



OFFICE OF THE COMMISSIONER
FOR HUMAN RIGHTS

BUREAU DU COMMISSAIRE
AUX DROITS DE L'HOMME



Strasbourg, 4 March 2003

CommDH(2003) 5
Original in French

REPORT
BY THE COMMISSIONER FOR HUMAN RIGHTS,
Mr ALVARO GIL-ROBLES

ON HIS VISIT TO THE RUSSIAN FEDERATION
(CHECHNYA and INGUSHETIA)
from 10 to 16 February 2003

For the attention of the Committee of Ministers
and the Parliamentary Assembly

Introduction

I visited the Russian Federation from 10 to 16 February 2003, travelling to Moscow, the Chechen Republic and Ingushetia. I was accompanied by the Director of my Office, Mr Christos Giakoumopoulos, and staff members, Mr Alexandre Guessel and Mr Grégory Mathieu. The Director of Political Affairs, Mr Marc Scheuer, joined us for part of the visit. During the visit, I was also accompanied by Mr Stanislav Iliasov, Federal Minister for the Reconstruction of Chechnya, and Mr Abdul-Khakim Sultygov, Special Representative of the President of the Russian Federation for the defence of human rights and freedoms in the Chechen Republic, whom I should like to thank for their co-operation, willingness to help and warm reception. I should also like to express my gratitude to all those who helped organise the visit under the best possible conditions, in particular the representatives of the Presidential Administration and, especially, Mr Sergey Yastrzhembsky, Adviser to the President of the Russian Federation, and the members of his team, as well as the representatives of the Ministry for Foreign Affairs. I should like to thank the President of the Republic of Ingushetia, Mr Murad Ziazikov, who accompanied me on my visits to the displaced persons' camps in a spirit of openness, sincerity and friendship. Lastly, I should also like to thank all the people I spoke to in Moscow, Chechnya and Ingushetia for according me some of their valuable time.

Since I took office, I have believed that the gravity of the human rights situation in Chechnya warranted priority action on the part of the Council of Europe Commissioner for Human Rights. I have tried to establish ongoing dialogue with the highest Russian authorities and the Chechen local authorities. In February/March 2001 and then again in February 2002, I expressed my serious concerns about the situation of insecurity and impunity to the Prosecutor General of the Russian Federation, Mr Ustinov. In the light of the reply from the Prokuratura General and of information supplied to me by Russian NGOs, including Memorial, I issued Recommendation (2002) I concerning certain rights that must be guaranteed during the arrest and detention of persons following "cleansing" operations in the Chechen Republic of the Russian Federation.

However, as I had not received an adequate reply to the above-mentioned recommendation and was continuing to receive very alarming information from the Chechen Republic, I decided to make a fresh visit in order to examine the situation on the ground and assess the changes that had taken place since my previous visit.

I. Insecurity and impunity

1. Insecurity and impunity continue to be the main problems in Chechnya.
2. The scourge of insecurity is primarily reflected in the disappearance of many individuals. According to the figures from the Federal Prokuratura, almost 1500 people have been reported as having disappeared in Chechnya over the last three years. For its part, the NGO, Memorial, puts the figure at 2 000. Approximately 600 people have been found, but they were not always alive.

3. Instead of improving, the situation has worsened still further in recent months. On the very day of my visit to Grozny, two Finance Ministry officials had disappeared and their colleagues had organised a demonstration outside the headquarters of the local administration. A few days earlier, the bodies of several people who had disappeared had been found in a very poor state in Argun valley, not far from Grozny. Some people ascribe this resurgence in the number of disappearances to a desire for blind revenge for the terrorist acts in the theatre in Moscow, while others put it down to a desire to destabilise the political process of the planned referendum. While it cannot be ruled out that quite a number of these disappearances can be ascribed to Chechen fighters, sordid crimes or the settling of scores between clans, it also cannot be denied that, in many cases, the disappearances can be put down to the actions of elements in the federal forces that are out of control. The poignant accounts by relatives of disappeared persons that I heard for myself in Memorial's office in Grozny and in the displaced persons' camps in Ingushetia, as well as various other accounts by people who had been detained and then released, which were reported to me by NGOs (and in some cases mentioned in the European press on the eve of my arrival in Chechnya), are quite appalling and horrifying. People are continuing to disappear after being stopped by the authorities during identity checks at the many checkpoints ("block-posts") or during so-called "targeted" anti-terrorist operations.
4. In reality, whatever the reasons for the disappearances may be, they highlight in the cruellest possible fashion the glaring absence of the rule of law.
5. Admittedly, some progress has been made, both in terms of administrative provisions and on a practical level. For instance, Order 80 by General Moltenskoy requiring the clear identification of military units operating in Chechnya at night was issued in March 2002, following the seminar held in Strasbourg (26-27 November 2001). The Office of the Special Representative of the President of the Russian Federation for the defence of human rights and freedoms in the Chechen Republic, to which the Council of Europe experts are attached, often co-operates with the Prokuratura and helps with criminal inquiries concerning disappearances such as the recent case of the bodies found near Argun. The Prokuratura appears to demand strict compliance with the law in cases where it is present during arrests and the federal authorities informed me that they had identified breaches of the law in many cases of arrests. Lastly, the establishment of the new Interior Ministry with powers in the field of policing should help reduce the activity of the federal army.
6. However, the limited progress that has been made is clearly inadequate:
 - General Moltenskoy's order has largely been ignored;
 - No authority was able to tell me whether regulatory measures had been taken to set up joint units of the civilian and the military Prokuratura to supervise arrests made by the army, as called for in Recommendation(2002) 1 by the Commissioner for Human Rights;
 - Co-operation by the Prokuratura with the Office of the Special Representative of the President of the Russian Federation for human rights in Chechnya, Mr Sultygov, remains fairly sporadic. Likewise, co-operation with the NGOs working in Chechnya is severely undermined by a mutual lack of trust;
 - The civilian and the military Prokuratura often lack the legal and material resources for conducting effective inquiries, while the legislation in force does not allow for

- comprehensive supervision of the army's operations and the requisite technical resources are sometimes lacking;
- The investigations carried out rarely lead to charges being brought or the guilty being sentenced, which creates an unbearable feeling of impunity and injustice for the victims' relatives, whose helplessness in the face of this situation came home to me clearly during my many contacts in the displaced persons' camps.
7. I discussed the above with the military authorities and the State Prosecutor of the Chechen Republic, Mr Kravchenko, who assured me that they were doing their utmost to improve the situation. In my view, there is some scope for improving the performance and efficiency of the authorities in this area, and the Council of Europe could play a key role in training civilian and military personnel.
 8. However, the poor results achieved by the authorities with regard to the disappearances are not only due to a lack of training or the lack of legal and technical resources mentioned above. They are also – sometimes - the result of a lack of political will and determination.
 9. During my discussions in Moscow, I demanded that the highest federal authorities address a clear message to the authorities operating in Chechnya to put an end to the disappearances, abuses and impunity.
 10. This message should also be accompanied by a series of minimum measures concerning:
 - compliance with General Moltensky's order in all cases without fail;
 - the reduction in checkpoint ("block-post") controls;
 - the compulsory presence of the civilian authorities in all operations involving the arrest of civilians;
 - regulations on the establishment and operation of joint units of the civilian Prokuratura and the military Prokuratura;
 - the prosecution and, where applicable, sentencing of those guilty for disappearances and other crimes, regardless of who they may be or any official functions they may exercise.
 11. The above points are not new and this is not the first time that I have called on the authorities to take measures to combat insecurity and impunity. Recommendation(2002) 1, to which I have still not had a satisfactory reply, raises most of them.
 12. In this connection, I have taken note of the statements President Putin made to the press following the Security Council meeting on 25 February 2003, in which he stressed the need for a review of the operation of the checkpoints ("block-posts") or a reduction in their number and for strict compliance with the rules on the activity of the federal forces, in particular with regard to the presence of the Prosecutor's office during arrests and controls.
 13. The fact is that there is an urgent need for the authorities to restore the rule of law by enforcing Russian legislation. As several people in the camps told me, they must have the right, "as Russian citizens, to all the legal protection afforded to Russian citizens".

Until that is the case, arbitrary decisions, insecurity, fear and impunity will continue to destabilise and undermine any political processes and any attempts at reconstruction.

II. Establishment of political institutions

14. One only needs to meet families living in extreme hardship in Grozny and others that have been living for almost four years in displaced persons' camps to realise that, after ten years of war, violence and uncertainty, the Chechen population is completely exhausted. This fatigue and the despair it generates are now only reflected in a profound desire for peace and in the hope for a normal life in future. On the occasion of my first visit to Chechnya, I said that only a political settlement - not a military one – could break the deadlock for the Chechen population. Now, more than ever, there is an urgent need to put an end to rule by arms and establish a civilian regime with political legitimacy.
15. The Russian federal authorities have chosen the path of a referendum to break the vicious circle of military violence, and it does not fall to me to comment on the advisability or the momentum of the referendum.
16. However, I do have a duty to underline that the Chechen population must be guaranteed the right to express its will freely and in full knowledge of the facts under this process. In addition, if the referendum is to make a positive contribution to the peace process, the Chechen population itself must be able to grasp the opportunity it involves and see it as the start of its own political future.
17. From the outset, it has to be said that the conditions under which the referendum is being prepared are fairly difficult. The insecurity described above makes travel dangerous, especially for the displaced persons in Ingushetia, the omnipresence of the army is putting a degree of psychological pressure on the electorate and, lastly, the campaigning and the political debate surrounding the referendum and the issues involved have not – yet - reached the level that might have been hoped for.
1. With regard to the Chechens' right to express their will, the Grozny authorities explained to me that the legislation in force made no provision for the possibility for Chechen citizens living in the camps for displaced persons in neighbouring Ingushetia to vote. Under this legislation, the election must take place on the territory of Chechnya. In my view, this is an excessively formalistic position. Although the law does not grant the right to vote to Chechens having settled a long time previously in other republics in the Federation of Russia (the "Chechen diaspora"), this should not be interpreted as also excluding those who have taken temporary refuge in neighbouring regions to escape the horrors of war. It seems to me, therefore, that the possibility for displaced people in Ingushetia to vote should be a minimum requirement. Moreover, it should be a fundamental task of the electoral authorities to facilitate the exercise by these individuals of their right to vote in order to ensure that the eventual outcome is representative of all opinions held. Both Mr Iliasov and Mr Kadirov have publicly accepted my proposal to allow the displaced persons in Ingushetia to vote in the camps – and not at the border of the Chechen Republic as initially envisaged. This commitment must be honoured. Any solution in which the displaced persons have to turn up at the border and submit themselves to army

controls could deter many of them. Mr Ziazikov, the President of Ingushetia, has also assured me that he would authorise the opening of polling stations in Ingushetia.

2. Being able to vote freely presupposes having all the relevant information about the issues at stake in the referendum. I noted that copies of the draft Constitution and the draft electoral laws which are the subject of the referendum were available (in Russian and Chechen) everywhere I went to in Grozny, and in the displaced persons' camps in Ingushetia. However, distributing the text of the draft Constitution is not the same as an information campaign and it must be acknowledged that genuine public debate began only very recently, during my visit, in the course of a television debate in which representatives of the presidential administration, NGOs and Mr Maigov, the recently appointed representative of Mr Maskhadov, took part. I sincerely hope that this debate will continue and that the formal obstacles to a campaign against the proposed texts (primarily the fact that the time limit for forming a group campaigning for a negative vote has apparently expired) can be overcome.
3. In any event, it is essential that the freedom of expression of the Chechen people be fully guaranteed, not only before but also after the anticipated referendum; this is just a beginning and under no circumstances could it be regarded alone as an appropriate response to the problems posed by the Chechen conflict. If the draft Constitution is adopted, freedom of expression and strict compliance with the freedom of association and the freedom to form political parties will, with the prospect of the presidential and parliamentary elections, become a key factor in the process of reconstruction. It is paramount that no faction, clan or party is able to monopolise this process; rather all political trends must be able to participate. In this connection, I have taken due note of the statements made by Mr Sultygov and Mr Ziazikov to the Parliamentary Assembly of the Council of Europe. Furthermore, I am happy to learn that some thought is now being given to a possible amnesty. This is another area where the Council of Europe could assist with its expertise and advice.
4. It would be wrong to end on this subject without a few words on the repercussions of the Chechen conflict on the whole of Russian society: since the tragic events which took place in the Moscow theatre, I have been continually in receipt of alarming information concerning the discriminatory treatment suffered by Chechens outside Chechnya and particularly in Moscow, where people of Caucasian origin have allegedly been checked or stopped and questioned on several occasions without any apparent reason other than their origin. I raised this matter during my discussions with the Prokuratura general, when I was assured that measures were in the process of being taken to deal with this. However, soldiers of Chechen origin in the federal army took advantage of my presence in their barracks to complain that their families were often stopped and questioned by the police in Moscow, suspected, without any plausible reason, of supporting or preparing terrorist acts, while they themselves were "fighting for Russia". I fear that the authorities' attitude reflects a deeper and more serious social problem and that the continuation of the armed conflict will fuel a more wide-spread anti-Chechen feeling which could give rise to problems of another type and undermine in the long term the efforts to restore normality. The fact is that a transparent democratic process, founded on the freedom of expression, the freedom of the press and the freedom of association – including the freedom to form political parties – for all persuasions, is the best guarantee against this risk. It is for the Russian authorities to ensure that their action matches the expectations of the Chechen population and is of benefit to the whole of Russian society.

III. Improving material living conditions in Chechnya

5. If there is to be genuine political dialogue, there must be an end to the fear and the precariousness that has been a feature of everyday life in Chechnya for so many years. In other words, a political solution presupposes not only effective guarantees for personal safety and security but also offering the population a prospect of a normal life. This is a question which concerns the right to decent living conditions, decent housing, employment, education, health, in short all those aspects which form part of the right to respect for human dignity.
6. Material conditions in Grozny and elsewhere in Chechnya are certainly improving, particularly as regards the opening of schools and provision of public transport. However, this is too rudimentary and too slow to offer people settling there real hope of a normal life. The economy is virtually non-existent, apart from in the north of Chechnya where there is still a significant level of farming. Grozny remains a city in ruins and this seriously affects everyone.
7. Reception centres have been set up for those returning to Grozny. The centres that I visited were generally in good condition, although clearly overcrowded. I also visited reception centres which were under construction. Once they have been completed, they could provide decent accommodation for a number of families of displaced persons.
8. However, the number of these centres is clearly insufficient to house the 80,000 or so people still in Ingushetia, in the camps or staying with families (in the "private sector"), even if security conditions improved.
9. In the last few months of 2002 several displaced persons' camps in both Chechnya and Ingushetia closed down. The authorities have assured me that no camp had been shut down by force and that the people living there had left voluntarily to return to Grozny. For their part, the displaced persons and the NGOs stated that with winter approaching, the threat of interruptions to the gas supply was allegedly the reason behind the departure of displaced persons and the closing of certain camps. I myself noted that after the closure of camps, several people did not return to re-settle in Chechnya, as claimed by the authorities, but rather sought refuge outside the Russian Federation.
10. For example, during my official visit to Poland in November 2002, I met in an asylum seekers' reception centre, several people who came from Chechnya and whom I had met during my previous visits to a camp in Znamenskoe. The asylum seekers told me that they had just left their camp which had been closed down by the Russian authorities, and that they were not contemplating returning to Grozny.
11. In view of the lack of infrastructure to accommodate people returning to Grozny, it is imperative that the Ingushetia camps remain open. The President of Ingushetia, Mr Ziazikov, assured me that no camp would be closed down and that no-one would be forced to return to Chechnya against their will.

12. This commitment from President Ziazikov, which I welcome and take due note of, is all the more important given that reconstruction in Grozny would appear to be a long operation. The current reconstruction plan makes provision for the payment of compensation for material damage sustained as a result of the war, but the pace is slow and the whole process will take, according to the most optimistic estimates of the authorities, six or seven years.
13. The reconstruction work is further complicated by serious problems of corruption, recently highlighted by the Russian Federation Auditor General's Department, which discovered that only a fraction of the aid granted by the government actually reached the beneficiaries.
14. The Russian authorities might need international aid for the reconstruction of Grozny and for putting in place the necessary infrastructure to develop the economic sector. Minister Iliasov indicated his interest in such aid.
15. There is no doubt that reconstruction, along with re-establishment of the rule of law and the setting up of institutions of political dialogue, represents the third pillar of the solution to the Chechen conflict and as such deserves support. However, until the corruption networks are dismantled, international aid would be scarcely effective. Furthermore, reconstruction projects should be aimed at all levels of Chechen society; if not, the process would be tainted by discrimination and would give rise to envy and disappointment rather than ease people's minds. The authorities could usefully call on the experience and assistance of international organisations – including certain NGOs – and humanitarian organisations active in the North Caucasus to help develop reconstruction programmes. In this connection, the information I have received from certain humanitarian organisations concerning the difficulties encountered, in particular with regard to security (the head of the Médecins sans frontières mission disappeared without a trace more than six months previously in Daghestan), in carrying out their activities, is very worrying. In contrast, I noted with interest that there is a current project concerning the construction of reception and training centres for fighters who hand in their weapons. Projects of this type, which make for reconciliation and integration and offer some hope for the future to people who for years have known only war and violence, should be pursued.
16. Reconstruction alone, however, will not bring about peace or a solution. It has to be undertaken in conjunction with practical and effective measures to guarantee security, bring an end to impunity and set up a genuine democratic society, based on freedom of expression and freedom of association.

Conclusion

17. Even though each component part of the solution to the Chechen conflict is delicate and difficult, and despite the fact that the chances of success are assessed differently by one party or another, the rights of the Chechen population, so long – too long – isolated, destabilised, trapped in a war and with its very existence threatened, deserve every possible effort. The violence of the armed conflict and the violations of human rights, whether perpetrated by the Chechen fighters or the authorities, must come to an end.

18. The Russian authorities must carry out the process of re-establishing security and the rule of law with the requisite level of diligence and determination. More than three years after the Commissioner's first visit to Chechnya, the problems noted then are as pressing as ever.
19. Action continues to be needed on three fronts:
- personal security must be assured, the rule of law must be enhanced and human rights upheld;
 - the requisite institutions which can carry out political dialogue in order to emerge from the deadlock of war must be set up;
 - material living conditions must be improved in Chechnya and the population must be given the prospect of development in the medium-term.
20. According to the Russian federal authorities, the referendum they have decided to hold on 23 March 2003 is aimed at re-establishing a degree of legitimacy for a civil power in Chechnya. While, in principle, the prospect of ensuring that the power held today by those wielding arms is handed over to the civil authorities is in itself a positive one, the success of such an operation presupposes effective safeguards for human rights, dialogue open to all players and all political trends in Chechnya, and the prospect of an economic future for the population. Without a holistic and integrated approach in which the above three dimensions are present, the process will be unable to lead to lasting peace.

Alvaro GIL ROBLES
Commissioner for Human Rights