



COMMISSIONER FOR HUMAN RIGHTS  
COMMISSAIRE AUX DROITS DE L'HOMME



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Third Party Intervention  
by the Council of Europe Commissioner for Human Rights  
under Article 36 of the European Convention on Human Rights  
Application No. 42705/11  
Svetlana Khusainovna ESTEMIROVA against the Russian Federation

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## Introduction

1. On 29 January 2016 the Council of Europe Commissioner for Human Rights (hereinafter – “the Commissioner”) informed the European Court of Human Rights (hereinafter – “the Court”) of his decision to intervene as a third party, according to Article 36, paragraph 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – “the Convention”) and to submit written observations in the proceedings concerning the case of *Svetlana Khusainovna ESTEMIROVA v. the Russian Federation*. The case relates to the abduction and murder of Ms Natalia Estemirova (the applicant’s sister), a prominent human rights defender in the Russian Federation who worked in the North Caucasus, and the criminal investigation into those events.
2. According to his mandate, the Commissioner fosters the effective observance of human rights; assists member states in the implementation of Council of Europe human rights instruments; identifies possible shortcomings in the law and practice concerning human rights; and provides advice and information regarding the protection of human rights and the prevention of human rights violations.
3. Moreover, the Commissioner has a specific duty concerning the protection of human rights defenders, further to the adoption by the Committee of Ministers of the Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities on 6 February 2008. The Declaration “[i]nvites the Commissioner for Human Rights to strengthen the role and capacity of his Office in order to provide strong and effective protection for human rights defenders by [...] continuing to meet with a broad range of defenders during his country visits and to report publicly on the situation of human rights defenders”. It also calls on Council of Europe member states to “co-operate with the Council of Europe human rights mechanisms and in particular [...] with the Commissioner for Human Rights by facilitating his/her visits, providing adequate responses and entering into dialogue with him/her about the situation of human rights defenders when so requested.” In this framework, the Commissioner regularly organises or takes part in joint discussions with human rights defenders and mechanisms established for their protection.
4. The need to protect human rights defenders and the obligations of states to create a safe and enabling environment for their activity are among the main messages delivered by the Commissioner. In their ongoing dialogue with the Russian authorities, the Commissioner and his predecessors have repeatedly raised the situation of human rights defenders in the North Caucasus, in particular the serious obstacles to their work and the significant risks which they face.<sup>1</sup> The Commissioner and his predecessors have also highlighted the persistent patterns of impunity for serious human rights violations in the North Caucasus, which directly affect the safety of human rights defenders in the region.
5. In her capacity as a human rights defender, Natalia Estemirova, the leading member of the NGO Memorial<sup>2</sup> in Chechnya, was a key partner of the Commissioner’s Office. Immediately after receiving information about

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<sup>1</sup> This is reflected, *inter alia*, in reports by the Commissioner published following visits to the Russian Federation from 1999 to 2013. See CommDH(1999)1 of 10 December 1999; CommDH(2000)1 of 1 March 2000; CommDH(2001)3 of 14 March 2001; CommDH(2003)5 of 4 March 2003; CommDH(2005)2 of 20 April 2005; CommDH(2006)4 of 15 March 2006; CommDH(2007)6 of 6 March 2007; CommDH(2009)36 of 24 November 2009; CommDH(2011)21 of 6 September 2011; and CommDH(2013)21 of 12 November 2013.

<sup>2</sup> The Human Rights Center Memorial is a leading Russian human rights NGO and one of the applicants to the European Court of Human Rights in the case of *Ecodefence and Others v. Russia* (application no. 9988/13) which has been submitted to the Court by a group of prominent Russian human rights NGOs against the adoption and application of the “Law on Foreign Agents”.

her abduction in Grozny in the morning of 15 July 2009, the Commissioner's predecessor<sup>3</sup> contacted several interlocutors to express his grave concern and appeal for action to be taken to protect her. Hours later, after learning that the dead body of Ms Estemirova had been found in Ingushetia, the Commissioner's predecessor published a statement where he expressed outrage at her murder and condolences to her family, friends and colleagues. He called for much stronger actions to protect human rights defenders.<sup>4</sup> Subsequently, in their dialogue with the Russian authorities, both he and Commissioner Muižnieks repeatedly called for a prompt, thorough and impartial investigation of this crime, with a view to ensuring the criminal accountability and punishment of the perpetrators. In January 2010, the Commissioner's predecessor reiterated that point at a meeting with then-President of the Russian Federation Dmitriy Medvedev (see also paragraph 12 below).

6. Section I of the present submission contains the Commissioner's observations on the issue of impunity for serious human rights violations in the North Caucasus region; Section II focuses on the stigmatisation of human rights defenders in that region; and Section III on practical consequences for human rights protection therein. These sections are followed by the Commissioner's conclusions.
  - I. Impunity for serious human rights violations in the North Caucasus
7. Impunity for serious human rights violations has a corrosive effect upon the very foundations of a democratic society. States should adopt a policy of zero-tolerance of such violations and should publicly condemn them. The state also has an obligation to combat impunity through a series of specific measures, including the development of laws, policies and action plans, as well as taking practical measures aimed at preventing and combating institutionalised practices by the authorities which may result in impunity.<sup>5</sup>
8. As the Court has itself concluded in 2012, the phenomenon of disappearances in the North Caucasus and the failure of the authorities to conduct effective investigations into such crimes were of a widespread nature and must be characterised as resulting from systemic problems at the national level, for which there is no effective domestic remedy. It affected core human rights and required the prompt implementation of comprehensive and complex measures.<sup>6</sup> While exercising its supervisory powers over the execution of judgments of the Court, the Council of Europe Committee of Ministers has on numerous occasions reiterated concerns that the Court's findings on grave and repeated human rights violations in the Russian Federation have remained unresolved by the authorities. In 2011 the Committee of Ministers stated that, more than six years after the first judgments of the Court, in the vast majority of cases it had not yet been possible to achieve conclusive results and to identify and ensure the accountability of those responsible, even in cases where key elements had been established with sufficient clarity, including evidence implicating particular servicemen or military units in the events.<sup>7</sup> In 2014 the Committee of Ministers once

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<sup>3</sup> Mr Thomas Hammarberg, Commissioner for Human Rights from 1 April 2006 to 31 March 2012.

<sup>4</sup> See, in this regard, Statement by the Commissioner "Killing of Natalia Estemirova" issued on 15 July 2009; and press-releases "Murder of Natalia Estemirova: time to do justice" (15 July 2010) and "Time to make justice on the murder of Natalia Estemirova" (13 July 2011).

<sup>5</sup> See Guidelines H/Inf(2011)7 On Eradicating Impunity for Serious Human Rights Violations adopted by the Directorate General of Human Rights and Rule of Law of Council of Europe in 2011.

<sup>6</sup> See *Aslakhanova and others v. Russia*, (nos. 2944/06 and 8300/07, 50184/07, 332/08, 42509/10), paragraphs 217-218, judgment of 18 December 2012.

<sup>7</sup> See Interim Resolution CM/ResDH(2011)292 on the execution of the judgments of the European Court of Human Rights in 154 cases against the Russian Federation concerning actions of the security forces in the Chechen Republic of the Russian Federation, adopted by the Committee of Ministers of Council of Europe on 2 December 2011.

again reiterated the conclusion that the information provided by the authorities did not attest to any improvements and that the problems revealed by the Court's judgments remained unresolved.<sup>8</sup>

9. Based on the information at the Commissioner's disposal, human rights defenders addressing the issue of impunity in the North Caucasus are exposed to serious risks. Therefore, particular attention must be devoted to their protection. The Commissioner recalls that the responsibility for protecting human rights defenders lies first and foremost with the state. The state may be held responsible for actions, or a failure to act, which result in attacks or intimidation of human rights defenders. The state's obligations also include the protection of human rights defenders who are in danger, providing them with effective remedies and reparation in cases of violation of their rights, the investigation of every case of attacks against human rights defenders, and the prosecution and punishment of those responsible irrespective of their status.<sup>9</sup> A failure to properly investigate attacks against human rights defenders due to, *inter alia*, a state's unwillingness to do so, can be viewed as granting the perpetrators free rein for further attacks on human rights defenders with total impunity.<sup>10</sup> Human rights defenders merit special attention as threats, attacks and other forms of intimidation against them indicate the general situation of human rights in the state, or a deterioration thereof.<sup>11</sup>
10. After visiting the Chechen Republic and the Republic of Ingushetia in September 2009, the Commissioner's predecessor reported that the murder of Ms Natalia Estemirova provoked widespread condemnation, both nationally and internationally, and prompted serious concerns about the viability and safety of the work carried out by human rights NGOs in the region.<sup>12</sup> Prior to that visit, and less than a month after the murder of Ms Estemirova, Zarema Sadulayeva, the leader of the Chechen charitable NGO "Save the Generation" (a local partner of UNICEF providing rehabilitation to disabled children, orphans and victims of armed conflicts), and her husband, Alik Dzhabrailov, had been abducted by an unidentified group of armed men. On the following day the dead bodies of the couple, displaying multiple gunshot wounds, had been found in the trunk of Mr Dzhabrailov's car. On 31 October 2009, another human rights activist, Zarema Gaysanova (a staff member of the Danish Refugee Council) was abducted in Grozny, presumably, during the conduct of a special operation by the local law-enforcement agencies. Her relatives have had no news about her whereabouts ever since.<sup>13</sup>
11. The Commissioner's predecessor stressed that it was crucial to carry out effective, expeditious and impartial investigations into those murders – as well as any other serious human rights violations - with a view to

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<sup>8</sup> See Decision concerning the execution of judgments of the European Court of Human Rights in cases no. 17 adopted by the Deputies of the Committee of Ministers on the 1208<sup>th</sup> meeting of 25 September 2014.

<sup>9</sup> See in this regard the Declaration A/Res/53/144 On the Rights and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms of Individuals adopted by the United Nations General Assembly on 8 March 1999;

Guidelines H/Inf(2011)7 On Eradicating Impunity for Serious Human Rights Violations adopted by the Directorate General of Human Rights and Rule of Law of Council of Europe in 2011;

Declaration on Council of Europe Action to Improve the protection of Human Rights Defenders and Promote their Activities, adopted by the Committee of Ministers on 6 February 2008; and

CDDH Activity report on Council of Europe Action to Improve the Protection of Human Rights Defenders and Promote their Activities CM(2008)5 add. of 8 January 2008.

<sup>10</sup> See Report A/65/220 On the Situation of Human Rights Defenders adopted by the UN Special Rapporteur on 4 August 2010.

<sup>11</sup> See Declaration On Council of Europe Action to Improve the Protection of Human Rights Defenders and Promote their Activities adopted by the Committee of Ministers on 6 February 2008.

<sup>12</sup> See Report CommDH(2009)36 following the visit to the Russian Federation on 2-11 September 2009, published on 24 November 2009.

<sup>13</sup> On 27 August 2013 the Court found the case of *Lida Khamzatovna GAYSANOVA v. Russia* admissible (application no. 62235/09).

ensuring the criminal accountability and punishment of the perpetrators, including in cases where the responsibility of public officials is implicated, regardless of their rank. He underlined that bringing the perpetrators to justice and addressing deficiencies in the judiciary would be interpreted as a strong indication of the commitment of the relevant authorities to protect human rights and to end previous patterns of impunity.<sup>14</sup>

12. During his meeting with President Dmitry Medvedev on 21 January 2010, the Commissioner's predecessor once again emphasised that serious problems remained in the North Caucasus and that there was a need to eliminate the recurrence of killings, abductions and other major human rights violations. In this context, he also highlighted the importance of effective and unhindered investigations into murders of human rights defenders.<sup>15</sup>
13. In May 2011, the Commissioner's predecessor carried out another visit to the North Caucasus region of the Russian Federation. Yet again, he concluded that serious human rights violations such as abductions, disappearances, and ill-treatment, and continuing patterns of impunity, were among the most intractable human rights problems in the North Caucasus. Regarding the environment for human rights defenders, he observed that it had not changed since his previous assessment, and that human rights activists continued to face intimidation, pressure and other serious obstacles in their work. Moreover, some of them had plausible reasons to believe that their life might be at risk if they continued with their activities.<sup>16</sup>
14. In November 2013, after a visit to the Russian Federation in April that year, the current Commissioner reiterated concerns about the lack of effective investigations into human rights violations where law enforcement or other security officials were implicated.<sup>17</sup>
15. In the course of his ongoing dialogue with the Russian authorities, the Commissioner has since raised specific cases of attacks, threats and intimidation of prominent human rights defenders, linked to their work in the Chechen Republic.<sup>18</sup>
16. More recent data<sup>19</sup> on enforced disappearances and abductions provided by human rights NGOs working in the region is indicative of an absence of any meaningful progress to address the widespread problem of impunity. In addition to the above-mentioned murders of Natalia Estemirova, Zarema Sadulayeva, Alik Dzhabrailov, and Zarema Gaysanova, the following human rights defenders, public activists and journalists who have worked in the North Caucasus have been killed or died in suspicious circumstances over the past decade: Maksharip Aushev (2009, Ingushetia) Khadzhimurad Kamalov and Akhmednabi Akhmednabiyev (respectively, 2011 and 2013, in Dagestan), and Timur Kuashev (2014, Kabardino-Balkaria).

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<sup>14</sup> See Report CommDH(2009)36 following the visit to the Russian Federation on 2-11 September 2009, published on 24 November 2009.

<sup>15</sup> See Press-release: "Commissioner Hammarberg discusses human rights with President Medvedev" published by the Commissioner's Office on 22 January 2010.

<sup>16</sup> See Report CommDH(2011)21 following the visit to the Russian Federation from 12 to 21 May 2011, published on 6 September 2011.

<sup>17</sup> See Report CommDH(2013)21 following the visit to the Russian Federation from 3 to 12 April 2013, published on 12 November 2013.

<sup>18</sup> See also paragraphs 21 and 32 below for additional information.

<sup>19</sup> See, for example, the press release "*В конце прошлого года в Чечне зафиксированы многочисленные похищения*" published by Human Rights Center Memorial on 14 January 2016.

## II. Stigmatisation of human rights defenders working in the North Caucasus

17. States have a responsibility to create an enabling and favourable environment for the activities of human rights defenders. This implies, first and foremost, ensuring their physical integrity, and firmly condemning any form of intimidation of human rights defenders and their organisations. More generally, it includes the obligation to promote respect for the work of human rights defenders through creating an environment conducive to their work, promoting partnership with them, enabling them to establish networks with various interlocutors in the country and abroad, and facilitating the participation of human rights defenders in various activities in defence of human rights.<sup>20</sup>
18. Throughout the existence of the institution of Commissioner for Human Rights of the Council of Europe, information about the stigmatisation of the work of human rights defenders by regional authorities in the North Caucasus, particularly in the Chechen Republic, has been reaching the various Commissioners. In the report on his visit to the Chechen Republic and the Republic of Ingushetia in 2009, the Commissioner's predecessor expressed concerns about the environment in which human rights activists operated in the Chechen Republic, as well as about certain negative statements made by the Chechen authorities with regard to the work of human rights NGOs. For example, on 9 August 2009, in an interview with Radio Liberty, President Ramzan Kadyrov stated in reference to Natalia Estemirova: "*Why would Kadyrov kill women that no one needs? She never had any honour, dignity or sense of conscience.*"<sup>21</sup> In addition to urging an effective investigation into the case, the Commissioner's predecessor recommended much stronger actions to protect members of human rights organisations, as well as encouraging a regular dialogue between them and the authorities in the Republic.
19. Subsequently in 2011, the Commissioner's predecessor noted with dismay that negative statements with regard to the work of human rights NGOs had continued on the part of certain officials, and a number of activists had been the subject of accusations of supporting extremist groups or of being involved in a defamation campaign against the authorities. In particular, on 3 July 2010, in an interview on the TV channel *Grozny*, the Head of the Chechen Republic, Mr Ramzan Kadyrov, stated in reference to members of the NGO Memorial: "They are getting large salaries from the west and in order to report on their activities they write all kinds of filth and nonsense on the Internet. That is why they are not my opponents. They are enemies of the people, enemies of the law, enemies of the state".<sup>22</sup> In this respect, the Commissioner's predecessor stressed that perpetuating notions that human rights organisations were "enemies of the State" was unacceptable. This not only fostered negative stereotypes and prejudices towards human rights defenders in general, but could also lead to concrete difficulties and obstacles for the effective conduct of human rights work. The Commissioner's predecessor pointed out that any threats or obstacles to the work of human rights defenders should be immediately and unequivocally condemned by the authorities, and reiterated that it was their responsibility to create a favourable environment for the activities of the human rights defenders. Referring to the valuable contribution of various civil society organisations to the

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<sup>20</sup> See, for example, Guidelines on the Protection of Human Rights Defenders adopted by Office for Democratic Institutions and Human Rights of the OSCE in 2014; and Resolution 1660(2009) on Situation of Human Rights Defenders in Council of Europe Member States, adopted by the Parliamentary Assembly on 28 April 2009.

<sup>21</sup> In Russian: "*Зачем Кадырову убивать женщину, которая никому не нужна? У нее чести, достоинства, совести не было никогда*" - The Radio Liberty interview with President Kadyrov of 9 August 2009 is available on-line: <http://www.svoboda.org/content/article/1795518.html>.

<sup>22</sup> The interview was broadcast in Chechen on the Chechen State Television *Grozny* on 3 July 2010. The Russian transcript reads as follows: "*Они получают большую зарплату с Запада и для отчета по своей деятельности они пишут в интернете всякие гадости и ерунду. Поэтому, они не мои оппоненты. Они — враги народа, враги закона, враги государства.*" The transcript was published by Newsru.com medial agency and available on-line: <http://www.newsru.com/russia/08jul2010/memorial.html>.

reconciliation process, he once again called on the authorities to institute a regular dialogue with human rights NGOs with a view to defusing tensions in the North Caucasus region.

20. In November 2013, after his visit to the Russian Federation in April that year, the current Commissioner also repeated the long-standing recommendation that favourable conditions be ensured for the work of human rights defenders in the Russian Federation.<sup>23</sup>
21. During the subsequent monitoring of the situation in the North Caucasus, and in particular the Chechen Republic, the Commissioner has been made aware that the local authorities have not only failed to comply with the above-mentioned recommendations to create an enabling environment for the work of human rights defenders but, on the contrary, have further contributed to the stigmatisation of their activity. For example, after a violent attack carried out by armed insurgents in Grozny on 4 December 2014, the head of the Chechen Republic publicly, including through social media, pointed at prominent human rights defenders working in the Chechen Republic – the Joint Mobile Group (an association of several human rights NGOs created after the murder of Natalia Estemirova) and its leader Mr Igor Kalyapin – as someone who “colludes with bandits” for the interests of foreign states.<sup>24</sup> Soon afterwards, Igor Kalyapin, who is a prominent human rights defender active in the Chechen Republic, was physically attacked during a press-conference in Moscow on the human rights situation in Chechnya. The Commissioner called the situation unacceptable and contrary to international human rights norms, which require states to protect human rights defenders and facilitate their work. He pointed out that Chechnya’s human rights defenders continued to face an increasingly hostile climate.<sup>25</sup>
22. Furthermore, on 3 June 2015 an assembly took place in Grozny to protest “the politicisation” of the work of the NGO Committee Against Torture. In the context of that event, the local office of the Joint Mobile Group (which, like the Committee Against Torture, is led by Igor Kalyapin) was attacked by a group of masked men wielding hammers. It would appear that local police did not immediately respond to calls for help and thus failed to adequately react to the violence. The Chechen leadership blamed human rights defenders for having themselves provoked the violent incidents,<sup>26</sup> and Mr Kalyapin was referred to as an “enemy”.<sup>27</sup>

<sup>23</sup> See Report CommDH(2013)21 following the visit to the Russian Federation from 3 to 12 April 2013, published on 12 November 2013.

<sup>24</sup> In Russian: “У компетентных органов имеется информация, что деньги западных спецслужб от Ахмада Умарова передал бандитам человек по фамилии Каляпин. Нужно проверить, не об этом ли Каляпине идёт речь. А если подтвердится, предъявить спрос. Я не позволю никому, ни под какой маской содействовать бандитам. Мне нет разницы, какое у него в кармане удостоверение и от какого посольства получает вознаграждения” - statement of Mr. Kadyrov made on his *Instagram* page on 10 December 2014 available on-line: <https://www.instagram.com/p/wbqfX7CRtQ/?modal=true>.

<sup>25</sup> See publication on Commissioner Muižnieks’s Facebook page dated 12 December 2014 and available online: [https://www.facebook.com/permalink.php?story\\_fbid=378146805694569&id=118705514972034&fref=nf](https://www.facebook.com/permalink.php?story_fbid=378146805694569&id=118705514972034&fref=nf).

<sup>26</sup> “The analysis of the events gives grounds for the conclusion that members of the Committee [against Torture, the NGO headed by Mr Kalyapin] deliberately provoked the incident, with the aim of gaining celebrity yet again in international media, and become the recipients of new American grants. We are concerned that those persons, who have no relation to human rights defence work, systematically create a tense environment, in an attempt to provoke mass disorders in Grozny.” In Russian: “Анализ событий даёт основание делать вывод, что сотрудники Комитета преднамеренно спровоцировали инцидент, имея цель еще раз прославиться в мировой прессе, стать обладателями новых американских грантов. Нас беспокоит, что данные люди, не имеющие к правозащитной деятельности никакого отношения, систематически создают нервную обстановку, пытаются спровоцировать массовые беспорядки в Грозном.” – statement made on Mr Kadyrov’s *Instagram* page on 3 June 2015 available on-line: <https://www.instagram.com/p/3eHaumCRgg/>.

<sup>27</sup> The following statement was attributed to the Deputy Minister of Interior of the Chechen Republic on Grozny TV’s website (in Russian): “Видите ли, представитель госдепа США Игорь Каляпин звонил на номер телефона Начальника Полиции МВД по ЧР Апти Алаудинова, и он не взял трубку. На мой личный телефонный номер звонят мои друзья, ну и в любом случае я не обязан принимать звонки своих врагов, которые коверкают каждый телефонный разговор, обливая меня грязью. Да и прямого указания руководства МВД России о вступлении в контакт с представителями спецслужб Америки и других враждебных нашей стране государств у меня не было” - news article “Apti Alautdinov called [upon the public] not to fall for provocations”, Grozny TV, 9 June 2015, available on-line: <http://grozny.tv/news.php?id=5518>.

Following the events of 3 June 2015, the Council on the Development of Civil Society and Human Rights under the President of the Russian Federation requested the Minister of Interior to ensure the safety of Mr Kalyapin.<sup>28</sup>

23. In early 2016, another series of negative statements against human rights defenders and activists were made by the Head of the Chechen Republic, using the monikers "jackals", "enemies", "paid puppets" and "traitors".<sup>29</sup> On the same day the Chair of the Chechen Parliament, Mr Magomed Daudov, made further disparaging statements against Mr Kalyapin as well as certain activists, comparing them to "licentious bitches".<sup>30</sup> Apparently, on the same day the Council on the Development of Civil Society and Human Rights under the President of the Russian Federation sought an analysis of all public statements of the Chechen leadership with a view to identifying whether these statements incite violence or breach anti-extremism legislation of the Russian Federation,<sup>31</sup> and human rights defenders filed a complaint before investigative authorities on the matter. However, the statements were not found to breach any law.
24. Apart from the continued worrying developments in the North Caucasus and the serious obstacles faced by human rights defenders in that region, the Commissioner also wishes to draw the attention of the Court to the significant changes which have considerably affected the legal environment of independent NGOs throughout the Russian Federation since 2012. In particular, the Commissioner analysed the legislation of the Russian Federation on non-commercial organisations (known as the "Law on Foreign Agents") in light of Council of Europe standards in an Opinion published in July 2013, and issued an Update to the Opinion in July 2015, which covered the legal issues and consequences arising from the law's implementation. The Commissioner recommended that the legislation regulating the activities of NGOs in Russia be revised, with the aim of establishing a clear, coherent and consistent framework in line with applicable international standards,<sup>32</sup> and noted with regret that those recommendations had not been implemented to date. The enforcement of the Law on Foreign Agents has largely confirmed the Commissioner's initial concerns and the problems identified initially have been compounded even further.<sup>33</sup>
25. The Commissioner pointed out that the imposition of the label of "foreign agent" and disproportionate sanctions were being increasingly perceived by the affected NGOs as a defamation campaign against those who express disagreement or criticism of the policies pursued by the authorities. The Commissioner's growing concern was that many human rights defenders, including his Office's long-standing partners in the country, appeared to be targets of these measures. He observed that the environment in which human rights defenders and non-commercial organisations in the Russian Federation were operating had become increasingly restrictive and less conducive to performing their essential role, and that the chilling effect of this development was undermining the very essence of the activity of human rights defenders and NGOs in

<sup>28</sup> See Press release "Human Rights Council requests that state protection be provided to the head of the Committee Against Torture" published by the Human Rights Council on 4 June 2015, available on-line: <http://president-sovet.ru/presscenter/publications/read/2901/>.

<sup>29</sup> See op-ed "Jackals will be punished according to the law of the Russian Federation" by Mr Kadyrov, published in *Izvestia* media on 18 January 2016, available on-line: <http://izvestia.ru/news/601935>.

<sup>30</sup> In Russian: "*Настолько разгавкались некоторые "моськи", что "Эхо" слышно из самой Москвы! Есть у нас "серьезные" кобели, из-за которых у миролюбивого Тарзана сильно чешутся клыки. Это, к примеру, пекинес "Каляпа", защищающий права тех, кого подсказжут Питтбули, такса "Веня" со звонкой брехливой глоткой и громким "Эхо", московский беспородный пёс "Пономарь" (себя заносчиво называет Львом), обитающий в мусорном ящике недалёко от Госдумы РФ, создающий дискомфорт своим зловонием в самом центре нашей столицы, "Яшка" - дворняжка.. В общем, наш друг этих кобелей не любит, главным образом от того, что они ему сильно напоминают блудливых сук*" – statement of Mr. Daudov made on his *Instagram* page on 18 January 2016, available on-line: <https://www.instagram.com/p/BApvJo8tBVe/>.

<sup>31</sup> See news article: "Human Rights Council will analyse statements of Ramzan Kadyrov" published by *Kommersant* news agency on 18 January 2016, available on-line: <http://www.kommersant.ru/doc/2895615>.

<sup>32</sup> See Opinion CommDH(2013)15 On the legislation and practice in the Russian Federation on non-commercial organisations in light of Council of Europe standards, published by the Commissioner on 15 July 2013.

<sup>33</sup> See Opinion CommDH(2015)17 On the legislation and practice in the Russian Federation on non-commercial organisations in light of Council of Europe standards: an update, published by the Commissioner on 9 July 2015.

Russia. Once again, the Commissioner urged the Russian government to pursue a genuine dialogue with the representatives of civil society and national human rights structures which could pave the way out of this impasse.

26. The Commissioner would like to highlight the fact that prominent human rights NGOs working in the North Caucasus, including the standing partners of his office, such as the Human Rights Center Memorial, the Committee against Torture, the Ingush NGO Mashr and others have been seriously affected by the enforcement of the above-mentioned legislation. In particular, administrative proceedings against the above-mentioned NGOs were initiated for the failure to comply with the requirements of the Law on Foreign Agents. The NGOs Memorial and the Committee against Torture were sanctioned respectively with fines of 600000 and 300000 Rubles (respectively, about 7650 and 3825 EUR). As a result of their registration in the Roster of Foreign Agents, the Committee against Torture decided to initiate liquidation proceedings;<sup>34</sup> however, a newly-created Committee for the Prevention of Torture was also registered as a “foreign agent”. Mashr, which has also been registered as a “foreign agent”, has been subjected to numerous repetitive inspections and searches, as well as administrative proceedings, and the home of its leader Mr Magomed Mutsolgov has also been searched.
27. To sum up, a series of obstacles has been imposed upon the legitimate activities of human rights defenders, leading to their marginalisation and considerably curbing their activities in the Russian Federation. Based on the information at the Commissioner’s disposal, the situation is particularly acute in the North Caucasus region. Such obstacles to the legitimate activities of human rights defenders run contrary to the state’s European and international obligations to create a favourable and enabling environment for human rights defenders.

### III. Consequences for human rights protection in the region

28. The Commissioner wishes to pay tribute to the invaluable work of human rights defenders for the protection and promotion of human rights and fundamental values in every society. He strongly supports the efforts of human rights defenders to protect the rights of others, sometimes to the detriment of their own security and at risk to their very lives.
29. The widespread phenomenon of impunity in the North Caucasus in general and the Chechen Republic in particular, and the persistent climate of intimidation and lethal targeting of human rights defenders like Natalia Estemirova, have had devastating effects for the protection of human rights in the region. As a result of the general chilling effect of those factors, independent human rights work has diminished considerably.
30. After the murder of Natalia Estemirova, the Human Rights Center Memorial – the leading NGO documenting human rights violations in the North Caucasus – closed all of its four offices in the Chechen Republic due to serious concerns for the lives and security of its staff members.<sup>35</sup> In 2009 Memorial reported that they encountered difficulties in assessing the dynamics of abductions in the Chechen Republic due to difficulties in collecting independent data on those crimes.<sup>36</sup>
31. As already noted (paragraph 21 above), after the murder of Natalia Estemirova a coalition of Russian human rights NGOs set up a “Joint Mobile Group” whose method of work was to assign several lawyers for short-term missions to the Chechen Republic on a rotation basis to ensure the safety of its staff. However, as described in paragraphs 21 and 22 above, the work of the Joint Mobile Group has been significantly impeded by both local authorities and non-state actors. The office of the Joint Mobile Group was set on fire and burned down in the city centre of Grozny in December 2014. Apparently, the immense volume of data

<sup>34</sup> See Opinion CommDH(2015)17 cited above, paragraph 66.

<sup>35</sup> Six months after the murder of Natalia Estemirova, only of the Memorial offices resumed its work in Grozny.

<sup>36</sup> See news article: “Two Persons Abducted in Chechnya” published by *Kavkazskiy Uzel* media on November 2009.

relating to human rights violations in the Chechen Republic, and hundreds of files with individual cases, were lost in the fire or became unavailable during the subsequent investigative checks. In June 2015 the office of the Joint Mobile Group in Grozny was once again destroyed, this time by a group of unknown men in masks wielding hammers, following an assembly against the “politicisation” of its activities.

32. In the evening of 9 March 2016, a group of journalists and human rights defenders from the Committee on the Prevention of Torture who were traveling in a minibus in Ingushetia were attacked by group of masked men. The assailants forced the occupants out of the vehicle, beat them, and set the minibus on fire. At least four participants of the press tour, including two staff members of the Joint Mobile Group, were hospitalised. A few hours later, the office of the Joint Mobile Group in Ingushetia was broken into by some armed men wearing masks, who reportedly, took the office equipment. The Commissioner contacted the authorities of the Russian Federation and expressed his concerns about the attack on journalists and human rights defenders. He also publicly stated that a firm reaction from the authorities would demonstrate Russia’s commitment to ensure a safe environment for human rights defenders and journalists.<sup>37</sup> The following day the Ministry of Interior of the Republic of Ingushetia opened a criminal investigation into the attack on the journalists and human rights defenders and also granted state protection to the victims of the attack on the territory of Ingushetia. The Commissioner took note of that reaction and urged the federal and Ingush authorities to heed the recommendations made by international organisations and by the Russian Human Rights Council which request resolute action in order to shed full light on these violent attacks and quickly bring those responsible to justice. Subsequently, the Russian authorities have indicated that consideration was being given to initiating a criminal case under Articles 167 (intentional destruction or damage of property) and 213 (hooliganism) of the Russian Criminal Code.
33. The Commissioner considers that the decrease of activities by human rights defenders in the region has also seriously undermined the capacity of human rights defenders to provide assistance to victims of human rights violations, including bringing victims’ cases to the European Court of Human Rights. The stigmatisation of human rights defenders also damages their credibility in the eyes of other victims of human rights violations. When human rights defenders themselves are victims of violence, other victims find it more difficult to turn to them for help and to reveal information about human rights violations. The Commissioner emphasises that such a situation has a broader negative effect on the protection of human rights in the region. He was made aware of numerous cases where victims of serious human rights violations in the North Caucasus and, in particular, in the Chechen Republic, were reluctant to reveal information about their cases to human rights defenders.

## Conclusions

34. The Commissioner points out that the murder of Natalia Estemirova should not be viewed in isolation but as part of a broader pattern of killings and intimidation of human rights defenders in the North Caucasus and, in particular, the Chechen Republic.
35. The Commissioner’s overall assessment is that the Russian authorities have failed to prevent and to react appropriately to the most serious human rights violations against human rights defenders in the North Caucasus region. The absence of requisite determination on the part of the authorities has been one of the main obstacles to pursuing accountability, in violation of the state’s procedural obligations.
36. The marginalisation of independent human rights defenders has been particularly acute in the North Caucasus region and, especially, in the Chechen Republic. Through the significant changes to the legal environment for non-commercial organisations in the Russian Federation which started in 2012, and the ensuing implementation of the relevant provisions, a further series of obstacles have been imposed upon the legitimate activities of human rights defenders and civil society organisations. The consistent

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<sup>37</sup> See publication on Commissioner Muižnieks’s Facebook page of 10 March 2016 available online: [https://www.facebook.com/permalink.php?story\\_fbid=562341123941802&id=118705514972034&fref=nf&pnref=story](https://www.facebook.com/permalink.php?story_fbid=562341123941802&id=118705514972034&fref=nf&pnref=story).

impediments to the legitimate work of human rights defenders run contrary to the state's positive obligation to create a safe and enabling environment for human rights defenders.

37. The spiral of violence against human rights defenders and the stigmatisation of their work have had a serious chilling effect on independent human rights work and have considerably weakened human rights defenders' capacity to act, thereby exerting a broader negative impact on the protection of human rights in the region.
38. Taking into account the entrenched tolerance of violence against human rights defenders and impediments to their work in the North Caucasus and, in particular, in the Chechen Republic, which has created a long-standing situation incompatible with the European standards, the Commissioner believes that substantive changes in this area are not likely to be achieved without multiple measures of a general character.
39. The Commissioner further considers that in order to strengthen the capacity to create a safe and enabling environment for human rights defenders, the authorities of the Russian Federation on both federal and regional level must adopt a series of measures at institutional, legal, political and other levels. In particular, these measures should include adoption of a specific legal framework, of a comprehensive public policy and a national action plan aimed at protecting human rights defenders at risk and at promoting an enabling environment for their work. Such measures may also include the creation of a special body or empowering existing national human rights institutions with a view to installing, in cooperation with federal law-enforcement bodies, a fully-functional rapid response mechanism or a protection programme for human rights defenders. Finally, these measures should also include an awareness-raising policy promoting the legitimacy and facilitating the work of human rights defenders.