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Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT)

**Déclaration publique
relative à la République tchétchène
de la Fédération de Russie**

(faite le 13 mars 2007)

Cette déclaration publique est faite en vertu de l'article 10, paragraphe 2, de la Convention européenne pour la prévention de la torture et des peines ou traitements inhumains ou dégradants.

Strasbourg, 13 mars 2007

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Depuis février 2000, le CPT a effectué de nombreuses visites en République tchétchène. Sur la base de ses rapports de visite, le Comité a cherché à maintenir un dialogue constructif avec les autorités russes. A deux reprises déjà, en juillet 2001 et juillet 2003, le CPT a estimé devoir recourir à son pouvoir de faire une déclaration publique* étant donné l'absence d'amélioration de la situation à la lumière des recommandations du Comité. Près de quatre années plus tard, ce point a malheureusement été à nouveau atteint.

Les visites les plus récentes du CPT en République tchétchène se sont déroulées en avril/mai et septembre 2006. A certains égards, le CPT a noté que de réels progrès avaient été accomplis - s'agissant notamment des conditions matérielles de détention. De plus, la délégation n'a reçu aucune allégation de mauvais traitement de détenus par le personnel des établissements pénitentiaires visités.

Cependant, le CPT reste extrêmement préoccupé par la situation concernant certains domaines cruciaux couverts par son mandat. Le recours à la torture et aux autres formes de mauvais traitements par les membres des forces de l'ordre et des forces de sécurité persiste, tout comme la pratique, étroitement liée, des détentions illégales. En outre, d'après les informations recueillies, il est évident que les enquêtes sur les cas faisant état d'allégations de mauvais traitements ou de détentions illégales sont encore rarement menées de manière efficace; cela ne peut que favoriser un climat d'impunité.

A l'issue de chacune des visites effectuées en 2006, la délégation du CPT a immédiatement communiqué des observations écrites détaillées. Les réactions des autorités fédérales n'ont pas été à la mesure de la gravité des constatations du Comité, et il en va de même pour les commentaires récemment transmis par ces autorités en réponse au rapport relatif aux deux visites, adopté en novembre 2006. Bien que faisant preuve d'une attitude ouverte sur des questions auxiliaires concernant les conditions de détention, les autorités russes ont constamment refusé de s'engager dans un dialogue sérieux avec le CPT sur les problèmes fondamentaux. Ceci ne peut être qualifié que de manquement à la coopération.

La procédure de déclaration publique mise en œuvre par le CPT en octobre 2006 concernait notamment les **mauvais traitements par le personnel de l'ORB-2** (Bureau des opérations/recherches de la Direction Générale du Ministère des Affaires intérieures de Russie responsable pour la région fédérale du Sud), les **détentions illégales** et **l'efficacité des enquêtes sur des cas faisant état d'allégations de mauvais traitements**. Des recommandations détaillées ont été faites par le CPT sur chacune de ces questions; à ce jour, elles n'ont au mieux reçu que des réponses symboliques, quand elles n'ont pas été simplement ignorées. Plutôt que de formuler à nouveau ces problèmes dans cette déclaration, le CPT a choisi de rendre publics des extraits pertinents de son rapport de visite ainsi que des commentaires des autorités russes; le Comité est d'avis que ces documents parlent d'eux-mêmes.

Le CPT reste déterminé à poursuivre son dialogue avec les autorités compétentes, tant aux niveaux fédéral que local, pour ce qui est de la République tchétchène, et est prêt à effectuer d'autres visites dans cette partie de la Fédération de Russie. Cependant, pour que de telles visites aient réellement un sens, toutes les parties concernées doivent être prêtes à jouer pleinement leur rôle, à la lumière des valeurs auxquelles la Fédération de Russie a souscrit.

* Aux termes de l'Article 10, paragraphe 2, de la Convention établissant le CPT, "Si la Partie ne coopère pas ou refuse d'améliorer la situation à la lumière des recommandations du Comité, celui-ci peut décider, à la majorité des deux tiers de ses membres, après que la Partie aura eu la possibilité de s'expliquer, de faire une déclaration publique à ce sujet".

ANNEXE
[uniquement en anglais]

I. Extracts from the

Report to the Government of the Russian Federation on the visits to the North Caucasian region carried out by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) from 25 April to 4 May and 4 to 10 September 2006,

adopted on 10 November 2006

II. FACTS FOUND DURING THE VISITS AND ACTION PROPOSED

A. Torture and other forms of ill-treatment

1. Chechen Republic
 - a. preliminary remarks

15. In the course of the visits to the North Caucasian region in 2006, the CPT's delegation once again received many credible allegations of recent ill-treatment of detained persons by members of *law enforcement agencies and security forces* in the Chechen Republic. The ill-treatment alleged was frequently of such a severity that it could be considered to amount to torture; the methods involved included extensive beating, asphyxiation using a plastic bag or gas mask, electric shocks, suspension by the limbs, hyperextension and, more rarely, the infliction of burns by cigarettes, lighters or other devices. Accounts were also received of threats of execution or of sexual abuse in order to obtain a confession or information.

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

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. Many detained persons interviewed by the delegation were reluctant to speak about their experiences whilst in the custody of law enforcement agencies or other security forces, and some were visibly frightened.

16. 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. This evidence related in particular to beatings, burns and, in a few cases, to electric shocks. For the reasons already given (see paragraph 8)*, the CPT regrets that it must refrain from giving further details concerning specific cases.

* Paragraph 8 reads: The CPT knows already from previous experience that the Russian authorities may well seek to identify specific persons alluded to in its visit reports, especially in relation to allegations of ill-treatment. This occurred, for example, after the visit to the North Caucasian region in November 2004 as regards the cases set out in paragraph 24 of the visit report, the Russian authorities claiming in their response to have established the identity of the person referred to as case 3. The present visit report has been drafted in such a way as to counter that improper approach which, as the CPT has previously made clear, is incompatible with the confidentiality which applies by virtue of the Convention to the Committee's interviews with detained persons.

17. The information gathered by the delegation concerns a range of law enforcement agencies throughout the Chechen Republic. In addition, a considerable number of persons alleged that they had been held for some time, and in most cases ill-treated, in places which did not appear to be official detention facilities, before being transferred to a recognised law enforcement structure or released.

As regards official law enforcement structures, a particularly high number of allegations of ill-treatment continue to relate to ORB-2 in Grozny as well as (more recently) to its inter-district divisions, especially the division in Urus-Martan. Other law enforcement structures where there would appear to be a particularly high risk of ill-treatment include the Internal Affairs District Divisions of Groznenskiy (rural), Leninskiy (Grozny), Gudermes and Naur.

As for places where persons may be unlawfully detained, a number of consistent allegations were received in respect of one or more places in the village of Tsentoroy, and of the “Vega base” located in the outskirts of Gudermes. Several allegations were also received of unlawful detentions in the Shali and Urus-Martan areas.

18. In stark contrast to the above, the CPT’s delegation did not receive any allegations of ill-treatment of prisoners by the staff of *the two SIZOs (Nos. 1 and 2) visited* in the Chechen Republic. On the basis of all the facts found during the visits in 2006, the delegation was generally satisfied that these establishments provided a safe environment in terms of protection from deliberate ill-treatment for so long as prisoners are held there.

b. ORB-2

19. The CPT has for years now been drawing the attention of the Russian authorities to the serious human rights violations being committed by staff of the *ORB-2 facility in Grozny* and those violations were highlighted in the Committee’s second public statement concerning the Chechen Republic issued on 10 July 2003. The Committee was led to believe, in the course of talks held in January 2005 with Dmitri KOZAK, Plenipotentiary Representative of the President of the Russian Federation in the Southern Federal District, that a “thorough” enquiry was being carried out by the Ministry of the Interior and the Prosecutor’s Office into the treatment of detained persons by staff of ORB-2. However, it subsequently became clear that no such enquiry had ever been undertaken.

To date, the steps taken in response to the CPT’s concerns about ORB-2 have consisted only of: i) the transformation of the detention facility at the ORB-2 premises into an IVS under the authority of the Command of the Allied Group of Forces, and ii) the “processing in due time and manner” of complaints lodged with the Prosecutor’s Office. From the information gathered during the two ad hoc visits in 2006, it is clear that those measures have not been sufficient to put a stop to human rights violations by ORB-2 staff.

20. Formally speaking, the IVS which has been established on the premises of ORB-2 may be separate from ORB-2, and the official reporting line of the IVS staff may differ from that of ORB-2 staff. However, in reality there is not a watertight division between the two entities.

The information gathered during the 2006 visits puts beyond any reasonable doubt that persons held in the IVS are frequently removed from the facility at night and handed over to ORB-2 staff, and that those persons are then at great risk of ill-treatment. This conclusion is based in part on individual interviews with numerous persons with experience of custody in the IVS on the premises of ORB-2, and on medical evidence gathered in relation to certain of those persons and others. It is also based on other information gathered on site at the IVS, which clearly suggests that the management of ORB-2 continues to exercise an important influence over the day-to-day running of the detention facility. That this is the case is scarcely surprising given the very close proximity of the IVS and its staff to the ORB-2 facility, and the senior level of the ORB-2 staff concerned as compared to that of the staff working on site in the IVS. One member of the IVS staff acknowledged this and indicated that a request from the Head of ORB-2 for the removal of a detainee at night would be complied with.

It should be added that the information gathered by the CPT's delegation also indicates that persons detained by ORB-staff may be kept on that agency's own premises (and ill-treated) for some time before they are placed in the IVS for the first time.

21. At the end of the April/May 2006 visit, the CPT's delegation made an immediate observation under Article 8, paragraph 5, of the Convention, formally requesting the Russian authorities to inform the Committee by 2 June 2006 of the measures taken to put an end to ill-treatment at ORB-2. In their response, the Russian authorities refer to the findings of the preliminary inquiries carried out by the Prosecutor's Office of the Leninskiy district of Grozny as regards complaints against ORB-2 staff.

19 such preliminary inquiries (on complaints from 22 persons) had been carried out in respect of 2005, and 13 (on complaints from 16 persons) in respect of the first quarter of 2006. The decision in all of the inquiries had been refusal to initiate a criminal case. Commenting on the complaints, the Russian authorities highlighted the "striking similarities" of the descriptions, the sometimes "clichéd style of writing" and the failure to provide any "objective facts" in support of the complaints. The overall conclusion reached was that "persons under investigation have opted for the method of writing out complaints as a peculiar means of procedural defence".

22. In the course of the September 2006 visit, the CPT's delegation was able to examine in detail the files on all the above-mentioned inquiries. It was found that in fact the prosecution service had not taken appropriate action on the complaints and other information received.

The complaints did display certain similarities as regards the alleged ill-treatment and the circumstances in which it was inflicted. However, such consistency tends to strengthen rather than weaken their credibility, all the more so given that in most of the files the same operative officers were concerned. At the same time, the complaints displayed individual features and specific elements that reinforced their plausibility; they could not be fairly described as "clichéd". It should also be noted that 8 of the 32 inquiries were prompted not by complaints but instead by reports on admittance with physical injuries issued by SIZO No. 1; the authorities' argument that one was dealing with "a peculiar means of procedural defence" clearly has no relevance to such cases.

More significantly, it was discovered that the major element of most of the inquiries consisted merely of explanations from the operative officers involved, combined in some cases with explanations from the investigator and the IVS's feldsher. In 11 of the inquiries, the alleged victims had not been questioned at all, and in the other inquiries this crucial element had clearly consisted of a cursory and formalistic examination. The inquiries also displayed other glaring deficiencies, such as the absence of forensic examinations or undue delays in seeking such examinations, a failure to take into account medical documentation from the SIZO, and the failure to question third parties who could shed light on the veracity of the complaint (such as other persons detained at the relevant time).

To sum up, the minimum requirements of an effective inquiry had not been met in the great majority of the 32 inquiries in question.

23. In their response to the delegation's statement at the end of the April/May visit, the Russian authorities also highlight the "daily" checks of IVS facilities carried out by prosecutors, in accordance with Instruction No. 39 of the Prosecutor General of 5 July 2002. Consultation of the relevant register at the IVS on the premises of ORB-2 indicated that in practice the facility was visited by a prosecutor on average three times a week. According to detained persons interviewed by the delegation, the check consisted of a rapid tour of the detention area, during which the prosecutor would look through the small cell window and ask the detainee (who would be standing face turned to the wall) whether everything was okay.

The delegation had the opportunity to meet the prosecutor currently tasked with carrying out these checks. He affirmed that he spoke to the detainees with the door partially open. However, he did not agree with the proposal put to him that it would be better to enter the cell and speak with the detainees in private; this he felt would pose a security risk. As regards the allegations of ill-treatment by ORB-2 staff, he expressed the opinion that they were most often just a means for detained persons to protect themselves.

The CPT considers that the frequent presence of prosecutors in IVS facilities is in principle a positive measure and considers that such checks should take place on a daily basis, as foreseen by the relevant instruction. However, for such checks to be truly effective in preventing ill-treatment, they must involve inter alia much closer contact with detainees than at present. This would be true for the monitoring of any law enforcement establishment but is particularly the case as regards the IVS currently located on the premises of ORB-2, where there is a palpable climate of fear among detained persons.

24. As already indicated, the CPT's delegation also received a number of allegations that persons had been ill-treated while detained at the *inter-district division of ORB-2 in Urus-Martan*. When it finally gained access to the premises of this facility, the staff present affirmed that anyone held ("for a maximum of 8 hours") at the facility for investigative purposes would be kept in a rather spacious room equipped with sofas situated on the ground floor. However, the delegation located a cubicle on the upper floor of this two storey building which corresponded exactly to the description which had been given by the above-mentioned persons of the place where they said they had been held (for lengthy periods). In addition, the prosecutor of Urus-Martan district himself stated that the inter-district division possessed a cell where detained persons could be held overnight.

It was impossible to check on the spot who had been held (and for how long) at the ORB-2 facility in Urus-Martan as, according to staff, they possessed no register for this purpose. Such a state of affairs, if true, is clearly inadmissible. More generally, the rather aggressive and disdainful manner in which the ORB-2 staff present behaved towards the delegation did not augur well for how they would treat persons in their custody.

25. At the end of the September 2006 visit, the CPT's delegation indicated that the continuing failure to take effective measures to put an end to ill-treatment at ORB-2 inevitably raised an issue under Article 10, paragraph 2, of the Convention. The delegation urged the Russian authorities to improve the situation as regards the treatment of detained persons by staff of ORB-2, both in Grozny and in the inter-district divisions of the agency. To date, no information has been provided to the CPT on the measures taken by the Russian authorities in response to the delegation's remarks.

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26. In the light of the remarks in paragraphs 19 to 25, **the CPT once again calls upon the Russian authorities to take immediate action to put a stop to the ill-treatment of suspected or accused persons by staff of ORB-2, both in Grozny and in the inter-district divisions of the agency. That action should include:**

- **relocating elsewhere the IVS facility currently situated on the premises of ORB-2 in Grozny;**
- **ensuring that any person apprehended by ORB-2 staff is, without delay, placed in an IVS facility;**
- **making mandatory the presence of an investigator attached to the relevant prosecution service when ORB-2 staff are involved in any investigative activity requiring direct contact with a detained person;**
- **ensuring strict compliance with the right to have a lawyer present during all questioning or other investigative activities conducted with the participation of the suspect or accused;**
- **delivering to all ORB-2 staff the clear message that the ill-treatment of detained persons will be the subject of severe sanctions;**
- **ensuring that any complaints or other information indicative of possible ill-treatment by ORB-2 staff are the subject of an effective investigation (see also section II.A.4 below).**

c. unlawful detention

27. The CPT has received in the past a large number of reports about abductions (forced disappearances) and the related problem of unlawful detention in the Chechen Republic as well as other parts of the North Caucasian region. In the report on its visit in November/December 2004, the Committee called upon the Russian authorities to spare no effort in putting an end to the problem of abductions, and highlighted in this context the need to ensure that no illegal detention facilities are operated in the Chechen Republic. During the 2006 visits, the CPT's delegation sought, but was not able to obtain, specific statistics concerning abductions. However, it is evident from the information at the CPT's disposal that they continue to constitute a troubling phenomenon in the Chechen Republic and in many cases involve an element of unlawful detention.

28. In the course of the 2006 visits, the CPT's delegation again spoke with a number of persons who gave detailed and credible accounts of being unlawfully held – on occasion for prolonged periods – in places in the Chechen Republic. Frequent reference was made to *facilities located in the village of Tsentoroy* in the Kurchaloy district, run by armed formations allegedly operating under the command of Ramzan Kadyrov, the present Prime Minister of the Chechen Republic. In certain cases, formal complaints had been lodged with the prosecution services relating to unlawful detention and ill-treatment at Tsentoroy.

The CPT's delegation gained access to Tsentoroy on 2 May 2006, where it visited a compound which was under the control of a company of the 2nd Regiment of the Internal Affairs Patrol-Sentry Service. The territory of the compound was surrounded by a high wall and comprised, inter alia, barracks, a gymnasium, and a large courtyard. The delegation discovered in particular two secure rooms half-full of wooden boxes of ammunition. Each of the rooms had concrete flooring and a small barred window with no glass pane.

The layout of the compound and, more specifically, the location and internal features of the secure rooms and adjacent ante-room, corresponded closely to descriptions which the delegation had received from persons who alleged that they had been held there (and subjected to various forms of ill-treatment).

29. At the end of the April/May 2006 visit, the delegation commented that there could be little doubt that persons had been detained in the above facilities in the past and called upon the Russian authorities to take all necessary steps to ensure that there was no repetition of such unlawful detentions. The delegation also emphasised the need for thorough and expeditious investigations by the prosecution services into the complaints of which they had been seized involving allegations of unlawful detention and ill-treatment in facilities at Tsentoroy.

The Russian authorities' response of June 2006 was particularly surprising on this issue, it being claimed that "the prosecutor's office had not received any applications or complaints concerning unlawful detention of individuals in Ramzan Kadyrov's private household or in unregistered places of deprivation of liberty". Subsequently, the matter was clarified at the delegation's meeting with the Prosecutor of the Chechen Republic on 5 September; Mr Kuznetsov was adamant that there had been no complaints about unlawful (i.e. unregistered) places of detention at Tsentoroy, but acknowledged that complaints had been lodged of unlawful detention in places at Tsentoroy. The CPT considers that it is not appropriate to split hairs on matters of such importance. As for the complaints in question, the CPT noted that two criminal investigations which had been suspended in late October 2005 had been re-opened, on 4 September 2006 (see also paragraph 49).

30. As already indicated (see paragraph 17), there have been a number of reports of persons being unlawfully detained at a *military facility (the "Vega base") located in the outskirts of Gudermes* (currently used by a company of the 2nd Regiment of the Internal Affairs Patrol-Sentry Service) and some formal complaints have been lodged about such detentions.

The CPT's delegation went to this base during the September 2006 visit, and discovered a closed facility clearly resembling a detention area. As one entered through the main gate, the facility was located to the right of the principal courtyard, close to a kitchen and premises used for food storage. A metal door with a small grilled window gave access to a short corridor leading to two small and windowless cell-type rooms. The facility was apparently being used at present for storage purposes. However, the walls of the rooms bore numerous inscriptions (names; dates, the most recent being 02.03.2006; improvised calendars and references to periods of time, e.g. 22 days, 31 days, 41 days; messages) which were highly suggestive of a context of detention. It should also be noted that the facility matched precisely the description given to the delegation by a person who claimed that he had been held in a detention facility at the "Vega base" some time ago.

31. Reference should also be made to the delegation's visit on 2 May 2006 to the *Headquarters of the Vostok Battalion of the 42nd Division of the Ministry of Defence*, which are situated close to Gudermes. The delegation had received reports that persons had in the past been held unlawfully at these Headquarters, in particular in cells located under the "canteen".

In one section of the basement of the building housing the Headquarters' restaurant, the delegation discovered 8 rooms with metal padlocked doors. A sheet of paper had been attached to the door of each room on which was written "storage"; however, the rooms were empty. Another section of the basement (accessed by a separate staircase) contained similar rooms, and several of them were indeed being used for storage purposes.

The above-mentioned rooms were certainly sufficiently secure to be used for detention purposes, and the presence of a series of short vertical marks on a wall of one of the rooms can only reinforce doubts as to the use to which these facilities have been put in the past.

32. Evidence produced in the course of a *recent case before the Supreme Court of the Chechen Republic*¹ illustrates the practice of unlawful detention and associated ill-treatment. It appears from the Court's judgment that at the outset of the hearing, the accused stated that their confessions had been extracted under torture including severe beatings. During the court's consideration of the case, a video tape was shown of the accused being held and ill-treated "in the basement of a building in the Novogrozny settlement of Gudermes housing a special police regiment named after Akhmat Kadyrov". The judge acknowledged that the accused had confessed to certain of the crimes in question as a result of "acts of physical and mental pressure" in the above-mentioned basement. Moreover, the fact that the accused were held in the basement prior to the time at which, according to the detention records, they were taken into custody was also taken into account by the judge when fixing the accused person's terms of imprisonment for another crime.

33. In its statement at the end of the September 2006 visit, the CPT's delegation emphasised once again the importance of taking the necessary steps, including effective investigations, to prevent places in Tsentoroy being used again as places of unlawful detention. It should be noted in this connection that the delegation received during that visit credible allegations that persons had been unlawfully held at the previously-mentioned compound in Tsentoroy as recently as August 2006. The delegation also requested that the relevant prosecution service carry out a prompt and detailed inspection of the closed facility it had found in the "Vega base" situated in the outskirts of Gudermes. To date, no information has been provided to the CPT on the action taken by the Russian authorities in response to the delegation's remarks.

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34. In the light of the remarks in paragraphs 27 to 33, **the CPT calls upon the Russian authorities to ensure that effective investigations are carried out into all complaints and other information indicative of the unlawful detention of persons:**

- **in facilities located in the village of Tsentoroy;**
- **in the military facility (the "Vega base") located in the outskirts of Gudermes (see paragraph 30);**
- **at the Headquarters of the Vostok Battalion of the 42nd Division of the Ministry of Defence;**
- **in any other facility located elsewhere in the Chechen Republic.**

(see also Section II.A.4. below).

The CPT requests the Russian authorities to provide a full account of the proceedings to date in each of the investigations concerned, and to inform the Committee of the findings made and conclusions drawn following the inspection by the relevant prosecution service of the closed facility found by its delegation at the previously-mentioned "Vega base".

¹ Case of M. Aguyev and others (28 August 2006)

4. Investigations into cases involving allegations of ill-treatment

47. One of the objectives of the September 2006 visit to the Chechen Republic was to obtain detailed information on investigations into cases involving allegations of ill-treatment. As the Committee has emphasised in the past, assessing the effectiveness of action taken by the competent investigatory 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 now 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.² 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.

48. The CPT has already referred to its assessment of the 32 *preliminary inquiries* carried out in respect of 2005 and the first quarter of 2006 by the prosecutor's office of the Leninskiy district of Grozny, as regards complaints and other information received concerning possible ill-treatment by ORB-2 staff (see paragraph 22). Those inquiries failed to meet the requirements of an effective investigation and, in particular, the criteria of thoroughness and promptness/expeditiousness.

The preliminary inquiry concerning "A", instigated following a report on admittance with physical injuries issued by SIZO No. 1, can be given as an example. This prisoner was found to bear multiple haematomas (to the shoulders, back, legs, eye region) when admitted to the SIZO on 26 December 2005 and alleged having been beaten at ORB-2, on the premises of which he had spent 11 days. The extent of the inquiry was limited to receiving written explanations from staff of ORB-2 and staff of the IVS located on its premises. The decision to refuse to initiate a criminal case was taken without ever questioning the prisoner concerned, other detainees held at the IVS at the relevant time or officials responsible for his transfer from the IVS to the SIZO. No attempt was made to explain the contradiction between the records of the IVS (absence of injuries on departure) and the medical findings on admission at the SIZO. **The CPT considers that the preliminary inquiry concerning "A" should be re-opened and the relevant investigative steps taken, in the light of the above remarks.**

Reference might also be made to a more recent preliminary inquiry, instigated on 2 June 2006 in respect of "B". This prisoner was transferred to SIZO No. 1 on 23 May 2006 and the medical examination upon arrival revealed multiple bodily injuries which he alleged were the result of beatings by ORB-2 officers. A decision of refusal to initiate a criminal case was taken on the basis of the medical register of the IVS and the feldsher's explanations to the effect that "B" had, on his arrival at the IVS on 13 May 2006, displayed injuries received at the time of apprehension; no forensic examination was ever requested. However, the CPT noted that by decision of 7 September 2006, the decision of refusal to initiate a criminal case was revoked on the grounds that the inquiry had been incomplete.

² This well-established case-law was applied in, 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).

Another illustrative case is that of “C” who filed successive complaints in 2006 about ill-treatment, inter alia whilst in the custody of ORB-2. It is particularly noteworthy that following his admission to SIZO No. 1, he was subsequently returned to the IVS at ORB-2 in May 2006. On return to the SIZO on 1 June, he was found to bear numerous violet haematomas in the region of the right shoulder and right thigh. Despite these injuries and related complaints, relevant procedural steps were not taken and a decision on refusal to initiate a criminal case was adopted. That said, by the time of the September 2006 visit that decision had been revoked and the inquiry resumed.

49. In addition to files on preliminary inquiries, the delegation was able to examine in detail the *files on criminal cases* initiated concerning the alleged unlawful detention and ill-treatment of “D” and “E”. These persons alleged that they had been detained successively at Tsentoroy and the Internal Affairs Division of Gudermes in November-December 2004 and severely ill treated in both of those places (“E” also alleging that he was detained at the Vega base in Gudermes). Once again, it was found that the criteria of an effective investigation had not been met.

In the first place, despite the fact that both persons alleged ill-treatment by the militia in Gudermes, the investigation was entrusted to an investigator of the Gudermes Internal Affairs Division. Consequently, the investigation lacked the necessary element of independence. As regards the case concerning “D”, the only investigative activity carried out prior to the suspension of the investigation on 25 October 2005 was the questioning of a single operative officer. In contrast, “E” was questioned and he gave testimony identifying several elements of considerable relevance for the investigation (including clear descriptions of the places where he claimed to have been unlawfully held). However, the necessary procedural steps to explore those elements (such as an on-site visit) were never taken and the investigation on the case was suspended.

The CPT nevertheless notes that the above-mentioned criminal investigations were re-opened by decisions dated 4 September 2006 and taken over by the Prosecutor’s Office of the Chechen Republic.

50. Reference should also be made to the criminal case initiated in respect of the alleged unlawful detention of the brothers “F” in January 2006. The brothers were questioned but no other substantial investigative activities were apparently undertaken. In particular, despite detailed descriptions and drawings provided by the alleged victims, no measures had been taken to locate the facility (close to the village of Bachi-Yurt) where they claimed to have been held. The criminal investigation had been formally suspended twice, but was re-opened by decision of 5 September 2006.

51. A disturbing feature of several of the cases examined by the delegation was *the subsequent return of persons alleging ill-treatment to militia establishments for questioning on their complaints and/or further investigative activities*, and even to the very law enforcement agency where they alleged that the ill-treatment had occurred (cf. for example, the cases of “G”, the brothers “H” and “I”). The brothers “H” were returned to ORB-2 in Urus-Martan, despite their express and recorded request not to be sent there again as they were afraid of being tortured. Such a state of affairs is totally inadmissible.

The brothers “H” alleged very serious ill-treatment whilst in the custody of ORB-2 in Urus-Martan, both when initially detained there in November 2005 and when returned there on different occasions for investigative activities. The preliminary inquiry into the complaints lodged by the brothers was opened, closed and re-opened a number of times, the brothers repeatedly making, then withdrawing, then making again their complaints of ill-treatment. **The Committee considers that in order to reach a sound conclusion as to the manner in which they were treated whilst in the custody of the Urus-Martan inter-district division of ORB-2, it is necessary to re-open the preliminary inquiry. The first investigative activity taken in the re-opened inquiry should be to interview individually each of the brothers in a safe environment (e.g. Correctional Colony No. 2 in Chernokozovo where they are currently held); those interviews should be conducted by a prosecutor/investigator who has not previously been involved in the criminal cases brought against them and they should be entitled to be assisted at those interviews by a lawyer of their choice.**

52. As already indicated, *the requirement of promptness* is essential for an effective investigation. Failing this, crucial evidence, in particular of a medical character, may well be lost. More specifically, conducting a forensic medical examination weeks after the alleged ill-treatment will in many cases be of little assistance for the purposes of establishing the truth and may even prove detrimental to that objective.

Judges called upon to decide within 48 hours of apprehension on the application of the preventive measure of remand in custody 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). However, information gathered during the visits in 2006 would suggest that effective action is still not being taken by judicial authorities at this stage. The delegation also noted that it could take weeks (more specifically, from 10 to 26 days) for reports drawn up by SIZO No. 1 in Grozny on physical injuries recorded at admission to reach the relevant prosecutor’s office. Other, more rapid, means of delivery than the postal service need to be found. For the same reason, persons who allege ill-treatment in custody, or their lawyers or doctors, should be able to have a medical examination by a doctor from an official forensic establishment carried out without delay. However, it remains the case that the carrying out of such forensic examinations is impossible without authorisation from an investigating or judicial authority. The inevitable outcome is that persons alleging ill-treatment will frequently be prevented from providing “any objective facts to support their conclusions”³.

³ See the response of the Russian authorities to the statement made by the CPT’s delegation at the end of the April/May 2006 visit.

53. In the light of the above, **the CPT recommends:**

- **that immediate steps be taken to ensure that all investigations into cases involving allegations of ill-treatment meet fully the criteria of an “effective” investigation as established by the European Court of Human Rights;**
- **that, when persons lodge complaints about the manner in which they were treated whilst in the custody of a law enforcement agency, all subsequent investigative activities concerning those complaints be carried out in a safe environment, away from the law enforcement agency at which the ill-treatment was allegedly inflicted. Further, for so long as a preliminary inquiry or criminal investigation into possible ill-treatment is underway, the persons concerned should under no circumstances, for any investigative purpose, be returned to the custody of the law enforcement agency where it is alleged the ill-treatment was inflicted;**
- **that judges considering a request on the application of the preventive measure of remand in custody immediately order a forensic medical examination and bring the matter to the attention of the relevant prosecution service whenever there are grounds to believe that the person brought before them could have been the victim of ill-treatment;**
- **that a mode of delivery be established which ensures timely submission to the prosecuting authorities of reports drawn up by SIZO establishments on physical injuries recorded at admission;**
- **that persons who allege ill-treatment in custody, or their lawyers or doctors, be able to have a medical examination by a doctor from an official forensic establishment carried out without prior authorisation from an investigating or judicial authority.**

Further, **the CPT would like to receive in due course full information on the outcome of the preliminary inquiries and criminal investigations concerning the allegations made by “B” (see paragraph 48), “C” (see paragraph 48), “D” (see paragraph 49), “E” (see paragraph 49), and the brothers “F” (see paragraph 50).**

54. In the course of the September 2006 visit, the CPT’s delegation also noted the case of a prisoner, “J”, who was admitted to SIZO No. 1 in Grozny on 14 August 2006 after a period of custody in Groznenskiy (rural) District Internal Affairs Division. According to the entry in the medical register, he displayed massive bruising on numerous parts of his body as well as other injuries. The Committee understands that a complaint has been lodged on behalf of this prisoner, alleging severe ill-treatment while in the custody of the above-mentioned internal affairs division. **The CPT wishes to receive in due course full information on the outcome of the preliminary inquiry into that complaint.**

55. Of course, in order to ensure the effectiveness of investigations into allegations of ill-treatment, it is also essential that forensic medical services are able to provide the support required by the criminal justice system. In this connection, the CPT's delegation went to the *Republican Forensic Medical Bureau in Grozny* during the April/May 2006 visit. Significant investments have been made in equipment and the physical facility of the forensic bureau in Grozny, and the structure is now no doubt one of the best within the North Caucasian region. However, despite these investments, no progress had been made in establishing certain essential functions, such as an autopsy service. The delegation highlighted the need for effective management leadership at the facility and called for a more active involvement of the Federal Centre of Forensic Medicine in resolving the present situation. During the final talks at the end of the visit, representatives of the Ministry of Health undertook to take measures to increase support to the Republican Forensic Medical Bureau in Grozny.

The CPT would like to receive full information on the measures taken and their results.

*II. Extracts from the**Federal State authorities' comments on the report by the European Committee for the prevention of torture (CPT) to the Government of the Russian Federation on the visits to the North Caucasian region of the Russian Federation from 25 April to 4 May and from 4 to 10 September 2006**transmitted on 19 February 2006*

.....

Response from the Russian Federation (RF) Prosecutor General's Office to paragraphs ..., 18 and 19 of the CPT report:

In accordance with section 5.1 of the RF Prosecutor General's Order No. 39 of 5 July 2002 "On organisation of prosecutorial oversight of the legality of criminal prosecution at the pre-trial stage of proceedings", the Prosecutor's Office of the Chechen Republic (ChR) makes daily checks to ensure that the law is complied with when placing and holding suspects and accused persons in the temporary holding facility (IVS) of the Temporary Task Force of internal affairs agencies and units (VOGOiP) responsible for conducting the counterterrorist operation in the North Caucasus region, and which is housed in the building of Operational/Search Bureau No. 2 (ORB-2).

At a meeting between the CPT delegation and the President of the Chechen Republic, the head of the delegation, Mr Palma, expressed concern at reports about people being held unlawfully in a number of institutions designed for housing suspects and persons accused of committing crimes, as well as convicted prisoners, and located in the Chechen Republic. Specifically, this refers to the 2nd company of the 2nd regiment named after Akhmad Kadyrov, which is stationed in the village of Tsentoroy. According to Mr Palma, some of the premises occupied by this unit match the description given by individuals claiming to have been unlawfully detained there and tortured.

In the course of the investigations carried out by the ChR Prosecutor's Office, however, no evidence was found to support these reports.

The ChR Prosecutor's Office has no information at present about any violations to do with holding people in facilities which are not designated for that purpose.

.....

Response from the RF Prosecutor General's Office to paragraphs 15-17, 21-23 and 48-49 of the CPT report:

Any complaints received from suspects and accused persons held in the IVS run by the VOGOiP of the RF Ministry of Internal Affairs concerning the use of violence are investigated under Articles 144 and 145 of the RF Code of Criminal Procedure.

Over the period 2000-2006, the ChR Prosecutor's Office received 245 statements and reports concerning the use of violence against suspects and accused persons. Following investigation, criminal cases were instigated in the following 12 cases:

Case No. 45575, opened on 11 May 2005 under Article 112, paragraph 2, sub-paragraphs c and d, of the RF Criminal Code, for causing bodily injuries to “D” while he was in custody;

Case No. 45576, opened on 11 May 2005 under Article 112, paragraph 2, sub-paragraphs c and d, of the RF Criminal Code, for causing bodily injuries to “E” while he was in custody;

Case No. 46110, opened on 17 September 2005 under Article 127, paragraph 2, sub-paragraphs a, c, d and g, of the RF Criminal Code, for unlawful deprivation of liberty of “K-1”, “K-2”, “K-3”, “K-4”, “K-5”, “K-6” and “K-7”, residents of the village of Novyye Atagi in the Shalinskiy district of the Chechen Republic, by members of the Second Regiment of the Patrol-Sentry Militia Service (PPSM) of the ChR Ministry of Internal Affairs from 10 to 13 September 2005 (in this criminal case, a deputy commander of the 1st company of PPSM-2, was charged with committing an offence under Article 286, paragraph 3, sub-paragraph a, of the RF Criminal Code);

Case No. 43110, opened on 8 October 2005 under Article 111, paragraph 1, of the RF Criminal Code, on the grounds that militiamen from the Staropromyslovskiy District Department of Internal Affairs (ROVD) in Grozny caused serious damage to the health of “L” while he was in custody;

Case No. 50057, opened on 24 April 2006 under Article 286, paragraph 3, sub-paragraph a, of the RF Criminal Code, for causing bodily injuries to “M” during the preliminary investigation;

Case No. 50032, opened on 15 March 2006 under Article 286, paragraph 3, sub-paragraph a, of the RF Criminal Code, against officers of ORB-2 of the Chief Directorate of the RF Ministry of Internal Affairs responsible for the Southern Federal Region for the use of violence against “N”;

Case No. 50112, opened on 30 June 2006 under Article 105 and Article 286, paragraph 3, sub-paragraph a, of the RF Criminal Code, following the discovery of the corpse of “O”, bearing injuries, at the IVS of the VOGOiP of the RF Ministry of Internal Affairs;

Case No. 57060, opened on 4 October 2006, under Article 286, paragraph 3, sub-paragraph a, of the RF Criminal Code on the grounds that staff of ORB-2 of the Chief Directorate of the RF Ministry of Internal Affairs responsible for the Southern Federal Region used physical violence against “P” in order to extract testimony from him (these cases are being dealt with by the criminal investigation department of the ChR Prosecutor’s Office);

Case No. 50179, opened on 6 October 2006 under Article 286, paragraph 3, sub-paragraph a, of the RF Criminal Code, on the grounds that a number of unidentified ORB-2 officers caused bodily injuries to “Q” in March 2005;

Case No. 50071, opened on 19 May 2006 under Article 286, paragraph 1, of the RF Criminal Code, on the grounds that a number of unidentified ORB-2 officers caused bodily injuries to the arrestee, “R”;

Case No. 54076, opened under Article 286, paragraph 3, sub-paragraph a, of the RF Criminal Code on the grounds that officials of Groznenskiy ROVD detained unlawfully and used physical violence against “S”;

Case No. 50191, opened under Article 286, paragraph 3, sub-paragraph a, of the RF Criminal Code in connection with the causing of bodily injuries to “T” at the IVS of the VOGOiP of the RF Ministry of Internal Affairs.

In the case of the remaining 233 statements and reports concerning the use of violence against suspects and accused persons, it was decided, after investigation, not to prosecute.

In order to safeguard the rights of suspects and accused persons in criminal cases, including persons being investigated by the Russian Federal Security Service (FSB), the provisions of Article 92, paragraph 3, of the RF Code of Criminal Procedure are observed, under which the supervising prosecutor must be notified in writing within 12 hours of persons being detained on suspicion of committing crimes.

Response from the RF Ministry of Justice to paragraphs 18 and ... of the CPT report:

In order to prevent violations of the rights and lawful interests of suspects and persons accused of committing crimes, and also of convicted prisoners, a human rights structure was set up in the penitentiary system on 25 October 2001. It consists of the department responsible for the observance of human rights in the penitentiary system at the Federal Penal Enforcement Service (FSIN), and assistant heads of the territorial agencies of FSIN responsible for the observance of human rights in the penitentiary system. These structural subdivisions of the FSIN monitor pre-trial establishments (SIZOs) and correctional institutions to ensure that human rights are respected.

Response from the RF Ministry of Internal Affairs to paragraphs 20 and 21 of the CPT report:

Structurally speaking, the IVS of the Temporary Task Force of agencies and units of the RF Ministry of Internal Affairs (VOGOiP) is independent from Operational/Search Bureau No. 2 for combating organised crime, of the Chief Directorate of the RF Ministry of Internal Affairs responsible for the Southern Federal Region (ORB-2). Given that it is located at the same site as ORB-2, however, the activities of the IVS of the VOGOiP are wholly geared to achieving the aims and purposes of ORB-2. The staff employed at the IVS (35 people), including civilians, are made up of officials seconded from the RF Ministry of Internal Affairs, the Chief Directorate of Internal Affairs and the Directorates of Internal Affairs of the constituent entities of the Russian Federation, on a contractual basis.

Citizens are detained by ORB-2 officers in keeping with the requirements of Article 92 of the RF Code of Criminal Procedure. The detainees are sent to the IVS of the VOGOiP, where they are entered in the custody records and undergo a compulsory medical examination.

Using the office space at ORB-2 to house detainees once the investigative measures have been completed is inadvisable, as they are more likely in that case to escape or commit other unlawful acts.

Removing persons against whom it has been decided to apply the prevention measure of remand in custody from the cells of the IVS of the VOGOiP at night is against the Internal Regulations of temporary holding facilities for suspects and accused persons. Senior officials at both the IVS of the VOGOiP and ORB-2 must take firm action to prevent this from happening.

In order to uncover any places where persons might be held unlawfully, a commission consisting of officials from the Chief Directorate of the RF Ministry of Internal Affairs responsible for the Southern Federal Region and the ChR Ministry of Internal Affairs inspected sites occupied by the inter-district divisions of ORB-2 in Urus-Martan, Shali, Naurskaya and Gudermes.

In the course of the inspections, the commission found no information that people were being held unlawfully on the premises of the divisions of ORB-2. Nor did it find any places where detainees might be held.

Officials from the ChR Ministry of Internal Affairs inspected temporary sites occupied by troops of the PPSM No. 2 regiment in Oyskhara in the Gudermes district, in Tsotsin-Yurt in the Kurchaloy district, and in Avtury, Shali, Nozhai-Yurt and Achkhoy-Martan.

In the course of the inspections, it was established that there were no rooms for administrative detainees or facilities for temporarily housing detainees at the headquarters of the “Akhmad Kadyrov” PPSM regiment or at sites occupied by the troops on a temporary basis. In accordance with orders issued by the RF Ministry of Internal Affairs and the ChR Ministry of Internal Affairs concerning the activities of PPSM units, there are no facilities of the kind referred to above.

The premises referred to in the CPT’s report were intended for domestic purposes and were not used for housing people.

In accordance with the CPT’s wishes, as part of the professional training programme, additional courses have been provided for staff from the IVS of the VOGOiP and ORB-2 to acquaint them with the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Federal Law No. 103-FZ of 15 July 1995 “On the custody of suspects and accused persons” and orders issued by the RF Ministry of Internal Affairs.

Response from the RF Ministry of Justice to paragraphs 22 and ... of the CPT report:

In an effort to prevent, detect and put a stop to any unlawful actions in institutions and/or agencies within the Penal Enforcement System (UIS), investigations are carried out into any reports, including those received from human rights organisations and the media, concerning incidents and possible criminal offences in places of detention.

Investigations are likewise carried out into any reports received from medical staff who discover bodily injuries on suspects, accused persons or convicted prisoners, including when they arrive at SIZOs from the internal affairs agencies.

Under Article 140 of the RF Code of Criminal Procedure, where there are sufficient indications that a crime has been committed, the file is sent to the Prosecutor’s Office. This procedure was introduced by Order No. 170 issued by the Chief Directorate of Penal Enforcement of the RF Ministry of Justice on 27 July 2002 “Approving the Instruction on the procedure for receiving, registering, recording and dealing with, in penal institutions of the RF Ministry of Justice, any statements, confessions or reports about committed or planned crimes or other incidents”.

Response from the RF Prosecutor General’s Office to paragraphs 30-39 and ... of the CPT report:

According to the ChR Prosecutor’s Office, the town of Gudermes used to be home to the “Vega base” of the Security Service of the President of the Chechen Republic. In 2004-2005, the unit stationed at the base was disbanded. The Prosecutor General’s Office has no further information on this subject.

.....

Response from the RF Ministry of Defence to paragraph 31 of the CPT report:

No evidence has been found to support the allegations of unlawful detention of the persons referred to in paragraph 31.

.....

Response from the RF Ministry of Justice to paragraph 47 of the CPT report:

The handling of complaints and applications received from citizens in the Russian Federation is governed by Federal Law No. 59-FZ of 2 May 2005 “On the procedure for examining applications from citizens of the Russian Federation”.

In the penitentiary system, such activities are governed by Order No. 383 issued by the Russian Ministry of Justice on 26 December 2006 “Approving the Administrative Regulations on the exercise of state functions in organising the examination of proposals, statements and complaints from convicted prisoners and persons remanded in custody”.

The procedure for gathering information and conducting investigations into failures to comply with the law in the penal enforcement system is governed by Order No. 250 issued by the Russian Ministry of Justice on 11 July 2006 “Approving the Instruction on the procedure for receiving, registering and investigating in UIS institutions and agencies reports concerning crimes and/or other incidents”.

Response from the RF Prosecutor General’s Office to paragraph 50 of the CPT report:

Most of the recommendations made in §50 of the CPT report are enshrined in law at both federal and ministerial level. In particular, under sections 5 and 6 of Order No. 39 issued by the RF Prosecutor General’s Office on 5 July 2002 “On organisation of prosecutorial oversight of the legality of criminal prosecution at the pre-trial stage of proceedings”, staff of the prosecutor’s office are bound to make daily checks on the lawfulness of detention of suspects and accused persons in temporary holding facilities and military detention facilities (“gauptvachta”), and to react sharply to any infringements of the detention procedure or any inconsistencies in the detention protocols, etc.

In order to ensure a prompt and efficient investigation into the circumstances surrounding the detention of suspects in criminal cases, when deciding which preventive measure to apply, prosecutors conduct interviews with the suspects, in which they inquire about any unauthorised methods of investigation and the use of violence at the time of apprehension.

The ChR Prosecutor’s Office has examined the records of the investigations into complaints filed by persons facing criminal prosecution.

It has found that the complaints are similar in substance, usually involving a description of the circumstances in which physical and psychological pressure was brought to bear by operative staff, including ORB-2 officers, on suspects and accused persons in an attempt to obtain confessions.

There are similarities not only in the complainants' descriptions of the circumstances (where and how) in which pressure was applied, but also in the style in which the complaints are written. Often in the course of the investigations, complainants refused to elaborate on their complaints or statements, or said that they would not be able to identify the officers who abused them and did not know their names. In each instance, it was claimed that the treatment complained of resulted in them confessing to the offences of which they stood accused.

Numerous checks of such allegations suggest that the complaints filed by suspects and/or accused persons are simply an attempt to avoid prosecution.

There have also been instances of self-harm in a bid to incriminate law enforcement officials.

For example, the ChR Prosecutor's Office received a complaint from an accused man, "G", alleging that he had been physically abused, taunted and tortured by officers from ORB-2 of the Chief Directorate of the RF Ministry of Internal Affairs for the Southern Federal Region, in order to get him to confess to a number of robberies.

In the course of the investigation, it was found that in an attempt to get earlier testimony provided by him declared inadmissible, "G" had inflicted cigarette burns on his arms and shoulders and, with the help of a cellmate, on his back, saying that he would show the burns to a doctor and claim he had been tortured.

All of the circumstances referred to above indicate that accused persons file complaints in an attempt to cast doubt on the legality of investigative activities conducted with their participation.

The ChR Prosecutor's Office has received no reports of any infringements of Article 18 of Federal Law No. 103-FZ of 15 July 1995 "On the custody of suspects and accused persons".

Nor has it received any complaints about lawyers being denied access to the IVS of the VOGOiP of the RF Ministry of Internal Affairs.

While investigating temporary holding facilities, prosecutors discovered violations of Federal Law No. 103-FZ of 15 July 1995 "On the custody of suspects and accused persons" as well as of Order No. 950 issued by the RF Ministry of Internal Affairs on 22 November 2005 "On approving the internal regulations of Internal Affairs' temporary holding facilities for suspects and accused persons" and Order No. 1 P 5/475 jointly issued by the RF Ministry of Internal Affairs and the RF Ministry of Health and Social Development on 31 December 1999 "On approving the Instruction on the procedure governing medical and sanitary provision for persons held in Internal Affairs' temporary holding facilities".

In response to the detected infringements of the laws and ministerial orders governing the detention of suspects and accused persons in temporary holding facilities, relating to everyday living conditions, diet, clothing, medical assistance and sanitation, in 2006 the Chechen Prosecutor's Office made submissions to the Minister of Internal Affairs of the Chechen Republic and the head of the VOGOiP of the RF Ministry of Internal Affairs, demanding that they eliminate the causes and conditions contributing to violations of the law and orders issued by the RF Ministry of Internal Affairs.

As a result of these submissions, a number of failings have now been remedied: the internal regulations of temporary holding facilities (IVSs) have been approved; logbooks have been introduced for recording suggestions, statements and complaints filed by suspects and accused persons and addressed to the prosecutor, courts and/or state authorities entitled to monitor IVSs; appointments books have been introduced for suspects and accused persons wishing to speak privately with the head of the IVS; outdoor exercise schedules have been drawn up for suspects and accused persons held in IVS facilities, and steps are being taken to resolve matters concerning everyday amenities.

The management of the ChR Ministry of Internal Affairs is taking measures to bring conditions of detention in temporary holding facilities into line with current Russian legislation, as evidenced by the fact that the repair and reconstruction of IVS facilities have been included in the regional programme “Restoring the economy and social sphere in the Chechen Republic over the period 2007-2010”.

Repairs have been carried out at a number of IVSs. The temporary holding facility run by Gudermes ROVD has been fully repaired, and other measures are being taken to ensure that the rights of suspects and accused persons are observed during the time that they are in IVS facilities.

The last time it was in the region, the CPT delegation visited SIZOs Nos. 1 and 2 and a number of temporary holding facilities, in particular the IVSs in the Leninskiy and Zavodskiy districts of Grozny, and the IVS facilities run by Argun GOVD and Gudermes ROVD.

Following its visit, the CPT noted that in a number of IVSs, repairs had been carried out, that conditions of detention had significantly improved and that according to the logbooks, the rules governing the length of time for which people may be held in IVSs were not being infringed. Conditions of detention in SIZOs are basic, but perfectly acceptable. The rights of people remanded in custody are duly observed and there is no rough treatment on the part of the administration. There has also been a substantial improvement in the system of medical screening of persons arriving at the facilities with bodily injuries.

It was further observed that the supervision exercised by the Prosecutor’s Office over IVSs has become more effective.

Response from the RF Ministry of Justice to paragraph 52 of the CPT report:

Under sections 130 and 132 of the “Internal Regulations of SIZOs in the Penal Enforcement System”, as approved by Order No. 189 issued by the RF Ministry of Justice on 14 October 2005, where there has been a deterioration in the state of health of suspects or accused persons, or where they have sustained bodily injuries, they must undergo immediate medical screening by the medical staff of the SIZOs concerned. This screening includes a medical examination and, if necessary, further investigations and consultations with specialist physicians. The findings are entered in the clinical records and communicated to the suspect or accused person in a way that is intelligible to them.

At the request of the suspect or accused person, or of their defence lawyer, a copy of the conclusions of the medical examination report is issued to them.

By decision of the head of the SIZO or of the person or body dealing with the criminal case, or on application by the suspect or accused or their defence lawyer, the medical screening is carried out by staff from other medical institutions. In the event of refusal to conduct such screening, an appeal may be lodged with the prosecutor or the courts.

Response from the RF Prosecutor General's Office to paragraph 53 of the CPT report:

On 11 January 2006, a number of unidentified persons in camouflage unlawfully entered apartment ... in Grozny, where they abducted two brothers, "F", driving them off in an unknown direction. The brothers were later released, whereupon they returned home. On 14 January 2006, Zavodskiy District Prosecutor's Office in Grozny responded to the incident by instituting criminal proceedings under Article 126, paragraph 2, sub-paragraphs a, d and g, of the RF Criminal Code.

In the course of the investigation, it was established that the brothers had not been held at any facilities designated for holding persons detained on suspicion of committing crimes as a preventive measure or at facilities for persons detained or arrested under the administrative procedure. The preliminary investigation into the criminal case was suspended on 13 November 2006 under Article 208, paragraph 1, sub-paragraph 1, of the RF Code of Criminal Procedure (failure to identify the person to be prosecuted).

On 11 May 2006, the ChR Prosecutor's Office received a complaint from the establishment IZ-20/1 of the Department of FSIN in the Chechen Republic. The complaint had been filed by the accused in criminal case No. 11133, "C", who alleged that during the preliminary investigation he had been subjected to physical abuse by ORB-2 officers.

On the strength of the allegations, the ChR Prosecutor's Office carried out an investigation, as a result of which it was decided on 25 May 2006 not to instigate criminal proceedings.

Following receipt of a second complaint from "C" about the use of unauthorised methods of inquiry by ORB-2 officers, the decision of 25 May 2006 not to instigate criminal proceedings was revoked by the deputy prosecutor of the Chechen Republic on 10 October 2006 and the case-file returned so that a further investigation could be conducted.

In the course of the second investigation, no objective evidence was found to support "C's" allegations of abuse by members of the militia and as a result, it was once again decided, on 20 October 2006, not to instigate criminal proceedings. This decision was deemed by the ChR Prosecutor's Office to be lawful and well-founded; this finding was communicated to "C" according to the statutory procedure.

On 28 December 2006 the criminal case against "C", in which he was charged with a number of serious and very serious crimes, was referred to the Supreme Court of the Chechen Republic for examination on the merits.

On 11 May 2005 the Investigation Department of Gudermes District Department of Internal Affairs brought criminal case No. 45575 against a number of unidentified persons for causing bodily injuries to the accused in Case No. 35014, "D", in order to force him to give testimony.

On 4 September 2006 the criminal case was taken over by the ChR Prosecutor's Office.

On 4 October 2006 the investigation into the case was suspended owing to failure to identify the person to be prosecuted.

In the course of the investigation it was established that on the night of 7 November 2004, "D", a member of an armed group (gang), was detained in the Khasavyurt district of the Republic of Dagestan by officers from the ChR President's Security Service and taken to the Security Service base in Tsentoroy. On 8 November 2004 he was transferred to Gudermes ROVD. At the time of apprehension, "D" suffered physical abuse, including a gunshot injury, at the hands of the Security Service. The circumstances of the abuse suffered by "D" were examined at a judicial hearing. The court found that there was no objective evidence to support "D"'s allegations that while at the ChR President's Security Service base in Tsentoroy, he was subjected to abuse in order to obtain testimony from him. All the investigative activities involving "D" were conducted in the presence of his defence lawyer. Furthermore, "D", exercising his right under Article 51 of the RF Constitution, refused to give testimony.

The Supreme Court of the Chechen Republic found "D" guilty of a number of serious crimes and sentenced him to 5 years' imprisonment in a strict-security colony.

On 11 May 2005, under Article 112, paragraph 2, sub-paragraphs c and d, of the RF Criminal Code, the Investigation Department of Gudermes District Department of Internal Affairs in the Chechen Republic brought criminal case No. 45576 in connection with the bodily injuries sustained by "E" while in custody.

On 4 October 2006 the criminal case was taken over by the ChR Prosecutor's Office.

On 10 November 2006 the investigation into the case was suspended owing to failure to identify the person to be prosecuted.

In the course of the investigation, it was established that on 14 November 2004, "E", a member of an illegal armed unit who was wanted by the federal authorities, was apprehended by unidentified law enforcement officials. He was then taken to the base of the ChR President's Security Service and, on 15 November 2004, transferred to Gudermes ROVD. On arrival at the ROVD, "E" was found to have bodily injuries in the form of welts on his head, two welts on his right shoulder, extensive welts on his right forearm and the wrist of his right hand, raised marks between the little finger and the fourth finger on both hands, a welt on the left part of the waist, a welt on his ribcage and welts on the surface of the middle third of the shin.

The circumstances of the abuse suffered by "E" were examined at a court hearing. The court found no objective evidence to support the allegations of "E" that while at the base of the ChR President's Security Service, he was subjected to abuse in order to obtain testimony from him.

The Supreme Court of the Chechen Republic found "E" guilty of a number of particularly serious crimes and sentenced him to 23 years' imprisonment in a strict-security colony.

In response to reports of abuse suffered by "A", Leninskiy District Prosecutor's Office in Grozny carried out an investigation and on 26 December 2006, decided not to instigate criminal proceedings.

Following an investigation into reports of abuse suffered by "B", it was decided on 2 June 2006 by Leninskiy District Prosecutor's Office in Grozny not to instigate criminal proceedings.

Response from the RF Ministry of Internal Affairs to paragraph 54 of the CPT report:

On 14 August 2006, “J”, born in ..., arrived at SIZO No. 1 run by the Department of the FSIN responsible for the Chechen Republic from the IVS at Groznenskiy ROVD. During the medical examination carried out on admission to the IVS, “J” was found to have bodily injuries in the form of haematomas and bruises, which were duly entered in the medical records. “J’s” state of health at the time when he was placed in the IVS and during his subsequent detention from 11 to 14 August 2006 was satisfactory. Groznenskiy District Prosecutor’s Office has instituted criminal proceedings in connection with the bodily injuries sustained by “J”.

Response from the RF Ministry of Justice to paragraph 54 of the CPT report:

During the time that he was held at SIZO-1, “J” filed 3 complaints about unlawful actions by officers of Groznenskiy ROVD. “J” did not, however, file any complaints about conditions of detention with the SIZO administration or with the agencies responsible for supervising the activities of pre-trial establishments.

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