



Submissions to the United Nations Human Rights Committee to inform its adoption of concluding observations for the eight periodic review of the Russian Federation

31 January 2022

Introduction

1. These submissions are communicated by the European Human Rights Advocacy Centre ['EHRAC']¹ to the United Nations Human Rights Committee ['the Committee'] to inform its adoption of concluding observations for the eighth periodic review of the Russian Federation ['the State party'] pursuant to the International Covenant on Civil and Political Rights ['CCPR']. They are set out in three parts.

Part I addresses the State Party's failure to make any progress in effectively investigating enforced disappearances and extrajudicial killings perpetrated between 1999 – 2006 by Russian security forces within the North Caucasus Region; outlines the treatment of these cases by the Council of Europe; and urges the Committee to follow the lead of the Council of Europe mechanisms by focusing its recommendations on humanitarian resolution of the disappearances aimed at determining the fate of the disappeared victims and returning their remains to their loved ones;²

¹ EHRAC was set up in 2003 by a team of human rights lawyers and experts with experience of taking cases to the European Court of Human Rights. Working in support of civil society organisations, we bring strategic cases of human rights violations before international fora, raise awareness of violations and means of redress for victims, and build the capacity of individuals and organisations through mentoring, training and advocacy. EHRAC along with our partner Human Rights Centre Memorial, has represented relatives in 75 cases before the ECtHR involving hundreds of disappeared victims. EHRAC has also acted for the applicants in *Estemirova v Russia* and *Ecodefence and others v Russia*.

² UN Human Rights Committee, List of Issues in relation to the eighth periodic report of the Russian Federation, CCPR/C/RUS/Q/8, 14 August 2020, para 3.

Part II addresses the State party's failure to make any progress in effectively investigating the murder of human rights defender Natalia Estemirova and provides the Committee with an update on the European Court of Human Rights' recent judgment relating to Natalia Estemirova's murder and the State's failure to investigate;³ and,

Part III addresses the use of Federal Law No. 121-FZ on Non-Commercial Organizations, ['Foreign Agents Law'] and Federal Law No. 129-FZ on Amendments of Some Legislative Acts of the Russian Federation, ['Undesirable Foreign and International Organisations Law'] as a means of administrative harassment against human rights organizations, in particular, the recent liquidation of Human Rights Centre Memorial ['HRC Memorial'] and International Memorial.⁴

2. EHRAC respectfully urges the Committee to include the following recommendations in its concluding observations to the Russian Federation's eighth periodic review under the CCPR:
 - a. Seek international assistance in setting the terms of consultation for a framework of humanitarian resolution of the disappearances perpetrated in the North Caucasus between 1999 – 2006;⁵
 - b. Cooperate with the UN WGEID by issuing an invitation for a country visit in order to consider any assistance which could be offered in addressing these issues by way of conclusions and recommendations at the conclusion of the visit;
 - c. Provide detailed information on the progress in investigating Ms. Estemirova's abduction and subsequent murder including the state of the investigation as of the date of the concluding observations, any and all steps taken since the Committee's most recent review and the steps taken to determine whether there was any state involvement in Ms. Estemirova's abduction and murder;
 - d. Adopt a specific legal framework, of a comprehensive public policy and a national action plan aimed at protecting human rights defenders at risk and at promoting an enabling environment for their work. Create a fully-functional rapid response mechanism or a protection programme for human rights defenders. Develop an awareness-raising policy promoting and facilitating the work of human rights defenders; and,

³ UN Human Rights Committee, List of Issues in relation to the eighth periodic report of the Russian Federation, CCPR/C/RUS/Q/8, 14 August 2020, para 3.

⁴ UN Human Rights Committee, List of Issues in relation to the eighth periodic report of the Russian Federation, CCPR/C/RUS/Q/8, 14 August 2020, para 20.

⁵ Assistance should be sought from a reputable international body with a mandate to search for persons missing as a result of armed conflict or human rights violations, particularly, the International Committee of the Red Cross given their expertise and experience.

- e. Urgently void the liquidation orders against International Memorial and HRC Memorial.

Part I: Enforced Disappearances perpetrated by the State party in the North Caucasus region between 1999 - 2006

Litigation before the European Court of Human Rights (2000 – 2021)

3. Enforced disappearances were a hallmark of the human rights violations perpetrated by Russian forces between 1999 – 2006 in the Chechen Republic (and broader North Caucasus region) and continue to be practised to this day. Estimates indicate that somewhere between 5,000 – 7,700 people were disappeared by the Russian Federation in the region between 1999 and 2006.⁶
4. The ECtHR has to date passed down judgment in relation to approximately 650 individuals whom it has found to have been forcibly disappeared in the Region mostly during the seven year period – known as the *Khashiyev* and *Akayeva* group of cases [*‘the Khashiyev group’*].⁷
5. The ECtHR has held that by virtue of these enforced disappearances, the Russian Federation committed violations of the right to life, prohibition of torture, the right to liberty and security and the right to an effective remedy as enshrined in Articles 2, 3, 5 and 13 of the European Convention on Human Rights [*‘the ECHR’*].⁸
6. The ECtHR has repeatedly concluded that the Russian Federation has failed to undertake even the most basic of investigative steps⁹ in the vast majority of disappearances including: the opening of investigations, the questioning of obvious

⁶ Council of Europe Committee of Ministers, Decision on the H46-21 *Khashiyev and Akayeva group v. Russian Federation* (Application No. 57942/00), (Adopted by the Committee of Ministers on 16 September 2021 at the 1411th meeting of the Ministers’ Deputies).

⁷ Department for the Execution of Judgments of the Council of Europe, “Khashiyev and Akayeva Group v. Russian Federation (No. 57942/00): The list of missing persons Overview of individual measures” H/Exec(2021)15 (1 August 2021) available at: [http://hudoc.exec.coe.int/eng?i=HEXEC\(2021\)15-RUS-GROUP-KHASHIYEV-AKAYEVA-ENG](http://hudoc.exec.coe.int/eng?i=HEXEC(2021)15-RUS-GROUP-KHASHIYEV-AKAYEVA-ENG) [accessed on: 30 September 2021]. As of August 2021, there were 301 unresolved judgments forming part of the *Khashiyev* Group under supervision by the Committee of Ministers of the Council of Europe. The final judgment rendered in this repetitive group of cases was *Tsuroyev and others v Russia*, No. 8372/07, judgments of 8 June 2021.

⁸ Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5.

⁹ See *inter alia* *Aslakhanova v Russia*, Application No. 2944/06, judgment of 18 December 2012; *Khatsiyeva and others v Russia*, Application No. 5198/02, judgment of 7 July 2008; see also *Murdalovy v Russia*, No. 51933/08, judgment of 31 July 2020 [The Court has already found that a criminal investigation does not constitute an effective remedy in respect of disappearances occurring in Chechnya between 1999 and 2006 in particular, and that such a situation constitutes a systemic problem under the Convention (see paragraph 51 above). In the case at hand, as in many similar cases reviewed by the Court, the investigation has been pending for many years without bringing about any significant developments as to the identities of the perpetrators or the fate of Mr Murdalov. While the obligation to investigate effectively is one of means and not of results, the Court notes that the criminal proceedings have been plagued by a combination of defects similar to those enumerated in the *Aslakhanova and Others* judgment (cited above, para 123-25). The investigation was suspended on several occasions; those suspensions were followed by periods of inactivity, which further diminished the prospects of solving the crime (see paragraphs 20 and 23 above).]; The Court has in a number of recent judgments noted similarities in investigative failures akin to those identified in *Alsakhanova v Russia*, see e.g. also *Murdalovy v Russia*, No. 51933/08, judgment of 31 July 2020; see also *Timerbulatova and others v Russia*, No. 44116/10, judgment of 21 January 2020.

witnesses and suspects,¹⁰ the sharing of information with investigators by security forces, the conducting of autopsies or forensic medical tests, and even the establishment of necessary facilities for investigation within the Region – such as a laboratory within the Chechen Republic that is capable of identifying human remains.¹¹ Instead, the investigations have been riddled with perpetual delays and recurrent suspensions, as well as ill-treatment of family members including repeated failures to provide families with access to case files.¹²

7. Despite the obligation on the Russian Federation to uncover the fate of the disappeared in each and every one of these cases, there is no tangible evidence that, in the close to two decades that have elapsed since the ECtHR's first case of enforced disappearances from the region, the Russian Federation has taken any meaningful steps to remedy the ongoing violations perpetrated against the disappeared persons and their families.

The judgment in *Aslakhanova and others v Russia: systemic investigative failures and the need for the creation of a search body* (2012)

8. The nature of the ongoing violations and failure to investigate have been found to be so systemic that, in 2012, in the landmark case of *Aslakhanova and others v Russia*, the ECtHR departed from its well-established practice by providing detailed guidance to the Russian Federation on the general and individual measures it had to take to address the investigative failures in the region.¹³
9. *Aslakhanova* concerned the disappearance of eight men in the Grozny District, Chechen Republic between March 2002 and July 2004. Noting the close to 120 judgments it had adopted and the additional 100 cases that remained to be heard by the Court raising similar and often inter-connected violations, it found that the situation of the case before it had to be “characterised as resulting from systemic problems at the national level, for which there is no effective domestic remedy”.¹⁴ It also found that the systemic nature of the violations require “prompt

¹⁰ *Aziyevy v Russia* Application No. 77626/01, judgment of 20 March 2008; See also *Baysayeva v Russia* Application No.74237/01 judgment of 5 April 2007 [Lack of questioning of key suspects even extends to instances where the authorities were in possession of video footage showing the individuals responsible for the disappeared person's arrest yet failed to question them].

¹¹ Committee on Legal Affairs and Human Rights, *Human rights in the North Caucasus: what follow-up to Resolution 1738 (2010)?*, 21 January 2013, Reference 14083, para 61: [“according to information received in November 2014 and confirmed in January 2016, no laboratory in the Chechen Republic is capable of identifying bodies that are decomposed.”].

¹² *Aslakhanova v Russia*, Application No. 2944/06 and others, judgment of 18 December 2012; see also *Timbulatova and others v Russia*, No. 44116/10, judgment of 21 January 2020 among others.

¹³ *Aslakhanova and others v Russia*, Application No. 2944/06, judgment of 18 December 2012 para 221; The ECtHR's findings in *Aslakhanova* have been re-affirmed in numerous recent judgments see e.g. *Murdalovy v Russia*, No. 51933/08, judgment of 31 July 2020 para 54 [The Court has already found that a criminal investigation does not constitute an effective remedy in respect of disappearances occurring in Chechnya between 1999 and 2006 in particular, and that such a situation constitutes a systemic problem under the Convention (see paragraph 51 above).]

¹⁴ *Aslakhanova and others v Russia*, Application No. 2944/06, judgment of 18 December 2012 para 217.

implementation of comprehensive and complex measures”¹⁵ aimed principally at ending the suffering of the relatives of the disappeared persons.¹⁶

10. In identifying the urgent measures that needed to be taken to address the systemic failure to investigate disappearances, the ECtHR reviewed detailed information provided by the parties on the effectiveness of the criminal investigations including government submissions on the work of the investigative committee and the collaboration with military and other bodies; existing legal framework and practice to address the continuing violations arising from non-investigation into the abductions; the role of victims in proceedings; and all working groups and other mechanisms the government had put in place to search for the disappeared persons.¹⁷ Based on this assessment, it concluded that measures to redress the systemic failure to investigate fell into two principal categories:

- a. The urgent need to end the suffering of the victim’s families by determining the fate of their loved ones; and,
- b. The need to address the ineffectiveness of the investigations.

11. With regard to the first category of measures, the ECtHR noted that this was the “most pressing group of measures” because it concerned the ongoing agony and suffering of the relatives of the victims who remain in daily uncertainty about what happened to their loved ones.¹⁸ It found that it was “apparent from the cases at hand and from the bulk of the Court’s previous judgments on the subject that the criminal investigations are particularly ineffective in this regard, resulting in a sense of acute helplessness and confusion on the part of the victims”.¹⁹ It also made an important general finding about the inadequacy of criminal investigations in enforced disappearance cases, stating:

As a rule, investigations of abduction in circumstances suggesting the carrying out of clandestine security operations do not reveal the fate of the disappeared persons. Despite the magnitude and gravity of the problem, noted in many national and international reports, the response to this aspect of human suffering by means of the criminal investigations remains inadequate. Thus, as attested by the statistics submitted by the Russian Government, the average rate of success in solving such crimes in Chechnya was 7.5%, falling to 3.5% in 2002 – the year when the largest number of disappearances occurred (see paragraph 180 above).²⁰ [Emphasis added]

12. As a result, it noted the urgent need for the creation of “a single, sufficiently high-level body in charge of solving disappearances in the region with the exclusive aim

¹⁵ *Aslakhanova and others v Russia*, Application No. 2944/06, judgment of 18 December 2012 para 217.

¹⁶ *Aslakhanova and others v Russia*, Application No. 2944/06, judgment of 18 December 2012 para 221.

¹⁷ *Aslakhanova and others v Russia*, Application No. 2944/06, judgment of 18 December 2012 para 159-209.

¹⁸ *Aslakhanova and others v Russia*, Application No. 2944/06, judgment of 18 December 2012 para 223.

¹⁹ *Aslakhanova and others v Russia*, Application No. 2944/06, judgment of 18 December 2012 para 224.

²⁰ *Aslakhanova and others v Russia*, Application No. 2944/06, judgment of 18 December 2012 para 224.

of determining the fate of the victims. The Court noted that this body would enjoy unrestricted access to all relevant information and would work on the basis of trust and partnership with the relatives of the disappeared”.²¹

13. The Court's finding in this regard was monumental because it was the first time the ECtHR identified the need for a humanitarian framework that decoupled location and identification of the missing from criminal prosecution and prioritises the return of the remains of loved ones to their family for reburial.

The essential features of humanitarian resolution

14. The priorities set by the ECtHR in *Aslakhanova* – to end the suffering of relatives by determining the fate of the disappeared victims – reflects the priorities some of the applicants shared with EHRAC in interviews held in 2016 and 2021. In 2016, interviews with relatives of disappeared persons demonstrated a clear pattern: their main and most urgent priority was to know what happened to their loved ones and have them or their remains returned for burial. In 2021, EHRAC began a second round of assessment of the wishes of applicants to make sure our advocacy was still reflective of their priorities. Once again interviews confirmed that the overarching priority for our applicants is to know what happened to their loved ones and have them returned to their families.
15. In 2019, EHRAC commissioned a report from two specialist forensic scientists, Professor R.L. Gowland and Professor T.J.U. Thompson [Annex I], who have expertise and experience establishing the fate of disappeared persons globally as well as providing research and training in the latest scientific techniques for those undertaking such operations around the world [‘the Gowland/Thompson Expert Forensic Report’]. The Report establishes unequivocally that, while it is important to act promptly as the passage of time can complicate the search in a number of ways, there currently exists no scientific impediment to determining the fate of the victims who were disappeared between 1999 – 2006.
16. The Gowland/Thompson Expert Forensic Report also noted that the central element of a humanitarian search mechanism is the involvement of an impartial agency with expertise in search and victim engagement. Thus, in addition to the need to establish a single search body there must also be involvement from an impartial agency such as the International Committee of the Red Cross. This agency always has oversight of the process in order to establish a relationship of trust with the affected families. Such independence and impartiality is one reason why the framework is recognised to be particularly effective in building open communication and trust in countries where individuals and communities are ordinarily reluctant to provide information to government agencies due to lack of trust and fear of retribution, as is the case in the North Caucasus region.
17. Russian action plans to date place reliance upon police and forensic pathologists expertise within the domestic criminal justice framework. This approach has not

²¹ *Aslakhanova and others v Russia*, Application No. 2944/06, judgment of 18 December 2012 para 225.

only failed to deliver but also fails to recognise that a humanitarian framework requires reliance upon international teams, working alongside Russian and Chechen specialists, that are able to offer the necessary independence and specialist expertise that is required to operate within the internationally recognised framework and protocols for the location and identification of missing persons.

18. This is best evidenced by the fact that the State party has consistently maintained that the fate of the disappeared persons cannot be ascertained through the existing criminal investigation process because there exist “objective difficulties” related to the historical nature of the disappearances. In its most recent action plan to the CoM, submitted in November 2020, the Russian Federation identified the following factors as major hurdles to implementation of the judgments:²²

- a. The fact that the initial investigation was undertaken during the armed conflict when many state institutions were not functioning;
- b. Irrevocable loss of the most significant evidence including materials for conducting examinations and supporting documentation; and,
- c. Refusal, for religious reasons, by the relatives of the disappeared to allow exhumation of the corpses for the purpose of identification.

19. The Gowland/Thompson Expert Forensic Report provides answers to the various obstacles which have been presented by the Russian Federation as preventing progress toward identification of disappeared persons in the *Khashiyev* group. The report notes that advancements in forensic science and the development of specialist teams with expertise in human identification from historical conflicts can yield significant results in highly complex and dated contexts. For example, anthropological and DNA analysis is currently being successfully undertaken to identify the bodies of soldiers from as far back as the Vietnam War, Korean War, and World War II. The report specifically notes that the passage of time and loss of documentation regarding the location and identities of the disappeared is not an insurmountable challenge given that “the location of mass graves is discoverable using even partial archives, local intelligence, witness testimony, and archaeological techniques”. It further provides a detailed account of the methodology that could be applied to overcome the stated challenges with identification of the disappeared in the *Khashiyev* group of cases.

The Committee of Ministers of the Council of Europe and the issue of the establishment of a search body (2011 – 2015)

20. In accordance with Article 46 of the ECHR, the Russian Federation’s progress in executing the *Khashiyev* group of judgments has been under supervision by the Committee of Ministers of the Council of Europe [‘CoM’] since 2011. Within this process, the Russian Federation has been required to submit action plans detailing

²² Council of Europe Committee of Ministers, Communication from the Russian Federation concerning the case of *Khashiyev and Akayeva v. Russian Federation* (Application No. 57942/00), (Submitted to the Committee of Ministers on 9 November 2020 for consideration at the 1390th meeting of the Ministers’ Deputies).

any progress made in the investigations, general measures implemented and plans for future implementation. Non-governmental organisations have also been offered the opportunity to submit information about the progress of implementation.

21. The CoM has issued multiple decisions and resolutions which includes general and specific recommendations to the Russian Federation on how it should progress toward execution of the judgments. In total, the CoM has rendered 18 decisions since 2011.²³

22. On 16 September 2021, the CoM concluded that there remain 650 unresolved disappearances in this group of cases, most perpetrated between 1999 – 2006.²⁴ In its 3 December 2020 review, the CoM noted that only two victims had been found and, by the Russian Federation's own account, the last identification of a missing person occurred in 2015 and was not attributable to the efforts of the Russian authorities.²⁵

23. The need for humanitarian resolution aimed at determining the fate of the disappeared victims first appeared in the CoM's decisions in 6 March 2014 when it urged the authorities to consider creating "a single and high-level body mandated with the search for missing persons".²⁶ The recommendation remained within CoM decisions consistently between 2014 – 2016. In 2015, the CoM passed a resolution reiterating the ECtHR's concerns and recommendations in *Aslakhanova* and urging the Russian federation to create a single and high-level search body to determine the fate of the disappeared victims.²⁷

24. In 2020, EHRAC submitted the Gowland/Thompson Expert Forensic Report to the CoM calling on it to prioritise the establishment of a search body in line with international practice. In recent decisions, the CoM has not only recalled the urgent need to create a search body encouraging the authorities to "give renewed reconsideration"²⁸ to the establishment of such a body, it has also noted the need for the search mechanism to be humanitarian in nature, rely on modern scientific knowledge and "take inspiration from the work and mandates of bodies responsible

²³ *Khashiyev and Akayeva v Russia*, 57942/00 Case Documents, <https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%5B%22004-9%22%5D,%22EXECDocumentTypeCollection%22:%5B%22CEC%22%5D,%22EXECTitle%22:%5B%22khashiyev%22%5D%7D> [accessed on 16 July 2021].

²⁴ Council of Europe Committee of Ministers, Decision on the H46-21 Khashiyev and Akayeva group v. Russian Federation (Application No. 57942/00), (Adopted by the Committee of Ministers on 16 September 2021 at the 1411th meeting of the Ministers' Deputies).

²⁵ Council of Europe Committee of Ministers, Decision on the H46-21 Khashiyev and Akayeva group v. Russian Federation (Application No. 57942/00), (Adopted by the Committee of Ministers on 3 December 2020 at the 1390th meeting of the Ministers' Deputies).

²⁶ Council of Europe Committee of Ministers, Decision on the H46-21 Khashiyev and Akayeva group v. Russian Federation (Application No. 57942/00), (Adopted by the Committee of Ministers on 6 March 2014 at the 1193rd meeting of the Ministers' Deputies).

²⁷ Council of Europe Committee of Ministers, Interim Resolution Execution of the judgments of the European Court of Human Rights

in 221 cases against the Russian Federation concerning actions of the security forces in the Chechen Republic of the Russian Federation, Adopted on 12 March 2015, CM/ResDH(2015)45.

²⁸ Council of Europe Committee of Ministers, Decision on the H46-21 Khashiyev and Akayeva group v. Russian Federation (Application No. 57942/00), (Adopted by the Committee of Ministers on 3 December 2020 at the 1390th meeting of the Ministers' Deputies).

for the search of missing persons in other member States” all who engage an impartial agency within their humanitarian framework. It has also asked the authorities to provide a concrete time-bound strategy for bringing such a mechanism into effect.²⁹

The United Nations human rights mechanisms and the 1999 – 2006 disappearances perpetrated by the Russian Federation in the North Caucasus

25. For many years, UN human rights mechanisms have expressed concern over the State party’s failure to investigate human rights violations including enforced disappearances in the North Caucasus and called on the State party to provide progress reports on the state of these investigations.³⁰
26. As reports of disappearances and other human rights violations were being submitted by civil society, UN mechanisms focused their efforts on encouraging prevention of human rights violations and the tracing of victims’ whereabouts. The Committee first asked about the measures the State party was undertaking to prevent disappearances of Chechen civilians and to identify the disappeared victims in 2003 in its list of issues in relation to the State party’s fifth periodic review.³¹ In 2009, the Committee called on the authorities to establish “an independent body to investigate such reports of serious human rights violations in Chechnya and other parts of the North Caucasus committed by State agents”.³²
27. Following this period, the Committee continued to call on the State party to investigate disappearances and other human rights violations expressing concern at the ongoing impunity for human rights violations in the region.³³ Similarly, in 2018, the UN Committee against Torture [‘UN CAT’] noted a failure to effectively investigate past and ongoing human rights violations including enforced disappearances.³⁴ In 2020, the Committee reiterated its concern about the failure to investigate and asked the State party to provide updated information about the progress of investigations notably the Committee also asked the State party “about the status of the investigation of cases of enforced disappearance in the region and whether family members of disappeared persons are informed of the progress of investigations and on the identification of their remains”.³⁵

²⁹ Council of Europe Committee of Ministers, Decision on the H46-21 Khashiyev and Akayeva group v. Russian Federation (Application No. 57942/00), (Adopted by the Committee of Ministers on 16 September 2021 at the 1411th meeting of the Ministers’ Deputies).

³⁰ UN Human Rights Committee, Concluding observations on the seventh periodic report of the Russian Federation, CCPR/C/RUS/CO/7, 28 April 2015, para 7.

³¹ UN Human Rights Committee, List of Issues in Relation to the Fifth Periodic Report of the Russian Federation CCPR/C/RUS/2003/5, March 23 2003, para 13.

³² UN Human Rights Committee, List of Issues in Relation to the Sixth Periodic Report of the Russian Federation, CCPR/C/RUS/Q/6, 27 April 2009, para 15.

³³ UN Human Rights Committee, List of Issues in Relation to the Seventh Periodic Report of the Russian Federation, CCPR/C/RUS/Q/7, 25 July 2014, para 11.

³⁴ Committee against Torture, Concluding Observations on the Sixth Periodic Report of the Russian Federation, August 28, 2018, CAT/C/RUS/CO/6 para 46 (2018).

³⁵ Committee against Torture, Concluding Observations on the Sixth Periodic Report of the Russian Federation, August 28, 2018, CAT/C/RUS/CO/6 para 46 (2018).

28. EHRAC and HRC Memorial along with other representatives of families of disappeared persons have continued to ask UN human rights mechanisms to maintain pressure on the State party to establish the fate of the disappeared victims. They have specifically asked that the disappearances from this seven year period be treated separately from the ongoing violations in the region and that the State party be called on to report on the progress it has made to investigate the disappearances from 1999 – 2006. Most recently, the UN CAT asked the State party to comment on allegations that it has failed to make any progress in investigating human rights violations including enforced disappearances in the North Caucasus and provide specific information on its failure to investigate enforced disappearances perpetrated by its security forces between 1999 – 2006.³⁶
29. Many of the family members of the disappeared persons have also filed individual cases before the UN Working Group on Enforced or Involuntary Disappearances [‘WGEID’] in pursuit of humanitarian resolution. In 2018, EHRAC and our partner, Memorial, as representatives of these applicants, filed a General Allegation to WGEID regarding the Russian Federation’s systemic failure to investigate enforced disappearances and calling on WGEID to promote collaboration among UN and regional mechanisms in order to achieve humanitarian resolution. In 18 January 2019, WGEID issued a further country visit request to which there has been no response by the Russian Federation.³⁷
30. In its advocacy before the UN WGEID and UN CAT, EHRAC has consistently maintained that UN human rights mechanisms review of the progress in these cases must reflect the wishes of the relatives of the disappeared persons and build upon the binding legal judgments of the ECtHR and the compliance monitoring of the CoM in these cases.

Part I Recommendations

31. The combination of the prolonged nature of the disappearances, enduring limitations with the criminal investigation structures, and climate of distrust that exists between families and investigating authorities urgently calls for the creation of a specialised humanitarian team made up of independent international experts and local Chechen and Russian staff. Such a humanitarian body can only have a chance at being created if the international community is unified in its engagement with the Russian federation on the best way to resolve the disappearances from this period.
32. The proposed humanitarian approach reflects both the best path for realising the well-identified wishes of family members – arguably the most significant factor for

³⁶ UN Committee against Torture, List of issues prior to submission of the seventh periodic report of the Russian Federation, CAT/C/RUS/QPR/7, 21 June 2021.

³⁷ WGEID has requested a country visit from the Russian Federation on 4 June 2008, 20 July 2009, 18 August 2011, 8 November 2012, 2 September 2013, 18 November 2016 and, most recently, 18 January 2019. United National Office of the High Commissioner, View Country visits of Special Procedures of the Human Rights Council since 1998 (webpage) available at: <https://spinternet.ohchr.org/ViewMandatesVisit.aspx?visitType=all&lang=En> [accessed on 25 January 2021].

all actors to consider – and the broadly-accepted leading global approach to searching for disappeared persons [see Annex I]. It also reflects the recommendations of the ECtHR and the CoM who have had overseen the State party's response to these violations over many years.

33. It is our respectful position that for UN human rights mechanisms to have greater impact in the resolution of these cases their recommendations must:

- a. Explicitly reference and address the many ongoing violations of enforced disappearances from 1999 – 2006 in the North Caucasus region instead of grouping together a wide range of human rights violations into one category of issues for the State party to address. These enforced disappearances require a distinct approach from the State and from the monitoring global community in order to reach effective resolution; and,
- b. Demonstrate a clear focus on humanitarian resolution aimed at determining the fate of the disappeared victims; and,
- c. Call on the State party to seek international assistance in setting the terms for a humanitarian framework. Assistance should be sought from a reputable international body with a mandate to search for persons missing as a result of armed conflict or human rights violations, particularly, the International Committee of the Red Cross given their expertise and experience.

34. Consequently, we call on the Committee to include in its concluding observations the following recommendations to the State party:

Seek international assistance in setting the terms of consultation for a framework of humanitarian resolution of the disappearances perpetrated in the North Caucasus between 1999 - 2006.³⁸

Cooperate with the UN WGEID by issuing an invitation for a country visit in order to consider any assistance which could be offered in addressing these issues by way of conclusions and recommendations at the conclusion of the visit.

Part II – The failure to effectively investigate the murder of human rights defender Natalia Estemirova

35. In its list of issues to inform the eighth periodic review of the State party's compliance with the Convention, the Committee asked the State party to provide

³⁸ Assistance should be sought from a reputable international body with a mandate to search for persons missing as a result of armed conflict or human rights violations, particularly, the International Committee of the Red Cross given their expertise and experience.

information on the progress of the investigation of the abduction and subsequent murder of human rights defender Natalia Estemirova in 2009.

36. The State party provided no up to date information on the progress of the investigation referencing instead charges brought in February 2010.³⁹
37. In August 2021, the ECtHR rendered a judgment on a case concerning Ms. Estemirova's abduction and murder finding that the Russian Federation had violated Article 2 of the ECHR by failing to undertake an effective investigation into Ms. Estemirova's abduction and murder. The Court found the investigation not to be sufficiently thorough and expressed concern about the "quality of the investigators' analysis of evidence and the justification of their conclusion" regarding the alleged perpetrator of the crime among other findings.⁴⁰ . It also found a separate violation of the Article 38 of the ECHR because of the Government's failure to provide it with most of the materials from the investigation file, which "prevented the Court from having a full and undistorted picture of the investigation which it had to assess".⁴¹
38. We submit that the investigative shortfalls identified by the Court demonstrate a complete failure by the Russian authorities to consider state involvement in Ms. Estemirova's abduction and death. Yet, the general human rights context in the North Caucasus at the time of Ms. Estemirova's murder, the nature of Ms. Estemirova's work, and the serious, persistent and high-level threats made against her amount to considerable evidence of possible state involvement in her abduction and murder.
39. Ms. Estemirova was a prominent human rights activist working for the HRC Memorial in the North Caucasus region of Russia, documenting hundreds of cases of egregious human rights violations committed by the security forces in Chechnya. Many of the cases which she worked on resulted in successful judgments at the ECtHR and were the subject of a series of monitoring reports published by both Russian NGOs and international organisations, and of reports in the media.
40. Ms. Estemirova was threatened by the Chechen authorities on numerous occasions, because of her reporting of the egregious human rights abuses being committed by the security forces in Chechnya. On 31 March 2008, Ms. Estemirova was summoned to a meeting where the head of Chechnya, Ramzan Kadyrov, upbraided her for her opposition to his edict that women in Chechnya should not wear headscarves in public, shouting at her and threatening her. He told her that his hands were in blood up to his elbows and that he had killed before and that he would continue to kill bad people and that he was not ashamed of it. He also asked Ms Estemirova whether she was not worried about her daughter, Lena. On the same day, Mr Kadyrov summarily dismissed her from the position of head of the Grozny Human Rights Council.
41. Ms Estemirova took these threats seriously and left Russia for London. In July 2009, Ms. Estemirova reported to the media about the alleged involvement of the security

³⁹ Russian Federation, Replies of the Russian Federation to the list of issues in relation to its eighth periodic report, CCPR/C/RUS/RQ/8, 29 March 2021, para 128.

⁴⁰ *Estemirova v Russia*, Application no. 42705/11, judgment of 31 August 2021, para 69.

⁴¹ *Estemirova v Russia*, Application no. 42705/11, judgment of 31 August 2021.

forces in an extra-judicial execution. This led Mr Kadyrov to demand an explanation, following which the then Chechen Human Rights Commissioner, Mr. N.S. Nukhadzhiyev, told HRC Memorial representatives that it was necessary to be more careful in turbulent times. He also referred to the journalist Anna Politkovskaya (who was shot dead in October 2006) and suggested that had she been more careful and flexible, she would still be alive.

42. On 4 July 2009, Adam Delimkhanov, a Duma state deputy (who was also the cousin and close associate of Ramzan Kadyrov) made a speech on the Grozny TV channel equating human rights defenders with terrorists, calling them evil and saying that they would be held responsible and would answer for their words. He also explicitly said that they would be eliminated.
43. After Natalia Estemirova had been murdered, in an interview with Radio Liberty on 9 August 2009, Mr Kadyrov said in reference to her: 'Why would Kadyrov kill women that no one needs? She never had any honour, dignity or sense of conscience'. On 3 July 2010, in an interview on the Grozny channel, Mr Kadyrov, stated in reference to members of Memorial HRC: 'They are getting large salaries from the west and in order to report on their activities they write all kinds of filth and nonsense on the Internet. That is why they are not my opponents. They are enemies of the people, enemies of the law, enemies of the state'. This form of totally unacceptable threat has continued. In early 2016, Mr Kadyrov made another series of negative statements against human rights defenders and activists, using the terms 'jackals', 'enemies', 'paid puppets' and 'traitors'.
44. The Council of Europe Commissioner for Human Rights intervened in the case before the ECtHR and asked the Court to view Ms. Estemirova's murder not as an isolated event "but as part of a broader pattern of killings and intimidations of human rights defenders in the North Caucasus and, in particular, the Chechen Republic".⁴² It recommended a series of institutional, legal and political frameworks for the Russian authorities to take to "create a safe and enabling environment for human rights defenders". The Commissioner recommended the following specific measures:

In particular, these measures should include adoption of a specific legal framework, of a comprehensive public policy and a national action plan aimed at protecting human rights defenders at risk and at promoting an enabling environment for their work. Such measures may also include the creation of a special body or empowering existing national human rights institutions with a view to installing, in cooperation with federal law enforcement bodies, a fully-functional rapid response mechanism or a protection programme for human rights defenders. Finally, these measures should also include an awareness-raising policy promoting the legitimacy and facilitating the work of human rights defenders.⁴³

⁴² Council of Europe Commissioner for Human Rights, Third Party Intervention, *Estemirova v Russia*, Application no 42705/11, 14 March 2016, CommDH(2016)18, para 34.

⁴³ Council of Europe Commissioner for Human Rights, Third Party Intervention, *Estemirova v Russia*, Application no 42705/11, 14 March 2016, CommDH(2016)18, para 39.

Part II Recommendations

45. We call on the Committee to include in its concluding observations the following recommendations to the State party:

Provide detailed information on the progress in investigating Ms. Estemirova's abduction and subsequent murder including the state of the investigation as of the date of the concluding observations, any and all steps taken since the Committee's most recent review and the steps taken to determine whether there was any state involvement in Ms. Estemirova's abduction and murder.

Adopt a specific legal framework, of a comprehensive public policy and a national action plan aimed at protecting human rights defenders at risk and at promoting an enabling environment for their work. Create a fully-functional rapid response mechanism or a protection programme for human rights defenders. Develop an awareness-raising policy promoting and facilitating the work of human rights defenders.

Part III – The liquidation of HRC Memorial and International Memorial

Continued Incompatibility of the Foreign Agents Law and Undesirable Foreign and International Organisations Law with the Russian Federation's international legal obligations

46. The Committee has previously expressed concern that the Foreign Agents Law and the Undesirable Foreign and International Organisations Law are incompatible with the State party's obligations under the Convention in particular the right to freedom of expression, assembly and association. It has called on the State party to repeal or revise the Foreign Agents Law with a view to bringing it in line with the State party's obligations under the Covenant.⁴⁴

47. The Committee's assessment of the Foreign Agents Law reflects the criticism expressed by other regional and international bodies. The European Commission for Democracy through Law (Venice Commission) has assessed the Foreign Agents Law and its amendments in numerous opinions and found the regulations to be "unjustifiably burdensome to the point of being oppressive" and lacking safeguards to prevent arbitrary enforcement.⁴⁵

48. The Council of Europe Expert on NGO Law has also repeatedly condemned the incompatibility of the Foreign Agents Law with the ECHR and, in 2013, voiced concern that:

The scope and severity of the new sanctions and penalties against NCOs [Non-Commercial Organisations] — and in particular against

⁴⁴ UN Human Rights Committee, Concluding observations on the seventh periodic report of the Russian Federation, CCPR/C/RUS/CO/7, 28 April 2015, para 22.

⁴⁵ Venice Commission Opinion No. 1014/ 2020 of 6 July 2021 Opinion on the Compatibility with International Human Rights Standards of a series Of Bills introduced by the Russian State Duma between 10 And 23 November 2020 to amend laws affecting "Foreign Agents" para 68.

NCOs-foreign agents — coupled with the vague language by which they are formulated, presents a threat for the very existence of NCOs.⁴⁶

49. In 2013, HRC Memorial and EHRAC launched proceedings before the ECtHR on behalf of a number of Russian NGOs which were targeted by the Foreign Agents Law arguing interference with their right to freedom of expression, assembly and association as protected by Articles 10 and 11 of the ECHR [‘the Foreign Agents Law case’].⁴⁷
50. International Memorial and HRC Memorial were declared “foreign agents” on 4 October 2016 and 21 July 2014 respectively.⁴⁸
51. The applicants also alleged that their rights have been limited for politically-motivated reasons in contravention of Article 18 of the ECHR. The cases were communicated to the Russian Government in 2017, however, as of the date of this submission, the Court’s judgment is still awaited. Currently, 48 NGOs are applicants in the proceedings before the ECtHR.
52. In the years since the Committee’s last review of the legislation, amendments to the Foreign Agents Law have not only failed to address the concerns raised by the Committee and other international and regional bodies, they have further undermined the protections enshrined in the Covenant. Most significantly, in 30 December 2020, Law No. 481- FZ was passed which, among introducing numerous restrictive amendments:
 - a. introduced an additional ground for the carrying out of unscheduled inspections of NCOs; and,
 - b. extended the application of the Foreign Agents Law to unregistered public associations, which has seen organisations like Russian LGBT Network designated “foreign agents”; and,
 - c. expands the grounds for designating individuals as “foreign agents” to include the gathering of information on military and military-technical activities of the State party.
53. Also on 30 December 2020, Federal Law No. 525-FZ came into force amending the Criminal Code to allow for criminal sanctions to be ordered for violations of the Foreign Agents Law including providing for a maximum prison sentence of up to five years.
54. Amendments to Federal Law 14 – FZ passed on 24 February 2021 prohibit anyone from mentioning an organisation or person who has been deemed a foreign agent without noting their status as a “foreign agent” and introduce administrative fines

⁴⁶ *Opinion on the law introducing amendments to certain legislative acts of the Russian Federation regarding the regulation of activities of non-commercial organisations performing the function of foreign agents, August 2013.*

⁴⁷ *Ecodefence and others v Russia*, Application no. 9988/13, Statement of Facts, Communicated on 22 March 2017.

⁴⁸ *Ecodefence and Others v. Russia and 48 other applications*, Application no 9988/14 and 48 others, communicated on 22 March 2017.

for failing to indicate the status of 'foreign agent' as prescribed by the law. Annex II provides a complete timeline of the amendments to the Foreign Agents Law.

55. As a result of these and other amendments set out in Annex 3, EHRAC respectfully submits that, since the Committee's last review of the legislation, the Foreign Agents Law and related legislation have increasingly narrowed the civic space departing even further from the Russian Federations' obligations under the Covenant and other regional and international instruments.

Use of the Foreign Agent Law as a means of administrative harassment against human rights organisations and the liquidation of HRC Memorial and International Memorial

56. In its list of issues to inform the eighth periodic review of the State party's compliance with the Convention, the Committee asked the State party to comment on the regular use of the Foreign Agents Law and Undesirable Foreign and International Organisations Law as a means of administrative harassment against human rights organizations. It specifically requested information on the use of these laws to force HRC Memorial and International Memorial to reduce and cease their activities.

57. The State party provided limited information on the use of the law to harass human rights organisations, confirming only that HRC Memorial and International Memorial were on the register of non-profit organizations acting as "foreign agents" and stating the following about the general use of the law:

Russian legislation is not aimed at the dissolution of such organizations or the creation of any barriers to their work; it simply obliges these non-profit organizations to comply strictly with the law requiring them to be transparent in their activities and to obtain the status of foreign agent through their inclusion on the relevant register.⁴⁹

58. Contrary to the State party's response, the Council of Europe Commissioner for Human Rights has found that the application of the Law on Foreign Agents has had a major "chilling effect" on the work of civil society organisations in the Russian Federation. In effect, those organisations have been silenced, marginalised and punished for their legitimate activity in the field of human rights, democracy and the rule of law.⁵⁰ The Commissioner has stated in numerous opinions and statements that the Law on Foreign Agents is incompatible with international and European human rights standards.⁵¹

⁴⁹ Russian Federation, Replies of the Russian Federation to the list of issues in relation to its eighth periodic report, CCPR/C/RUS/RQ/8, 29 March 2021, para 128.

⁵⁰ *Third party intervention by the Council of Europe Commissioner for Human Rights, Ecodefence and others v. Russia and 48 other applications (Application n° 9988/13)*, 5 July 2017, CommDH(2017)22.

⁵¹ *Ibid*; *Opinion of the Commissioner for Human Rights CommDH(2013)15 of 15 July 2013 on the Legislation of the Russian Federation on Non-Commercial Organisations in Light of Council of Europe Standards*; *Opinion of the Commissioner for Human Rights CommDH(2015)17 of 9 July 2015 on Legislation and Practice in the Russian Federation on Non-Commercial Organisations in Light of Council of Europe Standards: an Update*; *Statement: Commissioner for Human Rights calls on the State Duma to refrain from adopting legislation which violates the rights of NGOs and civil society activists*, 07 December 2020.

59. As of 18 November 2021, there were 75 NGOs registered as “foreign agents” and as of 12 November 2021 there were 95 individuals and media outlets listed in the Register of Foreign Agents media.⁵²
60. EHRAC echoes the concerns raised by the Coalition of Russian Civil Society in their shadow report submitted to the Committee for the eighth periodic review that “the practice of applying the law regarding NGOs considered “foreign agents” has shifted from solely the active inclusion of new NGOs in the register to increasing pressure on organizations already included in the register”.⁵³ The State party’s use of the Foreign Agents Law to close down civic society space can be best evidenced by the its recent liquidation of International Memorial and HRC Memorial – two of the most prominent and oldest human rights organisations in Russia.
61. On 8 November 2021, the Prosecutor General of the Russian Federation submitted an administrative action to the Supreme Court of Russia seeking liquidation of the International Memorial and all its subdivisions. A similar claim was lodged on the same date by the Moscow City Prosecutor with the Moscow City Court against HRC Memorial.
62. In the administrative actions, the Prosecutor General and the Moscow Prosecutor submitted that on several occasions HRC Memorial and International Memorial had failed to label their publications on social media platforms and their websites as originating from a “foreign agent”. In this connection, the prosecutors referred to 28 administrative-offence convictions under Article 19.34 § 2 of the Code of Administrative Offences against International Memorial, HRC Memorial and the heads of their Board, Mr Jan Raczynski and Mr Aleksander Cherkasov respectively. These convictions took place in 2020-2021 and all of them concerned the failure to label informational materials. Mr. Raczynski and Mr. Cherkasov were fined RUB 6.1 mil in total (approximately EUR 74,000). They paid the fines imposed on them and labelled all the impugned informational materials as originating from a “foreign agent”.
63. The Moscow Prosecutor further alleged that HRC Memorial had published a series of materials on its website that “aimed at forming an impression among the public that extremist and terrorist activity of international terrorist and extremist organisations and the membership of such organisations are acceptable and permissible” (such actions in themselves amount to an extremist activity under Article 1 § 1 of the Federal Law “On the suppression of extremist activity”). In this connection, the Moscow Prosecutor referred to the list of political prisoners on the website of HRC Memorial accompanied with informational notes about several of them describing the details of their cases. Since 2009, HRC Memorial has maintained and updated a list of Russian political prisoners on its website based on

⁵² Official website of the Ministry of Justice <minjust.gov.ru/ru/documents/7755/>.

⁵³ Coalition of Civil Society, Russia’s Compliance with the International Covenant on Civil and Political Rights Suggested List of Issues Submitted for the consideration of the 8th periodic report by the Russian Federation for the 129th Session of the Human Rights Committee, June, 2020, available at: <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=RUS&Lang=EN>, para 88.

the definition of political prisoners formulated by the Parliamentary Assembly of the Council of Europe [‘PACE’].⁵⁴

64. On 28 December 2021, the Supreme Court ordered the liquidation of International Memorial and on 29 December 2021 the Moscow City Court ordered the liquidation of HRC Memorial.
65. Under the Code of Administrative Procedure CAP of the Russian Federation, Article 186, a judgment of a court delivered at first instance becomes final and enforceable after the expiry of the time-limit to appeal, or after it is upheld on appeal. While HRC Memorial and International Memorial have now initiated an appeals procedure, there is a high probability the appeals will be unsuccessful in which case both organisations will be forced to liquidate.
66. The liquidation would render impossible all further activities by both organisations: they would not be able to occupy their premises; pay salaries; carry out educational and charity projects; provide legal assistance to their clients; participate in contracts; and accept donations. Further, they would forfeit all their property, would not be able to continue their research or hold exhibitions and would have to cease all their human rights activities. The museum, the library and the archives documenting human rights violations dating to the soviet years which have been preserved and extended for over 30 years would also be lost.
67. Furthermore, the domestic law does not provide for a mechanism to restore or to “re-incorporate” a liquidated NGO, after a judgment directing its liquidation is quashed, EHRAC is not aware of any precedents of liquidation orders relating to NGOs being quashed.
68. On December 29, the ECtHR indicated to the Russian Federation that it suspend International Memorial and HRC Memorial’s liquidation until the Court had the opportunity to issue a decision in the Foreign Agents Law case. If the ECtHR rules that the Foreign Agents Law and related legislation are in breach of the ECHR, it would in effect invalidate HRC Memorial’s liquidation. The Court’s order that the liquidation be suspended is legally binding on Russia and will remain in force pending the Court’s judgment in the Foreign Agents Law case.⁵⁵

Part III Recommendations

69. The liquidation of International Memorial and HRC Memorial is a deliberate attack on civil society designed to further a climate of fear. For decades International Memorial and MHRC have worked to promote a strong civil society in Russia, to protect human rights, to preserve the truth about the past and to memorialize the victims of political repression and other atrocities. The organisations have sought in particular to protect those most marginalised in society and to oppose egregious human rights abuses being committed in Chechnya and other regions of the North Caucasus.

⁵⁴ Parliamentary Assembly of the Council of Europe, Political Prisoners, Resolution no 1900, 3 October 2012.

⁵⁵ *Mamatkulov and Askarov v. Turkey*, Applications nos. 46827/99 and 46951/99, Grand Chamber judgment of 4 February 2005, paras 128 and 129.

70. HRC Memorial is currently providing legal support and assistance in connection with over 100 criminal, civil and administrative-offence cases pending before the domestic authorities. More than 250 applications lodged by HRC Memorial are currently pending before the ECtHR, hundreds of other cases are under supervision by the CoM.

71. HRC Memorial is also the long-term partner of OVD-Info. This year, with the infrastructural support of HRC Memorial, OVD-Info provided legal assistance to almost three thousand detainees arrested during peaceful demonstrations and provided legal support in 2,874 administrative-offence cases and 44 criminal cases. Some 1,250 applications were lodged with the ECtHR jointly by OVD-Info and HRC Memorial.

72. We call on the Committee to include in its concluding observations the following recommendations to the State party:

Urgently void the liquidation orders against International Memorial and HRC Memorial.

Conclusion and Recommendations

73. EHRAC respectfully urges the Committee to include the following recommendations in its concluding observations to the Russian Federation's eighth periodic review under the CCPR:

- a. Seek international assistance in setting the terms of consultation for a framework of humanitarian resolution of the disappearances perpetrated in the North Caucasus between 1999 - 2006.⁵⁶
- b. Cooperate with the UN WGEID by issuing an invitation for a country visit in order to consider any assistance which could be offered in addressing these issues by way of conclusions and recommendations at the conclusion of the visit.
- c. Provide detailed information on the progress in investigating Ms. Estemirova's abduction and subsequent murder including the state of the investigation as of the date of the concluding observations, any and all steps taken since the Committee's most recent review and the steps taken to determine whether there was any state involvement in Ms. Estemirova's abduction and murder;
- d. Adopt a specific legal framework, of a comprehensive public policy and a national action plan aimed at protecting human rights defenders at risk and at promoting an enabling environment for their work. Create a fully-functional rapid response mechanism or a protection programme

⁵⁶ Assistance should be sought from a reputable international body with a mandate to search for persons missing as a result of armed conflict or human rights violations, particularly, the International Committee of the Red Cross given their expertise and experience.

for human rights defenders. Develop an awareness-raising policy promoting and facilitating the work of human rights defenders; and,

- e. Urgently void the liquidation orders against International Memorial and HRC Memorial.

ANNEX I – FORENSIC EXPERT REPORT

Briefing Note: The recovery and examination on human remains from mass grave contexts in Europe

Professor RL Gowland and Professor TJU Thompson

1. Introduction

This document discusses the key issues associated with the location, recovery and analysis of human remains from grave sites within Europe, with an emphasis on the situation in the North Caucasus region. It includes a brief critique of current action plans relating to the missing in Chechnya. The aim of the document is to provide objective scientific advice to facilitate informed decision making – it is not an action plan in and of itself.

2. Author Biographies

Prof. Rebecca Gowland teaches and researches Human Bioarchaeology in the Department of Archaeology, Durham University. She has a PhD from Durham University and has published four books and over 50 peer-reviewed journal Articles and book chapters on skeletal analysis and human identification. She has developed new techniques for estimating age-at-death and sex in adult and non-adult skeletons and has devised new approaches for establishing abuse and trauma in vulnerable demographics. During the last ten years she has developed and delivered a Chartered Society of Forensic Sciences approved course on body location, excavation and analysis to forensic practitioners from National Police forces in the UK and international agencies. She has collaborated with the International Committee of the Red Cross to produce online forensic training provision.

Prof Tim Thompson is Professor of Applied Biological Anthropology and Associate Dean (Learning & Teaching) in the School of Health & Life Sciences at Teesside University. He has a PhD from the Department of Forensic Pathology, University of Sheffield on the effect of burning on identification from skeletal remains. He has published four books and over 70 peer-reviewed journal Articles and book chapters on forensic anthropology, human identification, and changes to bone over time. He is a Fellow of the Chartered Society of Forensic Sciences and the Royal Anthropological Institute, and Honorary Fellow of the Faculty of Forensic & Legal Medicine and is a Senior Fellow of the Higher Education Academy. He is Editor-in-Chief of the Journal of Forensic & Legal Medicine, and prior to this was Editor-in-Chief of the journal Science & Justice for three years. He has practiced forensic anthropology in the UK and Europe.

3. Summary

Many countries have sought to identify missing combatants from historic conflicts in Europe and elsewhere (e.g. from World Wars I and II, the Korean War, the Balkans War). There are international standards and methods for locating grave sites, and for exhuming and analysing the bodies. The forensic expertise required is highly specialised and falls beyond the scope of standard criminal investigations. A specialist, independent, forensic team is required, and purpose-built laboratories are necessary for processing the human remains and associated effects. The forensic team should work alongside local groups with the aim of training and capacity building within the region concerned.

Combatants and civilians who die during conflict are often buried in unmarked graves. Following death and burial the soft tissues of the body decompose quickly but the skeleton and teeth can survive for hundreds and even thousands of years. Analysis of the skeleton can establish the sex of the individual, an approximate age-at-death, height and pathological conditions (e.g. dental disease, or evidence for surgical procedures). These characteristics contribute towards establishing the identity of the deceased if relevant ante-mortem records are available. The manner-of-death can also be determined (e.g. gunshot injuries) in some cases. DNA can be extracted from bones and teeth even hundreds of years after death and analysed to establish an individual's identity when matched to samples obtained from close relatives. DNA analysis is one of a suite of methods and should be used in conjunction with other anthropological methods.

In areas of recent conflict, where tensions continue and governmental structures are weak, the humanitarian model advocated by the International Committee of the Red Cross (ICRC) has proven to be an effective way of proceeding. This model prioritises the identification and return of the missing to their families rather than the pursuit of criminal prosecutions. The decoupling of human identification from criminal procedures increases the likelihood of co-operation, information sharing and reconciliation. Experience from other countries (e.g. Cyprus) demonstrates that a timely intervention is advantageous to avoid the loss of witness testimony (through loss of memory or death of those with knowledge) and archives. A quick resolution is also important for family members, for whom the unknown fate of their relatives is a source of severe trauma.

4. A Model for Humanitarian Intervention

- [The location, recovery, analysis and repatriation of human remains does not require a criminal judicial framework](#)
- [A humanitarian model has proven successful in other countries, resulting in cooperation between stakeholders and the identification and return of the missing to their loved ones](#)

Families have a right to know the whereabouts and fate of their loved ones and the deceased have a right to the restoration of their identity after death (Crettol et al. 2017). The humanitarian framework advocated by the ICRC seeks to prioritise the location and identification of the missing within regions of conflict over and above the pursuit of criminal convictions. This model explicitly recognises the chronic anguish and emotional pain experienced by family members because of the unknown fate of their relatives and the impediment it poses to reconciliation (ICRC 2014). The humanitarian approach has proven particularly effective in countries of recent conflict in which people are reluctant to provide information that might lead to the location of grave-sites or identification of the deceased due to a lack of trust in government organisations and fear of retribution.

Despite the lack of criminal proceedings, the forensic work is conducted to the same high standard. The identification process remains the same, as does the support for the families. The same forensic experts and facilities are required, and the funding requirements remains the same. All of this is important since final identification may still have legal requirements.

The separation between identifying the missing and criminal proceedings has worked successfully in Cyprus with the work undertaken by the Committee on Missing Persons (CMP), an organisation largely funded by the European Union. In Cyprus, remains are located, excavated, identified and returned to families with no attempt to attribute blame, or to pursue retribution. As well as prioritising the immediate needs of the families, this approach encourages greater transparency between stakeholders. Because the fear of criminal action or reprisal is removed, it promotes information sharing and co-operation. Within the current mandate of the CMP, the choice has been made that those who provide information are immune from prosecution and are guaranteed anonymity and confidentiality. The exhumations are, therefore, humanitarian in nature rather than political. Evidence of manner-of-death can still be recorded from the skeletons during the identification process. It is only since de-politicisation that the CMP has made significant progress. In Georgia, Russian, Georgian, Abkhazi, and South Ossetian representatives have adopted a similar model, working alongside the ICRC to identify those missing during the conflict in August 2008 and in the 1990s.

The socio-political circumstances and priorities of each country will differ, and some may wish to pursue both humanitarian and retributive approaches in tandem. It is important that all stakeholders discuss and agree their terms of reference and mandate. Clear procedures should be established prior to the commencement of any investigations. It is essential to ensure the proper management of information if both humanitarian and judicial objectives are pursued, because there will be inter-dependencies in terms of evidence gathering. A clear separation between the humanitarian mandate and justice systems is desirable (Crettol et al., 2017, 603)

5. Comments on current actions to locate, exhume and identify the missing in Chechnya

- It is highly likely that human remains are recoverable from Chechnya in a condition that would allow identification.
- Current action plans lack clarity and detail regarding the methods, expertise and activities of those engaged in searching for the missing.
- It is essential that an independent, international team is given oversight and control of the investigations to ensure that international protocols and standards are met.
- An independent team is also important to build trust between affected families and government authorities.

It is currently estimated that between 3000 to 5000 Chechen individuals are 'missing' because of historic conflicts between 1999 and 2006. Interviews with affected Chechen families have repeatedly emphasised that their key priority is to know the fate of their relatives and to have the remains of the missing returned for reburial. Not knowing is a form of psychological torture. Progress towards investigating the fate of the missing in a post-conflict region is an important step in re-establishing human rights and the rule of law (Crettol et al. 2017).

Action plans eg. (DH-DD(2015)23, DH-DD(2015)257, DH-DD(2018)798) provided by Russia do not clearly articulate a systematic programme of activities for the proactive location, identification and return of historical cases of missing individuals. The action plans are difficult to decipher in terms of precise activities, but the procedures alluded to do not follow

established international protocols for locating, excavating and identifying individuals from burial contexts. It is unclear as to whether exhumations are currently taking place, and if so, the procedures being used to establish the identity of the deceased.

The action plan argues that neither outside expertise nor independent, impartial oversight is necessary with respect to these investigations. It states that:

“the competent state authorities developed a coordinated position concluding that there was no need to establish a new specialized centralized body responsible for the search for missing persons in the territory of the North Caucasus Federal District.”

The ICRC and organisations such as EAAF (Argentine Forensic Anthropology Team) recommend that humanitarian action requires oversight by impartial, outside, independent experts, working alongside victim groups. It is not advisable to proceed with a Russian team as outlined in the action plan, because affected families will find it difficult to trust their findings. It is important that local Chechen staff as well as Russian staff are employed as part of the team, to help build trust through communication with affected families and also to help navigate the cultural and religious sensitivities involved in the exhumation and identification processes.

The current mechanism that Russia has employed for investigating information relating to the missing falls within existing criminal investigation structures:

“The most experienced officers of the criminal investigation departments of the internal affairs bodies are involved in operational and search activities in connection with the messages on the crimes concerned. The aforesaid authorities start search activities immediately upon receipt of the information on disappearance or kidnapping, irrespective of the fact of the criminal case initiation”

This is not advisable since human identification from historic conflicts requires a specialist team with specific expertise which falls outside of normal law enforcement activities. This is exemplified by the work of the Centre for Missing Persons (CMP) in Cyprus, and also organisations such as the Argentine Forensic Anthropology Team (EAAF), the Peruvian Forensic Anthropology Team (EPAF), The Inforce Foundation and Physicians for Human Rights, which have been involved in investigations of this nature since the 1980s (see section 6 for a full discussion of the expertise required).

Russia states that there is a loss of documentation regarding the location and identities of the missing given the time that has elapsed and changes in personnel in the intervening years. This is not an insurmountable obstacle. The location of mass graves is discoverable using even partial archives, local intelligence, witness testimony, and archaeological techniques (section 7.1). Document DH-DD(2018)798 indicates that some form of search is being undertaken (with no apparent success), but it lacks detail. The successful identification of grave sites has been achieved in numerous post-conflict situations. These searches are improved if investigations are conducted promptly, as the passage of time leads to less reliable witness testimony/local intelligence through the loss of memory or the death of those with relevant knowledge. The latter is now proving an impediment to the work of the CMP in Cyprus. However, even in the absence of such information grave sites can still be found using a suite of techniques.

The action plan alludes to co-operation with NGOs when interviewing affected families:

“Close cooperation and information exchange by the criminal investigation subdivisions with the relatives of missing persons as well as with the citizens and representatives of non-governmental organizations has been organized and is being continued, which allows performing humanitarian functions in the course of relevant work.”

No specifics are provided regarding which NGOs are involved, nor how their work is being coordinated across organisations, and with local authorities. Intelligence gathering appears to have been ad hoc and potentially exposes affected families to distressing interviews without discernible benefits (see section 7.3, ante-mortem data).

A database has been created: “a centralized automated missing persons database and informational-search system *“Opoznanie”*”. The contents and functionality of this database should be checked against international standards and advice should be provided by an independent organisation such as EAAF who have specialists in database construction of this kind.

The actions plans emphasise the use of DNA analysis for establishing the identity of those bodies that have been recovered. Genetic analysis should be used as part of a suite of techniques for identification, alongside anthropological analysis. Genetic samples should not be analysed within Russian laboratories and instead should be sent to an external accredited laboratory which has experience in analysing genetic samples from contexts such as these. Families of the deceased may be understandably reluctant to supply comparative DNA samples to Russian authorities given current political tensions and a lack of trust in the process.

The action plan argues that the families of some of the missing ‘*prohibit*’ exhumation due to ‘*Islamic canon*’. There are several problems with this statement. Firstly, it implies that the identities of those buried are in fact known given that it refers to the wishes of the families. Secondly, a detailed discussion of Islamic law and humanitarian forensic exhumation by Al-Dawoody (2017, p.777) states that “*exhuming dead bodies for the purposes of transfer to the place of origin, and/or establishing the identity of the buried person such as in the case of dead migrants, is permissible under Islamic law*”⁵⁷. The exhumation of bodies of Muslims killed and buried during conflict for the purposes of identification is underway in various regions of the world, including the Balkans and Iraq.

The action plans state that laboratory resources and finances are already in place to undertake the necessary investigations. It is imperative that these laboratory facilities are inspected by an independent expert team to check that they are fit for purpose, including whether they meet current ISO17025 standards, but also to scrutinise that investigative procedures conform to international standards. The action plan also implies that multiple laboratories across several geographical locations (some of which are located outside Chechnya) are involved in the analysis. Instead a dedicated and custom designed laboratory facility should be resourced for the analysis only of those ‘missing’.

One aim of this humanitarian venture should be capacity-building in Chechnya through the training and establishment of local expertise. This has been a key feature of the work of the ICRC in Georgia, which may serve as a useful regional comparator. The current lack of trust between families and local and Russian government is an obstacle to progress; it is therefore important that this work is overseen by a neutral and impartial organisation.

Overall, we see no scientific impediment to the location and identification of those killed and still missing in Chechnya. Success has already been achieved in similar contexts across the world. It is a matter of political will, cooperation, resources and effective management. Progress towards identifying the missing in post-conflict regions is an important step in re-establishing human rights, the rule of law and societal integration.

6. Forensic Science and Identifying the Missing in Post-Conflict Regions.

- Forensic expertise is already present throughout Europe to support investigations of human remains from burial contexts arising from conflict
- A combination of forensic archaeology, anthropology, odontology and genetics are used to establish individual identity in such contexts
- Standards and accreditation schemes are present but vary from country-to-country

There are four key forensic disciplines that can support the identification of individuals exhumed from graves or recovered from other deposition sites (e.g. bodies left exposed) associated with historic conflicts:

- forensic archaeology (search and recovery of remains)
- forensic anthropology (skeletal analysis)
- forensic odontology (analysis of the teeth)
- forensic genetics (analysis of DNA).

These four disciplines are well established in Europe and elsewhere. Experts tend to work within their own countries since legal frameworks differ, and diverse educational and training pathways exist. The European Network of Forensic Science Institutes (ENFSI) was founded with the purpose of improving the mutual exchange of knowledge and information between countries. High quality peer-reviewed academic journals exist to support these four disciplines. Professional and academic societies exist for these disciplines, including some pan-European ones such as the International Academy of Legal Medicine.

7. The Location, Recovery and Analysis of Human Skeletal Remains

- There are established methods for locating clandestine graves/deposition sites.
- Excavation is destructive; archaeological approaches are therefore required to fully document the grave-site and ensure full recovery of the remains.
- Methods for establishing the identity of human remains from historic conflicts are well established and reliable, even in cases where multiple bodies are placed within a single burial context.

7.1. Locating graves

The first stage in locating potential grave sites is to undertake an intelligence gathering exercise. State authorities are likely to have records and information relating to the identity of many of the deceased and the location of bodies buried, either singly or in mass graves. If such records are not available or forthcoming, there is usually local knowledge/witness testimony regarding the location of grave sites. These data need to be gathered systematically and witnesses should be guaranteed anonymity and immunity from prosecution.

It is important that a specialist team examine the locations of potential grave sites. If intelligence gathering leads to general rather than specific locations, there are a series of techniques to help refine the search as follows:

Desk-top survey: This takes into account topography, vegetation, soil type, and access. For example, research on the victims of the Spanish Civil war graves have highlighted a pattern whereby victims are buried between 1 to 10km from the place they were detained and almost always within 100 metres of a principal road (Salado Puerto and Tuller 2017).

Aerial survey: This provides a clear perspective on changes in vegetation / area that may indicate the presence of a mass grave. The use of drones is recommended and the exploration of satellite images/Google Earth has also been used to identify grave sites (for example with the Satellite Sentinel Project). The use of infra-red and ultraviolet imaging of the ground surface has proven useful in the identification of grave sites (Abate et al. 2019).

Field walking survey: This traditional survey method is useful for establishing possible grave sites through observing changes in vegetation/topography. Health and safety should be considered here; for example, in the Balkans there was a suspicion that incendiary devices were present within and in the vicinity of mass graves. Field walking as a survey method for identifying the location of mass graves has been employed in a variety of countries (e.g. Chile and the Balkans).

Cadaver dogs: Trained dogs can identify mass graves even after many years have elapsed.

Geophysical Survey: This refers to a variety of non-destructive techniques used to survey an area with the aim of detecting sub-surface anomalies consistent with a grave. Methods include ground penetrating radar, magnetometry, and resistivity. For best results a combination of different techniques are recommended (Pringle et al. 2012, Abate et al., 2019).

7.2. Recovering human remains

Excavation is destructive and it is therefore crucial to proceed using established archaeological techniques (Anderson et al. 2002, Hunter et al. 2013). Detailed recording is essential to ensure that the evidential integrity of the site is preserved, and that stratigraphic and spatial relationships/associations can be reconstructed using site archives. Excavation must be conducted by trained archaeologists working alongside forensic experts. A forensic anthropologist should also be on-site, as well as experts who wish to retrieve any environmental and trace evidence.

Health and safety on site and in the field is also a key concern. As well as basic concerns regarding working in proximity to heavy machinery, this includes ensuring that staff are protected from hostile onlookers.

The edges of the mass grave should be demarcated and a site plan created using a GPS to plot the graves in relation to other features on the landscape. Excavation should proceed initially with the aid of a highly trained mechanical digger operator working alongside an archaeologist. Once signs of bodies or personal effects start to appear, excavations proceed using hand-held tools (e.g. mattocks, spades, trowels).

The bodies should be uncovered and photographed in situ. Personal effects associated with particular bodies should be labelled accordingly so that they can later be re-associated in the laboratory. Each body should be given a unique number and during excavation it is essential that care is taken to ensure that there is no commingling (mixing) of body parts. In mass graves, limbs can become entangled and the bodies are likely to have undergone severe decomposition and potential disturbance (e.g. from animals/tree roots whilst buried, or through later episodes of body deposition). It is therefore essential to precisely record the body position within the grave and that excavation is conducted alongside a trained forensic anthropologist.

Recording should be detailed throughout the excavation and individual bodies 'mapped' three-dimensionally using GPS. Three-dimensional scanning and photogrammetry are now being used during excavation to help record the position of bones/limbs and associated personal

effects/artefacts three-dimensionally. These contribute towards understanding the sequence and circumstances of deposition.

In situ recording needs to be very detailed. Even the position of the bones within a skeleton can reveal something about the mode of deposition. For example, in a body that was tightly wrapped at burial, the clavicles (collar bones) will decompose in a more vertical orientation than in a body that was not (Duday 2006). Careful excavation can therefore reveal lots of 'invisible' information about the burials.

Due to the detailed level of recording, the excavation of mass graves can result in a substantial amount of data. Standardised body proformas are often completed electronically in the field during excavation. Excavators should wear protective clothing to reduce the contamination of samples for genetic analysis with their own DNA.

There are published guidelines for excavating mass graves and these protocols should be used as a starting point (e.g.: Cox et al. 2008). Excavation can be a slow process, especially if the weather or physical environment is challenging. Furthermore, the excavation and analysis of human remains from mass violence contexts can generate a significant amount of material and evidence. Arrangements and facilities for the storage, curation and analysis of this material needs to be fully considered and resourced for the duration.

7.3. Identification of the deceased

The identification of the deceased is a complex multidisciplinary process. Individual identity can be established from a range of biological material (Gowland and Thompson 2013). The soft tissues have often decomposed in historic mass grave contexts, and so we focus on the hard tissues (skeleton and teeth) here.

Ante-Mortem Data: Interviews, testimonies and tissue samples from families are required. There needs to be an organised and sustained effort to gather information in a standardised format. EAAF recommend that such information gathering occurs directly between a member of the forensic team, in conjunction with a local liaison officer, and families concerned. This is because there is often a breakdown of trust between bereaved families and government officials. These interactions also help establish a dialogue as well as trust between scientists and family members. This information needs to be inputted into a database system that allows matches to be secured between ante-mortem and post-mortem records. The location and security of the database needs to be addressed due to the sensitive nature of the information contained.

Post-mortem Analysis: Analysis of human remains from mass grave contexts require laboratories with significant space and environmental controls to store and analyse bodies and their associated personal effects (Wessling 2018). Depending on the burial environment, it may be possible that features such as hair colour can still be observed, and clothing and jewellery may be associated with the body. In instances of significant decomposition, osteological methods of establishing a basic biological profile are often necessary (e.g.: Mitchell and Brickley 2018). It is not acceptable practice to rely on genetic evidence alone. In cases where bodies have been burned or dumped in water etc, it may still be possible to collect useful information from the remains (Thompson 2015; Thompson et al. 2017)

Sex: This can be determined using morphological features of the pelvis and, secondarily, the skull. Metrical methods which examine sexual dimorphism in other bones (such as the humerus and femur) are also useful but are not reliable when used alone (Buikstra and Ubelaker 1994).

Sex can also be established from the individual's DNA, or quickly and reliably from the analysis of sexually dimorphic peptides in tooth enamel (Stewart et al. 2017).

Age-at-death: This can be estimated using a variety of features of the skeleton and following established methods. For individuals who have not yet reached skeletal maturity (e.g. adolescent/young adult males), dental development and fusion of the various bones of the skeleton provide a useful guide for age. Once skeletal maturity has been achieved, morphological changes to the pubic symphyseal face and auricular surface (both located in the pelvis) as well as the sternal rib ends provide a guide to age at death (Buikstra and Ubelaker 1994, Samworth and Gowland 2007).

Stature: Height can be reconstructed through specific measurements of all those bones which contribute to height (Raxter et al. 2006, 2007). If the body is incomplete, height can be estimated through the measurement of the lower limb bones and the use of appropriate, population specific, regression equations.

Pathology: Evidence of ante-mortem trauma (e.g. fractured bones that have healed), or pathological conditions (e.g. joint disease) can provide information for establishing individual identity (Ortner 2003). Evidence of traumatic injury implicated as the cause of death, or indicative of torture prior to death, can be recorded from the skeleton during the identification process or omitted, depending on the remit of the work. Local legal frameworks will determine who can confirm the cause of death (e.g. forensic pathologist). Criminal investigations need to adhere to principles of chain of evidence.

Dentition: Dental recording can be a very useful means of identifying an individual, particularly in instances of obvious dental intervention such as fillings or dental implants. Ante-mortem dental records, however, are not likely to be available for all individuals.

Genetic: There have been many scientific developments in DNA analysis in recent years and viable samples can be retrieved from skeletal remains and processed by specialist labs. This is a common and ongoing practice in post-conflict forensic investigations. For example, for identifying individuals from the Balkans war, from the troubles in Northern Ireland, and in Argentina. The Defence POW/MIA Accounting Agency in the USA routinely identifies fallen soldiers from historic wars, including World War II, the Korean War, and the Vietnam War using anthropological and DNA analysis. While the passage of time and decomposition has some detrimental effects, this can usually be mitigated through the use of new genetic techniques. The petrous portion of the temporal bone (part of the inner skull close to the ear), or the ear ossicles (bones in the inner ear) are a useful reservoir for uncontaminated DNA from deceased individuals (Pinhasi et al. 2015; Sirak et al 2019). It is important to note that the success of DNA analysis depends on the presence of appropriate ante-mortem or familial comparison samples. Without these, DNA identification can be challenging, as was the case in Libya where the DNA profiling struggled to resolve identification issues of deceased individuals following the 2011 revolution.

Establishing Identity and Reconciliation: Co-ordination of the scientific evidence, including ante- and post-mortem data should be overseen by an expert coordinator, with identity established through the integration of all evidence. Forensic scientists do not confer identity – an appropriately mandated Identification Committee will have this role. The composition of these committees depends upon the remit of the investigation, and the legal framework within the particular country of work.

Confirming identity is always more challenging in mass grave scenarios, where multiple bodies are commingled (Fowler and Thompson 2015). DNA analysis is still possible; success depends

upon accurate and careful archaeological excavation, coupled with meticulous analysis of the remains in the laboratory. Within Europe, archaeological and forensic experts have considerable success in resolving both historic and recent mass graves.

Repatriation to the families and reburial: A multilingual family liaison officer, together with the scientists responsible for conducting the analysis should meet with the identified individuals' relatives to talk through the evidence and to ensure that the family are satisfied. The family should have the opportunity to view the remains and an appropriately attired 'viewing room' should be set-up to allow this process to occur within a comfortable environment that respects the privacy and emotional nature of the situation. This room can be part of the established forensic identification facility.

8. Capacity Building and Logistical Considerations

- Forensic practice is complex and time-consuming and requires appropriate funding
- Processing of the deceased from burial contexts needs to be undertaken in appropriate laboratory space, close to the graves
- The international community has a duty to train and support local forensic teams

Forensic expertise for investigating clandestine graves is highly specialised and historically the teams involved in such activities are comprised of non-local nationals. This has led to strong criticisms of paternalism and neo-colonialism. More recent approaches have focused on using international forensic experts to support local practitioners, through mentoring, training and peer-review networks (Thompson et al 2018). Local capacity building to develop teams who can investigate their own histories and legal contexts is important. For example, the International Committee of the Red Cross (ICRC) employ Forensic Advisors who work around the world to support local experts and trainees as they develop forensic strategies, processes and facilities.

Effective forensic science requires high-quality material and staffing resources. Designs for appropriate facilities are available, including the pre-fabricated laboratories used by the Centre for Missing Persons in Cyprus. Consideration needs to be given as to whether ISO17025 accreditation is necessary in these contexts. Facilities for processing the human remains and associated personal effects should be located close to the area where the graves are. The facilities should allow for anthropological analysis and work should be overseen by an impartial team of forensic experts alongside appropriate legal experts.

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ANNEX II - Timeline on Foreign Agent Amendments

08 December 1995 – Adoption of Law on Non-Commercial Organisations (Law No. 7-FZ). The primary piece of legislation regulating NGOs.

20 July 2012 – Adoption of Law No 121-FZ on Entering Amendments to Individual Legislative Acts of the Russian Federation in the Part Regulating the Activities of Non-Commercial Organisations Performing the Functions of a Foreign Agent. Came into force on 21 November 2012. Introduced the legal status of ‘foreign agent’ into a suite of Federal Laws (Law on Non-Commercial Organisations, the Law on Public Associations, the Criminal Code, the Code on Administrative Offences, and the Law on the Laundering of Crime Proceeds to Finance Terrorism). Generated the primary obligation to register as a foreign agent and submit regular documentation and undertake yearly auditing.

21 February and 04 June 2014 – amendments under Law 18-FZ and No. 147-FZ widened the legal grounds for conducting unplanned inspections and gave authorities the power to declare an organisation a foreign agent without it giving consent.

3 November 2015 Federal Law No. 304-FZ amended the Code of Administrative Offences to extend the statute of limitations for the imposition of administrative sanctions for non-compliance with the “foreign agents” legislation from three months to one year.

26 November 2017 – Federal Law No. 327-FZ amends Federal Law on Information, Information Technology and Information Protection and Russian Federation Law on Mass Media to designate any foreign media outlets that receive funding from a foreign source as “foreign media performing the functions of a foreign agent”, subjecting them to the same reporting and disclosure requirements as NGO foreign agents.

02 December 2019 – Federal Law No. 426-FZ amends Law on Mass Media and the Federal Law on Information, Information Technology and Information Protection and extends the foreign agent classification to individuals, if they disseminate information to an unspecified number of people and receive funding for this from abroad. Individuals who fall under the law are required to register with the Ministry of Justice, and those living abroad also have to create and register a legal entity inside Russia in order to publish in Russia. All information they publish must refer to their “foreign agent” status.

16 December 2020 - Code of Administrative Offences amended by Law No. 443-FZ providing for administrative offences for foreign agent media outlets.

30 December 2020 – Law No. 481-FZ:

- introduces the additional ground for carrying out unscheduled inspections of NCOs in the case of authorities receiving information that an NCO’s activities “do not correspond to the statutory aims and tasks of its activities”; the inspections may last up to 45 days;
- broadens of the concept of "foreign sources" of NCOs to include indirect funding that was received from Russian nationals or organizations who themselves received the funds from foreign sources or persons acting in the capacity of intermediaries,
- requires unregistered public associations that receive foreign funding and participate in political activities to register as “foreign agents” or even if they merely intend to receive foreign funding and to participate in political activities obliges them to inform the federal state registration authority every quarter of the amount and purposes of

- foreign funding and the actual spending, and requires them to label their materials with a reference to their “foreign agent” status;
- expands the grounds for designating individuals as “foreign agents” to include receipt of foreign “organisational and methodological support” while engaging in political activities;
 - expands the grounds for designating individuals as “foreign agents” to include the gathering of information on military and military-technical activities of the Russian State and empowers the Federal Security Service (FSB) to determine a list of information the receipt of which would serve as a ground for becoming a “foreign agent”;
 - exempts diplomatic personnel as well as “representatives of foreign state authorities and international organisations which are on the territory of the Russian Federation by official invitation”, accredited foreign journalists, *unless they engage in political activities “incompatible with their professional journalistic activities”*, as well as other unspecified individuals;
 - requires “foreign agent” individuals to report on their “political activities” and how they spend their foreign funds to the Ministry of Justice twice a year;
 - requires “foreign agent” individuals to label their materials with a reference to their “foreign agent” status;
 - requires foreigners who intend to “carry out activities linked to the performance of the functions of a foreign agent after their arrival” to notify the public authorities prior to their entry

30 December 2020 - Federal Law No. 525-FZ amends Art 330-1 of the Criminal Code providing for criminal sanctions for violations of the foreign agent legislation, with imprisonment of up to 5 years.

24 February 2021 – amendments under Federal Law 14-FZ prohibit any mentioning of a person or organization recognized as a foreign agent without informing the audience about this fact. Additionally, introduces administrative fines of:

- up to 30,000 roubles for failure of individuals designated as “foreign agents” to indicate their status as “foreign agents” and up to 50,000 roubles for failing to comply with their reporting obligations;
- up to 30,000 roubles for failure of unregistered public associations designated as “foreign agents” to comply with their reporting obligations;
- up to 500,000 roubles for failure by a “foreign agent” NCO, unregistered public association or individual to label their material with a reference to their “foreign agent” status;
- up to 2,500 roubles for citizens, 5,000 roubles for officials and up to 50,000 roubles for entities for the dissemination of information about “foreign agents”.

05 April 2021 - Federal Law No. 75-FZ:

- obliges “foreign agent” NCOs and structural subdivisions of foreign NCOs to submit programmes and other documents providing a basis for the conducting of events and a report on their implementation to the Russian Ministry of Justice;
- empowers the Ministry of Justice to decide whether an NCO may implement these programmes and provides for the liquidation of “foreign agent” NCOs or structural

subdivisions of foreign non-commercial non-governmental organisation by the decision of a court in case of non-compliance with the decision;

- broadens the concept of "foreign sources" of NCOs to include funding received from Russian legal entities whose beneficial owners are foreign citizens or stateless persons;
- requires structural subdivisions of foreign NCOs to report on their "political activities" and how they spend their foreign funds to the Ministry of Justice twice a year;
- bans structural subdivisions of foreign non-commercial non-governmental organisations from registering on residential premises.

20 April 2021 – Federal Law No 91-FZ:

- expands the prohibition of militating for or against the nomination of candidates or otherwise participating in electoral or referendum campaigns to unregistered public associations and foreign media outlets performing the functions of a foreign agent as well as Russian legal entities set up by foreign media outlets performing the functions of a foreign agent;
- obliges candidates who are "foreign agents" or "affiliated with a person performing the functions of a foreign agent" to state this information in their declaration to stand for election, in signature lists, where "foreign agent" designation will be listed next to any previous criminal convictions in the signature list, and in their campaign material, where the reference must cover at least fifteen percent of the material's surface; these requirements are extended to candidates who are merely nominated by an electoral association (usually a political party) that has also nominated a candidate who is a "foreign agent" or "affiliated with [...] a foreign agent";
- prescribes that this information be displayed on information stands on the premises of the precinct electoral commissions and stated on the ballots;
- prescribes that campaign donations by "foreign agent" citizens shall indicate this information in the payment document.

30 April 2021 – amendments under Law 102-FZ impose fines for distribution in mass media of materials produced by an entity recognized and registered as a foreign agent in Russia if such publications do not bear a special sign designating the publisher as a "foreign agent." The restrictions apply to publications and messages distributed online or through social networks.