



Russian Federation

Briefing to the Human Rights Committee on follow-up to the concluding observations on Russia's sixth periodic report under the International Covenant for Civil and Political Rights (ICCPR)

February 2011

INTRODUCTION

This briefing is submitted by Amnesty International in the context of the Human Rights Committee's procedure for follow-up to concluding observations in relation to the Russian Federation.¹ At its Ninety-seventh session from 12-30 October 2009, the Human Rights Committee invited the Russian Federation to provide within one year information on implementation of the recommendations contained in paragraphs 13, 14, 16 and 17 of its concluding observations on Russia's sixth periodic report under the International Covenant on Civil and Political Rights (ICCPR). On 22 October 2010 the Russian Federation submitted its reply to the Committee. In its reply, the Russian Federation has addressed recommendations contained in paragraphs 14, 16 and 17 only.²

Amnesty International's research shows clearly that the Russian authorities continue to fail to fulfil fully their obligations under the ICCPR, and in particular to demonstrate substantive progress with regard to a number of key issues identified by the Committee in its concluding remarks.

¹ For Amnesty International's Briefing to the Human Rights Committee of October 2009 (AI Index: EUR 46/025/2009), submitted in advance of the Committee's review of Russia's 6th periodic report under the ICCPR, see <http://www.amnesty.org/en/library/info/EUR46/025/2009/en>.

² See *Information received from the Russian Federation on the implementation of the concluding observations of the Human Rights Committee*, CCPR/C/RUS/CO/6/Add.2, 8 November 2010, <http://www2.ohchr.org/english/bodies/hrc/docs/followup/CCPR-C-RUS-CO-6-Add2.doc>; and *Concluding observations of the Human Rights Committee – RUSSIAN FEDERATION*, CCPR/C/RUS/CO/6, 24 November 2009, <http://www2.ohchr.org/english/bodies/hrc/docs/co/CCPR.C.RUS.CO.6.pdf>.

INDISCRIMINATE ATTACKS / KILLINGS OF CIVILIANS DURING THE GEORGIA-RUSSIA CONFLICT (ARTICLE 6 AND 7)

Paragraph 13

Notwithstanding the position of the State party that no crimes were committed by the Russian military forces or other military groups against the civilian population on the territory of South Ossetia (para. 264, CCPR/C/RUS/Q/6/Add.1), and that the State party does not take responsibility for possible crimes by armed groups (para. 266, Ibid.), the Committee remains concerned about the allegations of large-scale, indiscriminate abuses and killings of civilians in South Ossetia during the military operations by Russian forces in August 2008. The Committee recalls that the territory of South Ossetia was under the de facto control of an organised military operation of the State party, which therefore bears responsibility for the actions of such armed groups. The Committee notes with concern that, to date, the Russian authorities have not carried out any independent and exhaustive appraisal of serious violations of human rights by members of Russian forces and armed groups in South Ossetia and that the victims have received no reparations. (arts. 6, 7, 9, 13 and 14)

In its Briefing to the Human Rights Committee submitted in October 2009 and other publications, Amnesty International documented indiscriminate attacks and unlawful killings of civilians by all sides during the Georgia-Russia conflict in South Ossetia in August 2008.³ Violations of international human rights and humanitarian law committed by Russian forces included in particular the bombing and indiscriminate killing of civilians in Gori, Georgia, and the surrounding region, as well as other incidents of bombing and shelling of villages and residential areas in towns, reports of some civilians being bombed while fleeing, and the use of cluster bombs on and near inhabited areas by both Russia and Georgia.

To date, no one has been brought to justice either by the Russian – or Georgian – authorities in relation to serious violations of international or national law committed during the conflict and its immediate aftermath. There can be no true reconciliation without truth and accountability.

ENFORCED DISAPPEARANCES, ARBITRARY DETENTION AND KILLINGS IN THE NORTH CAUCASUS (ARTICLES 6, 7 AND 9)

Paragraph 14

The Committee is concerned about ongoing reports of torture and ill-treatment, enforced disappearance, arbitrary arrest, extrajudicial killing and secret detention in Chechnya and other parts of the North Caucasus committed by military, security services and other state agents, and that the authors of such violations appear to enjoy widespread impunity due to a systematic lack of effective investigation and prosecution. The Committee is particularly concerned that the number of disappearances and abduction cases in Chechnya has increased in the period 2008-2009, and about allegations of mass graves in Chechnya. While noting the establishment of a special unit aimed at ensuring implementation of the judgments of the European Court of Human Rights and payments of compensation to victims, the Committee regrets that the State party has yet to bring to justice the perpetrators of the human rights violations in the cases concerned, even though the identity of these individuals is often known. The Committee also notes with concern the reports of collective punishment for relatives of terrorist suspects, such as the burning of family homes, and harassment, threats and reprisals against judges and victims and their families and regrets the failure on the part of the State party to provide effective protection to persons concerned. (arts. 6, 7, 9 and 10)

³ AI Index: EUR 46/025/2009, <http://www.amnesty.org/en/library/info/EUR46/025/2009/en>. For more details, see report *Georgia/Russia: Civilians in the line of fire. The Georgia – Russia conflict*, AI Index: EUR 04/005/2008, 18 November 2008, and *Civilians in the aftermath of war – The Georgia – Russia conflict one year on*, AI Index: EUR 04/001/2009, 7 August 2009, www.amnesty.org/en/library/info/EUR04/001/2009/en.

Amnesty International continues to receive numerous reports from Chechnya and other republics in the North Caucasus indicating an ongoing human rights crisis in the region. These relate to serious human rights violations by members of law enforcement agencies, including torture and ill-treatment, enforced disappearance, arbitrary arrest, extrajudicial killings and secret detention. Such violations take place in a climate of near total impunity for members of law enforcement agencies – police, security services and the military – as violations, past and present, are not being effectively investigated and their perpetrators are not brought to justice.

The information submitted by the Russian Federation refers to a number of criminal cases opened, and criminal investigations conducted, in 2009 and in previous years, for crimes allegedly committed by the military (*voennosluzhaschie*) only but not members of police, security services and other state agent (paragraphs 1 and 4; reference to disappearances in paragraph 2).

Amnesty International and other human rights NGOs have repeatedly highlighted that in Chechnya and other republics in the North Caucasus the above-mentioned human rights violations, including disappearances in particular, are often committed by people whose identity or affiliation with the military or other law enforcement agencies cannot be established by victims or witnesses. Reports of such violations frequently describe their perpetrators as armed people in camouflage uniform and sometimes wearing balaclavas but with no insignia, often arriving in armoured or other vehicles typically used by members of law enforcement agencies, with their movement apparently unobstructed by security checkpoints placed at numerous key routes throughout the region.

Amnesty International and other human rights NGOs reported cases of enforced disappearance by members of law enforcement agencies in 2009 and brought these to the attention of the Russian authorities. The organizations have also raised concern about the lack of effective and impartial investigations into such cases. Thus, on 31 October Zarema Gaisanova, a 39-year-old Chechen woman working for the Danish Refugee Council, was taken from her home by unidentified law enforcement officers in the Chechen capital, Grozny, at the time when a “special operation” was being carried out in the neighbourhood.⁴ This case is mentioned in the information provided by the Russian Federation in reply to the Committee's concluding observations (paragraph 15(f)) suggesting that the relevant investigation is ongoing. However, over a year later, the investigation has failed to establish Zarema Gaisanova's whereabouts or the identity of her abductors. At the same time, an overt lack of effectiveness of this investigation has been compellingly documented by members of the non-governmental Joint Mobile Group (*Svodnaia mobilnaia gruppy*) created to monitor investigation of human rights violations in Chechnya.⁵ The Human Rights Centre “Memorial” has indicated that the investigation of Zarema Gaisanova's disappearance was being “sabotaged” and certain relevant documents falsified by the authorities.⁶

Amnesty International also continues to receive recurring reports that victims of human rights violations committed by members of law enforcement agencies in the North Caucasus who seek justice have been subjected to harassment and pressure by members of law enforcement agencies.

⁴ For some further information see document EUR 46/026/2009 “Woman Abducted In Chechnya”, 17 November 2009, <http://www.amnesty.org/en/library/info/EUR46/026/2009/en>.

⁵ This case has been highlighted in a report of the Rapporteur to the Parliamentary Assembly of the Council of Europe, Dick Marty, “Legal remedies for human rights violations in the North-Caucasus Region” published in May 2010, with ineffective investigation and the work on the Joint Mobile Group detailed in Appendix II to the report, http://www.assembly.coe.int/CommitteeDocs/2010/20100531_caucasus_E.pdf.

⁶ “«Мемориал» получил доступ к материалам дела о похищении Заремы Гайсановой: саботаж и фальсификация очевидны” (“Memorial” has Gained Access to the Materials of Zarema Gaisanova's Disappearance Case: Sabotage and falsification are Manifest), 16 April 2010, <http://www.memo.ru/2010/04/16/1604101.htm>.

Thus, Islam Umarpashaev, aged 24, was detained without any explanations on 11 December 2009 at his home in Grozny, Chechnya, by armed unidentified law enforcement officials who showed no identification and wore no insignia. His family filed a complaint with the local prosecutor's office regarding his enforced disappearance. However, the investigation failed to respond promptly and take practical steps to establish his whereabouts and the identity of his captors, and in February 2010 the family made an application to the European Court of Human Rights (ECtHR). Islam Umarpashev was finally released on 2 April 2010, but the authorities never acknowledged of his arrest.

According to Islam Umarpashaev, he had been held captive in the basement of a building belonging to the Special Police Force (OMON) of the Chechen Ministry of Interior, and repeatedly beaten. Islam Umarpashaev has also alleged that he was subjected to pressure by members of the police to falsely testify about the human rights violations he had been subjected to. Just before his release, his captors told him he had to testify to having been on vacation in the neighbouring republic of Dagestan during the period of his unlawful detention, and told his family had to withdraw their application from the ECtHR. Following his release, Islam Umarpashev left Chechnya fearing for his safety, and went to another part of the Russian Federation, although he has been coming to Chechnya regularly on short visits to give testimony to the investigation when summoned. On 30 July, he was granted witness protection, under which he is accompanied by an armed police officer during the course of investigative activities in Chechnya which require his presence, but not at any other time. In the meantime, his family members have reportedly been subjected to pressure. Thus, shortly after Islam Umarpashaev left Chechnya in April 2010, his father and brother were reportedly detained for several hours and told they would only be released if Islam Umarpashev returned to Grozny. A member of the Committee against Torture, a human rights organization in Nizhnii Novgorod which is supporting the family's case at the European Court of Human Rights, has also received threats from unknown persons over the phone in connection with this case.⁷

The year 2009 which the Russian Federation's reply to the Committee's concluding observations has largely focused on, was marked by the abduction and murder of a prominent human rights defender in Chechnya, Natalia Estemirova. Her murder sent a devastating message to civil society and directly disrupted her colleagues' work in Chechnya, including their monitoring and reporting of human rights violations by members of law enforcement agencies. It resulted in a temporary closure of the office of the Human Rights Centre "Memorial" in Grozny. Consequently, human rights violations in Chechnya for this and subsequent years have been less well documented and are likely to have been under-reported compared to the previous years.

The issue of enforced disappearances, amongst other violations, in the North Caucasus has been exposed by the European Court of Human Rights (ECtHR). The Court has taken decisions on no less than 123 cases of enforced disappearances in the Russian Federation to date, a majority of them in Chechnya, including 28 such cases in 2010. Thus, in a recent ECtHR decision on this matter, in the case *Malika Dzhamayeva and Others v. Russia* (application no 26980/06), the judges held, unanimously, that there had been violations of Article 2 (right to life and lack of effective investigation into disappearance), Article 3 (prohibition of inhuman or degrading treatment or punishment), Article 5 (right to liberty and security), and Article 13 (right to an effective remedy) of the European Convention on Human Rights and Fundamental Freedoms. The case concerned the applicants' allegation that Khamid Mukayev was abducted and killed by Russian servicemen during an unacknowledged security operation in Katyr-Yurt (the Chechen Republic) in September 2004.

⁷ See *Russian Federation: Further information: Chechen torture victim facing new threats*, EUR 46/006/2011, 18 February, 2011, <http://www.amnesty.org/en/library/info/EUR46/006/2011/en>.

ATTACKS, INCLUDING KILLINGS OF HUMAN RIGHTS DEFENDERS, LAWYERS AND JOURNALISTS

Paragraph 16

The Committee expresses its concern at the alarming incidence of threats, violent assaults and murders of journalists and human rights defenders in the State party, which has created a climate of fear and a chilling effect on the media, including for those working in the North Caucasus, and regrets the lack of effective measures taken by the State party to protect the right to life and security of these persons. (arts. 6, 7, and 19)

The Russian authorities continue to fail to respect and protect the right to life and the right to freedom of expression for human rights defenders, journalists, lawyers and civil society activists. Not one of the killings of well-known human rights activists, journalists and civil society activists in 2009 – Stanislav Markelov, Anastasia Baburova, Natalia Estemirova, Maksharip Aushev, Zarema Sadulava and Alik Dzhabrailov – has since been brought to a conclusive end and resulted in conviction of the relevant perpetrators. Human rights defenders and civil society activists across Russia are frequently subjected to intimidation, administrative harassment and physical attacks. There have been a number of instances when officials or pro-government groups have sought to discredit human rights defenders and undermine their credibility with the public.

In its Briefing to the Human Rights Committee submitted in October 2009,⁸ Amnesty International specifically raised the case of Natalia Estemirova to highlight the dangers faced by those who speak out against human rights violations in the Russian Federation today, especially in the North Caucasus. Natalia Estemirova paid the ultimate price in connection with her professional activities as a human rights defender.

The official investigation into her abduction and murder on 15 July 2009 has linked this crime to activities of armed group members, as indicated in the information provided by the Russian Federation in reply to the Committee's concluding observations (paragraph 15(g)). Those who have worked closely with Natalia Estemirova and were aware of numerous threats she had received from Chechen officials in connection with her human rights work, hold that the investigation into her killing appears to have been conducted selectively, and that it discarded early on possible leads that Chechen law enforcement officials might have been involved, particularly those suspected of an extrajudicial execution in Ahkinchu-Borzoï which Natalia Estemirova had been investigating shortly before her murder.

In reaction to the news of Natalia Estemirova's killing, her colleague from Memorial Oleg Orlov stated that the Chechen President Ramzan Kadyrov, one of those who had reportedly issued direct threats to her, was politically responsible for her death. Oleg Orlov has since been found guilty of defamation in a civil case and charged with slander in a related criminal case, now facing up to three years' imprisonment if found guilty. Amnesty International has called for the case to be dropped.

Another case illustrating harassment and pressure faced by human rights defenders is the case of Aleksei Sokolov,⁹ who is known for his work exposing torture and ill-treatment in Russian penitentiary institutions. Aleksei Sokolov was found guilty of theft and robbery and sentenced to five (later reduced to three) years'

⁸ AI Index: EUR 46/025/2009, <http://www.amnesty.org/en/library/info/EUR46/025/2009/en>.

⁹ Russian human rights defender jailed for five years, 13 May 2010, <http://www.amnesty.org/en/news-and-updates/russian-human-rights-defender-jailed-five-years-2010-05-14>.

imprisonment. During the court hearings, numerous violations and irregularities were reported. The conviction is based solely on testimonies of prison inmates, some of whom had earlier alleged that they were subjected to pressure to implicate Aleksei Sokolov in crimes. He was transferred 2,000 kilometres away from Yekaterinburg to a penal colony in Krasnoyarsk Region. En route from Yekaterinburg, between 27 August and 5 September, he was held at the FGU IZ-54/1 remand centre in Novosibirsk where he was beaten by prison guards and placed in solitary confinement for five days.