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Европейский комитет по предупреждению пыток и бесчеловечного или унижающего достоинство обращения или наказания (ЕКПП)

Публичное заявление по Российской Федерации относительно Чеченской Республики и других республик Северо-Кавказского региона

(от 11 марта 2019 г.)

Настоящее публичное заявление сделано в соответствии со Статьей 10, пунктом 2, Европейской Конвенции по предупреждению пыток и бесчеловечного или унижающего достоинство обращения или наказания.

(*неофициальный перевод*)

Публичное заявление по Российской Федерации

относительно Чеченской Республики и других республик Северо-Кавказского региона

Принято на 98-м пленарном заседании ЕКПП (4-8 марта 2019 г.)
в соответствии с пунктом 2 статьи 10 Конвенции об учреждении Комитета[1]

Применение пыток и тяжких форм плохого обращения с лицами, задержанными сотрудниками правоохранительных органов Северо-Кавказского региона Российской Федерации и, в частности, Чеченской Республики, вызывает серьёзную озабоченность ЕКПП со времени его первого посещения Республики в начале 2000 года. Ввиду упорного нежелания российских властей улучшать положение в соответствии с рекомендациями Комитета, в 2001, 2003 и 2007 гг.[2] ЕКПП трижды счёл необходимым использовать свое право выступить с публичным заявлением.

После публичного заявления, сделанного в 2007 году, ЕКПП еще три раза побывал в Чеченской Республике (в апреле 2009 г., апреле–мае 2011 г. и ноябре–декабре 2017 г.), стремясь к продолжению конструктивного диалога с российскими властями по различным вопросам, касающимся обращения с лицами, задержанными правоохранительными органами в этой Республике. К сожалению, из собранной Комитетом в ходе данных посещений информации ясно следует, что **в Чеченской Республике по-прежнему широко распространены пытки и другие формы плохого обращения со стороны сотрудников правоохранительных органов**, равно как и связанная с этим практика незаконных задержаний, неизбежно в значительной степени повышающая риск плохого обращения, в частности ввиду лишения задержанных лиц основополагающих правовых гарантий. Глубокое беспокойство также продолжает вызывать тот факт, что в ответах на доклады о посещениях ЕКПП российские власти не признают серьёзности сложившейся ситуации.

Глубокую озабоченность ЕКПП вызывает то, что, несмотря на предпринятые Комитетом в течение последних двадцати лет усилия, пытки и другие формы плохого обращения с задержанными лицами в Чеченской Республике по-прежнему остаются глубоко укоренившейся проблемой. Это говорит не только о неисполнении своих обязанностей властями Республики, но и об отсутствии действенного надзора и контроля на федеральном уровне. Очевидно, что надзор за тем, как сотрудники правоохранительных органов Чеченской Республики обращаются с лицами, содержащимися под стражей, должен быть гораздо более тщательным и строгим.

На протяжении месяцев, предшествовавших состоявшемуся в ноябре–декабре 2017 г. посещению, ЕКПП получал сообщения и утверждения о том, что с декабря 2016 г. в различных районах Чеченской Республики сотрудниками правоохранительных органов, по их инициативе или с их молчаливого согласия, в отношении большого числа людей — в частности лиц, относящихся к ЛГБТИ, но не только их — осуществлялись похищения и незаконные задержания, применялись тяжкие формы плохого обращения и совершались внесудебные казни. Факты, обнаруженные во время визита в 2017 году и изложенные в прилагаемых к данному публичному заявлению выдержках из доклада о посещении, добавляют достоверности этой информации. Впоследствии ЕКПП неоднократно обращался к российским властям (в том числе в докладе о посещении 2017 года) с просьбой представить четкие доказательства проведенных эффективных расследований утверждений о незаконных задержаниях и тяжких формах ненадлежащего обращения со стороны сотрудников правоохранительных органов Чеченской Республики.

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[1] Согласно статье 10 (2) Конвенции, “если Сторона не вступает в сотрудничество или отказывается исправить ситуацию в свете рекомендаций Комитета, Комитет может, после того как Сторона имела возможность изложить свою позицию, принять решение большинством в две трети голосов своих членов сделать публичное заявление по данному вопросу”.

[2] См. документы CPT/Inf (2001)15, CPT/Inf (2003) 33 и CPT/Inf (2007)17, которые доступны по адресу https://www.coe.int/en/web/cpt/russian-federation.

К сожалению, непрерывный диалог ЕКПП с российскими властями в этом вопросе зашёл в тупик.

В ходе этого диалога Комитет неоднократно подчеркивал, что оценка эффективности мер, принятых компетентными следственными органами в вероятных случаях плохого обращения, является неотъемлемой частью превентивного мандата Комитета с учётом дальнейшего воздействия этих мер на поведение представителей власти. В этой связи очевидно, что привлечение должностных лиц, распорядившихся прибегнуть к плохому обращению, санкционировавших его, смотревших на него сквозь пальцы или допустивших такое обращение, к ответу за их действия или бездействие является однозначным сигналом о том, что подобное поведение не будут терпеть.

Для российских властей наиболее прямолинейный способ предоставить необходимые доказательства и выполнить свои обязательства по подпункту «d» пункта 2 статьи 8 Конвенции об учреждении Комитета[3] состоял бы в обеспечении последнему полного доступа к соответствующим следственным документам. В последние годы ЕКПП неоднократно обращался к российским властям с подобными запросами. Кроме того, в ходе ряда личных встреч делегаций ЕКПП с высокопоставленными представителями Следственного комитета Российской Федерации и управлений Следственного комитета по Северо-Кавказскому федеральному округу и Чеченской Республике[4] вновь подчеркивалось конкретное содержание обязательств участника Конвенции согласно подпункту «d» пункта 2 статьи 8. Серьёзную обеспокоенность вызывает тот факт, что, несмотря на настойчивую вовлечённость Комитета в решение этого вопроса, российские власти так и не выполнили свое обязательство представить доказательства проведения эффективных расследований. ЕКПП вынужден подчеркнуть, что ничто не может служить оправданием полному отказу в предоставлении доступа к необходимой Комитету для выполнения его задачи информации либо предоставлению доступа к ней на условиях, равнозначных отказу.

Такое положение дел можно квалифицировать лишь как продолжающийся отказ от сотрудничества с ЕКПП. Это вызывает ещё большую тревогу в связи с тем, что из Чеченской Республики продолжают поступать сведения о незаконных задержаниях и плохом обращении с представителями сообщества ЛГБТИ и другими лицами. ЕКПП считает необходимым подчеркнуть, что эффективное расследование любых утверждений такого рода является важнейшим обязательством Российской Федерации или любого другого члена Совета Европы согласно Европейской конвенции по правам человека. Кроме того, ЕКПП твердо убеждён, что всестороннее сотрудничество с Комитетом как контрольным органом, призванным предотвращать нарушения абсолютного запрета пыток, закреплённого в статье 3 Европейской конвенции о правах человека, является существенным условием выполнения этого обязательства.

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Следует также подчеркнуть, что широко распространённая практика плохого обращения со стороны полицейских не ограничивается лишь этой республикой Российской Федерации. После публичного заявления 2007 года данная проблема неоднократно отмечалась Комитетом и в отношении других республик Северо-Кавказского региона, в частности в связи со специальными визитами ЕКПП в Дагестан, Ингушетию, Кабардино-Балкарию и Северную Осетию в 2008, 2009, 2011 и 2016 гг. Основные выдержки из доклада о последнем из этих посещений прилагаются к данному публичному заявлению. Собранные Комитетом в ходе этих посещений сведения демонстрируют, что применение пыток и других тяжких форм плохого обращения остаётся распространённым явлением в правоохранительных учреждениях этих республик.

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[3] Статья 8(2)(d) содержит требование, чтобы Стороны Конвенции предоставляли Комитету информацию, “необходимую Комитету для выполнения его задачи”.

[4] Встречи такого рода имели место в декабре 2016 года в Ессентуках, в декабре 2017 года в Грозном и, наконец, в октябре 2018 года в Москве.

Как и в ходе предыдущих визитов ЕКПП в эти республики, делегации Комитета получали значительное число заслуживающих доверия утверждений о физическом плохом обращении с задержанными лицами во время их содержания под стражей в правоохранительных органах. Плохое обращение, как утверждалось, часто по своей тяжести могло рассматриваться как пытки; применяемые методы включали нанесение ударов электрическим током по различным частям тела (например, по пальцам ног и рук, по ушам и по половым органам), сильное избиение и удушение с использованием пластикового пакета или противогаза. В ряде случаев делегации ЕКПП получали медицинские доказательства, согласующиеся с утверждениями о плохом обращении, как путём непосредственного наблюдения травматических повреждений медицинскими работниками из состава делегации, так и путём изучения записей в медицинской документации в местах содержания под стражей. Кроме того, в некоторых случаях наступления смерти содержавшихся под стражей лиц Комитет находил, в том числе в судебно-медицинских заключениях, явные признаки того, что травмы, наблюдавшиеся на телах людей, могли быть связаны с их смертью.

В связи с изложенным остается лишь выразить глубокое сожаление, что **в течение двенадцати лет, прошедших с момента последнего публичного заявления Европейского комитета по предотвращению пыток, российские власти не прислушались к неоднократным призывам ЕКПП дать на самом высоком политическом уровне твёрдое указание всем сотрудникам правоохранительных органов посещенных Комитетом республик Северного Кавказа о “нулевой терпимости” по отношению к плохому обращению.**

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Первоочередная цель, которую преследует ЕКПП, выступая с настоящим публичным заявлением, состоит в том, чтобы побудить российские власти принять решительные меры для искоренения плохого обращения со стороны сотрудников правоохранительных органов в Чеченской Республике и в других частях Северо-Кавказского региона Российской Федерации, в том числе путем проведения эффективных расследований во всех случаях появления соответствующих сведений. Стремясь к достижению этой цели и выполняя свои функции, Комитет всецело привержен продолжению диалога с российскими властями.

ПРИЛОЖЕНИЕ

I. Выдержки из Доклада Правительству Российской Федерации по итогам посещения Чеченской Республики Российской Федерации Европейским Комитетом по предупреждению пыток и бесчеловечного или унижающего достоинство обращения или наказания (ЕКПП) с 28 ноября по 4 декабря 2017 г. (принят 9 марта 2018 г.) (только на английском)

II. Facts found during the visits and action proposed

A. Law enforcement agencies

1. Torture and other forms of ill-treatment

11. In the course of the visit, the CPT's delegation once again received many consistent and credible allegations of recent ill-treatment of detained persons by law enforcement officials in the Chechen Republic. The great majority of the allegations related to ill-treatment inflicted in the early hours and days of detention, with a view to extracting a confession or obtaining information, or as a punishment. The ill-treatment alleged was often of such a severity that it could be considered as amounting to torture (e.g. extensive beating, including with hard objects such as a PVC pipe; asphyxiation using a plastic bag; the infliction of electric shocks to various parts of the body; etc.).

Further, a number of detained persons alleged that they had received threats of execution, use of (further) violence or reprisals against their families, in order to compel them to admit to criminal offences or to dissuade them from lodging formal complaints against the police. Some alleged victims of ill-treatment also stated that their family members had been intimidated by police officers in order to discourage them from complaining officially about the manner in which their relatives had been treated.

12. The allegations of ill-treatment came from a wide range of persons, interviewed independently of each other, and were fully consistent as regards the particular types of ill-treatment in question. As regards more specifically the allegations of the infliction of electric shocks, several persons gave very detailed descriptions of the devices used and the manner in which the electric shocks had been administered to them: field telephones with a crank and two bare wires which were usually fastened around the fingers, toes or genitals, or attached to the ear lobes with a kind of clip. In this context, it should be noted that the delegation found half a dozen examples of such Soviet-era army field telephones (model "TA-57") in a room located next to three windowless cells in the basement at Police Division No. 2 in Grozny (see also paragraph 19).

It should be added that much of the above-mentioned information was not immediately volunteered, but was only provided once the delegation had established a degree of confidence with the persons concerned. Indeed, a number of detained persons interviewed by the delegation were very reluctant to speak about their experiences whilst in the custody of law enforcement agencies, and some were visibly frightened.

13. The information gathered by the delegation during the visit suggests that persons suspected of offences related to terrorism and participation in illegal armed groups are at a particularly high risk of being ill-treated, but they were not the only alleged victims. For example, a number of persons arrested in connection with drug-related offences also alleged that they had been severely ill-treated by the police. Many of those who said that they had not been ill-treated whilst in the custody of law enforcement agencies attributed this to the fact that they had immediately made confessions.

14. It must be stressed that the overwhelming majority of the allegations of torture and severe ill-treatment referred to prolonged periods (weeks or even months) of unofficial detention having preceded the official registration of deprivation of liberty by the police (see, in this regard, paragraphs 17 to 23). Consequently, any injuries which may have been caused by the alleged ill-treatment would almost certainly have faded or disappeared by the time of the person's entry to the official system of deprivation of liberty (and his/her first contact with health-care personnel).

15. It is noteworthy that, in stark contrast to the above, the delegation did not receive any allegations of ill-treatment of detained persons by staff working in the IVS facilities visited.

16. The findings from the 2017 visit lead the CPT to conclude that resort to torture and other forms of severe ill-treatment by members of law enforcement agencies in the Chechen Republic continues to represent a serious problem. In this respect, the recommendations made by the Committee in previous visit reports remain wholly valid.

The CPT once again calls upon the Russian authorities to deliver, at regular intervals, a firm and unambiguous message of "zero tolerance" of ill-treatment to all members of law enforcement agencies operating in the Chechen Republic, including through the issuing of a statement to this effect from the highest political level. As part of this message, it should be reiterated that all forms of ill-treatment are absolutely prohibited, and that both the perpetrators of such acts and those condoning them will be punished accordingly. This prohibition also extends to threats of execution, use of violence or reprisals against relatives.

Further, **the Committee reiterates its long-standing recommendation that the competent authorities promote a fundamentally different approach to methods of crime investigation. This must involve more rigorous recruitment procedures, improved professional training for law enforcement officials and the adoption of detailed instructions on the proper questioning of criminal suspects (including initial interviews by operational officers).** In the course of training, it must be made clear that the precise aim of questioning criminal suspects should be to obtain accurate and reliable information in order to discover the truth about matters under investigation, not to secure a confession from someone already presumed, in the eyes of law enforcement officials, to be guilty.

2. Unlawful detention

17. As had been the case during previous CPT visits to the Chechen Republic, the delegation received a significant number of detailed and credible accounts from detained persons of having been held for several days or even weeks – and in most cases ill-treated – in places which did not have the status of official detention facilities, before being transferred to a recognised detention facility and formally detained. In this connection, a number of persons claimed that, despite their request to that effect, no information had been provided to their relatives about the fact, or location, of their detention and they were as a result held *incommunicado*.

As already mentioned (see paragraph 4)[5], in the months prior to the 2017 visit, the Committee also received reports containing allegations of unlawful detentions of a large number of people by law enforcement officials at various locations in the Chechen Republic.

18. One establishment that stood out in terms of the frequency of alleged unlawful detentions – in the context of both the allegations made to the delegation during the visit and information received by the Committee beforehand – was the base of the *Kadyrov Regiment of the Special-Purpose Patrol-Sentry Police*. When the delegation visited this facility, it found out that the layout of the compound[6] and, more specifically, the location, design and internal features of basement-level secure rooms fully matched descriptions which the delegation had received from persons who alleged to have been held there (and subjected to severe ill-treatment) in the recent past.

It should be underlined that the aforementioned compound is not an ordinary police station to which the public has access, but rather a heavily guarded area. It is therefore inconceivable that the different persons whom the delegation interviewed individually would have been able to describe this place so accurately if they had not been held there.

19. The visit to *Police Division No. 2 in Grozny* was prompted by credible allegations received that persons had been unlawfully held for prolonged periods (up to three weeks) in the establishment's basement, as recently as September 2017.

When the delegation visited this police division, it was told by staff that the establishment had not had any place of deprivation of liberty for years and that they used IVS facilities in the proximity for detention purposes. However, the delegation discovered three windowless cells (measuring between 12 and 15 m^2) in the basement of the main building, which corresponded closely to descriptions given by persons who alleged that they had been held there. Further, the recently-whitewashed walls of the cells concerned still bore discernible inscriptions (including names and dates) which were highly suggestive of recent detentions.

Immediately adjacent to those cells, the delegation gained access to a room that was found to contain equipment including a stash of old field telephones fitting the description given by detained persons of the devices that had allegedly been used to inflict electric shocks upon them.

20. Given the delegation's on-the-spot findings (as well as the evasive answers by staff to questions put by the delegation), there could be little doubt that persons had been detained unlawfully in the two above-mentioned facilities in the recent past, and there were strong reasons to believe that they may have been ill-treated in the manner that they alleged.

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5 Paragraph 4 reads: "[…] In the years since the Committee's last visit to the Chechen Republic in 2011, the CPT has continued to receive information from various sources about a widespread resort to torture and other forms of ill-treatment by members of law enforcement agencies in this Republic, as well as a lack of effective action to bring to justice those responsible for ill-treatment. In the course of 2017, such information included reports of abductions, unlawful detentions, severe ill-treatment and extrajudicial killings of a large number of people – including LGBTI persons – by, at the instigation, or with the acquiescence of law enforcement officials at various locations in the Chechen Republic from December 2016 onwards."

6 The territory of the compound was surrounded by a high wall and was composed of several buildings, of which four served as barracks. Each of the latter comprised a basement with a number of designated rooms (gym, classroom, boiler room, etc.) and a sanitary facility.

21. Reference should also be made to the *building which formerly housed Argun City Internal Affairs Division*, a two-storey structure located immediately adjacent to the Internal Affairs IVS facility in Argun (99b, Kadyrov Street). According to various reports, a considerable number of people, including LGBTI persons, had in the past been held unlawfully and ill-treated in this building.

When visiting it, the delegation observed that the entire building had been comprehensively trashed; not a single surface in the building remained unscathed and it was strewn with debris.[7] Police officers present asserted that they themselves had wreaked this destruction on the building in order to obtain items such as metal doors that they could re-use in their new offices. However, the nature and the extent of the damage that had been done appeared to be far more consistent with the wholesale destruction of evidence than with an act of architectural salvage.[8]

22. The delegation also received allegations of unrecorded detentions in official detention facilities. Several of the persons interviewed during the visit claimed that, following their arrest and delivery to an Internal Affairs establishment where they had been subjected to informal questioning by operational officers and physically ill-treated, they had spent prolonged periods (as long as two months) in an IVS facility, before the fact of their deprivation of liberty was formally recorded, a protocol of detention drawn up and the first official interview carried out by an investigator. Most of the allegations of this kind related to the IVS facility of Shali District Internal Affairs Division.

23. The information gathered during the visit suggests that resort to unofficial – and therefore illegal – detention by members of law enforcement agencies remains commonplace in the Chechen Republic. It is of all the more concern that during the periods in question detained persons are exposed to a high risk of ill-treatment, without any of the legal safeguards being applied to them. It should therefore be made clear to all law enforcement officials in the Republic that holding detained persons in places other than official places of deprivation of liberty or failure to record the detention of persons is a serious offence. Naturally, any information which is indicative of unlawful detention in a given case must receive an effective response.

In the light of the above, **the CPT calls upon the Russian authorities to take decisive action to stamp out the above-mentioned practices. This should include ensuring effective preventive monitoring at both Federal and Republican level. The Committee also recommends that effective investigations be carried out into all complaints and other information indicative of the unlawful detention of persons.** Further, **immediate steps should be taken to ensure that whenever a person is taken or summoned to an Internal Affairs establishment, for whatever reason (including for interviews with an operational officer), his/her presence is always duly and immediately recorded.**

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7 The floors of almost every room in the building had been ripped up, wall panelling had been torn off, doors and some windows had been unhinged, and lighting and power sockets had been removed.

8 It should be added that the building had apparently already been found in this condition during an on-site inspection by the Investigative Committee earlier in the year in the context of its pre-investigation inquiry (see paragraph 25).

3. Investigations into cases involving allegations of unlawful detention / ill-treatment

24. In early April 2017, "Novaya Gazeta", a leading independent newspaper based in Moscow, reported that a large number of people had been unlawfully detained by law enforcement agencies in the Chechen Republic between December 2016 and March 2017, on the grounds of (real or perceived) sexual orientation or gender identity. According to the publication, many of them had been subjected to severe ill-treatment, including extensive beatings and the infliction of electric shocks, by law enforcement officials in an attempt to obtain the names of other LGBTI people or to punish them, and at least two had been executed.

Further, on 9 July 2017 "Novaya Gazeta" published the names of 27 people who had reportedly been apprehended in connection with a deadly attack on police officers in Grozny in December 2016 and subsequently extrajudicially executed; the names of 4 more persons were later added to this list. The article claimed that the mass execution had presumably taken place on the premises of the Special-Purpose Patrol-Sentry Police Regiment named after A. Kadyrov in Grozny ("Kadyrov Regiment") during the night of 25 to 26 January 2017.[9] It appears that in the course of April 2017 the newspaper provided the competent authorities, including the Investigative Committee of the Russian Federation, with details about the alleged victims.

25. It was against this backdrop that the CPT's delegation visited the Chechen Republic. The central issue for the delegation was to try to assess the effectiveness of the investigation. As already indicated, the delegation met Mr Boris Karnaukhov, Deputy Chairman of the Investigative Committee of the Russian Federation, and senior representatives of the Investigative Committee's Investigative Departments for the North Caucasian Federal District and for the Chechen Republic. The information provided to the delegation during that meeting can be summarised as follows:

On 18 April 2017, the Investigative Committee's Main Investigative Department for the North Caucasian Federal District (IDNC) started a pre-investigation inquiry *(проверка сообщения о преступлении)* into the above-mentioned reports, under Section 144 of the Code of Criminal Procedure (CCP). As a first step, the IDNC carried out a visual inspection at several law enforcement establishments implicated in the alleged unlawful detentions, ill-treatment and executions, such as Argun City Internal Affairs Division and its IVS facility, the Headquarters of Special Rapid Response Team "Terek" in Grozny and the "Kadyrov Regiment". As regards the latter facility, the conclusion was that it had no premises suitable for detention purposes.

Further, interviews were conducted by IDNC investigators with the commanding officers and operational staff of law enforcement agencies (including the "Kadyrov Regiment") implicated in the allegations.[10] It was concluded as a result that, except for one person (who was being detained on criminal charges), none of the individuals concerned had recently been taken to the premises of those agencies or otherwise deprived of their liberty.

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9 On 31 July 2017, the newspaper published a table entitled "List of detained persons" containing photographs and other personal details, which had reportedly been compiled by the local police. The table included several persons from the above-mentioned list of 27, suggesting that they had been held in police custody.

10 In addition, certain senior state officials of the Chechen Republic, including the Speaker of the Parliament and First Deputy Minister of Internal Affairs, were interviewed.

In sum, the inquiry had established the location of nine persons[11] from the list of 31 by the time of the visit, while 22 of them remained missing. It was indicated that individuals in the latter group had been charged *in absentia* with participation in an illegal armed unit and were wanted by the federal authorities.[12]

The sequence of decisions taken within the framework of the inquiry revealed a pattern similar to what was observed during previous visits to the Russian Federation. The delegation was informed that on 17 May 2017 a decision was taken by the investigator in charge to refuse to initiate a criminal case for lack of sufficient grounds, under Section 145 of the CCP. However, that decision was revoked by the IDNC leadership on 26 May 2017 on the ground that the inquiry had been incomplete. The pre-investigation inquiry was subsequently resumed in order to conduct "further checks", again resulting 30 days later in a decision not to open criminal proceedings, which was once again revoked by the IDNC leadership. At the time of the visit, this cycle of the closing and re-opening of a pre-investigation inquiry by the IDNC was still underway, always with the same result; the last decision of refusal to initiate a criminal case was taken on 22 November 2017, only to be revoked two days later.

26. It is a well-established principle that effective investigations, capable of leading to the identification and punishment of those responsible for ill-treatment, are essential to give practical meaning to the prohibition of torture and inhuman or degrading treatment. The criteria which an investigation into allegations of ill-treatment must meet in order to be qualified as "effective" have been established through the case-law of the European Court of Human Rights. In particular, the investigation should be conducted in a prompt and reasonably expeditious manner, and should be comprehensive and thorough.[13]

It should be recalled in this connection that, in its judgment of *Lyapin v. the Russian Federation*,[14] the Court observed that in many ill-treatment cases against Russia, the authorities had never initiated official criminal proceedings, and their investigative efforts had been limited to a pre-investigation inquiry, which in accordance with the CCP are carried out before the institution of criminal investigation in order to verify the well-foundedness of criminal complaints. In many cases in this group, these pre-investigation inquires led ultimately to refusals to open criminal proceedings. The Court held that some important investigative measures, such as the questioning of witnesses, confrontations and identification parades, could be carried out in the course of an investigation only once a criminal case had been opened. The Court concluded that the investigative authority's refusal to open a criminal investigation into credible allegations of ill-treatment was indicative of the State's failure to comply with its obligation under Article 3 of the European Convention on Human Rights to carry out an effective investigation (see §§ 133 to 136).

27. In view of the above, the CPT at this stage entertains serious doubts as to the effectiveness of the investigation into the above-mentioned reports.

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11 They were reportedly residing in Chechnya or had died of natural causes or had been killed in a fire fight with the police in December 2016.

12 "Novaya Gazeta" claimed that a number of families concerned had been forced to sign a declaration that their family member had gone to Syria to participate in the armed conflict.

13 See, for example, the *Mikheyev v. Russia* judgment of 26 January 2006. Reference might also be made to the CPT's 14th General Report (CPT/Inf (2004) 28).

14 Chamber judgment of 24 July 2014; application no. 46956/09.

28. Shortly after the visit, a written request was made by the Committee for a full list of all investigative steps taken by the IDNC (persons from whom evidence had been taken, on-site inspections carried out, etc.) as of the launch of the pre-investigation inquiry on 18 April 2017, as well as for copies of all decisions taken not to initiate criminal proceedings, together with all subsequent decisions to revoke those decisions.

Regrettably, notwithstanding a commitment given to the delegation during the visit by the Deputy Chairman of the Investigative Committee of the Russian Federation, to date the CPT has not been provided with the specific information it requested. In these circumstances, the Committee's doubts about the effectiveness of the investigation remain to be dispelled. **The CPT must therefore reiterate its request to the Russian authorities to provide the Committee with the aforementioned written information without further delay.**

29. The CPT must emphasise in this context that assessing the effectiveness of action taken by the competent investigatory authorities when ill-treatment may have occurred constitutes an integral part of its mandate, given the implications that such action has for future conduct by public officials. In order to be able to make such an assessment, it is essential for the CPT to have access to detailed information on the investigations concerned. By virtue of Article 8, paragraph 2 (d), of the Convention, Parties are obliged to provide the Committee with such information. The most straightforward way of meeting this obligation – and the practice followed in other Parties to the Convention – is for the CPT to have access to the relevant files held by the authorities responsible for the investigation. Naturally, the Committee respects the confidential character of any information provided in this context.

30. As regards the reports of unlawful detentions and ill-treatment of LGBTI persons referred to in paragraph 24, specific reference should be made to the *case of Maxim Lapunov*. Mr Lapunov, a gay man, lodged an official complaint with the Investigative Committee in September 2017 about his illegal detention and ill-treatment by the police in Grozny in March 2017. During a press conference held in October 2017, Mr Lapunov described in detail how he had been detained for twelve days in a basement facility presumably in the building of the Criminal Investigations Department (CID) of the Ministry of Internal Affairs of the Chechen Republic, repeatedly struck with a plastic pipe on various parts of the body and threatened with electric shocks by several police officers. The intended purpose of the alleged ill-treatment was apparently to force him to disclose the names of LGBTI persons of Chechen origin.

According to information provided to the delegation by representatives of the IDNC, a pre-investigation inquiry was launched into Mr Lapunov's complaint on 21 September 2017, i.e. the day on which they received the complaint.[15] The investigative steps that had been taken by the time of the visit in relation to his allegations included: taking "explanations" from him on 29 and 30 September 2017 in Essentuki, carrying out a forensic medical examination of Mr Lapunov on 6 October 2017, the identification of the place where Mr Lapunov alleged to have been held (namely the CID in Grozny) and a visual inspection of its premises, and holding interviews with police officers implicated in his allegations as well as some potential witnesses.

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15 It appears that Mr Lapunov and his legal representatives initially met with the Human Rights Commissioner of the Russian Federation on 29 August 2017 and asked that his complaint letter be personally delivered to the Head of the Investigative Committee.

By decision of 20 October 2017, the investigator in charge of the case came to the conclusion that Mr Lapunov had indeed been taken to the building of the CID by police officers on 25 March 2017 as there had been a missing person report filed by his sister two days earlier and that he had been released on the same day after an operational officer had taken the necessary procedural measures to confirm his identity. Further, according to the investigator, the visual inspection of the CID premises revealed that they did not correspond to the description given by Mr Lapunov of the place in which he claimed to have been held; in particular, there were no secure rooms in the basement where persons could be held. Consequently, it was decided not to initiate a criminal case in the absence of a *corpus delicti*.

In a similar fashion to that described in paragraph 25, the aforementioned decision was revoked by the leadership of the IDNC on the ground that the inquiry had been incomplete. The inquiry was thus resumed on 23 October leading to a decision to refuse to open a criminal case on 22 November; the latter was in turn revoked on 24 November. The CPT understands that the pre-investigation inquiry into Mr Lapunov's complaint is currently underway.[16]

31. As in the case of the alleged execution of 31 persons referred to in paragraph 24, the CPT requested that the Russian authorities provide a detailed account of the investigative steps taken in respect of Mr Lapunov's case, including a list of all statements/"explanations" taken and copies of all decisions not to initiate a criminal case, together with all subsequent decisions to revoke those decisions.

To date, the Committee has not received the requested information; it is therefore unable to assess the effectiveness of the investigative steps taken in the aforementioned case. That said, from the information available to the CPT, certain apparent deficiencies could be observed.

It is essential that the authorities take all reasonable steps available to them to secure the evidence concerning the case in a prompt manner, inter alia by seeking evidence at the scene. However, it appears that in the present case the on-site inspection by the investigator of the alleged place of detention was performed only after a considerable delay and without Mr Lapunov's participation.

Other shortcomings in the conduct of the inquiry include the failure to question apparently important witnesses (in particular, two women who had apparently witnessed the alleged apprehension of Mr Lapunov in the street and who could have possessed useful information). It should be stressed in this context that, unlike in criminal proceedings (i.e. once a criminal case has been opened), during pre-investigation inquiries potential witnesses are not obliged to give a statement to the investigator.

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16 In November 2017, the Human Rights Commissioner of the Russian Federation addressed a letter to the Head of the Investigative Committee expressing her concern about the expeditiousness of the action taken by the IDNC in this case.

II. Выдержки из Доклада Правительству Российской Федерации по итогам посещения Северо-Кавказского региона Российской Федерации Европейским Комитетом по предупреждению пыток и бесчеловечного или унижающего достоинство обращения или наказания (ЕКПП) с 4 по 12 февраля 2016 г. (принят 8 июля 2016 г.) (только на английском)

II. Facts found during the visits and action proposed

A. Law enforcement agencies

1. Torture and other forms of ill-treatment

10. As was the case during previous CPT visits, in each of the two republics visited [i.e. the Republics of Dagestan and Kabardino-Balkaria], the delegation received a considerable number of credible allegations of recent physical ill-treatment of detained persons whilst in the custody of law enforcement agencies. The ill-treatment alleged was often of such a severity that it could be considered to amount to torture; the methods involved included the infliction of electric shocks to various parts of the body (e.g. toes, fingers, ears, genitals), extensive beating and asphyxiation using a plastic bag or gas mask. In the great majority of cases, the ill-treatment was said to have been inflicted during the period immediately following apprehension, when the persons concerned were subjected to initial questioning by operational officers, in order to obtain a confession or information. In general, it appeared that more severe forms of ill-treatment were applied in the first days of police custody, thereby leaving time for any trace of the resulting injuries to fade or disappear before the person was transferred to a remand facility or released.

In both republics, a significant number of allegations were also received of excessive use of force during apprehension by law enforcement officials (often wearing masks), after the person concerned had been handcuffed or otherwise brought under control.

In addition, accounts were received of ill-treatment of a psychological nature, such as threats to use physical or sexual violence or to take into custody other members of the detained person's family, not to mention verbal abuse.

The delegation also received a number of allegations of persons being held (and in most cases ill-treated), while hooded or blindfolded, in places which did not appear to be official detention facilities, before being transferred to a recognised law enforcement establishment. Such allegations mainly concerned operational officers from the Centre for Combating Extremism, in particular in the Republic of Kabardino-Balkaria.

Once again, the overall picture which emerged from the delegation's findings was that any detained persons who did not promptly confess to the crime of which they were suspected (or provide the information being sought) would be in imminent danger of being ill-treated/tortured. It should be stressed in this connection that persons suspected of offences related to terrorism, participation in illegal armed groups and illegal possession of weapons appeared to be at a particularly high risk of being ill-treated by members of law enforcement agencies. That said, many detained persons accused of drug-related offences, robbery or theft also alleged that they had been severely ill-treated.

11. On a more positive note, the delegation did not hear any allegations of physical ill-treatment by staff working in any of the IVS facilities visited in the two republics visited.

12. In a number of cases, medical evidence consistent with allegations of ill-treatment was gathered by the CPT's delegation, through both direct observation by medical members of the delegation and the examination of records in SIZO and IVS facilities and of forensic medical reports. This evidence related in particular to beatings and electric shocks. […]

13. In the light of all the information gathered by its delegation in the course of the visit, the CPT can only conclude that resort to severe ill-treatment, even torture, by members of law enforcement agencies remains widespread in the Republics of Dagestan and Kabardino-Balkaria. In this context, it is of the utmost importance that the authorities, at both Federal and Republican level, demonstrate their strong commitment to tackling this phenomenon at its roots, which requires a series of measures on their part. These measures include delivering a firm message of "zero tolerance" of ill-treatment (see paragraph 14), stepping up professional training for law enforcement officials (see paragraph 15), effectively investigating all information regarding possible ill-treatment (see paragraph 22), and improving the practical implementation of the legal safeguards against ill-treatment or introducing new safeguards. The CPT must stress that failure by the Russian authorities to take such measures would be indicative of a policy of tolerating, or even condoning, acts of torture and other forms of ill-treatment.

14. First of all, a strong and clear message must be sent to all the law enforcement agencies operating on the territory of the republics visited that any form of ill-treatment of detained persons is absolutely prohibited and that the perpetrators of ill-treatment (and those condoning such acts) will be subject to severe sanctions. This prohibition also extends to threats to inflict ill-treatment on detained persons and of reprisals against their relatives. Indeed, no one must be left in any doubt concerning the commitment of the state authorities to combating impunity. This will underpin the action being taken at all other levels.

The CPT calls upon the Russian authorities to deliver, at regular intervals, a clear and firm message of "zero tolerance" of ill-treatment to all members of law enforcement agencies operating in the Republics of Dagestan and Kabardino-Balkaria, including through the issuing of a statement to this effect from the highest political level.

15. As emphasised by the Committee in the past, the best possible guarantee against ill-treatment is for law enforcement officials themselves to unequivocally reject resort to such methods. This implies strict selection criteria at the time of recruitment, as well as the provision of appropriate professional training incorporating the principles of human rights, which should take place on a permanent footing at all levels of the law enforcement infrastructure. Failing that, all other efforts to combat torture and other forms of ill-treatment may well prove futile.

In the course of training, it must be made clear that the precise aim of questioning criminal suspects should be to obtain accurate and reliable information in order to discover the truth about matters under investigation, not to secure a confession from someone already presumed, in the eyes of law enforcement officials, to be guilty. Moreover, greater emphasis should be made on objective evidence obtained through forensic science, thereby reducing reliance on information and confessions obtained via questioning for the purpose of securing convictions.

The CPT calls upon the Russian authorities to take resolute measures to improve professional training of law enforcement officials in the Republics of Dagestan and Kabardino-Balkaria. In this context, greater emphasis should be given to scientific methods of crime investigation, through investment in the acquisition of modern technical means of inquiry (e.g. criminalistic and laboratory equipment) and skilled human resources. This should be combined with the adoption of detailed instructions on the questioning of criminal suspects (including initial interviews by operational officers).

16. The CPT recalls that the electronic (i.e. audio and/or video) recording of interviews by law enforcement officials represents an important additional safeguard against the ill-treatment of detained persons. Such a facility can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of any allegations of ill-treatment. In this regard, the Committee notes that Russian law[17] provides for the possibility of using audio- and/or video-recording in the context of questioning by law enforcement officials. **The CPT recommends that the Russian authorities ensure that all interviews of detained persons with operational officers and investigators are systematically audio- and video-recorded.**

[…]

2. Investigations into cases involving allegations of ill-treatment

19. As the CPT has emphasised in the past, assessing the effectiveness of action taken by the competent investigating authorities when ill-treatment may have occurred constitutes an integral part of the Committee's preventive mandate, given the implications that such action has for future conduct by public officials. More generally, it is a well-established principle that effective investigations, capable of leading to the identification and punishment of those responsible for ill-treatment, are essential to give practical meaning to the prohibition of torture and inhuman or degrading treatment.

The criteria which an investigation into allegations of ill-treatment must meet in order to be qualified as "effective" have been established through the case-law of the European Court of Human Rights. In particular, the investigation should be thorough and comprehensive, it should be conducted in a prompt and expeditious manner, and the persons responsible for carrying out the investigation should be independent from those implicated in the events[18].

20. One of the objectives of the February 2016 visit was to obtain detailed information on investigations into cases involving allegations of ill-treatment. However, […] despite repeated requests, the CPT's delegation was not able to meet with senior officials of the Investigative Committee at Federal and Republican level to discuss its findings as regards the activities of law enforcement agencies in the Republics of Dagestan and Kabardino-Balkaria and investigations into possible ill-treatment by members of those agencies.

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17 Section 189 (4) of the Code of Criminal Procedure.

18 See, for example, the *Mikheyev v. Russia* judgment of 26 January 2006. Reference might also be made to the CPT's 14th General Report (CPT/Inf (2004) 28).

Consequently, the CPT decided to seek information from the Russian authorities about the concrete action taken by the Investigative Committee in relation to allegations of ill-treatment in eight individual cases (four cases from each republic), in which the findings were indicative of torture/severe ill-treatment by law enforcement officials. The cases concerned were communicated to the Russian authorities on 1 April 2016 by a letter from the President of the CPT. In that letter, the authorities were requested to provide a detailed account of the investigative steps taken in respect of each case as well as information on the outcome of investigations into these cases.

21. By letter of 16 May 2016, the Russian authorities provided some information regarding the above-mentioned cases. However, the information provided is not sufficiently detailed in order for the Committee to be able to assess the effectiveness of action taken by the competent investigating authorities in response to *prima facie* evidence of ill-treatment. In particular, the CPT's request to be provided with a detailed account of the investigative steps taken in relation to claims of ill-treatment in each case, as well as with copies of the final decisions taken by the relevant authorities, has not been complied with.

Most notably, as regards the cases of M.A. and A.G., the information provided by the authorities merely states that, as a result of a preliminary inquiry, "the arguments on the use of violence [against the persons concerned] were not confirmed; therefore, it was decided not to initiate legal proceedings […]". In this regard, it is noteworthy that the detained persons concerned had stated during an official interrogation that they had been "subjected to physical violence by unidentified police officers in order to force them to give testimony". Further, each of them had undergone a forensic medical examination several days after apprehension, which concluded that the multiple traumatic injuries on their bodies resulted from blows with a blunt object and might have been sustained under the circumstances and in the time frame as detailed by the persons concerned.

Similarly, in the case of M.K., who had stated during an official interrogation that his bodily injuries had been inflicted by masked law enforcement officials after apprehension, the information provided merely indicates that, following a preliminary inquiry, a decision was taken by the relevant investigator on 14 April 2016 to refuse to initiate a criminal case. As in the aforementioned two cases, no account is given of concrete steps taken by the investigating authority in the context of the preliminary inquiry.

In the light of the above, **the CPT reiterates its request that the Russian authorities provide detailed information on the concrete investigative steps[19] taken in the context of the preliminary inquiries into the complaints of ill-treatment made by Messrs M.A., A.G and M.K., which should also include a copy of the final decision taken in each case.**

As regards the other five cases, the CPT understands from the information provided that, acting on the basis of the Committee's letter of 1 April 2016, the competent investigating authorities have opened or re-opened preliminary inquiries into the complaints of ill-treatment and that those inquiries were still underway. **The Committee would like to receive detailed information on the outcome of the preliminary inquiries in these cases; this should include a full account of the investigative activities undertaken as well as copies of the final decisions taken by the relevant authorities.**

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[19] E.g. whether the complainants were interviewed, whether any third parties who could shed light on the veracity of the complaints were questioned, etc.

22. The CPT has repeatedly stressed that in order to avoid any perception of impunity within law enforcement agencies, it is crucial that the investigating authorities take effective action when any information indicative of possible ill-treatment comes to light. In this regard, the impression gained by the delegation in the Republics of Dagestan and Kabardino-Balkaria was that the relevant authorities often failed to take appropriate action in respect of allegations of ill-treatment (or other information received about the manner in which law enforcement agencies performed their task). A number of detained persons met by the delegation claimed that when they had complained to an investigator about instances of ill-treatment by law enforcement officials, the investigator had shown little interest and had taken no further action on the matter, even when they had shown him/her injuries on visible parts of the body. Moreover, some detained persons claimed that when they informed the investigator that they had been subjected to physical ill-treatment and forced by operational officers to sign a confession, they were subsequently taken back to the very same law enforcement agency and ill-treated again. It was also reported that, in some cases, persons who had suffered physical ill-treatment had struck a deal with the investigating authorities that in exchange for dropping some charges and a shorter sentence, they would not pursue their complaints of ill-treatment.

The CPT also wishes to reiterate that judges called upon to decide within 48 hours of apprehension on the application of a procedural preventive measure (remand in custody, etc.) are well-placed to ensure that any indications of ill-treatment are recorded and investigated at an early stage (i.e. before any traces disappear). The information gathered during the visit suggests that, although some judges have started to react to allegations of police ill-treatment made by persons brought before them (notably when the latter bear visible injuries), effective action is still not always being taken by judicial authorities at this stage. As was the case during previous visits, several persons interviewed by the delegation stated that judges before whom they had been brought had summarily dismissed their allegations of ill-treatment.

More generally, there continued to be a widespread lack of trust among detained persons in the existing system of investigating complaints of ill-treatment against law enforcement officials. In this connection, a number of persons interviewed by the delegation stated that they did not want to lodge complaints of ill-treatment out of fear of possible consequences or that they had actually been forced to withdraw their complaints as a result of threats by law enforcement officials.

In the light of the above, **the CPT reiterates its recommendation that the investigating authorities be reminded of their legal obligation to take relevant action whenever they have reason to believe that a person brought before them has been subjected to ill-treatment by law enforcement officials. Even in the absence of an express allegation of ill-treatment, they should ensure that a forensic medical examination is requested whenever there are other grounds (e.g. visible injuries, a person's general appearance or demeanour) to believe that a criminal suspect brought before them has been ill-treated.**

The Committee also recommends that the Russian authorities take appropriate steps (including through the issuance of guidelines by the Supreme Court of the Russian Federation and the provision of training for judges) to ensure that a similar approach is followed by the judges before whom criminal suspects are brought for consideration of the application of procedural preventive measures.

Further, **under no circumstances should the return of a criminal suspect to the custody of law enforcement officials be authorised if there is reason to believe that the latter have ill-treated the person in question.**

23. The information gathered during the visit suggests that forensic medical examinations of persons who allege ill-treatment are not always performed promptly. In this connection, the Committee notes with concern that the carrying out of forensic examinations of detained persons is still in most cases impossible without authorisation from an investigating authority. It is noteworthy in this context that only forensic doctors officially designated for the case can provide forensic medical reports which have legal force in court.

The CPT has on many occasions emphasised the importance of the role to be played by forensic doctors in the investigation of cases possibly involving ill-treatment by law enforcement officials; it has also stressed that no barriers should be placed between persons who allege ill-treatment and doctors who can provide forensic reports having legal force. **The Committee therefore reiterates its recommendation that detained persons be able to have an examination by a recognised forensic medical expert carried out without prior authorisation from an investigating authority.**