

**Anti-Terrorism Measures and
Human Rights in North Caucasus:**

**A Regional System of Torture,
Forced Confessions and
Fabricated Trials**

From March 2007 to April 2008

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The Norwegian Helsinki Committee

Summary and Conclusions

This report is based on information collected in the North Caucasus region by the following human rights organizations active in the North Caucasus region: Amnesty International, Civic Assistance Committee, Human Rights Watch, International Helsinki Federation for Human Rights, Memorial Human Rights Center, the Norwegian Helsinki Committee, and Stichting Russian Justice Initiative. The aim is to provide an overview of developments in the human rights situation in five republics of the North Caucasus region of the Russian Federation (Kabardino-Balkaria, North Ossetia, Ingushetia, Chechnya and Dagestan) from March 2007 until the present.

While there have been **positive developments in the human rights situation in the North Caucasus region over the last year, notably in the Chechen Republic**, which has seen a decrease in some of the gravest types of human rights abuses, such as enforced disappearances, **the underlying problem of impunity for human rights abuse persists**. Moreover, there is a change in the pattern of human rights abuse taking place in the region.

In April 2007, for the first time since the beginning of the Second Chechen war, no abductions were registered in Chechnya. In Ingushetia 3 men went missing in spring-summer 2007 after detention by state agents, but since September, Memorial have not registered enforced disappearances in Ingushetia. There have been no enforced disappearances in North Ossetia since July 2007. Dagestan has been an exception, with disappearances on the rise in the summer of 2007. However, human rights reports, protest rallies and news coverage seemingly had an impact and disappearances are on the decline. When two men were abducted on January 30 2008 in Makhachkala, they were later released after protest rallies had been organized by relatives and a local rights group.

The practice of enforced disappearances is being replaced by a regional system of torture, forced confessions and fabricated trials. Suspects are illegally detained, tortured, forced to provide confessions regarding armed activity or related crimes. In court such suspects are sentenced to long prison term on the basis of evidence extracted under torture. In the prisons conditions for

"Caucasian fighters" are harsh. Last year, human rights organizations received hundreds of complaints and documented dozens of¹ cases of severe beatings, torture, denial of medical aid and degrading treatment of North Caucasian prisoners. Several formerly healthy prisoners from Ingushetia and Chechnya, some only recently sentenced for combatant activity, died in prison. **In 2007 and 2008, primarily in Ingushetia, but also in Dagestan, a number of suspects were shot dead while "resisting arrests" or during "special operations".** In most cases, witnesses claim that the persons did not resist security servicemen and were simply summarily executed.

The report draws upon the European Committee for the Prevention of Torture's (CPT's) Public Statement Concerning the Chechen Republic of The Russian Federation of 13 March 2007, Mr. Christos Pourgourides report on "Member states' duty to cooperate with the European Court of Human Rights" from 9 February 2007, and the subsequent (PACE) Resolution 1571 (2007), adopted on 2 October 2007, as points of departure. This means that the report deals specifically with the following topics:

- 1) Persecution of applicants to the Court, their families and lawyers,
- 2) Ill-treatment in ORB-2,
- 3) Unlawful detentions and unofficial paces of detention,
- 4) The climate of impunity,
- 5) Persecution of human rights defenders.
- 6) No refuge (migration issues)

Incidents of alleged persecution of applicants have still not been effectively investigated, as called for by the PACE Resolution 1571 (2007), and it seems that the practice of intimidating applicants to the Court (and to domestic courts) continues. The organization Stichting Russian Justice Initiative reports that in some cases prosecutors have forced applicants to sign false statements, while Memorial reports that the family Musaev, who won their case in Strasbourg in July 2007, have been harassed during the fall of 2007 and the winter of 2008. The threats they have received may constitute an attempt at impeding the full execution of the Court decision, which mentions specific federal officers and units in connection with the disappearance of the two brothers Musaev. The mother and brother of the former Guantanamo prisoner Rasul Kudaev's, who has lodged a complaint relating

¹ Access to Russian prisons is very restricted. It is next to impossible for human rights groups to access prisoners. ICCR's mandate for visiting detention facilities in Russia has not being extended since 2004.

to illegal detention, torture and lack of access to a defence attorney, were illegally detained while law enforcement officers raided their house and confiscated material relating to Kudaev's case and defence.

While President Ramzan Kadyrov gained increasing control over the republic's political, law enforcement and security institutions, ORB-2 remained a key security structure under federal control. The rivalry seemed to end in July 2007 when the head of ORB-2 was replaced. The new head, Isa Surguev, promised to work closely with local law enforcement agencies, that is, with units under Kadyrov's control. **Although the ORB-2 in Grozny remains in function (there were reports of insurgents detained there in February 2008), to our knowledge, there have been no reports of ill-treatment since July 2007.** Reports of torture in the ORB-2 in other towns have continued.

Since the fall of 2007 new cases have come to light indicating that **not only are the numerous allegations of illegal places of detention not properly investigated, but the practice of employing such sites seem to continue.** A person interviewed by the NHC, "A", alleged that he was incarcerated illegally at the same compound in Tsenteroy

mentioned by the CPT for several months until his release in early 2007. The impression of local monitors, however, is that use of the sites in Tsenteroy for illegal detention and ill-treatment has been scaled down. There is a pattern of detained and abducted people being transported over republican borders in order to be interrogated in official or unofficial places of detention (the latter are seemingly more common in Chechnya than in the neighbouring republics). Persons detained in Ingushetia are frequently taken to detention centers in North Ossetia, while suspects apprehended in Dagestan have been taken to Chechnya.

The Aushev case illustrates the existence of **a regional system of torture, forced confessions and fabricated trials.** Magomed Aushev was detained in Ingushetia in June 2007, brought to Vladikavkaz and tortured at the UBOP into providing a statement. Later he was detained in Grozny and brought to a secret detention facility in the village of Goity in Chechnya, where he was tortured again. After his release, a relative managed to find the building. Evidence in the building pointed to it having been used as a detention facility in cases where Ingush residents had disappeared. No investigation was opened, and the relative was arrested and imprisoned in Nalchik in

February 2008.

In some cases, federal and Chechen servicemen have been prosecuted for crimes committed in relation to the counter-terrorist operation. The decisions in the cases against federal servicemen Budanov, Lapin and Ulman have been confirmed, and there have been a few other cases of convictions of servicemen for grave crimes, such as murder. However, **the general picture is one of continued impunity for grave crimes committed by local and federal servicemen.** The Prosecutor's Office in Chechnya have opened a number of cases into allegations of grave human rights abuses (such as enforced disappearances, of which there are at least 3000), but (except for the Lapin case) the investigations have not produced any results. **Two complaints were received by the Grozny procuracy last year (and by the Strasbourg Court) alleging illegal detention, deprivation of liberty and torture committed by high officials in the Chechen administration, including President Ramzan Kadyrov.** There has been no effective response by the Chechen prosecutors to these complaints, underlining another basic problem: **Prosecutors consistently refuse to open cases and/or investigate effectively complaints dealing with abuse of power by**

local and federal law enforcement, military and security officers whose identity is known.

In relation to the 26 court decisions from the European Court, it remains unclear whether Russian authorities will execute the decisions in full, i.e. conduct effective investigations and prosecute the many servicemen implicated in crimes described in the Strasbourg decisions. As noted above, pressure against applicants have continued after their cases have been decided in Strasbourg, possibly aimed at impeding the full execution of the Court's decision.

The situation for human rights defenders in the region has been critical from the inception of the counter-terrorist operation, and has deteriorated in 2007 and 2008. Threats, harassment and attacks (including killings) of human rights defenders have been reported across the North Caucasus, with the gravest incidents occurring in Ingushetia and Dagestan. **The abduction and ill-treatment of the head of Memorial's human rights center, Oleg Orlov, and three journalists from the channel REN TV, from a hotel in Ingushetia, in November 2007 sent a message that not even the most senior defenders in Russia are beyond the reach of**

criminal groups that operate under state protection. In Dagestan there were three assassination attempts against human rights defenders and judges in November and December 2007, two of which were successful.

To some degree **other states (Kazakhstan, Georgia, United States, the Ukraine) have colluded with the regional system of torture, forced confessions and fabricated trials by extraditing Russian nationals of Chechen nationality,** who subsequently became victims of human rights abuse. Other European states reject asylum applications based on the argument that there is an internal flight alternative in Russia for people from the North Caucasus. However, this alternative has certain limits. Provisions of the Russian Code of Criminal Procedure stipulates that criminal cases shall be investigated and prosecuted in the area where the crime took place, and suspects are retained in other parts of the federation and transferred back to the North Caucasus as a matter of criminal procedural routine. **Consequently, by referring rejected asylum seekers to an internal flight alternative in Russia, European countries risk exposing them to chain refoulment.**

Norway, which decided to change practice regarding Russian asylum seekers, i.e. Chechens, from North Caucasus in 2007. **The new restrictive policy represents a complete departure from the recommendations of the UNHCR, and entails the rejection of asylum claims from persons from a number of categories that would seem to be in need of international protection:** insurgent fighters and supporters (these could be excluded from protection if they are guilty of grave crimes, but this aspect is not discussed in the decisions), members of independent religious communities (jamaats) and applicants to the Strasbourg Court. If the decisions of the first level of the Norwegian immigration service (Utlendingsdirektoratet – UDI) are upheld by the appeals instance of the Norwegian migration service (Utlendingsnemnda – UNE), they may violate Norway's international obligations under the 1951 UN Convention Relating to the Status of Refugees and the 1950 European Convention on Human Rights. **If enforced, the decisions could entail returning asylum seekers to persecution, torture, inhuman or degrading treatment, flawed criminal prosecution and life-threatening situations.**

This report uses the **example of**



The Central Mosque by the river Terek, Vladikavkaz, North Ossetia, 2004

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I Background

This report is based on information collected in the North Caucasus region by the following human rights organizations active in the North Caucasus region: Amnesty International, Civic Assistance Committee, Human Rights Watch, International Helsinki Federation for Human Rights, Memorial Human Rights Center, the Norwegian Helsinki Committee, and Stichting Russian Justice Initiative. Although we have not used media as primary sources, information from the website Caucasian Knot (which works closely with the human rights NGOs) is referred to in the report. Because of the sensitive nature of some of the cases mentioned here, names have been changed and some details left out.

This report does not give an exhaustive picture of the human rights situation in the North Caucasus from March 2007 until the present. Geographically, only the five easternmost republics (Kabardino-Balkaria, North Ossetia, Ingushetia, Chechnya and Dagestan) are covered in this report. In these republics, experienced human rights organizations are

based in Chechnya and Ingushetia, whereas the network of human rights monitors and lawyers are weaker in the other republics. The non-transparent nature of human rights abuse taking place under the mantle of the counter-terrorist operation, witnesses' reluctance to speak openly about abuses, and pressure on local human rights defenders all contribute to making it hard to establish the real picture of anti-terrorism measures and human rights in the North Caucasus. Thus, for instance, the statistics on Chechnya quoted from Memorial come with the caveat that its monitors are able to cover only 25 to 30 percent of the territory of the republic, and even in these areas the material may be inconclusive due to the reasons cited above.

The report uses the European Committee for the Prevention of Torture's (CPT's) Public Statement Concerning the Chechen Republic of The Russian Federation of 13 March 2007², and Mr. Christos Pourgourides report on "Member states' duty to cooperate with the European Court of Human Rights" from 9 February 2007³

2 <http://cpt.coe.int/documents/rus/2007-17-inf-eng.htm>

3 <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc07/EDOC11183.htm>

as points of departure. This means that a number of human rights topics are not directly dealt with in the report, including freedom of expression, of religion, assembly, movement, association and the right to free and fair elections of public representatives. It does not mean, however, that these topics could not themselves be discussed at length in connection with the North Caucasus.

-- - Oslo, 30 April 2008,
Bjørn Engesland,
Secretary General,
The Norwegian Helsinki Committee

2 Point of Departure: CPT and the Pourgourides Report

The points of departure for this report are two documents of Council of Europe institutions. First, Mr. Christos Pourgourides report on **"Member states' duty to cooperate with the European Court of Human Rights" (Pourgourides Report)** from 9 February 2007. Second, **the European Committee for the Prevention of Torture's Public Statement Concerning the Chechen Republic of The Russian Federation (CPT Public Statement)** of 13 March 2007.

The Pourgourides report deals with the Member States' duty to cooperate with the European Court of Human Rights (the Court), underlining the member states' obligation "not to hinder in any way the effective exercise of the right of individual applications (Article 34 of the Convention)" and that he is "deeply worried" about reports of alleged persecution of applicants that has not been effectively investigated. The Parliamentary Assembly of the Council of Europe (PACE) Resolution 1571 (2007)⁴, adopted on 2 October 2007, which is based on the Pourgourides report, states that:

5. As all states parties to the Convention have undertaken not to hinder in any way the effective exercise of the right of individual applications (Article 34 of the Convention), the Assembly is deeply worried about the fact that a number of cases involving the alleged killing, disappearance, beating or threatening of applicants initiating cases before the Court have still have not been fully and effectively investigated by the competent authorities. On the contrary, in a significant number of cases there are clear signs of a lack of willingness to effectively investigate the allegations and in some cases the intention of whitewashing is clearly apparent.

6. Illicit pressure has also been brought to bear on lawyers who defend applicants before the Court and who assist victims of human rights violations in exhausting national remedies before applying to the Court. Such pressure has included trumped-up criminal charges, discriminatory tax inspections and threats of prosecution for "abuse of office". Similar pressure has been brought to bear on NGOs who assist applicants in preparing their cases.

7. Such acts of intimidation have prevented alleged victims of violations from bringing their applications to the Court, or led them to withdraw their applications. They concern mostly, but not exclusively, applicants from the North Caucasus region of the Russian Federation ...

One of the topics of this report, therefore, is **persecution of applicants, their families and lawyers**. This question, however, is closely linked to the general situation for human

4 <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/tao7/ERES1571.htm>

rights defenders (defenders) in the North Caucasus. Defenders and lawyers often work closely together – an attack on a defender may be felt as a warning to the lawyer, and vice versa. Therefore the topic is broadened, and **persecution of human rights defenders** is included as an independent topic.

CPT's Public Statement of 13 March 2007 was the (unprecedented) third occasion on which the CPT undertook this measure in respect to the situation in Chechnya. Although the *modus operandi* of the CPT is quiet diplomacy, the CPT may resort to issuing public statements in cases where the respective government is non-cooperative. Public Statements had also been issued in July 2001 and July 2003. In its statement of March 2007, the CPT states that:

[it] remains deeply concerned by the situation in key areas covered by its mandate. Resort to torture and other forms of ill-treatment by members of law enforcement agencies and security forces continues, as does the related practice of unlawful detentions. Further, from the information gathered, it is clear that investigations into cases involving allegations of ill-treatment or unlawful detention are still rarely carried out in an effective manner; this can only contribute to a climate of impunity.

After each of the visits in 2006, the CPT's delegation immediately made detailed written observations. The reactions of the Federal authorities were not commensurate with the gravity of the Committee's findings, and the same is true of the comments which they have

recently made in response to the report on the two visits adopted in November 2006. Although displaying an open attitude on subsidiary matters related to conditions of detention, the Russian authorities consistently refuse to engage in a meaningful manner with the CPT on core issues. This can only be qualified as a failure to cooperate.

The main concerns for the CPT, then, which will be dealt with in this report, are: 1) ill-treatment in ORB-2 (Operational/Search Bureau of the Main Department of the Ministry of Internal Affairs of Russia responsible for the Southern Federal Region), 2) unlawful detentions, and 3) the effectiveness of investigations into allegations of ill-treatment. In relation to 2) (unlawful detentions), an important concern remains the existence of unofficial places of detention, which has been a feature of the anti-terrorist operation in (especially) Chechnya and a contributing factor to the high incidence of ill-treatment of suspects and other, grave violations of the ECHR. Therefore the topic is broadened to include unofficial places of detention. Topic 3) (the effectiveness of investigations into allegations of ill-treatment) has also been broadened to include investigation and prosecution officers of law enforcement agencies and security forces for other serious crimes. Using a phrase of the CPT, the topic has been given the heading the "climate of impunity".

The two documents paint a disturbing picture of systematic lawlessness in connection with the counter-terrorist operation in North Caucasus. In relation to the work of the law enforcement agencies and security forces, the CPT makes the following statement:

The general picture which emerged was that any detained person who did not promptly confess to the crime of which he was suspected (or provide information being sought by those responsible for the detention) would be in imminent danger of being ill-treated.

In this report we have broadened the geographical issue from Chechnya to the North Caucasus region, and the report describes the main human rights challenge as *A Regional System of Torture and Forced Confessions*. In the final section of the report, we will look at human rights aspects connected with migration from the zone of the counter-terrorist operation in North Caucasus, specifically the aspects of: extradition, internal flight alternative and asylum practices. We will specifically discuss the case of Norway, which receives many asylum seekers from North Caucasus (160 persons in January 2008 alone, according to sources in the migration service), and recently changed its practice regarding Chechen asylum seekers.

Based on the Pourgourides Report and the CPT's Public Statement, the report will focus on the following six topics:

- 1) **Persecution of applicants to the Court, their families and lawyers,**
- 2) **Ill-treatment in ORB-2,**
- 3) **Unlawful detentions and unofficial places of detention,**
- 4) **The climate of impunity,**
- 5) **Persecution of human rights defenders,**
- 6) **No Refuge (migration issues).**

These topics will be dealt with under special headings, but the first sections of the report deals with the wider context of the trends in the human rights situation and the regional security situation.



Chechen mother with picture of her missing son, Ingushetia 2003

3 General Trends: Insurgency, Counter-Terrorist Measures and Human Rights

Armed conflict in the North Caucasus continued into 2008. Combatant networks planted explosives, attacked military, security and law-enforcement services, which often-times led to civilian casualties. Federal and local security services combat these networks, gravely violating human rights in the process. In 2007 there was a major reconfiguration of battlefield. Chechnya had been largely 'pacified' while neighbouring Ingushetia, became the main theatre of insurgency, 'counter-

terrorist' measures and human rights violations. Dagestan, North Ossetia and Kabardino-Balkaria continued to be areas of low-intensity armed confrontation.⁵

Statements from officials, such as Chechen president Ramzan Kadyrov, confirm the existence of a still on-going insurgency in the **Chechen Republic**.⁶, however, it has significantly decreased. The UNDSS incident overview from Chechnya shows a steady decline of reported incidents

5 Below is a table of incidents reported by the information agency Caucasian knot in the period from October 2007 through February 2008, in order to give an indication of the current level of security incidents:

Reported incidents in NC republics, connected with insurgency/counter-terrorist measure, from Oct 07 through Feb 08 (Based on newflashes from www.kavkaz-uzel.ru)	Dagestan	Ingushetia	Kabardino-Balkaria	North-Ossetia	Chechnya
Killed civilians	17	12	9	2	2
Killed "fighters"	34	11	-	2	27
Killed MVD/Mod/Security personell	12	14	3	4	21
Incidents (bomb attacks, attacks on officials and official buildings)	22	34	5	6	21

These numbers are only indications of the real figures, and should be treated with caution. They seem to corroborate the general point that there is a regionalization of the conflict, in which the gradual decline of violence in the Chechen republic has been counterbalanced by a gradual increase of incidents in the neighbouring republics.

6 According to kavkaz.memo.ru, Kadyrov mentioned the possibility of announcing a new amnesty for illegal armed formations as late as 20 February 2008.

of bomb attacks, killings of non-combatants and attacks on military, security and law enforcement officers. The only exception to the trend is in the category of armed clashes, where there was an increase in reported incidents from 2006 to 2007.⁷ In official figures relating to the counter-terrorist operation released in March 2008⁸, the Chechen government claimed that while in 2006 175 insurgent fighters were killed and 1100 detained, the respective numbers for 2007 were 164 killed and 735 detained. Clashes have reportedly continued through the winter of 2008, according to news sources. On the night of 19 March 2008, according to reports, an armed group attacked an administrative building in the village of Alkhazurovo in the Urus Martan district. Seven security officers were killed, in addition to three insurgents. According to Memorial data, from March 2007 until now, 65 people were killed during special operations in Chechnya, including 17 civilians, 30 security servicemen and 18 combatants. The concentration of power in the hands of Ramzan Kadyrov has made victims of rights abuse reluctant to report crimes committed against them. Nonetheless, human

rights organizations documented cases of illegal detention, enforced disappearances, torture, fabrications of criminal cases in Chechnya in 2007.

Ingushetia was the hot spot of the North Caucasus in the period. From July through October, attacks, bomb blasts and killings of security servicemen occurred with almost daily regularity. According to Prosecutor of the Ingush Republic, Yuriy Turygin, attacks on security servicemen in 2007 increased by 85% compared to 2006⁹. In 2007 Memorial registered 91 people killed during special operations (including 41 civilians and 36 security servicemen). 23 people were killed during the first three months of 2008. In response to increased combatant activity, additional federal forces were stationed in Ingushetia. In the hunt for insurgents, security servicemen carried out violent operations in the villages, and summarily executed, illegally detained and tortured their suspects. Thus, on July 28, during an operation in the village of Ali-Yurt, FSB servicemen dragged residents of the Ordzhonikidze and Zyazikova streets out of the houses and beat them up. After the opera-

7 Cited from a recent security assessment report of the Swedish Immigration Directorate, <http://www.migrationsverket.se/include/lifos/dokument/www/08030681.pdf>.

8 <http://www.regions.ru/news/2130813/>

8 <http://www.memo.ru/hr/hotpoints/caucas1/index.htm>

9 <http://www.memo.ru/hr/hotpoints/caucas1/index.htm>

tion, over 30 people were hospitalised, including teenagers, a 7-month-pregnant woman and an 80-year-old mullah. Two villagers required emergency treatment in Moscow. Seven young men were randomly detained, tortured with electricity and subsequently released. During a "special operation" in the village of Chemulga on November 9, FSB servicemen fired at civilians, shooting dead their 6-year-old child – Rakhim Amriev.

In **Kabardino Balkaria**, the trial against 58 suspected militants in relation to the attack on Nalchik in October 2005, in which around 140 persons reportedly were killed according to official sources, including 35 military, police and security servicemen and at least 12 civilians, have been postponed a number of times. The trial will be the most extensive terrorism trial to take place in Europe. During the investigation grave and systematic violations of human rights appear to have taken place. 40 suspects submitted statements about torture to Memorial and the CPT. Medical evidence points to at least half of the 58 suspects having been ill-treated in detention, twelve of whom have made allegations of torture. There are also numerous other allegations concerning procedural irregularities such as unlawful arrests, illegal detentions and lack of access to defence lawyers. The

upcoming Nalchik trial will be a test of how the Russian legal system handles massive abuse of power and grave human rights violations by law enforcement and investigative bodies.

The object of attacks by armed insurgents in **Dagestan** have been representatives of security servicemen, civil servants, their relatives, but also religious authorities, whom Islamist radicals consider cooperative with the authorities. Thus, on September 30 in Kizil-Yurt unidentified insurgents killed 59 year old imam of local mosque, Nurmagomed Gazgimagedov. The same day in the village of Gonoda, a policemen and eight civilians were killed by unidentified fighters. Some of the victims happened to be the relatives of Dagestani Minister of Internal Affairs, Adilgerey Magomedtagirov, who comes from Gonoda. Security services carried out large-scale sweeps in mountainous Dagestan. Thus, village Gimry was announced an area of anti-terrorist operation in December 2007 and was closed off by security servicemen for over two months. Dozens of men were detained, but lawyers and human rights groups had no access to "the zone of anti-terrorist operation". In the spring of 2007 there was a wave of disappearances in Dagestan. Human rights organisations documented torture in pre-trial detention.

Prisoners were often taken for torture to ORB-2 in Chechnya, but likewise mistreated in local legal and illegal detention facilities, such as IVS and police stations in Makhachkala, Izberbash, and neglected resort houses at the Caspian seaside. Spontaneous and sanctioned protest rallies organized in response to grave human rights violations in Dagestan were suppressed using armed police and military.

The motivation of armed insurgents in the North Caucasus varies. Having started as a separatist struggle in Chechnya, the movement evolved into a region-wide underground network, whose members fight for a range of reasons- from 'national liberation', to revenge for killed relatives or global Jihad. Unresolved regional conflicts, ethnic discrimination and economic deprivation contribute to the spread of militant radicalism.

An example is Prigorodny District of **North Ossetia**. The unresolved ethnic conflict between Ingush and Ossetian communities¹⁰, discrimination¹¹ and lack of legal protection in respect to the Ingush minority create

fruitful soil for radicalisation of youth. Five Ingush men disappeared in Prigorodny district from May through July 2007. Three teenagers were shot dead by unidentified perpetrators in the village of Chermen on October 19, 2007. There is no direct evidence that the crimes were committed by state agents, however, none of the disappearances or murders of Ingush persons have been investigated in North Ossetia. Another factor contributing to destabilisation of North Ossetia is the practice of pre-trial detention of suspects from Ingushetia in institutions of the republican capital Vladikavkaz. There is abundant well documented evidence that ethnic Ingush are being subjected to severe torture in UBOP of Vladikavkaz, which creates frustration in the Ingush community. As a result, in North Ossetia, a republic which used to be an area of purely ethnic cleavage, there appears to be a Jihad-motivated insurgency.

Patterns of rights abuse underwent a transformation in 2007. Abductions and enforced disappearances were being gradually replaced by fabricated trials and summary executions. In April 2007, for the first time since

10 Armed conflict between Ingush and Ossetian communities broke out in October 1992 as a result of unresolved territorial dispute over Prigorodny district. As a result of the conflict Ingush minority fled North Ossetia and have been slowly returning since 1995.

11 Ingush returnees have restricted access to education, employment, healthcare, experience other forms of discrimination. See <http://www.memo.ru/eng/memhrc/texts/6prig.shtml>

the beginning of the Second Chechen war, no abductions were registered in Chechnya. By comparison, in April 2006 Memorial registered 17 enforced disappearances in the republic. In Ingushetia 3 men went missing in spring-summer 2007 after detention by state agents, but since September Memorial have not registered enforced disappearances in Ingushetia. There have been no enforced disappearances in North Ossetia since July 2007. Dagestan has been an exception, with disappearances on the rise in the summer of 2007. However, human rights reports, protest rallies and news coverage seemingly had an impact and disappearances are on the decline. When two men were abducted on January 30 2008 in Makhachkala, they were later released after protest rallies had been organized by relatives and the local rights group "Mothers of Dagestan".

The practice of enforced disappearances is being replaced by a regional system of torture, forced confessions

and fabricated trials. Suspects are illegally detained, tortured, forced to provide confessions regarding armed activity or related crimes. In court such suspects are sentenced to long prison term on the basis of evidence extracted under torture. In the prisons conditions for "Caucasian fighters" are harsh. Last year, human rights organizations received hundreds of complaints and documented dozens of¹² cases of severe beatings, torture, denial of medical aid and degrading treatment of North Caucasian prisoners. Several formerly healthy prisoners from Ingushetia and Chechnya, some only recently sentenced for combatant activity, died in prison.

In 2007 and 2008, primarily in Ingushetia, but also in Dagestan, suspects were shot dead while "resisting arrests" or during "special operations". In most cases, witnesses claim that the persons did not resist security servicemen and were simply summarily executed.

12 Access to Russian prisons is very restricted. It is next to impossible for human rights groups to access prisoners. ICCR's mandate for visiting detention facilities in Russia has not being extended since 2004.

4 Persecution of Applicants

In his draft resolution, cited in the Pourgourides report, the rapporteur states that:

[T]he Assembly is deeply worried about the fact that a number of cases involving the alleged killing, disappearance, beating or threatening of applicants initiating cases before the Court have still have not been fully and effectively investigated by the competent authorities. On the contrary, in a significant number of cases there are clear signs of a lack of willingness to effectively investigate the allegations and in some cases the intention of whitewashing is clearly apparent.

As regards incidents of pressure or threats against applicants to the European Court of Human Rights that may be related to their status as applicants, some new incidents have been reported. Leading to the conclusion **that not only have incidents of alleged persecution in the past not been effectively investigated, but it seems the practice of intimidating applicants to the Court (and to domestic courts, as seen in the Aushev case described in section 7) continues.** The Netherlands-based organization **Stichting Russian Justice Initiative**, which represents clients from the North

Caucasus before the Court, reports that a few applicants, under duress, recently wrote statements in the prosecutors' office to the effect that they had not applied to the Court. It is unclear what legal purpose these statements are supposed to serve, but the procedure seems aimed at intimidating the applicants.

Persecution of applicants in the North Caucasus is closely linked to persecution of persons who complain about human rights abuses to the local prosecutors and courts. Many of those who complain locally, proceed to Strasbourg, and continue to experience undue pressure throughout the process – thus the distinction between the two groups is mostly a matter of degree of international attention. The well-known case of **Rasul Kudaev**, the former Guantanamo inmate, is a case in point.¹³

Rasul Kudaev, a resident of Kabardino-Balkaria, was transferred from (extra-judicial) US custody in Guantanamo to Russia in March 2004, after US authorities received diplomatic assurances that he would not be ill-treated upon his return. Once in Russia, Kudaev was immediately subject to harassment by law enforcement and administrative institutions

¹³ See for instance Human Rights Watch's report The "Stamp of Guantanamo" from March 2007, <http://www.hrw.org/reports/2007/russia0307/>

(he could, for instance, not get proper documents from the authorities). After the raid on Nalchik on 13 October 2005, in which at least 140 people were killed (including 14 civilians and 35 police and federal servicemen, according to official sources), Kudaev was arrested in a major sweep operation on 23 October 2005, apparently on suspicion of participation in the raid, e.g. terrorism-related crimes. While at UBOP in Nalchik, and later at the local SIZO, Kudaev was tortured brutally. He alleges that the case against him is based on confessions extracted under torture. Photos, medical documents and witness testimonies support Kudaev's allegations. His petitions to the prosecutor's office, alleging ill-treatment, were rejected. Perhaps as a consequence of the complaints, Kudaev's lawyer, **Irina Kommissarova**, was later removed from the case by the authorities on technical grounds that appear spurious. Some two months after his detention, Kudaev lodged an application with the European Court, alleging unlawful arrest, ill-treatment and lack of access to legal representation (Art. 5 of the European Convention). Afterwards, the authorities have stepped up pressure on Kudaev and his family. Although Kudaev is in poor health (he suffers from hepatitis) he has several times been placed in isolation under hard conditions in the Nalchik SIZO, and has allegedly also been beaten. His mother,

Fatimat Tekaeva, publicly stated that she feared for his life, as Kudaev's case had become an embarrassment to the authorities ahead of the long-awaited trial of 58 suspected militants in Nalchik. On 14 February 2008, Tekaeva, and Kudaev's brother, **Arsen Mokaev**, were detained and brought to the centre "T" in Nalchik, a counter-terrorist MVD institution where people have been illegally detained and ill-treated. Tekaeva was held there for six hours and interrogated about various terrorist acts. She claims her son Mokaev was beaten. While Tekaeva and Mokaev were in custody, Tekaeva's house in the village of Khasanya was searched and a number of documents relating to the case of Kudaev were seized. Kudaev's lawyer has lodged a complaint with the prosecutor's office, alleging that the arrests of Tekaeva and Mokaev and the confiscation of their property were unlawful, and moreover aimed at weakening the defence of Rasul Kudaev, in violation of Russian law and the European Convention.

The upcoming Nalchik trial (described in section 3) will be a test of how the Russian legal system handles massive abuse of power and grave human rights violations by law enforcement and investigative bodies.



Rasul Kudaev before and after his detention and torture in October 2005 (Photo, Private)

26 cases from Chechnya and Ingushetiya have been decided at the Strasbourg Court up until 20 March 2008, all in favour of the applicants. This does not mean that the cases are finished, however, as the execution of the decisions often will entail reopening domestic investigations and criminal cases. Consequently, **there are reports of pressure against applicants who have won cases in Strasbourg.** According to information from the Memorial HRC and Civic Assistance Committee, **the Musaev family**, who won their case concerning the disappearance of the two brothers **Umar** and **Ali Musaev** during a sweep operation in the village Gekhi in Chechnya, have been threatened after the decision.

Umar and Ali Musaev were detained by federal forces in August 2000, and disappeared. The Musaevs (the disappeared brothers' parents and sister) complained to the Court, and won their case on 26 July 2007. Units and officers involved in the operation in Gekhi are mentioned in the decision. In October 2007 a grandchild in the Musaev family was contacted by strangers in a car with tinted windows while on her way to school. The family considered the incident threatening, and reported it to the police. In November relatives of the family in Gekhi received a visit from armed and masked men, who made threats against the applicants. Another family named Musaev (unrelated to the applicants) were allegedly attacked by unidentified, armed men in the village of Shali. The attackers tied them up, and demanded "the money from the European Court". The men left when they realized they were at the wrong address. New threats were delivered to the family in a letter in December.

The family was asked to hand over half of the compensation awarded to them if they wanted their grandchild to remain alive. During the night of 28 and 29 January 2008 their house in Gekhi was damaged by artillery fire. The attack may have been an accident, but given the total number of incidents, the family alleges that they are targeted by a criminal group connected to the authorities. The persecution may have economic motives, but can also be aimed at intimidating the family in order to stop them from demanding proper execution of the Strasbourg decision, which could lead to criminal prosecution of federal officers and servicemen.

Both the Kudaev case and the Musaev case illustrate that not only are the applicants themselves at risk, but also their families and lawyers.

5 ORB-2

Operative-search bureaus (ORBs) were set up in 2001 as part of the Federal Ministry of Interior (MVD) regional departments in order to replace the dismantled system of Regional Directories to Combat Organized Crime (RUBOP). Formally, the main objectives of the ORB-2 are to detect, prevent and suppress activity of organized criminal groups, including terrorist or extremist formations, and to fight corruption. Although people were detained and interrogated at the infamous ORB-2 facility in Grozny, there was no legal sanction for detaining people there before an IVS (temporary detention ward) was put up there by an MVD (Ministry of Interior) order in November 2004.

However, ill-treatment continued to occur at the site, and in its public statement of March 2007, the CPT stated that:

Formally speaking, the IVS which has been established on the premises of ORB-2 may be

separate from ORB-2, and the official reporting line of the IVS staff may differ from that of ORB-2 staff. However, in reality there is not a watertight division between the two entities.

The information gathered during the 2006 visits puts beyond any reasonable doubt that persons held in the IVS are frequently removed from the facility at night and handed over to ORB-2 staff, and that those persons are then at great risk of ill-treatment. This conclusion is based in part on individual interviews with numerous persons with experience of custody in the IVS on the premises of ORB-2, and on medical evidence gathered in relation to certain of those persons and others. It is also based on other information gathered on site at the IVS, which clearly suggests that the management of ORB-2 continues to exercise an important influence over the day-to-day running of the detention facility.

Because of the many credible reports of ill-treatment, the ORB-2 facility in Grozny was singled out by the CPT, and repeatedly mentioned in the reports from the human rights organizations.¹⁴ The ORB-2 was also strongly criticized by President of the Chechen Republic, former Prime Minister Ramzan Kadyrov.

14 See for instance: CPT 2003 statement: <http://cpt.coe.int/documents/rus/2003-33-inf-eng.htm>

CPT 2007 statement: <http://cpt.coe.int/documents/rus/2007-17-inf-eng.htm>

Memorial 2006 report on torture in Chechnya: <http://www.memo.ru/hr/hotpoints/N-Caucas/doc1/index.htm>, chapter on ORB-2: <http://www.memo.ru/hr/hotpoints/N-Caucas/doc1/2c.htm>.

Expert conclusion on the legality of detention center in ORB-2: <http://www.memo.ru/2006/04/18/neps.htm>

HRW 2006 report on torture in Chechnya: <http://hrw.org/backgrounder/eca/chechnya1106/index.htm>

Ill-treatment at ORB-2 continued to occur, however, and not only at the Grozny facility. In mid-March the prosecutor's office opened a criminal case into allegations of torture at the ORB-2. Two residents of Goiskoye village in the Urus Martan district, Ramzan Khasiev and Shakhid Ipaev, were detained at ORB-2 in Urus Martan on 20 February 2007 and allegedly subject to torture. Khasiev's allegations were supported by medical examinations, and Ramzan Kadyrov apparently took control of the investigation himself.¹⁵ This is a rare example of the procuracy taking action in relation to allegations of torture, and is probably best understood on the background of the struggle between President Ramzan Kadyrov and ORB-2.

While Kadyrov increasingly gained control over the republic's political, law enforcement and security institutions, ORB-2 had remained a key security structure under federal control. The rivalry seemed to end in July 2007 when the head of ORB-2 was replaced. The new head, Isa Surguev, promised to work closely with local law enforcement agencies, that is, with units under Kadyrov's control. **Although the ORB-2 remains in function (there were reports of insurgents detained there in February 2008), to our knowledge, there have been no reports of ill-treatment since July 2007.**

¹⁵ See, <http://www.memo.ru/hr/hotpoints/caucas1/msg/2007/02/m75584.htm>, and, http://www.memo.ru/2007/10/22/2210071.htm#_ftn5.

6 Secret/Unofficial Places of Detention

In its public statement, the CPT highlighted the existence of unofficial places of detention. The related phenomena of abductions, enforced disappearances and torture are all connected to the existence of such sites. The CPT especially mentioned sites at the village of Tsenteroy (a compound guarded by an MVD detachment, and mentioned by a number of persons who alleged being ill-treated and witnessing torture and killings while in unlawful detention there), the Vega (MoD) facility outside Gudermes, and the headquarters of the "Vostok" battalion of the 42nd Division of the MoD (a unit manned by Chechens).

Since the fall of 2007 new cases have come to light indicating that **not only are the numerous allegations of illegal places of detention not properly investigated, but the practice of employing such sites seem to continue**. A person interviewed by the NHC, "A", alleged that he was incarcerated illegally at the same site in Tsenteroy mentioned by the CPT for several months until his release in early 2007.

"A" is a man, of about 40 years, with strong religious convictions. His religious convictions

and demeanour may have played a part in his being arrested on several occasions in Chechnya, as the authorities are suspicious of unofficial salaafi, or "vakhabi", religious communities. "A" alleges that he was twice illegally detained in the fall of 2006. On the first occasion he was brought to a police station in a Chechen town, subject to ill-treatment by local MVD officers and interrogated by Russian FSB officers. He was released, but a few days later he was detained again and brought to a compound in Tsenteroy (apparently the same place visited by the CPT in 2006). He was held there illegally for several months. During his stay he witnessed and was himself exposed to ill-treatment, including by senior Chechen officials. He was not interrogated and tortured in a systematic fashion, probably because his captors realized that he was not involved in insurgent or terrorist activities. "A" was released in the beginning of 2007, before the Public Statement issued by the CPT. "A"'s allegations are supported by witness statements. He tried and failed to register a complaint at the office of the prosecutor of the republic, and is currently pursuing the matter with the assistance of human rights lawyers.

It should be noted that, for security concerns, we are able only to provide a sketch of the circumstances of his detention and stay in Tsenteroy. His case is nearly exceptional. Given the control over Chechen society exercised by President Kadyrov, "A" is among the very few who are willing to make a legal complaint about ill-treatment in Tsenteroy, a village that is generally perceived to be "Ramzan

Kadyrov's private household" (to quote Russian authorities cited in the CPT public statement). The impression of local monitors, however, is that use of the sites in Tsenteroy for detention and ill-treatment has been scaled down.

There is a pattern of detained and abducted people being transported over republican borders in order to be interrogated in official or unofficial places of detention (the latter are seemingly more common in Chechnya than in the neighbouring republics). In this way detainees are removed from both their families and legal representation, and are at risk of being tortured or sometimes even killed. Persons detained in Ingushetia are frequently taken to detention centers in North Ossetia, while suspects apprehended in Dagestan have been taken to Chechnya. One of the cases recently reported to us in the fall of 2007 illustrates the existence of **a regional system of torture and forced confessions**.

In the morning of 17 June 2007 security forces conducted a 'special operation' in the Ingushetian village Surkhakhi, in which a man (**Ruslan Aushev, b. 1980**) was killed. The deceased was wanted by the authorities for terror-related offences, and was shot when he violently resisted arrest. The circumstances are disputed as relatives and witnesses allege that the killed man was unarmed and did not put up resistance. Afterwards, security officers detained four of the dead man's relatives,

including **Magomed Osmanovich Aushev, b. 1982 (MA)**.

MA was taken across the republican border to North Ossetia and brought to a detention center operated by the UBOP (Department of Organized Crime, a branch of the same federal institution that operates ORB-2) in Vladikavkaz, where he was beaten and electrocuted into confessing that he had cooperated with the federal forces in apprehending his relative, Ruslan Aushev. According to the statement he signed, he was paid a sum of money to hang a piece of cloth in his window in order to signal that his relative was at home. He also signed a document to the effect that he had not been ill-treated in detention, and was warned not to complain about his experience.

Upon his release, MA lodged a complaint with the prosecutor's office in Ingushetia. He was examined by a forensic doctor, who found that Aushev's injuries were consistent with his claim of having been tortured. Apparently the investigation did not proceed beyond the initial stages. He was also reassured by FSB officers in Ingushetia that he was not himself suspected of illegal activities, but that he had status as a witness in relation to the on-going investigation of the activities of the killed relative.

MA provided information about his detainment to human rights organizations and press, and spoke at a meeting of the Federal German Commissioner for Human Rights Policy, Günter Nooke, with local NGOs in Nazran on 14 July 2007. Subsequently, MA left Ingushetia to go to a sanatorium in Astrakhan for medical treatment.

Together with a relative (**Magomed Maksharipovich Aushev, b. 1985 – MMA**), MA left Astrakhan by train, and arrived in Grozny on 18 September 2007. The cousins hired a taxi and continued toward Ingushetia. However, the taxi was stopped by four cars on the outskirts of Grozny, and the cousins were detained by men they allege were Chechens.

The cousins were brought to a house where they were tortured, and explained that this was done in retaliation for his going public with the ill-treatment he was subjected to during his first detention. MA was beaten and electrocuted by Chechens, while Ossetian officers allegedly showed him photographs of people and asked him for information about them. MMA was kept in a cell at the basement of the building. Next day the men were told they were to be executed, and were driven to a deserted area. However, on the way the kidnappers received a telephone call after which they released the cousins at the police station (ROVD) in Shatoy village of in Chechnya. Before being released, MA was allegedly threatened that if he said anything to anyone about his ill-treatment, "he would be dead before the end of Ramadan".

The release of the cousins may have been connected to large demonstrations in Nazran organized by their relatives. The protesters blocked the main road and railroad in town.

Once again MA complained to the prosecutor's office, and underwent a medical examination. The doctor's statement described injuries on his ankles, calves, ribs, chest, arms and face probably caused by pincer-like and blunt objects, and consistent with his allegations of torture. Afterwards MA went into hiding. Due to the lack of progress in the local investigations, MA has launched a complaint with the European Court of Human Rights. Based on the explanations of the two cousins, the father of MMA, **Maksharip Aushev**, looked for and apparently found the unofficial place of detention where the cousins were held in the Chechen village of Goity. Maksharip Aushev went to the site together with the Prosecutor of Chechnya. Photos from the site are consistent with the cousins' explanations, and also show graffiti from other prisoners, indicating that the "disappeared" Ingush residents Mutsolgov, Kartoev and Gazdiev were held (and probably killed) there.¹⁶

The case shows the extent of regional collaboration between law enforcement and security organs, seemingly aimed at outsourcing abuse and torture in order to isolate the detainees and to remove the danger of revenge from relatives of the detained. MPS units from at least three different republics cooperated in detaining, transferring, torturing and interrogating MA. It seems that MA was forced to sign a statement in the Vladikavkaz UBOP that he'd received money to inform on his relative, in order for the interrogating officers to use the paper as a receipt for which they would be reimbursed. He was told by FSB in Ingushetia that he was not suspected of participating in illegal activities, and no charges have been brought against him. The second detention, which took place in the outskirts of Grozny, therefore seems linked to the fact that he complained about his first detention. The cousins were probably detained in Grozny based on the security agencies' checking of the passenger lists of trains arriving Chechnya, which indicates that MA is wanted by parts of the MPS establishment.

Maksharip Aushev, who is a well-known businessman in Ingushetia, posted his findings on the website, ingushetiya.ru in November 2007, and later organized the January 26 demonstrations in Nazran, that were dispersed

¹⁶ See also Memorial HRC's report, "Ингушетия: 2007 год, Куда дальше?" from January 2008.

by the authorities. He was reportedly arrested in mid-February 2008, on suspicion of inciting mass unrest, and was brought to a pre-trial detention facility (SIZO) in Nalchik. He remains in custody, and there are reports that his lawyer does not have access to him. Consequently his family is afraid he is being tortured in order to confess to fabricated charges.

As for other illegal places of detention, there have been complaints against the Centre "T", in Nalchik, an

institution operated by MVDs counter-terrorist service. Allegedly, people are detained illegally there, and ill-treated. (See also section 5, harassment of the Kudaev family). There have also been credible reports of secret places of detention in Dagestan, but human rights monitors have so far not been able to locate and verify them.



Graffiti on the wall in a cell of a former unofficial prison, Grozny 2006 (Photo, Memorial HRC)

7 Climate of Impunity

In some cases, federal and Chechen servicemen have been prosecuted for crimes committed in relation to the counter-terrorist operation.

On 27 December the North Caucasus regional military court in Rostov on Don found the federal servicemen **Evgeniy Khudyakov and Sergey Arakcheev** guilty of murdering Chechen civilians in 2003. They were twice found not guilty in jury trials, but the Supreme Court of the Russian Federation cancelled those decisions. They received sentences of 17 and 15 years of imprisonment. However, Khudyakov was found guilty in absentia, as he did not appear in court. There is a pattern that federal servicemen under trial are able to evade detention and prison.

On 29 November the Supreme Court of the Russian Federation confirmed the sentences of **Captain Eduard Ulman and three other officers**, for killing six civilians in 2002. The four officers received sentences ranging from 9 to 14 years. Only one of the officers received his sentence in court. The three others, including Ulman, were sentenced in absentia.

On 27 November Oktyabrski district court of Grozny upheld the guilty verdict on federal MVD serviceman **Sergey Lapin**, for abduction and torture of Zelimkhan Murdalov, who subsequently disappeared. However, the court shortened the sentence from 11 to 10,5 years. Lapin remains the only serviceman to have been convicted in one of Chechnya's more than 3000 cases of enforced disappearances (the official figure of persons subject to enforced disappearances is 2700, but is probably to low).

On 26 October the supreme court of the Chechen Republic sentenced the former Chechen police officer, **Lieutenant Ruslan Asuev**. Two of his associates, **Aghev and Dzhamulaev**, had already been convicted, and received sentences of 13 and 12,5 years. The three law enforcement officers formed part of a gang that specialized in abductions, robberies and murders.

However, the general picture is one of continued impunity for grave crimes committed by local and federal servicemen. The Prosecutor's Office in Chechnya have opened a number

of cases into allegations of grave human rights abuses (such as enforced disappearances), but the investigations have not produced any results. In relation to allegations and complaints of ill-treatment, currently the North Caucasus prosecutors seem unwilling to open cases at all. **In relation to the 26 court decisions from the Strasbourg court, it remains unclear whether Russian authorities will execute the decisions in full**, i.e. conduct effective investigations and prosecute the many servicemen implicated in crimes described in the Strasbourg decisions. The full execution of the Strasbourg decision will be a test of whether the Russian authorities are willing to confront the climate of impunity in place in the North Caucasus.

Two complaints were received by the Grozny procuracy last year (and by the Strasbourg Court) alleging illegal detention, deprivation of liberty and torture committed by high officials in the Chechen administration, including President Ramzan Kadyrov. There has been no effective response by the Chechen prosecutors to these complaints, underlining once again the basic problem: Prosecutors consistently refuse to open cases and/or investigate effectively complaints dealing with abuse of power by local and federal law enforcement, military and security officers whose identity is known.

8 Persecution of Human Rights Defenders

The situation for human rights defenders in the region has been critical from the inception of the counter-terrorist operation, and has further deteriorated in 2007. Threats, harassment and attacks (including killings) of human rights defenders have been reported across the North Caucasus, with the gravest incidents occurring in Ingushetia and Dagestan.

In Chechnya, there has been incidents of undue pressure and harassment against the **Memorial**, as well as against the organization **SNO**, a group that monitors and reports on incidents and human rights violations in connection with the counter-terrorist operation in Chechnya and Ingushetia. Authorities of Chechnya demanded that these 'co-operated' with them, which in their view stopped criticising the situation in the republic.

Memorial staff and their cooperation partners (independent lawyers and civil activists) were also attacked in Ingushetia and Dagestan. In Nazran the offices Chechen Committee of National Salvation and the Ingush human rights group "**Mashr**" have been subjected to repeated checks,

and regular visits by FSB servicemen. **Magomed Mutsolgov**, the leader of "Mashr", an organisation of relatives of disappeared in Ingushetia, was repeatedly threatened, advised to give up on human rights work unless he 'will be lost'.

There is a pattern of charges of extremism being levelled at defenders and NGOs in the region, as seen in the harassment of the **Chechen National Committee of Salvation** and its chair **Ruslan Badalov**. **The abduction and ill-treatment of the head of Memorial's human rights center, Oleg Orlov, from a hotel in Ingushetia, sent a message that not even the most well-known and senior defenders in Russia are beyond the reach of criminal groups that operate under state protection.**

On 23 November 2007, the **Head of Memorial Human Rights Society, Oleg Orlov**, was abducted by unidentified armed men from a hotel in Nazran, Ingushetia, together with **three journalists from REN TV**, a channel based in Moscow. Upon receiving a telephone call from the republican Ministry of Internal

Affairs, the police guard left the building prior to the abduction. The four were threatened and beaten, before they were released in a deserted area. Two of the journalists were hospitalized after the incident. A criminal case has been opened, but not under the paragraphs concerning forcible deprivation of liberty and threats against the life of the victims. As of April 1 2008 no one has been detained.

On 26 January 2008, two officers of Memorial HRC, **Ekaterina Sokirianskaia and Tamirlan Akiev**, were detained together with **10 journalists** in connection with the violent dispersal of demonstrations taking place in Nazran, Ingushetia, by law enforcement and security services. At least one of the journalists was beaten. Although they had only monitored the events, the two Memorial staffers were illegally detained for 10 hours without access to lawyer.

A lawyer from Kabardino-Balkaria, **Larisa Dorogova**, has recently received death-threats. On 26 March 2008, Dorogova received a bullet in the mail, which was accompanied by a letter stating that it had been decided that the lawyer should be eliminated. The letter was signed by the Muslim underground. Dorogova initially represented the interests of several of the 58 alleged terrorists,

but was illegally removed from their cases by the prosecutor's office when she started complaining about the use of torture. She has recently been assisting several of the 58 in applying to the ECHR and she is representing more than 70 families before the ECHR with regards to their complaint concerning the refusal of the authorities to return the bodies of alleged terrorists killed during the 13 October 2005 events in Nalchik.

Several lawyers connected to the trial of 58 alleged terrorists in Nalchik have also come under pressure. The judge in the case in March 2008 requested police-departments in Ingushetia and Chechnya to conduct checks whether lawyers from these regions working on the case were operating legally. It does not appear that the judge had any specific information to indicate that these lawyers were operating illegally and one cannot exclude the possibility that the request was an attempt to intimidate the lawyers.

In North Ossetia on August 27 2007 the investigator of the Prosecutor General Mr. Viktor Pereverzev beat up the defense lawyer **Mrs. Irina Kodzaeva** who tried to access her defendant during interrogation to ensure that he was not tortured. Pereverzev first refused letting the lawyer into the room where the

investigative measures were carried out, and then hit her on the head. A medical examination concluded she had received a concussion. The same day Pereverzev was transferred to a different location and left North Ossetia, having filed a complaint to local Prosecution that Irina Kozdaeva attacked and injured him. Several of his colleagues signed witness testimonies. A criminal case was instigated against Kodzaeva. It was closed only after a major public campaign.

On November 21 2007 the civil activist and candidate for the Yabloko party, **Farid Babaev**, was shot outside his house in Makhachkala, Dagestan. Mr Babaev died in hospital on 23 November. Mr Babaev raised the issue of enforced disappearances in Dagestan in spring 2007, invited Memorial and international human rights groups into the region, made numerous public statements about crimes committed by the law enforcement and security services in Dagestan. He campaigned against corruption in his native Lezgin-dominated Dokuzparinky district of Dagestan. In February 2008 criminal charges were brought against among others the son of a local official in the Dokuzparinky district, Kerimkhan Abasov. Mr Babaev had made public allegations about corruption and abuse of power in Abasov's administration.



Farid Babaev (Photo, Memorial HRC)

On November 19 2007 the lawyer **Konstantin Mudunov** was shot in the head and seriously wounded outside his house in Makhachkala, Dagestan. Mr Mudunov represented several clients who were victims of serious procedural violations such as torture, forced confessions/testimony or other fabricated evidence, often in connection with terrorism cases.

On 11 December 2007 the judge **Kurban Pashaev** was shot and killed outside his house in Makhachkala, Dagestan. Mr Pashaev was a judge with a reputation for acquitting severely tortured suspects, considering the evidence fabricated, while Mr Mudunov defended these suspects.

The assassination attempt on Mr Mudunov and the assassination of Mr Pashaev seems to be linked to a case in which Mr Mudunov represents the suspects, **Omar Alilov and the brothers Gayrbekov**, accused of participating in an attempt on the life of **Amuchi Amutinov**, head of the Federal State Pension Fund of the Republic of Dagestan and one of the

leaders of the influential ethnic Lak community in Dagestan. Mr Pashaev was a judge in the case. **The Amutinov case illustrates the level of violence prevalent in Dagestani society, the involvement of security forces in serious crimes and the danger confronting judges and lawyers involved in this type of cases.**¹⁷ Alilov, a top

¹⁷ The background of the case is described in a Memorial report on Dagestani disappearances from August 2007:

On November 23, 2004 under unidentified circumstances **Kasin Shakhbanovich Gasanov**, born in 1975, resident of the village Vikhli, Kulin district of Dagestan disappeared. At the moment of abduction, he was a resident of Makhachkala, district of Imam Shamil avenue, 56 ap.12. Kasin Gasanov is a World Champion in wrestling Ushu-San'da, and did not have any links to radical Islamic groups. That day Kasin left home at 9 a.m. in the morning and headed towards the parking ground to pick up his car. He never reached the parking space. The cleaning woman in Gasanov's block of flats said that several days before the disappearance very early in the morning unidentified young men were playing cards at the entrance to Gasanov's stairwell. The cleaning woman was surprised that unknown youth would be playing cards at 6 o'clock in the morning in their yard. Gasanovs think that these people could be possibly involved in abduction of Kasin Gasanov.

The Prosecutor's Office of the Republic of Dagestan instigated a criminal case Д 4021254 into abduction of Gasanov, article 126.p.1 of the Criminal Code RF.

According to the relatives of Gasanov the disappearance of Kasin was preceded by a conflict of their family with ex Vice-prime minister of Dagestan, the head of Retirement Fund of the Russian Federation in Dagestan, the leader of the Lak-community, A.M. Amutinov.

Gasan Gasanov, the brother of disappeared, testified in a criminal case into an attempt on the life of A.M. Amutinov that since August 2001 that he, Gasan Gasanov, worked as an inspector at the Retirement Fund. Initially he had good relations with A.M. Amutinov, but these relations deteriorated when Amutinov proposed Gasan Gasanov to find a person who could carry out assassination of several political figures for substantial sums of money through his sportsman-brother, Kasin Gasanov. Gasanovs did not want to do it. When Amutinov realized that Gasan Gasanov was not going to accept his proposal, he decided to kill Gasanov as an unnecessary witness. In August 2004 there was an attempt on the life of Gasan Gasanov, and as a result he received a firearm injury. By a lucky coincidence, the bullet missed his heart and hit him under the shoulder.

A.M. Amutinov tried to visit Gasan Gasanov in the hospital, however, the latter did not want to see him. Gasan's brother, Kasin did not let Amutinov into the ward and publicly accused him of commissioning an attempt on the life of his brother. According to Gasanovs, Amutinov left the hospital in fury, and promised to "teach a lesson to this puppy" (Kasin). Subsequently, Gasanovs were approached by people from Amutinov's circles and warned them that the brothers were in danger and advised them to leave the republic. On November 3 2004 there was an attempt on the life of Amutinov, at the corner of Bogatyreva and Yaragskogo streets. At the site of the explosion, Amutinov announced that the Gasanov brothers had organized the attack. However, the brothers were never called to the Prosecutor's office, were never

official in the state railway company, was acquitted of the charges. However, afterwards there was an attempt on his life. His car was blown up on 14 May 2007, but Alilov survived, badly injured. The Supreme Court of the Russian Federation later overturned the decision, and sent the case back to the Makhachkala district court. The assassination attempt on Mudunov and the assassination of Pashaev followed in November 2007. As of early April 2008, the case is again in process in Makhachkala, with Mr Mudunov as the defence attorney.

In response to a wave of enforced disappearances in Dagestan in 2007, relatives of the disappeared persons established the organization "Mothers of Dagestan". **Gulnara Rustamova**, the leader of human rights group Mothers of Dagestan and her family members were repeatedly threatened. Friends and relatives of her

brother, Vadim Butduev, were beaten and electrocuted into giving testimony against him, and Butduev himself was ordered by an UBOP officer to stop his sister and her activities, unless he wanted to disappear himself.

It should be noted that the persecution of defenders in the North Caucasus region is linked to the increasing difficulties faced by civil society in Russia in general, described in recent reports by Human Rights Watch (*Choking on Bureaucracy: State Curbs on Independent Civil Society Activism*)¹⁸ and Amnesty International (*Freedom limited. The right to freedom of expression in the Russian Federation, from February 2008, and Human rights defenders at risk in the North Caucasus from November 2007*).¹⁹

interrogated as suspects, although from the materials of the preliminary investigation (Case number 2-11.07 of April 5 2007), investigator Marat Saidov clearly gives assignment to detain, interrogate and carry our search in the houses of the Gasanov brothers. The Gasanov brothers lived at home, they did not hide from investigation. 20 days after an attempt on the life of Amutinov, Kasin Gasanov disappeared.

According to the father of disappeared, who was searching for his son for over two years, a number of officials, including Musa Mirzaev, deputy head of UBOP MVD RD, Rashid Isaev, head of the criminal police, Sheikmagomed Sheikmagomedov, deputy head of the Sovetsky ROVD in Makhachkala, repeatedly told him that his son was in the hands of security services. And the Gasanov family insists that Kasin was abducted on the order of Amuchi Amutinov and his brother Artur Amutinov, an FSB officer.

As of July 30, 2007 the whereabouts of Kasin Shakhbanovich Gasanov remain unknown.

18 <http://hrw.org/reports/2008/russia0208/>

19 <http://www.amnesty.org/en/library/info/EUR46/008/2008> and <http://www.amnesty.org/en/library/info/EUR46/053/2007>.

9 No Refuge

Return of Russian Citizens from Abroad

In its decision in the case *Shamayev and 12 others v Georgia and Russia* of 12 April 2005, the European Court of Human Rights held that Georgia would be in violation of Article 3 of the Convention (prohibition of inhuman and degrading treatment) if it extradited the Russian citizen (of Chechen nationality), Mr Gelogayev, to the Russian Federation. Mr Gelogayev and 12 other Russian and Georgian nationals were arrested by Georgian border guards in August 2002. Russia subsequently filed an extradition request, alleging that the thirteen men were responsible for terrorist acts. However, in spite of the gravity of the charges against them, the Court held that they would risk inhumane treatment if they were returned, and "noted in particular the new extremely alarming phenomenon of persecution and killings of persons of Chechen origin who had lodged applications with it. According to reports by human rights organisations, there had been a sudden rise in 2003 and 2004 in the number of cases

of persecution of persons who had lodged applications with the Court, in the form of threats, harassment, detention, enforced disappearances and killings."

Similarly, the US deported **Rasul Kudaev** and six other prisoners from Guantanamo to Russia after receiving "diplomatic assurances" from the Russian Federation that the men would not be ill-treated upon their return.²⁰ All were subsequently harassed and ill-treated in Russia, according to Human Rights Watch. HRW writes that: "Despite promises to the US government to treat the men humanely upon their return, the Russian authorities have variously harassed, detained, mistreated, and beaten the former Guantanamo detainees since they returned. [By spring 2007], two of them have been tortured and are in prison after investigations and trials that did not meet international fair trial standards; one has been tortured and is in prison awaiting trial; the other four are either abroad or in hiding."

The latest report of the Civic Assist-

²⁰ See: *The "Stamp of Guantanamo", The Story of Seven Men Betrayed by Russia's Diplomatic Assurances to the United States*, Human Rights Watch report, March 2007

ance Committee describes five cases of Chechen migrants who returned from France, Norway, Egypt, United Kingdom and the Ukraine, and subsequently became victims of human rights abuses. The cases from Norway, UK, Egypt and France concern persons who voluntarily returned, while the case from Ukraine deals with a Chechen asylum seeker, **Beslan Gadayev**, who was arrested in Crimea in August 2006, in connection with a housing conflict. When running a check on the detained migrant, the Ukrainian police discovered that the man was wanted by Russian authorities. He was handed over to police officers from Grozny (ROVD) in mid-August, and subsequently tortured (allegedly he was electrocuted, beaten with rubber and metal truncheons, and suffocated with a plastic bag). He later managed to submit a statement concerning torture to Memorial and the journalist **Anna Politkovskaya**, who was working with his case at the time of her assassination in October 2006.

In a similar case from Kazakhstan, **NN**

Mukayev, a Chechen man wanted by Russian authorities was detained in Kazakhstan on 14 January 2006, extradited and transferred to ORB-2 in Grozny on 23 February. He was subsequently tortured, and medical documents confirm that he sustained multiple injuries, however, the prosecutor refused to open an investigation into the torture allegations. On 22 May 2006 he was sentenced to life in prison, although he testified that he was forced to confess to most of the charges against him.²¹

All of these cases point to **a real and significant risk for migrants who return or are returned to Russia, and subsequently to the area covered by the Counter-Terrorist Operation, of becoming victims of human rights abuse**. This is especially the case if the returnees are officially (or unofficially) wanted by the Russian authorities, or if they have a profile similar to that of a separatist or islamicist insurgent (like Rasul Kudaev and the six others from Guantanamo).²² The perception that people returning from abroad have

21 Information about this case was submitted by the Stichting Russian Justice Initiative.

22 For this reason there have been court and administrative decisions on extradition requests from Russia in some European countries, in which the requests have been turned down, notably in the case of the separatist leader Akhmed Zakayev in Bow Street Magistrates' Court in London in November 2003. In addition to testimony from former Russian officials about the specific vulnerability of Chechens in the Russian criminal justice system, including the increased risk to a near certainty that they will be tortured or ill-treated, the Court heard evidence from a credible witness who said he made a statement, extracted under torture, to Russian authorities implicating Zakayev in the crimes of which he was accused. The Court gave particular

access to money, may also contribute to them being at risk of becoming victims of crime.

Return of persons to the North Caucasus from other Russian regions

According to the Russian Code of Criminal Procedure, a person suspected of a crime should face investigation and criminal prosecution in the area where the crime was committed.²³ This means that persons wanted in connection with the counter-terrorist operation are returned to North Caucasus as a matter of

routine. Neither the fact that illegal detention and torture is endemic in connection with the counter-terrorist measures in the North Caucasus, nor the sometimes dubious factual and procedural bases of warrants, are taken into account by courts in other Russian regions.

Human rights organizations have recorded a number of cases where people have been detained in other regions of Russia, and transferred to the zone of the counter-terrorist operation in the North Caucasus, where they have become victims of grave human rights abuses, including enforced disappearances.²⁴ A typical

weight to this evidence and came to the "inevitable conclusion" that if the Russian authorities resorted to torturing a witness, "there is a substantial risk that Mr. Zakayev would himself be subject to torture" and that such treatment would be meted out as a consequence of Mr. Zakayev's nationality and political beliefs. See, <http://www.tjetjenien.org/Bowstreetmag.htm>

23 See <http://www.legislationline.org/upload/legislations/9a/eb/3a4a5e98a67c25d4fe5eb5170513.htm>; especially, **Article 32. Territorial Jurisdiction of a Criminal Case**

1. A criminal case shall be subject to consideration in the court at the place of the perpetration of the crime, with the exception of the cases stipulated by Article 35 of the present Code.
2. If the crime was initiated at a place under the jurisdiction of one court and completed at a place to which is spread the jurisdiction of another court, the given criminal case shall be referred to the jurisdiction of the court at the place where the crime was completed.
3. If the crimes are committed at different places, the criminal case shall be considered by the court, whose jurisdiction is spread to that place, where most of the crimes, investigated on the given criminal case, are committed or where the most serious of them is committed.

24 Two cases from the Stichting Russian Justice Initiative:

Cases of people detained outside of Chechnya and consequently transferred to Chechnya:

1. Tamerlan Jashuyev

Sentenced by the Supreme Court of the Republic of Chechnya to 13 years of imprisonment on 10 July 2006. Jashuyev lived in Dagestan and admits that he used to prepare food at the separatists' camp in Chechnya. After some time, however, he left the camp and returned to his family. He went to Gudermes and told them everything he knew. On 7 October 2004, kadyrovtsy came to their house and detained his father as a hostage. He gave himself up and was taken to Gudermes where he was held in unacknowledged detention until 1 November when he was formally arrested. Jashuyev claims that he was tortured during his unacknowledged detention. His claims are to some degree supported by medical documents.

2. Adam Chitayev

Chitayev filed a complaint on torture with the European Court of Human Rights together with his brother. On 18 January 2007, their case was the first to be decided by the ECHR on torture in Chechnya. In September 2005, Adam was arrested in the town where he lived and worked in Ust-Ilimsk in Irkutsk oblast in Siberia. The prosecutor's office in Chechnya had put his name on a wanted list. National television announced that a wanted terrorist had been caught. Adam was shortly thereafter released, but was given a summons to appear before the prosecutor in Chechnya. When he arrived there, the prosecutor told him that they did not need him and they closed the search for him and allegedly removed him from the wanted list.

Two cases were described in a recent report by the Civic Assistance Committee: [http://refugee.memo.ru/C325678F00668DC3/\\$ID/AB2E10B98D89E9E5C32571E7007B2DB5](http://refugee.memo.ru/C325678F00668DC3/$ID/AB2E10B98D89E9E5C32571E7007B2DB5)

While Memorial has written about several cases including this one from July 2007:

On July 17, 2005, at about 6 a.m., personnel of the center "T" of the Ministry of Internal Affairs, arrested **Salikh Mukhumaevich Saidov**, born in 1979, from Makhachkala, Republic of Dagestan, in Moscow (ul. 13th Parkovaja, 34, building 1, ap. 36). Besides Saidov they arrested three more persons, who were with him in the apartment. They transported the arrested persons to the police station near the metro station "Schelkovskaya", three of them were brought into one room, but Saidov was led away. The three persons in the room were released the same evening, but no one so far saw Saidov. As of July 30, 2007 his whereabouts are unknown.

The head of the department against organized crime of the Eastern administrative region (OBOP KM UVD VAO) of the city of Moscow, V.P. Kochernin, told Saidov's mother that her son "had been arrested on July 17th, 2005 at a request of the Prosecutor's office of the Republic of Dagestan and had been handed over to the initiator of the arrest". To find out what had happened to her son, the officer recommended the mother to turn to Prosecutor's office of Dagestan.

The Prosecutor's office of the Republic of Dagestan confirms that "in the course of investigating criminal case D 558754 into the fact of assault on the life of personnel of police it had been necessary to interrogate S.M. Saidov as witness. According to available information, Saidov had left the Republic of Dagestan for Moscow. Therefore, on July 14 2005 a statement was issued to bring witness Salikh Mukhumaevich Saidov to Dagestan, where he was to be questioned as witness". However he was not brought to Dagestan, as Mirzabalaev M.N., the head of the investigation department of the Republican Prosecutor's office confirms. "As of today the statement has not been implemented, i.e. Saidov has not been brought to the investigation department of the Republican Prosecution and there had been no criminal investigation from the side of the Dagestan Prosecution against Saidov.

However this is contradicted by the words of V.I. Ripa, second chief of the center of the Ministry of Internal Affairs of the Russian Republic. He responded to the inquest of the lawyer of Mrs Saidova that "in compliance with the instruction of the investigator of the police department on murder and banditism of Prosecution of Republic of Dagestan, E.M. Abdullaev" on July 17, 2005 " S.M Saidov was delivered to the Prosecution of Dagestan (Makhachkala) for investigation regarding the criminal case № 558754.

In January during a shootout between security servicemen and armed groups, the brother of Salikh Saidov, Rustam Saidov, was killed. That is why the Prosecutor's office was interested in interrogating Salikh Saidov. The second brother of Salikh, Abdurahman Saidov, was also killed during the shootout with the security services on September 11, 2005. According to the Prosecutor's office of Dagestan, he had been wounded and killed himself with a grenade, as he wanted to prevent being arrested.

The mother of Saidov claims that via unofficial channels she found out that Salikh Saidov had been kept in Chechnya, in the ORB-2 in Grozny. She was offered a video recording of her son's interrogation for \$4,000 US dollars.

The relatives of S.M. Saidov do not know of any criminal investigation regarding the abduction of S.M. Saidov.

example is the case of **Muslim Zulkarnayev** who was (illegally) detained in Volgograd on 15 April 2006, bundled into the trunk of a car and driven away. On 18 April he was officially declared wanted, and subsequently brought to the UBOP department of Volgograd. On 24 April he was transferred to UBOP in Khasav Yurt, Dagestan, where he was formally arrested on 25 April (after having spent ten days in unacknowledged detention) by an investigator from Nozhay Yurt in Chechnya. He was handed over to the FSB, and transferred to an IVS (temporary detention ward) in Nozhay Yurt. During the following months he was kept at various detention centers in Chechnya, and tortured severely. On 16 May 2007 he was sentenced to 18 years of prison for participation in armed attacks. The judgement was upheld by the Supreme Court of the Russian Federation, although the sentence was reduced to 17 years. Zulkarnayev admits to having participated in an illegal armed group, but claims that he did not commit any violent crimes, and that he left the group in 2005, when he moved from Chechnya. The fact that he was detained prior to his being officially listed as wanted, points to the existence of informal or unofficial lists of wanted persons. **This shows that there is a cooperation on federal level linking other regions of**

Russia to the North Caucasus regional system of torture, forced confessions and fabricated trials, and suspects are frequently transferred back to the zone of the counter-terrorist operation using either standard criminal procedure law or illegal methods.

The Supreme Court of the Russian Federation does not seem to be able or willing to protect Russian citizens from torture and other serious human rights violations, at least in cases where an individual is suspected of terrorist activities, as can be seen in the case of **Aslan Ocherkhadzhiev**. Ocherkhadzhiev was detained in Grozny on 11 May 2005, tortured at ORB-2 into signing a self-incriminating statement, officially arrested on 13 May 2005, and finally acquitted by the Supreme Court of the Chechen Republic on 29 January 2007. This is a rare example of a Russian court dismissing evidence extracted under torture. The procurator, however, refused to investigate allegations of torture, and on 13 September 2007, the Supreme Court of the Russian Federation overturned the decision and ordered a re-trial. However, Ocherkhadzhiev had fled abroad and currently resides in Norway.

Rejection of asylum applications: The Case of Norway

In 2007 the Norwegian Immigration Directorate (Utlendingsdirektoratet – UDI) decided to change practice regarding Russian asylum seekers, especially Chechens, from North Caucasus. The reason for this was **findings by several departments of the Norwegian immigration authorities which “establish that that there is an internal flight alternative for Chechens in Russia which is accessible, safe, reasonable and in line with the general UNHCR recommendations,”** according to a letter from UDI to the Ministry of Labor (AID) from 22 June 2007. UDI also noted that “Landinfo [the fact-finding body of the immigration service] has reported a positive development inside Chechnya.” Based on these findings, UDI concluded they would be more restrictive in issuing some complimentary forms of protection to Chechen asylum seekers (who did not qualify for asylum), and consequently return a number of asylum seekers to Russia. The change in practice was confirmed by AID in a letter to UDI dated 8 August 2007.

There are a number of aspects to the issue of an internal flight alternative, some of which are specific to Russia,

such as the registration regime, the seeming rise of xenophobic violence, persistent problems with access to the courts, and ill-treatment and procedural violations by law enforcement and security organs. These issues are discussed in detail in the yearly reports of Memorial Human Rights Center’s “Migration Rights” Network, and we will not go into these aspects here.

A number of applications have been rejected from the fall of 2007 and onwards. Some of the UDI decisions may, unless they are overturned by the Appeals instance of the Norwegian immigration service (Utlendingssnemnda – UNE), violate Norway’s international obligations, like the 1951 UN Convention Relating to the Status of Refugees and the European Convention on Human Rights. **If enforced, the decisions could entail returning asylum seekers to persecution, torture, inhuman or degrading treatment, flawed criminal prosecution and life-threatening situations.**

Although Norway has pledged to cooperate with the United Nations’ High Commissioner for Refugees (UNHCR), the immigration service has derogated from the UNHCR recommendations regarding Chechen asylum seekers (which recommends blanket protection for Chechens from

Chechnya)²⁵ from Chechnya since 2004. **With the introduction of the new practice, Norway has broken away completely from the UNHCR position (although the current Norwegian government pledged to cooperate “more closely” with the UNHCR).**²⁶ The new practice is based on premises, some of which are neither in line with the facts and analyses of recognized international human rights organizations active in the North Caucasus and Russia, nor with the abovementioned resolutions, public statements, court decisions and other documents from Council of Europe institutions.

In a letter to the Ministry of Labor (AID) from 22 June 2007, UDI explains the new practice by pointing to the existence of an internal flight alternative in Russia. Chechens can find refuge in other parts of the Russian federation, and do not risk being returned to Chechnya: **“Information submitted by Landinfo [the fact-finding body of the immigration service] establishes that Chechens**

do not risk forced return to Chechnya.” However, as we have seen in the section above, the Russian Code of Criminal Procedure forms the basis of a number of forced returns of Chechens and other residents from the North Caucasus to the zone of the counter-terrorist operation.

In a decision from February 2007, concerning a separatist fighter who participated in the insurgency from 1999 until he fled Russia in the fall of 2005, UDI writes: **“To the degree the applicant will attract the attention of Russian authorities [upon his return to Russia], the directorate finds it highly likely that any such reactions will take the form of normal, criminal prosecution, based in the applicant’s participation in illegal, armed groups.** Moreover, the directorate points to the existence of amnesties, that have been granted to several persons on the same level as the applicant.” The case is very similar to the case of Zulkarnayev described above (he was illegally detained in Volgograd,

25 UNHCR has stated that all those Chechens whose place of permanent residence was the Chechen Republic prior to their seeking asylum abroad should be considered in need of international protection, unless there are serious grounds to consider that he or she is individually responsible for acts falling within the scope of Article 1F of the 1951 Convention relating to grounds for exclusion. See, UNHCR Position regarding Asylum Seekers and Refugees from the Chechen Republic Russian Federation. October 2004.

26 “Regjeringen vil føre en flyktningpolitikk som i større grad tar hensyn til anbefalingene fra FNs høykommissær for flyktningers (UNHCR) anbefalinger.” (“The government will in its refugee policy follow the recommendations of the UNHCR more closely”), from the “red-green” coalition government platform (Soria Moria erklæringen), October 2005. With regard to the Chechen cases, the government has done the opposite.

tortured into signing self-incriminating statements and sentenced to 17 years in prison), and seems to be based on a quite idealistic vision of "normal, criminal prosecution" within the counter-terrorist operation in Russia.

UDI makes a **distinction between high profile insurgents and ordinary fighters or supporters** (like the applicant above), but in practice most of the 1835 people who were detained in connection with the counter-terrorist operation in Chechnya, according to official figures (that may not be completely accurate), were ordinary fighters or supporters of insurgent groups (like Zulkarnayev), yet many of them were tortured and sentenced to long prison terms based on evidence extracted under torture. The frequent amnesty programs in Chechnya have existed side by side with the regional system of torture, forced confessions and fabricated trials, and do not guarantee immunity from human rights abuse.²⁷

UDI makes a **distinction between**

persecution in the sense of the 1951 Convention and persecution by corrupt law enforcement officials. In a decision from 26 March 2003, regarding an asylum seeker who claimed that he had been persecuted and blackmailed by police officers over a number of years, UDI states that "the applicants problems are caused by corrupt servicemen who perpetrate criminal acts with the intent to enrich themselves and not by persecution in the sense of the [1951] Convention." These incidents do not, then, according to UDI, qualify as persecution by a state authority. This distinction seems difficult to establish all the time corruption is widespread within the zone of the counter-terrorist operation, partly as a consequence of the climate of impunity. Persons may risk being persecuted for several reasons, corruption being one of them, **but the significant fact remains whether they are persecuted by representatives of state organs, as specified in the UNHCR Guidelines on internal flight alternative.**²⁸ If they are persecuted by agents of the state,

27 For more information of the six first Amnesty programs in Chechnya and the North Caucasus, see Memorial HRC, ПЦ "Мемориал": о проекте амнистии в отношении лиц, совершивших преступления в период проведения контртеррористических операций на Северном Кавказе, <http://kavkaz-uzel.ru/print/analytics/id/1058052.html>.

28 See UNHCR GUIDELINES ON INTERNATIONAL PROTECTION: "Internal Flight or Relocation Alternative" within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees:

13. The need for an analysis of internal relocation only arises where the fear of being persecuted is limited to a specific part of the country, outside of which the feared harm cannot materialise. In practical terms, this normally excludes cases where the feared persecution emanates from or is condoned

we have seen that they can risk being illegally detained and ill-treated also in other regions of Russia (as in the Zulkarnayev case). All the local departments of law enforcement in the North Caucasus represent Federal security and law enforcement structures.

In a decision from 29 October 2007, UDI rejects the application of a resident of **Ingushetia**, who had been repeatedly detained and tortured and threatened with fabricated charges that he was complicit in the abduction of a relative of the President of the republic, Murat Zyazikov. The background for the incidents was his affiliation with an independent Muslim religious community, from which Ingushetian fighters had been recruited. The Ingush insurgency has a strong religious component, and the applicant's profile and history fit the pattern of a person who has a high risk of being ill-treated by the authorities (cf. the sections on Ingushetia above). However, UDI claimed that "the applicant does not

have a background that indicate a risk of such persecution [i.e., according to the 1951 Convention]" and that "as an ethnic Ingush [he] can settle in other parts of Russia without risking reactions of a character that would qualify as persecution according to the Convention or inhumane treatment." The threshold for Ingush asylum seekers remain higher than for Chechen applicants from Chechnya, irrespective of the deterioration of the security and human rights situation in that republic.

In two decisions from 8 April 2008, UDI rejected the applications of a mother and daughter from Chechnya who were applicants to the European Court, in connection with the disappearance of three brothers of the youngest woman. The family had been repeatedly harassed in connection with their efforts to find out what had happened with the brothers (sons) and complain about the crimes to the relevant courts. Allegedly three of the lawyers hired by the family in

or tolerated by State agents, including the official party in oneparty States, as these are presumed to exercise authority in all parts of the country.⁶ Under such circumstances the person is threatened with persecution countrywide unless exceptionally it is clearly established that the risk of persecution stems from an authority of the State whose power is clearly limited to a specific geographical area or where the State itself only has control over certain parts of the country.⁷

14. Where the risk of being persecuted emanates from local or regional bodies, organs or administrations within a State, it will rarely be necessary to consider potential relocation, as it can generally be presumed that such local or regional bodies derive their authority from the State. The possibility of relocating internally may be relevant only if there is clear evidence that the persecuting authority has no reach outside its own region and that there are particular circumstances to explain the national government's failure to counteract the localised harm.

one of the disappearance cases were killed. However, UDI writes that, **“according to the Directorate’s knowledge of the situation in Chechnya, legal complaints regarding enforced disappearances to local authorities or to the European Court of Human Rights in Strasbourg does not entail a risk of being persecuted on an individual and systematic basis by Russian authorities or others, in the sense laid down in the law and the [1951] Convention.”** The decision states that there is an internal flight alternative in other parts of Russia for the family. This decision does not reflect the gravity of the specific case, or the context as described for instance in the PACE Resolution 1571 from October 2007 quoted above, regarding persecution of applicants to the Court from the North Caucasus. Nor does it take into account persecution of applicants from the North Caucasus who fled to other regions of Russia, and is described in recent court decisions from Strasbourg.²⁹

This decision, and several others, may indicate that **UDI bases its new practice on premises that do not sufficiently reflect the gravity of the human rights problems asso-**

ciated with the counter-terrorist operation in the North Caucasus.

It gives reason for concern that Landinfo apparently “has established” that Chechens who have fled to the other parts of Russia do not risk forced return to Chechnya, without taking into account the provisions of the Russian Code of Criminal Procedure that stipulates that criminal cases shall be investigated and prosecuted in the area where the crime took place, and the routine practice of detaining suspects in other parts of the federation and transferring them back to the North Caucasus. If the decisions are upheld by the appeals instance of the Norwegian migration service (Utlendingsnemnda – UNE), they may violate Norway’s international obligations under the 1951 UN Convention and the European Convention on Human Rights. If enforced, the decisions could entail returning asylum seekers to persecution, torture, inhuman or degrading treatment, flawed criminal prosecution and life-threatening situations.

29 The decision in the case *Goncharuk v Russia* from October 2007, for instance, details the story of how the applicant and her relatives were pursued in other parts of Russia.



IDPs in a spontaneous settlement in Yandarie, Ingushetia, 2003

The Norwegian Helsinki Committee — Formed in 1977

The work of the Norwegian Helsinki Committee is based on the Helsinki Declaration which was signed by more than 35 European and North American states at the Conference of Security and Cooperation in Europe (CSCE, later OSCE) in 1975. The Declaration states that respect for human rights is a fundamental factor in the development of peace and understanding between the states.

Main Focus

The Norwegian Helsinki Committee is a non-governmental (NGO), non-profit organization which monitors compliance with the human rights provisions of the Organization for Security and Cooperation in Europe (OSCE) within all OSCE signatory states and supports initiatives to strengthen democracy and civil society. In the last few years the Norwegian Helsinki Committee's international activities have focused on the former Soviet Union, Western Balkans and Central Asia.

Main Activities

- Monitoring and reporting on the human rights situation in the OSCE area
 - Election monitoring
- Supporting NGO's and independent media in Central and Eastern Europe
 - Human rights training and distribution of information

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THE NORWEGIAN HELSINKI COMMITTEE