, Sergey Tabolov, the Minister for Societal and External Relations, Murat Tkhostov, the Ombudsman, Valeriy Tsomartov, and the Children's Ombudsman, Taisiya Nogayeva.
5. In the Chechen Republic, the Commissioner met the Speaker of Parliament, Dukvakha Abdurakhmanov, the Prosecutor, Mikhail Savchin, the Ombudsman, Nurdi Nukhazhiev, as well as representatives of the Chief Investigative Directorate of the North Caucasus Federal District and the Investigative Directorate of the Chechen Republic.
6. In the Republic of Ingushetia, the Commissioner had in-depth, constructive discussions with the Head of the Republic, Yunus-bek Yevkurov. The Commissioner also met the Prime Minister, Musa Chiliev, the Secretary of the Security Council, Ahmed Kotiev, the Prosecutor, Yuri Turygin, the Ombudsman, Dzhambulat Ozdov, the Children's Ombudsman, Marifa Sultygova, representatives of the Investigating Committee (from the North Caucasus Federal District and from the Republic of Ingushetia) and other senior officials. The Commissioner also had a lively discussion with a group of law students from the Ingush State University in Magas.
7. Both in Moscow and in the North Caucasus, the Commissioner met with various representatives of civil society and held extensive discussions with them about the human rights situation.
8. The Commissioner wishes to thank the Ministry of Foreign Affairs, and in particular the Permanent Representation of the Russian Federation to the Council of Europe, for their valuable assistance in organising the visit. He would also like to extend his appreciation to the authorities of the above-mentioned republics in the North Caucasus Federal District, for their welcome and help in

¹ During the visit, the Commissioner was accompanied by Bojana Urumova, Deputy to the Director of the Commissioner's Office, and three Advisers, Olena Petsun, Victor Munteanu and Gavin Simpson. Another Adviser, Roman Chlapak, provided support for the Commissioner's participation in the conference honouring Andrei Sakharov's legacy.

² The Head of the Investigative Committee of the Russian Federation, Alexander Bastrykin, has five deputies.

organising the visit. Finally, the Commissioner wishes to express his gratitude to the Russian Federal Ombudsman for his continuing close cooperation.

9. During the visit, the Commissioner engaged in a fruitful dialogue with the federal and republic authorities, as well as civil society representatives, in order to better understand and address the situation. He wishes to thank all his interlocutors for their availability and willingness to share their knowledge and insights with him.

Context of the visit

10. From the very beginnings of the Office of the Commissioner of Human Rights in 1999, the North Caucasus has been a region of major interest and concern, having regard inter alia to the human toll caused by the devastating armed conflicts in Chechnya. The Russian authorities themselves have referred to the situation in the North Caucasus as one of their most serious domestic problems.³
11. Commissioner Hammarberg, like his predecessor Álvaro Gil-Robles, has closely followed the human rights situation in the North Caucasus through regular field visits. Previously, Commissioner Hammarberg visited the region in February 2006 (as Commissioner-elect), February-March 2007, April 2008, and September 2009.
12. The Commissioner's visit in September 2009 included Chechnya and Ingushetia, and a report was published subsequently.⁴ The Commissioner concluded that, in view of the extraordinary challenges which persisted in the North Caucasus, the effective protection of human rights would require sustained efforts and a multi-pronged approach. The key elements of the approach recommended in the Commissioner's report included: combating terrorism effectively while ensuring full respect of human rights standards; guaranteeing effective investigations into killings, abductions, and past disappearances; ending the pattern of impunity for the perpetrators of such crimes; fostering the rule of law by strengthening the judiciary; promoting a well-functioning law enforcement and criminal justice system, including through training of lawyers, judges, investigators and police officers to inculcate professionalism, integrity and human rights awareness; creating a propitious environment for human rights activists; taking decisive strides against corruption; promoting economic and social development and social cohesion; and promoting reconciliation.
13. To date, the European Court of Human Rights has issued close to 180 judgments related to events in the context of counter-terrorism operations (CTO) in Chechnya which began in 1999. In many of the cases the Court has found violations of fundamental rights protected by the European Convention on Human Rights, including the right to life (Article 2) and the prohibition of torture and inhuman or degrading treatment (Article 3). About 60% of the applications have concerned forced disappearances of the applicants' relatives. Other complaints relate to destruction of homes and property, unlawful killings, indiscriminate use of force, illegal detention, torture and ill-treatment attributable to members of the security forces, as well as the failure to properly investigate those crimes. In 2009 almost a hundred new cases on Chechnya were registered, with the events complained of mostly relating to the period between 2000 and 2002. The Court has also delivered eleven judgments following such operations in Ingushetia, finding violations of the Convention related to forced disappearances, ill-treatment and failure to investigate such crimes effectively.
14. Of the four republics visited by the Commissioner, a counter-terrorism operation (CTO) regime was in force only in certain parts of Kabardino-Balkaria.⁵ While less volatile than in 2009, the security situation in Chechnya and Ingushetia still presented concerns. Throughout the region, high-profile murders, attempted assassinations and violent attacks against government figures, human rights activists and ordinary civilians have continued to occur since the Commissioner's previous visit, and

³ In his "Go, Russia!" article published on 10 September 2009, Russian Federation President Dmitry Medvedev wrote "[r]esidents of the republics in the North Caucasus simply do not know peace... unstable Caucasus present[s a] very big problem, even for a country such as Russia."

⁴ Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to the Russian Federation (Chechen Republic and Republic of Ingushetia) on 2 – 11 September 2009 (CommDH(2009)36).

⁵ CTO regimes have also been intermittently introduced in different parts of Ingushetia in the recent period.

law enforcement authorities have been regularly targeted and killed in terrorist incidents and clashes with illegal armed groups. At the same time, a number of counter-terrorist operations have been carried out (cf. the next section below).

15. Since the Commissioner's previous visit, there has been an increased emphasis on the socio-economic development of the North Caucasus. On 20 January 2010, Alexander Khloponin was appointed as the new Plenipotentiary Envoy of the President for the North Caucasus Federal District and Deputy Prime Minister of the Russian Federation. Mr Khloponin is a key architect of a strategy for the social and economic development of the district until the year 2025 which was promulgated by the Government of the Russian Federation on 6 September 2010. The strategy refers inter alia to the high degree of unemployment, with an average of 18% for the district as a whole and reaching up to 55% in certain areas (53% in the Republic of Ingushetia and 42% in the Chechen Republic), i.e. up to nine times the national average. In order to address these inequalities, the strategy proposes a variety of measures, including improving the investment climate, addressing corruption, and stimulating social and economic development. By way of example, over 32 billion roubles have been allocated by the federal authorities for development projects in Ingushetia.
16. The present report contains the Commissioner's observations as regards some of the most serious problems in terms of the protection of human rights in the republics visited, as well as his recommendations on ways to find solutions to them.

I. Counter-terrorism measures

17. When addressing a meeting of the National Anti-Terrorism Committee held in Vladikavkaz on 22 February 2011, Russian Federation President Dmitry Medvedev stated that "[i]t is here that our citizens are faced with terror on a daily basis. Terror exists in other parts of our country too, but in the North Caucasus it is present almost everywhere, and terrorist attacks occur quite regularly, unfortunately. The root of contradictions that generate extremism and radicalism is here."
18. A total of 165 security incidents were reported in the first four months of 2011 in the North Caucasus Federal District, 78 of which were attributed to terrorism.⁶ According to the information received by the Commissioner, the security situation in the Republic of Dagestan is by far the most volatile of all the parts (federal subjects) of the North Caucasus Federal District. During the first four months of 2011, 84 security incidents were reported, many of them targeting law enforcement and other public officials. This follows on the heels of an escalating trend of violence plaguing Dagestan in the past two years, with a total of 270 incidents in 2009 and 343 in 2010.
19. In contrast, patterns of violence in the Chechen Republic and the Republic of Ingushetia, which reached a relative peak in 2009 (with 205 incidents in Chechnya and 322 in Ingushetia, including the failed attempt on the life of President Yunus-bek Yevkurov on 22 June 2009), appeared to be declining in 2010 (93 incidents in Chechnya and 169 in Ingushetia). However, a closer look at the actual events behind the figures reveals some serious incidents, including one which took place in the Chechen Republic on 20 October 2010. The incident involved a suicide attack by armed insurgents on the parliament complex, which resulted in the deaths of at least six people, including two police officers, a parliament employee, and the attackers themselves, as well as injuries to some 17 others. In the first four months of 2011, 23 incidents were recorded in Chechnya and 20 in Ingushetia.
20. The Republic of Kabardino-Balkaria has experienced a marked increase of violence in the recent period, with the number of terrorist attacks increasing five-fold in 2010,⁷ and the total number of violent incidents reported almost tripling in relation to the previous year (from 40 in 2009 to 115 in

⁶ The information cited in this section mainly relates to data collected by the United Nations based on media reports. The data collected for the North Caucasus Federal District as a whole relates to seven federal subjects of the Russian Federation, i.e. the Republics of Ingushetia, Dagestan, North Ossetia-Alania, Kabardino-Balkaria, and Karachaevo-Cherkessia, as well as the Chechen Republic and Stavropol Krai.

⁷ Announcement made by the Minister of Internal Affairs of the Russian Federation, Rashid Nurgaliyev, at a security meeting in Pyatigorsk held on 18 November 2010.

2010). A large proportion of the incidents in 2010 involved attacks on law enforcement officials.⁸ Among the various incidents in 2010 there were 41 bomb attacks and one suicide bombing, as a result of which 21 government personnel, 31 civilians and 25 members of illegal armed groups lost their lives. Already for the first four months of 2011, 41 violent incidents were recorded in the republic. On 18 February 2011, a minibus carrying tourists from Moscow en route to Mount Elbrus (in the south-eastern corner of the Republic of Kabardino-Balkaria) was attacked; three people - including a woman - died as a result, and two were injured. Some hours later, an improvised explosive device was detonated at a Mount Elbrus ski resort. Due to those events, on 20 February 2011 a counter-terrorism operation (CTO) regime was introduced in the Elbrus district and in certain other areas of the republic which had also seen an increase in terrorist activities.

21. Any examination of the question of terrorism and the measures taken in response in Kabardino-Balkaria cannot be undertaken without mentioning the October 2005 attacks on Nalchik, when several hundred militants targeted various public buildings in the republic's capital, including the premises of the anti-terrorist service of the Ministry of Internal Affairs, the Federal Security Service (FSB), the Special Purpose Police Unit (OMON), the traffic police, the military enrolment service, Nalchik airport and the regional headquarters of the Federal Service for the Execution of Punishments (FSIN). According to official figures, in the ensuing confrontation with governmental forces, 35 law enforcement officials, twelve civilians and 97 insurgents were killed. Following the attack, some 2000 persons were initially apprehended, and 59 persons were formally charged under various provisions of the Criminal Code, including terrorism, murder, armed rebellion, attempt on the life of police officers, etc. The trial - which began on 12 October 2007 - is ongoing, and the defendants are being held in the Pre-trial establishment (SIZO) No. 1 in Nalchik. The Commissioner received several complaints from human rights organisations as well as the families and legal representatives of persons apprehended in relation to the October 2005 attacks in Nalchik, who alleged that those persons had been subjected to deliberate physical ill-treatment in the earlier period of their detention.
22. In comparison to the other republics mentioned above, the frequency and number of security incidents has been lower in the Republic of North Ossetia-Alania, where 31 such incidents were recorded in 2009, twelve in 2010 and seven in the first four months of 2011. The most serious incident in 2010 was the terrorist attack on the city's central market (a site of previous attacks in 1999 and 2008) in September, when an explosion triggered by a suicide bomber killed 17 people and injured more than a hundred.
23. North Ossetia-Alania continues to be affected by the consequences of the terrorist attack and hostage-taking in School No.1 in Beslan, which claimed the lives of more than 385 people, including 156 young children, in September 2004. The sole surviving attacker was sentenced in May 2006 to life imprisonment. Amidst demands of relatives of victims and survivors of the attack for a fuller clarification of the facts and circumstances of the tragedy, inquiries were held by commissions established, respectively, in the republic's and the federal parliaments, in addition to the still-ongoing investigation conducted by the Office of the Prosecutor General of the Russian Federation. The Commissioner met with representatives of the associations "Mothers of Beslan" and "Voice of Beslan", who stated that they continued to have many unanswered questions about the tragic events, as well as doubts about the investigations conducted so far. In this regard, the Commissioner was also informed by the Speaker of the Parliament of the Republic of North Ossetia-Alania that President Medvedev had met with mothers of the victims during his recent visit to the republic and had asked the Prosecutor General to accelerate the work on this investigation.
24. During the February 2011 meeting of the National Anti-Terrorism Committee held in Vladikavkaz, President Medvedev indicated that in 2010 268 law enforcement and security officials lost their lives in the line of duty. As a result of operations undertaken in response to terrorist activities, 332 militants had been killed, of whom over 40 were considered to be leaders of the illegal armed groups. More than 600 persons had been arrested and were expected to be brought to trial.

⁸ According to the Investigating Committee for the Republic of Kabardino-Balkaria, in 2010 there were 108 attacks targeting representatives of law enforcement agencies, courts and prosecutorial authorities, which amounted to a four-fold increase from 2009.

25. President Medvedev has referred to five areas for combating terrorism: strengthening the law enforcement and security component in the North Caucasus and ensuring the protection of judges; conducting counter-terrorist operations; helping those who have abandoned the ranks of the militants or insurgents; developing the socioeconomic infrastructure; and strengthening support to moral and spiritual values, including through providing support to non-radical Islam.
26. The issue of terrorism and the measures taken in response has been one of the topics discussed by the Commissioner ever since his first meeting in September 2009 with the leader of the Republic of Ingushetia, Yunus-bek Yevkurov, who had just returned to his duties after recovering from serious injuries sustained during a suicide car-bomb attack on his motorcade in Nazran in June 2009. In the course of the Commissioner's May 2011 visit to the republic, Mr Yevkurov observed that the phenomenon of participation in illegal armed groups did not solely relate to wider socio-economic problems such as unemployment; apparently, only 10% of members of illegal armed groups came from the ranks of those without employment or an occupation. According to Mr Yevkurov, the strength of the ideological lure and/or pressure by recruiters on young people in the republics of the North Caucasus and beyond (including among North Caucasus communities in other parts of the Russian Federation and abroad) could not be underestimated.
27. The Ingush authorities indicated that the situation in the republic had become more stable due to sustained efforts by law enforcement officials as well as by the citizens themselves. In the course of 2010, over 40 caches of weapons and ammunition had been found, in many cases with the help of residents of the republic, and in the first few months of 2011, seven such caches had been discovered. There was also a weapons buyout programme for which more than 2 million roubles had been allocated.
28. Mr Yevkurov referred to major efforts undertaken in response to mistakes made during some previous operations by the security forces where unjustified damage had occurred. In this context, the Head of the republic emphasised that law enforcement officials were not necessarily acting unlawfully, but that sometimes in the context of those operations it was difficult to avoid altogether damage to houses. The Head of the republic also underlined that he personally reminded law enforcement officials of the need to respect human rights in the context of such operations.
29. As for the third point advanced by President Medvedev, i.e. support to those who have abandoned the ranks of illegal armed groups, the Head of Ingushetia indicated that activities were aimed at working and living peacefully, and that assistance had been provided to a number of families, including those with members who had been associated with illegal armed groups. Examples of such assistance included provision of education and jobs as well as support to repairing damaged houses. It is also noteworthy that women have been involved in efforts to promote reconciliation, including through support to widows of slain militants and to women whose husbands were deprived of their liberty due to their participation in illegal armed groups. Moreover, the Commissioner was informed by representatives of the Investigating Committee of the Russian Federation in Moscow that it was envisaged to modify a certain provision (Article 208) of the Criminal Code of the Russian Federation permitting the release from criminal responsibility of persons who have repented of their deeds, helped the investigation, and assisted in identifying other members of illegal armed groups and their sources of revenue and sustenance.
30. According to the Head of Ingushetia, the Council of *teips* (clans) plays a significant role in promoting reconciliation and coexistence. The institution of Council of Elders had also been created in February 2011 at the level of the North Caucasus Federal District under the auspices of the Plenipotentiary Envoy of the President for that district and Deputy Prime Minister of the Russian Federation, Alexander Khloponin; it was envisaged that this Council will function in an analogous manner to the Public Chamber institutions which have been created at the level of the Russian Federation and at the regional level. A Public Chamber was also created in Ingushetia in 2011.
31. Human rights activists and lawyers have continued to raise concerns about the occurrence of violations, including unlawful killings, forced disappearances, and ill-treatment, perpetrated under the banner of counter-terrorist operations in different parts of the North Caucasus. Further, concerns

have recently been raised about collective punishment of relatives of insurgents or members of illegal armed groups. In particular, at their meeting with the President of the Russian Federation on 5 July 2011, members of the Council for Civil Society Institutions and Human Rights referred to incidents of unlawful detentions and beatings of groups of persons in the village of Sovetskoe (Dagestan), the town of Baksan (Kabardino-Balkaria), and in Vladikavkaz (the capital of North Ossetia-Alania). The Commissioner considers it highly important for these concerns to be addressed seriously, and for additional efforts to be made to ensure proportionality for counter-terrorism measures and accountability for any infringements of human rights, fundamental freedoms and the rule of law.

32. The Commissioner also received allegations of fabricated charges of terrorism or related offences. One such case related to charges of illegal weapons possession against a person who had been subjected to severe physical ill-treatment by law enforcement officials - including extensive beatings and electric shocks – resulting in various serious injuries, requiring lengthy hospitalisation and as a result of which the person was given Category I disability status. Apparently, steps were taken to ensure accountability for this serious crime, and criminal charges were brought against two police officers from the Karabulak Municipal Police Department in Ingushetia. At the same time, the person who was the victim of this major infliction of physical violence by state actors responsible for upholding the law was himself subsequently charged with illegal weapons possession, allegedly on spurious grounds.

Conclusions and recommendations

33. The continuing challenges to security in the North Caucasus amount to a major ongoing crisis with consequences which extend beyond the region. Undoubtedly, such a crisis constitutes a test of State commitment to human rights principles. The Commissioner has consistently emphasised the principle that it is both possible and necessary to fight terrorism while respecting human rights, fundamental freedoms and the rule of law. While state authorities have a clear duty to protect the public from terrorism and the actions of illegal armed groups, counter-terrorism measures should be carried out in full compliance with human rights norms. If, in the context of counter-terrorist operations, state actors use methods which are unlawful and/or violate human rights, this undermines the very values which must be defended from the enemies of democracy. The worthy aims stated by the Russian authorities of bringing peace and prosperity to the region can only be built on the solid foundation of commonly agreed values.
34. In light of information received during and following his visit, the Commissioner would also like to recall the principle that collective punishment of relatives of alleged terrorists or members of illegal armed groups is not only contrary to agreed human rights standards and the rule of law, but also undermines the fight against terrorism. To refrain from resorting to such acts – and to take active steps to stamp them out when they emerge – is absolutely necessary in a democratic State.
35. Experience from various countries which have struggled with the bane of terrorism has underlined the importance of addressing the underlying causes of conflict. Effective programmes to tackle poverty, education gaps and discrimination are necessary as human rights requirements, but also in order to prevent social exclusion and lingering resentments which can be manipulated and morph into violence. The Commissioner therefore supports efforts aimed at promoting reconciliation and reintegrating into society, e.g. through education and employment opportunities, those who have abandoned the course of armed insurgency.
36. The Commissioner invites the authorities to give serious consideration to the recommendations made by members of the Council for Civil Society Institutions and Human Rights under the President of the Russian Federation relevant to the fight against terrorism while ensuring full respect of human rights standards. These recommendations concern the institution of permanent conferences of law enforcement and security structures with the participation of human rights organisations, as well as providing the conditions for the rehabilitation - comprising medical care and support - of security and law enforcement officials who are exposed to particularly difficult conditions of work.

37. The Commissioner has noted the statements made by the Presidential Plenipotentiary Envoy for the North Caucasus Federal District and Deputy Prime Minister Alexander Khloponin, who has said that the fight against terrorism, the fight against criminal groups financing the terrorist underground, and the fight against corruption – in addition to job creation - are all interrelated goals of the highest priority. The Commissioner fully agrees that further efforts must be made to dismantle the links between corruption, organised crime and terrorism and to prevent their nefarious influence from spreading in society.

II. Abductions, disappearances, and ill-treatment

38. The Commissioner continued to receive allegations about abductions, disappearances, and ill-treatment of persons deprived of their liberty from various persons, including the families of the victims or alleged victims and human rights organisations with experience in monitoring such matters. The cases related to the recent period and to different parts of the North Caucasus. In a number of the above-mentioned cases, law enforcement officials have allegedly been implicated in the abductions or disappearances.
39. According to the human rights organisation “Mashr”, in Ingushetia 14 people went missing in 2009 and 13 in 2010. The number of abductions and disappearances was particularly high in 2009 in Chechnya; this has also been acknowledged by investigative authorities from the republic, who have referred to 2009 as being “the most difficult period since the two wars”. Data compiled by the NGO Memorial refer to 93 persons abducted in the republic during that year, of which 60 persons were ransomed or released, ten were found killed, 19 were considered as missing, and four were ultimately located in places of detention. For the year 2010, Memorial reported that 27 persons were abducted in Chechnya, of whom eight were released or ransomed, eight were considered as missing, and eleven were eventually found to be in places of detention. According to Memorial, six additional persons went missing in Chechnya under unclear circumstances in the course of 2010. For the first six months of 2011, three abductions were recorded in the same republic, of which in two cases the persons were released or ransomed and one was considered as missing. In Kabardino-Balkaria, Memorial recorded one case in 2009 of an abduction of a person (whose whereabouts remain unknown), allegedly by officials belonging to security structures, and another case of a missing person. Memorial’s statistics on Kabardino-Balkaria for 2010 refer to six persons abducted in the republic, in addition to one resident of the republic who was abducted in Moscow. The latter person is still missing, as are two of those who were abducted in Kabardino-Balkaria. The remaining four persons were eventually found to be under investigation or sentenced, i.e. in places of detention. Abductions in North Ossetia-Alania are apparently far less frequent; those that have occurred relate to the Prigorodny District, where one abduction was recorded by Memorial in 2010.
40. In the reply provided by the Russian authorities to the Commissioner’s previous report, the section relating to abductions and disappearances referred to an integrated programme on fighting against abductions and establishing the fate of missing persons in the North Caucasus (previously the South Federal District). According to non-governmental organisations, this programme contains many useful and valid directions and recommendations to various officials, including to prosecutors, investigators, and law enforcement officials. However, some doubts have been expressed by those organisations as to whether those recommendations were being properly implemented and whether the programme was achieving the desired results.
41. The Russian authorities have also informed the Commissioner of measures taken to prevent violations in the course of investigatory activities, including prohibiting law enforcement officials from wearing masks or non-standard uniforms, requiring them to wear rank badges, and prohibiting them from “driving state and private cars without registration plates.”
42. During his meetings with the Ingush authorities in Nazran, the Commissioner was informed by the Prosecutor that the programme aimed at preventing abductions was being actively pursued. In cases of two persons who have been abducted, criminal cases have been opened in Ingushetia. A criminal case had been opened in relation to the abduction of Ilez Gorchkhanov by unknown persons in Nazran on 21 March 2011. His body was found in a river bed on 19 April, close to the

Nesterovskaya settlement in Ingushetia. A second criminal case was opened following the discovery of the body, and forensic and histological studies were underway to determine the cause of death.

43. The Commissioner also inquired about the progress of the investigation into the earlier abduction of Idris Tsidzoev, who was abducted from his home in Malgobek (Ingushetia) on 26 May 2009 and remains missing. He received information that the Chief Investigative Directorate of the North Caucasus Federal District was responsible for this investigation, which was still ongoing. According to senior investigating officials, identification procedures had been undertaken, and it had not been confirmed that officers from the Operational/Search Bureau (ORB-2) of the Main Department of the Ministry of Internal Affairs responsible for the North Caucasus Federal District in Grozny (Chechnya) had been involved, as had been reported earlier.⁹
44. Some of the Commissioner's official interlocutors have indicated that there are numerous cases when it is alleged that persons have been stopped, apprehended, or abducted by police officers, and where it subsequently emerges that such "apprehensions" or abductions have in fact been perpetrated by members of illegal armed groups. According to the information provided by the officials, there have been cases in Chechnya, Ingushetia, and Dagestan where kidnappers have even worn uniforms of law enforcement officials; in some cases, there have apparently been examples of militants wearing FSB uniforms.
45. The Chechen authorities, as well as the Ombudsman of that republic, reiterated to the Commissioner their concerns about the lack of progress in obtaining the full truth about past disappearances and missing persons who are presumed dead in connection with the previous armed conflicts in Chechnya.
46. The issue of torture and ill-treatment of persons deprived of their liberty has been the subject of a number of allegations brought to the Commissioner's attention in relation to various parts of the North Caucasus. The information indicative of ill-treatment he received is of a serious nature and requires decisive action on the part of the authorities. Most of the allegations received related to treatment of persons by law enforcement officials; however, some allegations of physical ill-treatment related to a pre-trial establishment (SIZO). The Commissioner also received documents from lawyers of persons remanded in custody which are indicative of inaction on the part of prosecutorial authorities in the face of clear allegations and other information concerning ill-treatment.¹⁰
47. The Commissioner has taken note of the work of Public Monitoring Committees in the Russian Federation. Currently a feasibility study is being undertaken by the Council of Europe with a view to preparing a full-scale cooperation project to support those committees and assist in the development of their capacity. As is the case with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), these bodies can also play a very useful preventive role. Moreover, as they are based in the Russian Federation, they have the advantage of being able to carry out visits to places of deprivation of liberty on a more regular basis. For the Public Monitoring Committees to discharge their functions in an effective manner, it is

⁹ This case has previously been raised by the rapporteur of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe (PACE), Dick Marty. According to reports quoted in the appendix to Mr Marty's Second information report (AS/Jur (2009)43), the vehicle that matched the description given by the brother of Idris Tsidzoev, who witnessed the abduction, was stopped by the police; a police officer from Malgobek carried out an identity check which had identified one of the persons in the vehicle as a senior officer from ORB-2, a site which has been the subject of several reports noting serious human rights violations (cf. for example the CPT's third public statement concerning the Chechen Republic (CPT/Inf (2007)17), made on 13 March 2007).

¹⁰ In one of the cases concerned, the lawyer was not allowed access to his client, who had allegedly been physically ill-treated. While there was acknowledgement that the fact that the lawyer was denied access to his client was unlawful, the replies of the competent authorities to the lawyer on the issue of ill-treatment merely stated that the physical force used against the client in the establishment concerned was in accordance with applicable regulations and that the matter warranted no further follow-up; there was no indication of an attempt to assess whether the force used was necessary or proportionate in the circumstances.

necessary to ensure that the competent authorities are duly providing them with the necessary facilities and access.¹¹

Conclusions and recommendations

48. The Commissioner is deeply concerned by the persistence of allegations and other information relating to abductions, disappearances and ill-treatment of persons deprived of their liberty in the North Caucasus. While the number of abductions and disappearances reported in Chechnya may have decreased in the more recent period as compared to 2009, the situation remains far from normal.
49. The Commissioner would like to underline once again that a person's disappearance is a grave human rights violation. Moreover, the deleterious effects of such a tragedy are far-reaching. Disappearances have a profound effect on the whole of society, starting from the individual's close family and friends, all of whom suffer from not knowing and from a sense that their plight is being ignored by the authorities. The lack of knowledge can cast those concerned in a state of perpetual distress, depriving them of the possibility to lead a normal life.¹² It is the Commissioner's deep belief that, however painful the truth about crimes which have occurred in the past – whether recent or not – may be, it is necessary to elucidate it with a view to promoting reconciliation and the durable establishment of the rule of law.
50. The Commissioner supports the proposal of the Presidential Council for Civil Society Institutions and Human Rights for creating an interdepartmental federal commission to determine the fate of persons who have gone missing during the entire period of counter-terrorism operations in the North Caucasus.
51. The Commissioner considers it crucial to ensure the systematic application in practice of rules against the wearing of masks or non-standard uniforms without badges, as well as against the use of unmarked vehicles, in the course of investigative activities. The practice of wearing masks should be only used in exceptional circumstances which are duly justified. The Commissioner would also like to reiterate his recommendation to the Russian authorities to sign and ratify the UN Convention against Enforced Disappearances, which entered into force at the end of 2010.¹³
52. One of the measures for preventing torture and ill-treatment of persons deprived of their liberty by a public authority is through regular visits by independent experts, such as delegations of the CPT. The reports of this body offer not only a reliable picture of the state of affairs in places which usually do not receive sufficient public scrutiny, but also provide useful guidance on the prevention of ill-treatment and safeguards for persons deprived of their liberty in the context of any policy discussions on such matters. As a matter of principle, the Commissioner urges the authorities of the Russian Federation to take the step of authorising the publication of all CPT reports and disseminate them widely among all stakeholders.
53. Finally, the Commissioner wishes to recall the principle that evidence obtained through ill-treatment or other unlawful means should be treated as inadmissible in criminal proceedings, which is reflected in the applicable laws of the Russian Federation.¹⁴

¹¹ The Commissioner received some complaints that members of the Public Monitoring Committee were not receiving proper access to places of deprivation of liberty in Ingushetia and/or had encountered delays and obstruction when attempting to fulfil their tasks.

¹² The European Court of Human Rights has frequently found violations of Article 3 of the European Convention on Human Rights in respect of families of "disappeared persons", due to the emotional distress and suffering they experience as a result of their relative's disappearance. Indeed, the Commissioner met mothers of disappeared persons who also had other sons who were imprisoned and who had allegedly been ill-treated severely after being deprived of their liberty; those women vividly expressed that the suffering they experienced in relation to the disappeared son(s) as being particularly difficult to bear.

¹³ International Convention for the Protection of All Persons from Enforced Disappearances, adopted by the UN General Assembly on 20 December 2006, in force since 23 December 2010.

¹⁴ Cf. for example Articles 7, 9 and 75 of the Code of Criminal Procedure of the Russian Federation.

III. Combating impunity

54. When referring to the human rights situation in the North Caucasus, both the current Commissioner and his predecessor have repeatedly raised the issue of the lack of effective investigations into human rights violations, including those where the involvement of law enforcement or security officials has been alleged. Reference has already been made to the considerable and still-growing body of judgments relating to Chechnya – and, more recently, Ingushetia - of the European Court of Human Rights, concerning unlawful killings, indiscriminate use of force, illegal detention, torture and ill-treatment attributable to members of the security forces, as well as in respect of the inadequacy of official investigations into those crimes. While many of those cases refer to events which occurred about a decade ago, the continuing stream of applications from the North Caucasus alleging violations of Article 2 and 3 of the European Convention on Human Rights as well as the persistence of information indicative of a failure to secure accountability for more recent violations of a comparable gravity is illustrative of a persistent pattern of impunity which needs to be examined and addressed carefully.
55. The Russian authorities have stated that they consider the enforcement of the judgments of the European Court concerning the Chechen cases to be a matter of priority. In this context, a variety of measures have been taken by the Russian authorities to enhance the capacity of the investigative authorities. The Federal Investigative Committee is now a fully separate structure, following a decree of the President of the Russian Federation promulgated on 27 September 2010. Further, investigative committees have been established at the level of the different federal subjects.
56. There has been extensive cooperation between the Investigative Committee and the Council of Europe, which has included bilateral consultations and other activities for investigators in light of the case law of the European Court of Human Rights. The programme of cooperation has also involved visits to other parts of Europe which have experienced conflict and terrorism in order to promote interaction and dialogue with the respective investigative structures¹⁵ and to share experiences and lessons learned.
57. The Commissioner has also been informed that the investigative structures had sought to improve their interaction with victims of crimes and their relatives, and a comprehensive programme on the organisation of work with victims was being pursued by the Investigative Committee of the Chechen Republic. Apparently, a system of regular meetings with victims has been established, where such persons are provided with information on the conduct of the investigation and are able to raise their own questions, concerns and/or proposals. In addition, the Head of the Investigative Committee of the republic had instructed that detailed reports on the investigation progress and results be provided to victims on a regular basis. Moreover, the Supreme Court of the Russian Federation had issued guidelines on the participation of victims in criminal proceedings. Obviously, these are necessary and welcome developments, which correspond to established standards on involvement of victims in investigations, e.g. those set out in the Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations.¹⁶
58. In their response to the Commissioner's previous report, the Russian authorities have indicated that, in the period from 2007 to 2009, 53 law enforcement officials of the Chechen Republic were brought to trial and convicted for offences related to their professional duties. During his visit, the Commissioner also received information from the authorities in Ingushetia about recent dismissals of law enforcement officials who had engaged in illegal activities, and the Ingush prosecutor indicated that in 2010 48 files had been sent to investigating committee and cases were opened against officers who had exceeded authority (no such case had been opened in 2011 as of 18 May). However, the precise nature of the offences of which the officials were culpable and the sanctions imposed was not specified as regards either of those republics.
59. In respect of the execution of the judgments of the European Court of Human Rights, the Parliamentary Assembly of the Council of Europe (PACE) welcomed the efforts by the Russian

¹⁵ Historical Crimes Commission of Northern Ireland.

¹⁶ The Guidelines were adopted by the Committee of Ministers of the Council of Europe on 30 March 2011.

authorities to promptly pay financial compensation to the victims and genuinely to actuate investigations where the Court had ascertained neglect. However, it found that appreciable results in the matter had yet to be observed and regretted that the special departments set up in the investigating committees had not yet solved the problems of collaboration and coordination between the various services. The PACE went on to note that “the climate of impunity illustrated by the Court’s judgments, and the passiveness of the authorities which is condemned therein, seriously undermine the population’s trust in the security forces and the state institutions generally, and thus feed the nefarious spiral of violence.”¹⁷ Moreover, in a decision of the Committee of Ministers of the Council of Europe taken on 8 June 2011, the Ministers’ Deputies expressed deep concern at the lack of any conclusive results in certain investigations which had been re-opened following judgments by the Court, in particular in those cases in which members of the security forces may have been involved.¹⁸

60. The Commissioner has noted that certain domestic non-governmental organisations have themselves been seeking to examine how abductions and disappearances of persons are currently being investigated. One such organisation is the “Committee Against Torture”, which is involved in human rights monitoring in the Chechen Republic (cf. also paragraph 72 below).¹⁹ According to their findings, various shortcomings in the investigations have come to light, and a main thread which has emerged repeatedly in the group’s findings is the “unsatisfactory work of internal affairs officials, who systematically do not fulfil requests by investigators, and the inability of the leadership of the investigative organs to rectify such a situation.”²⁰
61. The examples given by the “Committee Against Torture” of difficulties encountered during investigations have included the case of Zarema Gaysanova,²¹ a staff member of the Danish Refugee Council, who was abducted in Grozny on 31 October 2009. According to the group, a series of requests made by investigators to law enforcement (internal affairs) officials for undertaking various investigating acts were disregarded in that case. Moreover, repeated instructions by investigators for summoning witnesses from a particular law enforcement unit were reportedly ignored. When asked about this case by the Commissioner, the relevant investigating authorities indicated that the abduction occurred during the particularly difficult period in 2009, when law enforcement officials were themselves the frequent target of attacks. The authorities said that it had not actually been determined that Ms Gaysanova was in a site where an operation of the law enforcement bodies was being conducted, as previously reported by the victim’s mother. The circle of witnesses to be questioned was expanded, and even the Head of the Republic had been questioned. The investigation was still open and was being pursued by the Third Special Unit of the Investigative Committee of the Chechen Republic. However, the case had not been solved and Ms Gaysanova is still missing.²²
62. During an earlier meeting (December 2010) with the Head of the Investigative Committee of the Russian Federation, Alexander Bastrykin, the Commissioner had raised the case of a person who had been abducted at the end of December in 2009 and had allegedly been unlawfully detained for more than four months in the basement of an edifice located on the premises of a particular law enforcement body of the Chechen Republic. In the course of his detention, the person had allegedly been subjected to severe physical ill-treatment. The Commissioner welcomed the fact that the investigation had been assigned to a higher level, i.e. to the Chief Investigative Directorate of the North Caucasus Federal District. Despite this positive step, representatives of the victim have

¹⁷ Cf. Resolution 1738(2010), Legal remedies for human rights violations in the North Caucasus region, Parliamentary Assembly of the Council of Europe.

¹⁸ [https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM/Del/Dec\(2011\)1115&Language=lanEnglish&Ver=immediat&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM/Del/Dec(2011)1115&Language=lanEnglish&Ver=immediat&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)

¹⁹ The Parliamentary Assembly of the Council of Europe [awarded](#) its 2011 Human Rights to the NGO “Committee Against Torture” in recognition of the organisation’s key role in assisting victims of serious human rights abuses, and especially for its activities in the Chechen Republic.

²⁰ <http://www.memo.ru/2011/04/20/pc/okpp.html>

²¹ This case has also been raised by the rapporteur of the Committee on Legal Affairs and Human Rights of the PACE, Dick Marty.

²² In his letter to the Head of the NGO “Committee Against Torture”, the Deputy Prosecutor of the Chechen Republic expressed the view that the investigation into this case was ineffective; see also paragraph 63 and the next footnote.

indicated that the investigation continues to be fraught with difficulties, in particular as regards securing the cooperation with the investigation of the law enforcement body implicated in the case.

63. The Commissioner was made aware of certain documents which refer to various obstacles encountered by investigative and prosecutorial authorities when carrying out investigations into serious crimes implicating the involvement of law enforcement or security structures.²³ One of the difficulties highlighted in respect of investigations re-opened following judgments of the European Court of Human Rights was the question of access to archives of military units which were present in the Chechen Republic during previous counter-terrorism operations. In addition, reference was made to obstruction and delays on the part of law enforcement structures vis-à-vis investigators, which negatively affected current investigations into serious crimes. On their part, prosecutorial authorities have also noted serious shortcomings in certain investigations. The Commissioner discussed the issues raised in these documents with the investigative authorities, who downplayed the magnitude of the concerns expressed in those materials. Nevertheless, the Commissioner remains convinced that the materials are strongly indicative of a lack of cooperation between various agencies which invariably undermines the effectiveness of investigations and the pursuit of accountability.
64. The Commissioner also discussed with the various investigative and prosecutorial authorities the state of play as regards the investigations into other serious crimes, including those which he had raised previously, notably the murder of Natalia Estemirova in July 2009. He remains deeply concerned about the fact that the investigations into those recent cases have yet to yield any appreciable results.

Conclusions and recommendations

65. The persistent patterns of impunity for serious human rights violations are among the most intractable problems of the North Caucasus and remain a source of major concern to the Commissioner.
66. There have certainly been a number of positive steps, such as the establishment of the Investigating Committee structures, the increased support to victim participation in criminal proceedings, and the promulgation of various directives such as the Guidelines of the Supreme Court on victim participation and the instructions of the Prosecutor General and the Investigative Committee regarding the conduct of investigations. Despite these measures of a systemic, legislative and regulatory nature, the information gathered during the visit has led the Commissioner to conclude that the situation in practice remains essentially unchanged since his previous visit in September 2009.
67. The Commissioner formed the impression that the Investigating Committee structures at different levels (republic or federal subject, district, and federal) have the requisite professional capacity for investigating complex criminal cases. However, as representatives of the Investigative Committee have acknowledged themselves, there are many instances of investigations continuing virtually indefinitely without producing results. Moreover, in cases where officials belonging to law enforcement agencies or other security structures are themselves implicated in crimes, the Commissioner has serious doubts about the extent to which the necessary cooperation with the investigative authorities can be secured in practice from those bodies.
68. The Commissioner finds it necessary to reiterate the basic principles for effective investigations into possible violations by State actors of the right to life (Article 2 of the European Convention on Human Rights) and the prohibition against torture and ill-treatment (Article 3 of the Convention),

²³ Cf. for example the article by the Deputy Head of the Investigative Directorate of the Chechen Republic published in the August 2010 issue of the Journal of the Investigative Committee, the letter dated 17 August 2010 of the Head of the Investigative Directorate of the Chechen Republic to the Minister of Internal Affairs of the Chechen Republic, as well as the letter dated 11 March 2011 of the Deputy Prosecutor of the Chechen Republic to the Chairman of the non-governmental organisation "Committee Against Torture".

having regard to inter alia to the case law of the European Court of Human Rights.²⁴ One of the most important of these elements is independence; it is a very basic principle that officials involved in the operational conduct of an investigation should be independent from those who may be implicated. Investigations must be thorough and be capable of leading to a determination whether force or other methods used were or were not justified under the circumstances. All reasonable steps must be taken to secure evidence concerning the incidents in question, including identifying and interviewing the alleged suspects, eyewitnesses, and victims (in cases of possible Article 3 violations), seizing instruments or weapons which may have been used in perpetrating the violation, and gathering forensic evidence, including through medical expertise and autopsy where applicable. The investigation must be comprehensive and seek to shed light on all significant events and circumstances indicative of a violation. The investigation must also be conducted in a prompt and reasonably expeditious manner, without unjustifiable delays. In addition, there should be sufficient public scrutiny of the investigation, and in all cases, the victim or the victim's survivor(s) must be involved in the procedure to the extent necessary to safeguard their interest.

69. Ensuring that the competent authorities at all levels have a thorough understanding of these principles and their application in practice is a necessary – though not sufficient – condition for guaranteeing the effectiveness of investigations into possible serious violations by State actors. In the Commissioner's experience, a key ingredient for ensuring accountability is that the requisite will exists for doing so. Based on all the information at his disposal, including his visits to the North Caucasus and his extensive discussions with the authorities and with civil society, the Commissioner considers the absence of requisite determination to be one of the main obstacles to pursuing accountability in cases where the responsibility of public officials is implicated. This makes it even more important for the Russian leadership to deliver the unequivocal message that impunity will no longer be tolerated.
70. Not only should the investigating, prosecutorial and judicial authorities be sensitised to the important obligations which are incumbent upon them, but they should also be motivated to fulfil those obligations in a conscientious and impartial manner. Obviously, this presupposes that investigating authorities are placed in a position – and have the means and the authority - to secure the full cooperation of the law enforcement and security structures whose members may be implicated in the offences concerned. In addition, if it is proven that a violation of the right to life or the prohibition against torture has occurred, an appropriate criminal penalty must be imposed on those responsible; to fail to do so can only contribute to a climate of impunity.
71. The Commissioner would also like to express his support for the recommendation made by the Presidential Council for Civil Society Institutions and Human Rights, i.e. to create investigative groups which directly report to the federal authorities in order to more effectively investigate crimes which have had a particularly wide resonance - e.g. where public figures, civil activists, journalists and lawyers have been targeted - and to establish the identity of those who ordered such offences as well as those who actually perpetrated them.

²⁴ See also the Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations.

IV. Situation of human rights defenders

72. The abduction and murder in July 2009 of Natalia Estemirova, the leading member of the NGO Memorial in the Chechen Republic, followed by the murders and disappearances of members of other human rights or charitable organisations in 2009, had a chilling effect on the activities of the human rights organisations throughout the North Caucasus. In the aftermath of this murder and threats against other staff members, Memorial had to suspend for six months its activities in Chechnya and resumed them only in late 2009. Under the leadership of the NGO "Committee Against Torture", several leading Russian human rights NGOs signed a memorandum establishing joint mobile groups to work in Chechnya on a rotational basis. The groups have been undertaking independent investigations into human rights violations in the Chechen Republic and providing legal aid to victims (cf. also paragraphs 60 and 61 above).
73. The overall environment in which human rights activists operate in the North Caucasus had not changed significantly since the Commissioner's previous visit in 2009. Those working in the region continue to face intimidation and pressure, and some of them have plausible reasons to believe that their life might be at risk if they continue with their activities in certain areas.
74. In his discussions with the authorities in the North Caucasus, the Commissioner has consistently stressed the importance of creating a safe and favourable environment for the activities of the human rights defenders and for ensuring their protection. He was therefore dismayed to note that negative statements with regard to the work of human rights NGOs had apparently continued on the part of certain officials.²⁵ In this context, the Commissioner wishes to underline that perpetuating notions that human rights organisations are "enemies of the State" is unacceptable; not only does this foster negative stereotypes and prejudices towards human rights defenders in general, but can also lead to concrete difficulties and obstacles for the effective conduct of human rights work.
75. The Commissioner received reports that in some cases attacks on human rights defenders were not being properly investigated. Moreover, activists themselves have been the subject of accusations of either supporting extremist groups or being involved in a defamation campaign against the authorities.²⁶ In his discussions with the relevant interlocutors, the Commissioner reiterated once again that any attacks and threats against human rights defenders should be immediately and unequivocally condemned and that it was the responsibility of the relevant authorities to ensure effective and thorough investigations into such cases, making sure that all those responsible are brought to justice.
76. During the Commissioner's visit to the North Caucasus Federal District, certain officials expressed scepticism related to the motives and effectiveness of the work of non-governmental organisations working in the region. In particular, they referred to some actual or perceived inaccuracies in their reporting about the situation on the ground and suggested that this might be an indication that they were not acting in good faith. On his part, the Commissioner has found that most non-governmental human rights groups are in fact providing reliable information on various issues, despite limited resources and many other obstacles encountered by these organisations in their work, including limitations on access to information.
77. At the same time the Commissioner observed that the local authorities acknowledge, although to varying degrees, the positive role played by the NGOs and their worthy contribution to promoting peace and reconciliation in the region. This was in particular notable in relation to the efforts aimed at ensuring the integration of former combatants and those wishing to abandon the ranks of the armed insurgents, as well as providing support to their families and engaging young people into various social and educational activities, thus preventing them from becoming an easy target for recruiters.

²⁵ See, for example, the "Grozny" television channel interview of 3 July 2010 with the President of the Chechen Republic, Ramzan Kadyrov.

²⁶ For example, two cases (one civil and one criminal) had been initiated against Oleg Orlov, chairman of the NGO Memorial, by the Head of the Chechen Republic in relation to statements made by the former concerning the murder of Natalia Estemirova. Mr Orlov was acquitted of the criminal slander charges on 14 June 2011.

78. The Commissioner has previously recommended the institution of a regular dialogue between the authorities and human rights NGOs. A meaningful and constructive dialogue with all civil society organisations - irrespective of the assessments expressed by the latter as regards actions taken or policies pursued by the authorities – is an important means of defusing tensions in the North Caucasus region. A similar approach was supported by President Medvedev during a meeting with civil society organisations working in the North Caucasus which took place on 19 May 2010, where the President urged local authorities to co-operate with civil society organisations.²⁷
79. In addition to human rights organisations, the Commissioner had in-depth discussions with the regional ombudspersons who provided him with their insights into the very challenging and complex environment in which they have to operate. The Commissioner observed that the effectiveness of such institutions in the region is in many respects linked to the degree of independence they are able to enjoy and to the attitude of the local authorities to the institution of ombudsperson as such. The Commissioner took this opportunity to encourage the regional ombudspersons to play a more active role in promoting awareness of and respect for human rights standards in the respective geographical areas under their responsibility. The Commissioner also noted the important role played by the specialised institutions of children's ombudspersons in the region.

Conclusions and recommendations

80. Human rights activists continue to face serious obstacles in their work and can be exposed to significant risks. In settings which present considerable challenges to the protection of human rights, it is all the more important to ensure that those persons and organisations which engage in human rights monitoring activities are able to go about their work freely and without undue impediments. Any attacks against such persons must be investigated effectively with a view to ensuring the criminal accountability and punishment of the perpetrators. Instances of intimidation, harassment, or threats against human rights activists should also be condemned unequivocally.
81. Whereas at times the Commissioner encountered scepticism on the part of certain officials about the motives and the effectiveness of non-governmental organisations, there also appeared to be a degree of acknowledgment of the valuable contribution that the engagement of various civil society organisations could bring to the reconciliation process in the North Caucasus. For his part, the Commissioner would like to pay tribute to human rights organisations for their continued commitment to fulfilling their mission in the region, despite the challenges and risks involved.
82. The Commissioner would like to emphasise the principle that when individuals – together with others or alone – speak out for human rights or work for them with other means, they should be free to do so without being subjected to pressure. He therefore wishes to reiterate his previous recommendation about the need to promote safe and favourable conditions for the work of human rights NGOs and to provide them with protection, in line with international standards. A regular and open dialogue between the authorities and various civil society organisations, including human rights NGOs, is of crucial importance for averting and minimising harm in times of crisis as well as promoting peace and reconciliation in the region.

²⁷ <http://www.kremlin.ru/transcripts/7792>

83. Finally, the Commissioner wishes to stress that he will continue to follow closely the situation in the Russian Federation in general and the North Caucasus Federal District in particular, and give his support, in accordance with his mandate as an independent and impartial institution of the Council of Europe, in order to promote the effective implementation of the Council of Europe standards related to human rights protection. The Commissioner stands ready to continue his constructive dialogue with the Russian authorities to assist them in their efforts to further improve the situation in light of the recommendations made in the present report.