

# **RUSSIAN SOCIETY UNDER CONTROL**

## **Abuses in the fight against extremism and terrorism**

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security



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# Introduction

From 2000 onwards, numerous human rights violations have been committed in Russia within the framework of measures meant to fight terrorism and extremism. The events in question need to be viewed in the context of the Russian government's policy of introducing a so-called "dictatorship of the law". The fights against terrorism and extremism in Russia have fairly blurred contours and different histories.

The fight against terrorism in Russia began even before the terrorist attacks of 11 September 2001: it dates back to the autumn of 1999 with the unleashing of the second Chechen war, waged under the slogan of anti-terrorism. As a result of changes in the international community's attitude to events in Russia due to the tragedies in the Dubrovka Street theatre (2002) and Beslan (2004), and of the spreading of the effects of the Chechen conflict to neighbouring republics of the North Caucasus, the fight against terrorism has spread to the entire territory of Russia, taking on new forms. Frequently, real anti-terrorist measures are substituted by mere imitations thereof: charges are fabricated against members of so-called "non-traditional"<sup>1</sup> Muslim communities in various different regions of Russia, particularly in the Central and Volga-Urals Regions and West Siberia. In most cases, the courts find the accused guilty and sentence them to imprisonment. These punitive measures are accompanied by an intensive public-relations campaign that whips up and sustains fear of the Islamist threat supposedly coming from the North Caucasus and from Central Asia, in particular from Uzbekistan, with which Russia has in recent years established closer relations. Taking advantage of an atmosphere of widespread distrust of Islam, and playing on prejudices, law-enforcement agencies persecute religious groups that are deemed to be suspicious. The legal mechanisms for so doing are enshrined in the new anti-terrorist legislation that was passed in 2006. It contains provisions enabling to depart from the principles of the "rule of law", for example by declaring certain territories "zones of counter-terrorist operations" (something that had, however, already been done in the North Caucasus).

As for the fight against extremism, this phenomenon appeared in its current form a little later. It is based on a law passed in 2002, and amended in 2007, that significantly widens the definition of extremism, which henceforth was to be defined as incitement to racial, religious, social or political hatred or enmity. The definition of a hate crime in the criminal legislation was also changed (Article 63 of the Criminal Code). Relying on imprecise definitions that can be interpreted in an arbitrary fashion, the mechanisms of the fight against extremism are leading to numerous abuses against various different representatives of civil society such as NGOs, political organisations, religious groups and journalists.

These two separate mechanisms quite often overlap and help to create an atmosphere of intimidation and sustain prejudices including those about the Muslim community. Some Muslim movements are also accused of stirring up religious hatred and being involved in terrorist organisations. The cited legal norms relating to the fight against extremism make it possible

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1. In Russia, this term is normally applied to Muslim ideological tendencies, and political-and-religious movements, that appeared as a result of the penetration of foreign influence into the USSR in the late '80s. These movements were formed in the '90s and '00s in some Central Asian countries, and also in certain regions of Russia, for example in the Volga-Urals Region. The authorities, and some experts hold that these movements are far removed from local traditions and at variance with the "local" Islam, which is characterised by its loyalty to the authorities and whose influence on believers does not extend beyond their private lives.



to prosecute individuals accused of terrorism not only on the basis of material evidence but also on account of their alleged intentions.

The existence of a climate of intimidation is also attested to by the way in which criminal cases against those accused of terrorism and extremism are conducted. The passing of new laws does not always change judicial practice, but usually makes the sentences more severe. Judicial bodies are also being told to operate more “successfully”. Furthermore, the new legislation facilitates a growth in intolerance and in surveillance of the population. In judicial practice, a fairly large number of Criminal Code articles are used in terrorism cases, some of which are appropriate to the charge (such as “organising or participating in an illegal armed formation” or “attempted murder of a politician or public figure”), but some of which have almost no relevance to terrorism proper. For example, a widely used method of bringing a criminal prosecution against an individual suspected of terrorism whose membership of a terrorist organisation has not been

proved is to fabricate a drugs-possession case against him. It is fairly easy to bring such cases to court, and subsequently to secure a guilty verdict. This method has been used repeatedly both before and after the anti-terrorist legislation was passed in 2006.

On the eve of the presidential elections in March 2008, within the framework of an extensive programme of monitoring respect for human rights and the rule of law in the taking of anti-terrorist actions, the International Federation for Human Rights [*Fédération Internationale des ligues des droits de l'Homme* – FIDH] sent a mission of experts to Russia, which visited the country between 7 and 17 February 2008. The mission worked in Moscow, and then in Kazan and Naberezhniye Chelny, the two biggest cities in the Republic of Tatarstan, in the Volga-Urals Region (see map 1).

The mission was set up jointly with the Civic Assistance Committee (CAC) in Moscow and the Agora association in Tatarstan.

## The mission consisted of:

- Dan Van Raemdonck, Vice-President of FIDH (Belgium), representative of the FIDH programme “Anti-Terrorism and Human Rights”;
- Richard Wild (UK), head of the programme for international criminology and criminal-law studies at the University of Greenwich, senior lecturer of the university course “Crime, Terrorism and the State”;
- Anne Le Huérou (France), FIDH expert, researcher, specialist on Russia and unlawful methods of fighting against terrorism, in particular in the context of the Chechen conflict;
- Gilles Favarel-Garrigues (France), researcher, specialist on Russia, in particular on matters relating to the police and justice;

- Yelena Ryabinina, head of the CAC’s programme of assistance to political refugees from Central Asia, expert on the consequences of Russian-Uzbek cooperation in the sphere of anti-terrorism;
- Yekaterina Kokorina, coordinator and interpreter.

## **The fact-finding mission pursued the following goals:**

- to ascertain whether Russia was complying with her international obligations, in particular with the prohibition on torture and the right to a fair trial in the application of anti-terrorist legislation;
- to establish how judicial investigations were being conducted into criminal cases against individuals suspected of terrorism: with or without applying the new legislation passed in 2006; which articles of the Criminal Code were being used; whether judicial bodies were resorting to other articles of criminal legislation (those dealing with drug possession, for example) in order to simplify the penal procedure against those suspected of terrorism;
- to study the relationship between the fight against terrorism and the fight against extremism; to ascertain in what circumstances these mechanisms overlap; to identify the most typical instances of the application of legislation in the fight against extremism;
- to clarify how these measures are affecting civil society and, in particular, human rights NGOs.

Taking into account the reports that have already been published by FIDH and the work done by the CAC and the Memorial Human Rights Centre, the mission decided not to visit the North Caucasus but to focus its attention on Muslims living in other regions of the Russian Federation. Nevertheless, the report mentions a number of cases connected to the situation in the North Caucasus. In order to prepare this section of the report, the mission met with two lawyers involved in cases relating to the fight against terrorism in Chechnya.

## **The mission also met with:**

- representatives of NGOs: Memorial, the SOVA Centre, the Human Rights Institute, Human Rights Watch, the Sakharov Centre, the Agora association, and the Kazan Human Rights Centre (Tatarstan);
- victims of crime, defence lawyers in relevant cases, members of the families of those investigated for and convicted of involvement in terrorism and extremism in Moscow, Kazan and Naberezhniye Chelny (Tatarstan);
- Ella Pamfilova, Head of the Presidential Council on Promoting the Development of Civil-Society Institutions and Human Rights.

In Kazan, mission members were able to attend court hearings in a criminal case of symbolic importance :the Islamic Jamaat case.

Having taken the testimony of various individuals into consideration and met in Russia with specialists on the problems under examination, FIDH and the CAC present an overview of the various measures being employed in the country in the fight against terrorism and extremism. The report presents a detailed analysis of the cases with which the mission was able to familiarise itself, and sets out the conclusions drawn from the results of the investigations. FIDH and the CAC are seriously concerned by the abuses and human rights violations being committed under cover of the fight against terrorism and extremism, and propose a number of recommendations.

# I Mechanisms used in the fight against terrorism and extremism

## I.1 The fight against terrorism

### I.1.1 The dynamics of changes to legislation

In the final years of the Soviet period, the fight against terrorism was conducted by the Committee for State Security (*Komitet gosudarstvennoi bezopasnosti* – KGB). In the Criminal Code of the USSR, the murder of a politician, public figure or government agent committed with the aim of undermining or weakening Soviet power was deemed an act of terrorism. Separate articles outlawed manufacturing explosives, damaging state property, and anti-Soviet propaganda. The fight against terrorism was entrusted to the Fifth (“Political”) Directorate, which was responsible for the surveillance of opposition activists inside the country, and also to the Counter-Espionage Directorate, which was responsible for preventing the activities of foreign terrorists on the country’s territory.

After the breakup of the USSR, the first Russian anti-terrorist law was passed in 1993. It widened the definition of an act of terrorism to include practices such as the hijacking of aeroplanes. In 1997 a new Criminal Code came into force, which amongst other things provided for punishment for terrorism (Article 205). In 1998 a new law “On the Fight against Terrorism” replaced the old one. More extensive than the old one, it defined the concepts of “terrorist organisation” and “act of terrorism”, and established the institutional framework of actions undertaken in this sphere, as well as the rights and obligations of citizens.

Since then, the anti-terrorist legislation has been strengthened twice: following the act of terrorism in the Dubrovka Street theatre in 2002 (in particular, new restrictions on press freedom and a prohibition on handing over the remains of dead terrorists to their families were added), and following the hostage-taking in the Beslan school in 2004. This new tragedy led to the drafting of the third law in less than 15 years<sup>2</sup>. Its appearance led to conflicts between different agencies. Prior to 2006, the coordination of the fight against terrorism was formally in the hands of a Federal Commission under the aegis of the Prime Minister. This commission did not, however, succeed in putting an end to the rivalry between the two principal state bodies operating in this area: the FSB (*Federalnaya sluzhba bezopasnosti* Federal Security Service, which replaced the KGB) and the Interior Ministry, which refused to exchange information. The FSB was indisputably the principal organisation engaged in the fight against terrorism, but the setting-up in 2003 of a special department within the Interior Ministry, “The T Centre”, strengthened that ministry’s positions in the fight against terrorism.

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2. For the evolution of anti-terrorist measures prior to 2006, see Jonathan Littell, *The Security Organs of the Russian Federation. A brief History 1991–2004*, Psan Publishing House, 2006; <http://www.psan.org/document551.html>.

### **I.1.2 The Law of March 2006**

The 2006 Law “On Counteracting Terrorism” assigned the coordination of the fight against terrorism to a single agency: this mission was entrusted to the FSB, which thereby regained the positions that it had lost in 2003.

The new law, which was passed by the Russian parliament after practically no debate and almost unanimously (408 votes in favour, 1 against, and 5 abstentions), entered into force in March 2006. It incorporated the presidential decree setting up a National Anti-Terrorism Committee (NAC) that had been issued not long before<sup>3</sup>. The law put the FSB at the head of the anti-terrorist structures: although a new agency, the NAC, was to be the inter-ministry organisation coordinating the actions of the various ministries and bodies operating in this area, the running of that agency was entrusted to FSB agents. The President of the NAC is the Director of the FSB, whilst the head of the apparatus responsible for actually running the NAC is a Deputy Director of the FSB. The setting-up of the NAC thus gave the FSB the right to have all incoming information at its disposal and to send requests to all Russian state agencies connected to anti-terrorism.

The NAC includes, *ex officio*, the Deputy Head of the presidential administration; the Deputy Chairman of the State Duma; the Deputy Chairman of the Federation Council; the Interior, Emergencies, Health, Foreign, Communications, Industry, Transport and Justice Ministers; the Directors of other intelligence services (SVR, FSO, Rosfinmonitoring); a high-ranking representative of the armed forces; and the Deputy Director of the Security Council.

Pursuant to the same law, there are anti-terrorism committees (ATCs) at the level of every subject of the Federation<sup>4</sup>. Each of them is headed by the leader of the region’s executive authority, whose number two is the head of the security service. These regional committees include the chairman of the regional legislative authority and representatives of the Interior Ministry, the Emergencies Ministry and the intelligence services.

The NAC’s prerogatives are very wide. They include drawing up the Russian state’s anti-terrorism policy, coordinating the anti-terrorist activities of the various ministries and agencies, preventive measures, and international cooperation. The NAC determines the objectives of all institutions engaged in the fight against terrorism and monitors the implementation thereof.

Furthermore, the NAC has operational departments. At the federal level, there’s the Federal Operational Headquarters. The NAC also directs the actions of the Operational Headquarters that have been set up in every subject of the Russian Federation. Headed by FSB directors, these headquarters coordinate state anti-terrorist operations<sup>5</sup>.

### **I.1.3. The grey areas of the Law of March 2006**

The Law of 6 March 2006 includes a number of provisions that jeopardise respect for human rights. First and foremost, it defines as “terrorism” not only “the practice of influencing decisions of government bodies, local authorities or international organisations by terrorising civilians and (or) through other unlawful acts of violence” but also “an ideology of violence”. As for “terrorist activities”, they are deemed to include the promotion of terrorist ideas, the distribution of material calling for terrorist activities to be undertaken, justifying or supporting terrorist activities, and any form of aiding and abetting, including passing on information that might assist terrorists.

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3. Decree of the President of the Russian Federation n°116 of 15 February 2006.

4. The expression “subject of the Federation” refers to each one of the regional entities of the Russian Federation.

5. See the NAC website: <http://nak.fsb.ru>.

In the opinion of some experts, these definitions could cover foreign ideologies that are treated as dangerous for national interests. Moreover, the reference to “supporting” could lead to charges against media organisations reproducing, for example, the demands of hostage-takers<sup>6</sup>.

It should be noted that there is another legislative measure, drafted in July 2006, establishing the current definition of “terrorism” in the Criminal Code (Article 205): “causing an explosion, committing arson or taking other actions that endanger human life or risk causing significant property damage... if such actions were committed with the aim of breaching public safety, frightening civilians or influencing decisions of the authorities, and also threatening to take the aforesaid actions with the same aim”.

Furthermore, the Law of March 2006 provides for the existence of special regimes, justified by the conducting of anti-terrorist operations that threaten individual rights and freedoms. Although the Russian Constitution already provides for the introduction of a state of emergency (Article 56), the conducting of a “counter-terrorist operation” (CTO) imposes the same restrictions without being subject to the same conditions: in order to launch such an operation, no approval is required from either the Duma or the Federation Council. The CTO regime restricts human rights more than the state-of-emergency regime (which also envisages restrictions on freedom of movement and on access to homes, the surveillance of communications, etc.): in particular, the CTO regime allows access to any means of information to be cut off. Article 11 grants the power to tap phone calls, conduct mass document-inspections, restrict movement, prohibit public demonstrations, and enter private dwellings without a search warrant. This same article provides for the possibility of removing people from the CTO zone.

The CTO regime has neither temporal nor geographical limits: an operation may cover *any* regions, and is defined at will by its leader, who is appointed, also at will, by the Director of the FSB, the only person to whom the leader of an operation is accountable. For example, there is nothing to prevent the FSB’s entrusting the conducting of a large-scale operation to the Interior Ministry. As we shall see from the example of the North Caucasus, the CTO regime is characterised by the complete absence of any control by Parliament or international organisations.

The CTO regime is all the more worrying because the amendment to the Law “On Defence” that was passed in April 2005 allows the armed forces of the Russian Federation to be used, in the event of an attack, not only for the purpose of protecting the country’s territory but also for conducting policing operations.

What did the Law of March 2006 change at the procedural level? Some special provisions of criminal law already existed. But [*sic*] in April 2004, through an amendment to the Code of Criminal Procedure, the period for which a person could be detained without charge in the investigation of terrorism-related cases was extended to 30 days. Another amendment allows a person to be arrested should there be “manifest traces of a crime” (for example, cartridges), which is extremely dangerous, since the police can easily use this amendment to fabricate a criminal case, for example, by planting cartridges in suspects’ pockets.

In addition to this new legal mechanism, other legislative texts were also amended in June 2006. One such text is the Law “On Agencies of the Federal Security Service in the Russian Federation”, which provides that conducting operations of a military nature may be justified for the purpose of “obtaining information on events or actions that create a threat of terrorism” and “identifying persons involved in the preparation and commission of an act of terrorism”.

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6. L. Levinson, “Governance as a Counter-Terrorist Operation” – report to the public hearings on problems of terrorism, counter-terrorism and human rights held by the International Commission of Jurists with the support of Russian human-rights organisations in Moscow, 29–30 January 2007.



These mechanisms make it possible, in particular, to justify breaking into private homes, as can be seen from the examples of events in the North Caucasus.

Furthermore, the Law “On the Media” was also made more draconian, through the introduction of a prohibition on distributing material containing public appeals to engage in terrorist activities or publicly justifying terrorism. Whilst the Council of Europe’s Convention on the Prevention of Terrorism limits itself to a reference to “public incitement” to terrorist actions<sup>7</sup>, this provision of Russian legislation increases the opportunities for state censorship. Furthermore, an amendment to the Law “On Communications” gives the security services the right to obtain any information from telephone operators and Internet providers.

Finally, the anti-terrorist legislation enables the armed forces to be used outside Russian territory.

#### **I.1.4 The results of the fight against terrorism**

Until 2005, the results of the fight against terrorism that were presented by the FSB related mainly to fighters killed in Chechnya, including foreign nationals. In 2005, according to the FSB, 257 acts of terrorism were committed on the territory of the Russian Federation, of which 111 were committed in Chechnya and 77 in Dagestan. A year later, 152 acts of terrorism were recorded, of which 74 were in Chechnya and 77 in Dagestan. Finally, in 2007, according to the FSB’s calculations, 41 acts of terrorism were committed. In other words, there was a significant reduction in the number of officially recorded acts of terrorism. According to the FSB, 300 acts of terrorism prepared in Dagestan, Ingushetia, Chechnya and Stavropol were exposed and foiled. During that same year, 896 people were convicted of “crimes connected to terrorist and extremist activities”. Moreover, “the activities of a total of 150 terrorist and extremist organisations, 35 illegal armed formations, 6 foreign NGOs and 501 arms-trafficking groups were curtailed”<sup>8</sup>.

There has also been a clear reduction in the number of convictions for terrorist activities. In 2007, 35 people were convicted under Article 205 “Terrorism”), 54 under Article 207 (“Knowingly giving false information on an act of terrorism”), 5 under Article 277 (“Attempted murder of a politician or public figure”), and 59 under Article 208 (“Organising or participating in an illegal armed formation”)<sup>9</sup>.

The fight against the financing of terrorism is one of the main focuses of the Russian government’s anti-terrorist activities. This mission has been entrusted to the Federal Bureau for Financial Monitoring (*Rosfinmonitoring*), which has for a long time been headed by a close associate of Putin’s, V. Zubkov (in September 2007 he was appointed Prime Minister of the Russian Federation, a post he held for several months. For the purposes of the fight against the financing of terrorism, monitoring is conducted at several levels: the Russian government has drawn up “blacklists” of suspect individuals and organisations who are prohibited from accomplishing any financial transactions on the territory of the Russian Federation; all financial institutions must report transactions that seem suspicious to them; and special attention is devoted to unofficial transfers of funds, and to the activities of certain charitable foundations.

The official story is that the financial aspect of the fight against terrorism is going extremely well. Operations are carried out on the basis of a “blacklist”: in 2006 it contained over 1300 individuals against whom criminal proceedings had been instituted, and 21 organisations that had

7. Article 5.1 of the Council of Europe’s Convention on the Prevention of Terrorism, Warsaw, 16 May 2005: <http://conventions.coe.int/treaty/fr/Treaties/Html/196.htm>.

8. Source: the government website “Antiterror”: [http://www.antiterror.ru/to\\_prof/158880961?mode=print](http://www.antiterror.ru/to_prof/158880961?mode=print).

9. A list of the articles of the Criminal Code used in these proceedings can be found in Appendix I.

been prohibited from operating by a court ruling. In 2005 over 2500 cases concerning suspicious bank accounts were referred to the courts, i.e. five times as many as in the preceding year. The latest version of the “blacklist” was posted on *Rosfinmonitoring*’s website on 22 September 2008.

These results do not, however, reflect the entire range of judicial activities in the name of the fight against terrorism, since many cases are also brought under other articles of the Criminal Code, in particular under those dealing with the possession of weapons or drugs.

## I.2 List of terrorist organisations in Russia

Since 2003, there has been an official list of terrorist organisations. On 14 February 2003 the Supreme Court, ruling on an application from the Prosecutor-General supported by the State Duma, declared 15 organisations to be terrorist and prohibited them from operating in Russia. Later in 2006 another two were added to the list. Today, the procedure for declaring an organisation to be terrorist has become routine and commonplace: the FSB gathers information on Islamist movements and organisations and, if it believes that some of them are terrorist and pose a threat to the security of the Russian Federation, it can apply to the Public Prosecutor’s Office<sup>10</sup> for a ban on their activities. On the basis of the information obtained from the FSB, the Public Prosecutor’s Office can apply to the Supreme Court of Russia; if the Court deems the evidence submitted sufficient, it declares the organisation to be terrorist and prohibits it from operating on the country’s territory.

Despite the fact that the Supreme Court’s ruling was issued in 2003, the list of banned organisations was first officially published only in 2006 (by which time it already included 17) in the government daily newspaper *Rossiyskaya Gazeta*. The text of this ruling has still not been published. No other publications have any legal force. Yet *Rosfinmonitoring* (the executive body responsible for counteracting the laundering of the proceeds of crime) is drawing up its own list of suspicious parties, which can be accessed by any bank or lending institution.

There are three criteria for deeming an organisation to be terrorist:

- 1 – engaging in activities aimed at changing the constitutional system by violent, armed means (including by using terrorist methods);
- 2 – having links with illegal armed formations and other extremist organisations operating on the territory of the North Caucasus;
- 3 – belonging to or having links with organisations that have been deemed terrorist by the international community.

Thus the list does not include organisation that have been deemed terrorist at the international level if they are not directly threatening the security of the Russian Federation.

The following 17 organisations appear on the 2006 list<sup>11</sup>:

- The Supreme Military Majlisul Shura of the United Mujahedeen Forces of the Caucasus (the organisation to which Hattab and Shamil Basayev belonged, renamed the GKO-Majlisul Shura ChRI);
- The Congress of the Peoples of Ichkeria and Dagestan;
- Al-Quaïda;
- Asbat al-Ansar;
- Holy War (*Al-Jihad or Egyptian Islamic Jihad*);

10. The Public Prosecutor’s Office is staffed by criminal investigators and public prosecutors; it is headed by the Prosecutor-General.

11. This list was officially published in the government *Rossiyskaya Gazeta* on 28 July 2006: <http://www.rg.ru/printable/2006/07/28/terror-organizacii.html>.

- The Group of Islam (*Al-Gamaa al-Islamia*);
- The Muslim Brotherhood (*Al-Ikhwan al-Muslimun*);
- The Party of Islamic Liberation (*Hizb ut-Tahrir al-Islami*);
- Lashkar-i-Taiba;
- The Islamic Group (*Jamaat-i-Islami*);
- The Taliban Movement;
- The Islamic Party of Turkestan (*formerly the Islamic Movement of Turkestan*);
- The Society for Social Reforms (*Jamiat al-Islakh al-Ijtimai*);
- The Society for the Revival of Islamic Heritage (*Jamiat Ikhya at-Turaz al-Islami*);
- The House of the Two Saints (*Al-Haramein*);
- Islamic Jihad (*Mujahedeen Jamaat*);
- Jund ash-Sham.

According to a high-ranking FSB official, all of these 17 organisations are in one way or another linked to the extremist wing of the Muslim Brotherhood movement, which seeks to establish a global caliphate; its interim goal is to create a grand emirate in Central Asia and the Caucasus, which will become part of the caliphate<sup>12</sup>.

It should be noted that the list of terrorist organisations includes *Hizb ut-Tahrir al-Islami*<sup>13</sup>, even though there is no evidence of its being involved in terrorism.

### I.3 Anti-terrorist measures in the North Caucasus

At the regional level, it is in the North Caucasus that anti-terrorist measures pursuant to the 2006 law have been most extensively employed.

We should recall that in order to justify the military operations in Chechnya since 1999<sup>14</sup> the authorities have not cited the laws that were applicable (if only partially) to the situation and provided for restrictions on rights and freedoms, especially the 1991 Law “On States of Emergency”, the use of which is provided for by the 1993 Constitution (Article 88); the new version thereof, far less demanding than the old one with respect to openness and parliamentary control, was passed by the State Duma in 2001. The Law “On Defence”, for its part, provided for the introduction of martial law; an updated version thereof was passed in 2002.

At the start of the operation, the authorities confined themselves to citing Article 4a of Law № 1253/1 “On States of Emergency” in order to justify the concept of a counter-terrorist operation (CTO). But they mainly relied on Law № 130-FZ “On the Fight against Terrorism” of 25 July 1998, on Article 7 in particular, which provides for the use of the armed forces in the fight against terrorism outside a state of war. On close examination, however, the citing of the 1998 law appears unjustified, since that law does not match the nature of the operations conducted in Chechnya, namely large-scale punitive operations against, amongst others, the civilian population. Article 3 of that law, in particular, specifies that the area in which a counter-terrorist operation is to be carried out must be precisely defined.

12. See the interview with Yuri Sapunov, head of the FSB’s Directorate for Fighting International Terrorism, in *Rossiyskaya Gazeta*, 28 July 2006.

13. *Hizb ut-Tahrir al-Islami* (which translates as “the Islamic Party of Liberation” [sic], was founded in Palestine in 1953 by a judge at a sharia court of appeal, Takiuddin an-Nabhani, as a political party whose goal is to create a Muslim state in the form of a caliphate by persuading the population and converting it to Islam. The organisation renounces violence in the pursuit of this goal. Since the 1990s this ideology has spread rapidly in Central Asia, first in Uzbekistan, and then in Kyrgyzstan and Tajikistan.

14. In this report we will not touch on the “first war”, in 1994–96. The “first” war in Chechnya, which was officially presented as an operation to disarm illegal armed gangs and restore law and order and constitutional legality, was on 31 July 1995 declared by the Constitutional Court of Russia to be “an armed conflict of a non-international nature” that came under the 2<sup>nd</sup> Supplementary Protocol to the Geneva Convention.

In September 1999 the various military formations in Chechnya, the armed forces of the Defence Ministry, the Interior Ministry, the Federal Border Service (FBS) and the Emergencies Ministry<sup>15</sup>, as well as a detachment of the Central Directorate for the Execution of Sentences (CDES)<sup>16</sup>, were brought under the single command of the United Forces Grouping (UFG), the running of which was at the start of the military operations entrusted to the Defence Ministry. In January 2001 a new structure headed by the FSB, the Regional Operational Headquarters (ROH), took over the command of operations. In July 2003, when the authorities were trying to demonstrate that the situation in Chechnya had normalised and that what was going on there was ordinary policing, the ROH ceded its position to the Interior Ministry. In practice, however, the FSB has continued to play a key role in the management of operations: it should be noted that the two generals who were appointed to head the ROH in 2003 (Yuri Maltsev and Arkady Yedelev<sup>17</sup>) are FSB officials who were transferred to the Interior Ministry only the day before their appointment.

The general situation in Chechnya differs sharply from the federal situation on account of the policy of “Chechenisation”, the gradual transfer to the Chechen pro-Russian authorities of all administrative and law-enforcement powers, including the conducting of the fight against terrorism. The gradual integration of the various different Chechen “pro-Russian” militias into the “security services” (i.e. into the ranks of the “Kadyrovites”) began in 2005. In April 2006 the Anti-Terrorist Centre, which had existed *de facto* for many years, was legalised and integrated into the federal NAC. Two battalions, “South” and “North”, were attached not to the FSB but to the Interior Ministry; they are directly controlled by R. Kadyrov (President of the Chechen Republic). These two detachments were created as a counterbalance to the “East” battalion (the Yamadayev brothers’ group) and the “West” battalion (Kakiyev’s group), which are attached to the 42<sup>nd</sup> Motorised-Infantry Division of the Defence Ministry<sup>18</sup>. The considerable freedom of action granted to Kadyrov at the regional level, and the power with which the Chechen President has been endowed, give the republic under his control a degree of autonomy that is not enjoyed by any other subject of the Federation. The trend towards the “Chechenisation” of law-enforcement forces was confirmed in 2008, when a serious dispute arose between Kadyrov and the battalions of the Defence Ministry “East” and “West”; Kadyrov demanded that they be disbanded, and that the commander of the “East” battalion, Sulim Yamadayev, be arrested.

The law that was passed in 2006 places a legal foundation under operations that have in reality been being conducted since as long ago as 1999, seemingly inspired by the experience of conducting military operations in the North Caucasus and employing an extremely wide definition of terrorism. The law is more often cited for proposed goals than for actions as such, paving the way for the widest of interpretations.

Officially, the Regional Operational Headquarters (ROH), the United Forces Grouping (UFG) and the operational headquarters of the republics that are answerable to the local (republican) directorate of the FSB are still carrying out joint actions in the North Caucasus.

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15. It is not only the army that has heavy weapons at its disposal: the Interior Ministry, OMON, the Special Rapid-Response Detachment and the Federal Border Service (FBS) also have tanks and helicopters at their disposal.

16. In late 2004 to early 2005 CDES was reorganised into the Federal Service for the Execution of Sentences (FSSES).

17. Andrei Soldatov, “Russia’s Post-Beslan Counter-Terrorism Reform”, [www.agentura.ru](http://www.agentura.ru), September 2005.

18. See, for example, “Counter-Terrorism: Russian Practice”, a report by human-rights organisations for public hearings on problems of terrorism, counter-terrorism and human rights that were held by the International Commission of Jurists with the support of Russian human-rights organisations in Moscow on 29–30 January 2007 ([http://ejp.icj.org/hearing.php3?id\\_rubrique=16](http://ejp.icj.org/hearing.php3?id_rubrique=16)), and the joint report by the Memorial Human-Rights Centre and FIDH, “Torture in Chechnya: the ‘stabilisation’ of the nightmare”, November 2006, <http://www.fidh.org/IMG/pdf/Tchetchenie462frconjoint2007.pdf>.

One of the most important components of the 2006 law is the definition of a “zone of a counter-terrorist operation”. Experts have noted that there is often no logic in either the rhetoric or the actions of the authorities: sometimes the entire North Caucasus is declared a CTO zone and, consequently, subjected to all the aforesaid restrictions on rights and freedoms; sometimes the authorities carry out pinpoint operations in strictly defined locations that are temporarily declared a “CTO zone”<sup>19</sup>. Since late 2007, special operations within the framework of this legislation have been conducted particularly frequently in Ingushetia. We shall return to this issue in more detail in the second part of the report.

## I.4 International cooperation in the fight against terrorism

The fight against terrorism presupposes the development of international cooperation, which has indeed been undertaken by Russia and its principal partners: countries in both the West and Central Asia. Some of the mechanisms for such cooperation have existed since the early or mid-90s, in particular, within the framework of partnership with NATO. But it is indisputably the case that 9/11 was a critical moment for the development of this cooperation.

The Russian authorities, which had been subjected to criticism since late 1999 for the brutality of the military operations in Chechnya, found in 9/11 an *a posteriori* justification for their actions and were quick to take advantage of the international consensus that had formed around the subject of the fight against terrorism. Thereafter, Russia repeatedly declared that the fight against international terrorism had to become a priority for international organisations including at G8 summits, during which it tried to defend its interests and its worldview in the context of the fight against terrorism.

Following the 9/11 terrorist attacks, cooperation with NATO became particularly close. In May 2002, at a summit in Rome, the NATO-Russia Council was set up. One of the main focuses of its activities was declared to be the fight against terrorism, including the technical aspect thereof. Russia and NATO conducted several joint exercises, and Russia participated in NATO anti-terrorist manoeuvres in the Mediterranean in 2005. In late 2004, at a NATO-Russia summit in Istanbul, an action plan pursuant to a common annual strategic plan to prevent and counteract terrorism was adopted.

At the UN, Russia has been trying to play a political role, in particular within the Counter-Terrorism Committee that was set up within the Security Council after 9/11 pursuant to Resolution 1373 (2001). Russia, often supported by the USA, has been taking a “hard” position on anti-terrorism. This was demonstrated, in particular, at the 60<sup>th</sup> session of the UN General Assembly in 2005, where Russia attempted to block the creation of the post of UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

However, differences of opinion started to appear fairly quickly: the Russian authorities criticised the West for what it considered to be its too cautious approach to exposing a “global” enemy, and for its too selective attitude to different “terrorist” organisations. Within the UN Counter-Terrorism, disagreements very quickly arose in the Sanctions Department, which was set up pursuant to Resolution 1390 in January 2002: Russia failed to get a number Chechen movements included on the common list of terrorist organisations that were subject to sanctions, and its attempts to persuade the other members that every country could have its own list of such organisations were unsuccessful.

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19. Interview with L. Levinson and A. Soldatov, Moscow, 10 February 2008.

Disagreements on these matters have been especially sharp in relations between Russia and the European Union. Although the need to fight against terrorism has been asserted repeatedly by both parties, in particular, within the framework of the so-called “roadmaps” and the draft new Partnership and Cooperation Agreement between Russia and the EU, differences in their definitions of terrorism, and their different approaches to possible restrictions on the scope of the fight against terrorism taking human rights requirements into account, have prevented the emergence of a common policy.

The legal foundation for bilateral relations between the EU and Russia is the Partnership and Cooperation Agreement that was signed in 1997<sup>20</sup>. It sets a number of principal common objectives, defines the institutional framework for bilateral contacts, and calls for joint activities and dialogue in a number of areas. Due to various different obstacles, this agreement has not been renewed since 2006; currently, one of the preconditions for signing it is that the August 2008 conflict with Georgia be resolved.<sup>21</sup>

Since the report’s authors do not have at their disposal any information on operational actions within the framework of Russian-European cooperation in the fight against terrorism, they will deal solely with the institutional framework of that cooperation.

Following the 9/11 terrorist attacks, strengthening cooperation in the fight against terrorism became a priority of Russian-European relations. Despite differences of opinion on the definition of terrorism and the methods of combating it, the European Union and Russia issued several joint declarations on the fight against international terrorism and announced a strengthening of cooperation in that area.

In November 2003 an agreement was signed between the Russian Interior Ministry and the EU’s police force, Europol. The agreement was concerned with strategic cooperation, and was supposed to lead to a further agreement on operational cooperation enabling personal data to be exchanged. But negotiations on the second agreement have been delayed, since Russian legislation does not give sufficient guarantees of the protection of personal data. The passing by the State Duma in July 2006 of a federal law implementing the principles of the European Convention on Protecting Personal Data (which was adopted by the Council of Europe in 1981) should have enabled this problem to be resolved.

One could also mention the cooperation between the European Border-Control Agency (Frontex) and the Federal Border Service, and the contacts between the European Observatory for Drugs and Drug-Addiction and the Federal Department for Controlling Drug-Trafficking.

During the 15<sup>th</sup> EU-Russia summit on 10 May 2005, the leaders of the EU and Russia adopted a number of “roadmaps”, pursuant to a decision taken at the summit of 31 May 2003 to create in the long term, within the framework of the Partnership and Cooperation Agreement, a common freedom, security and justice area and an area of cooperation in the sphere of external security. These roadmaps define both the common objectives of the EU and Russia and the actions required to achieve them, and establish a medium-term programme of cooperation between Russia and the EU. The main principles of the document on freedom, security and justice are democracy, the rule of law, respect for human rights and fundamental freedoms (including the existence of free and independent media), and the implementation of common values through an independent justice system.

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20. The Partnership and Cooperation Agreement has been analysed by Anne Le Huérou: <http://www.europarl.europa.eu/activities/expert/eStudies.do?languageEN>.

21. It should be noted that these agreements contain a clause on human rights that is traditionally included in agreements between the EU and other countries: “Respect for democratic principles and human rights, as defined in particular in the Helsinki Final Act and the Charter of Paris for a New Europe, underpins the internal and external policies of the Parties and constitutes an essential element of partnership and of this Agreement” (Article 2, “Human-Rights Clause”, of the Partnership and Cooperation Agreement).

It is within this framework that cooperation in the fight against terrorism takes place. The “roadmap” on external security emphasises that Russia and the EU share responsibility for maintaining an international order based on effective multilateralism, and for working to strengthen the central role of the UN and of the competent international and regional organisations, in particular the OSCE and the Council of Europe. On the foundation of this cooperation, Russia and the EU will expand cooperation and increase dialogue on matters of security and crisis-resolution, in order to respond to new global and regional challenges and the principal threats to the threat of terrorism in particular.

On 15 April 2007 the European Union, the USA and Russia agreed to strengthen cooperation in the fight against terrorism. A high-level working party was to analyse cooperation between the three parties, including cooperation in putting an end to the opium trade in Afghanistan, which is seen as a source of financing for international terrorism.

On 15 October 2008 the Interior and Justice Ministers of Russia and France held talks in Paris on cooperation between the two countries in the fight against terrorism, cyber-crime and drug trafficking. The ministerial meeting took place within the framework of the Standing Council on EU-Russia Partnership working on the creation of a common freedom, security and justice area. The participants examined the implementation of the “roadmap” on freedom, security and justice, and discussed the implementation of the EU-Russia agreement on simplifying visa regulations that was signed, after lengthy debate, in May 2006. The next such meeting is due to be held in Russia in 2009<sup>22</sup>.

At the OSCE ministerial meeting in Porto on 6–7 December 2002 the participating ministers declared that the OSCE “must develop new responses to the changing nature of the threats to our security”, and that “our efforts to promote peace and stability must go hand in hand with our determination to ensure full respect for human rights, fundamental freedoms and the rule of law, and to reinforce the conditions essential for sustainable development in all our States”<sup>23</sup>.

As the next stage of the Action Plan for fighting against terrorism that was adopted at the previous meeting in 2001, the ministers gathered in Porto adopted the OSCE Charter on the Prevention of and Fight against Terrorism.

The OSCE’s Department for Fighting against Terrorism, which was set up in 2002, has become the coordinating centre for facilitating OSCE initiatives and building up potential in the fight against terrorism. In order to prevent human rights violations’ being committed when new anti-terrorist measures are being introduced, the OSCE’s Bureau for Democratic Institutions and Human Rights is running a number of training courses on this issue for senior officials of the relevant national structures.

Since the Russian Federation is a member of the OSCE, it is bound by that organisation’s obligations with respect to human rights (including civil and political rights) and the rule of law. However, the documents signed by Russia within that framework are not international legal agreements of a binding nature. They constitute, rather, political promises to abide by the OSCE standards cited therein.

It should be noted that relations between Russia and the OSCE are currently extremely tense, especially with respect to the OSCE’s requirements in the areas of human rights and democracy building.

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22. According to the Novosti press agency.

23. <http://www.osce.org/item/15866.html>.

### **I.4.1 Cooperation within the CIS in the fight against terrorism**

In 2004 Russia ratified the CIS Agreement on Cooperation in the Fight against Terrorism<sup>24</sup>. The provisions of this regional agreement take precedence over the domestic legislation of the Russian Federation.

The Collective-Security-Treaty Organisation (CSTO) was set up in May 2002. It included Russia and states that were “friendly” towards it: Armenia, Kazakhstan, Byelorussia, Tajikistan and Kyrgyzstan; in 2006, they were joined by Uzbekistan. In addition to the setting-up of an anti-terrorist centre in Bishkek in October 2002, the Collective-Security Treaty provided for a mutual-assistance pact in the event of aggression, the ability to deploy military units quickly in each country, and the holding of exercises for the purpose of the common fight against terrorism and against drug-trafficking from Afghanistan.

In his commentary on Russian legislation on terrorism, “Governance as a Counter-Terrorist Operation”, Lev Levinson of the Human rights Institute explains the threat that this Agreement represents to human rights. This document provides that an extradition procedure “initiated in response to a request shall be governed by the legislation of the responding party; however, the legislation of the requesting party may, if it so wishes, be applied, provided it is not at variance with the fundamental principles of the legislation of the responding party or with the international obligations thereof”. What worries Levinson is that this makes it possible, for example, for Russian law-enforcement agencies to apply, when responding to a request from the Byelorussian security services, the laws of Byelorussia, which are at variance with international human rights standards.

The Agreement also provides that “every party shall ensure the confidentiality of information and documents received from another party should that other party not wish them to be disclosed”. This could also lead to serious violations of human rights and civil liberties, since it makes it possible to use documents containing falsified information on, and to hide a political motivation for the criminal prosecution of, individuals whose extradition is being requested.

There is another point that is also worth drawing attention to: the Agreement (just like the Protocol approving the Regulations on the Procedure for Organising and Conducting Joint Anti-Terrorist Operations on the Territory of CIS Member States) guarantees diplomatic immunity for members of the law-enforcement agencies and security services.

Finally, the Agreement also refers to “individuals who represent a threat to the security of the State”. It can thus be used to target not just terrorists but also members of the opposition or representatives of civil society. Moreover, it gives members of the security services the right to detain and even assassinate political opponents outside their home countries if they have been officially declared to be terrorists.

### **I.4.2 The Shanghai Cooperation Organisation (SCO)**

The Shanghai Cooperation Organisation (SCO) is a standing interstate organisation, one of whose key objectives is to provide mutual security. It was created on 15 June 2001 by the Russian Federation, Kazakhstan, Tajikistan, Kyrgyzstan, Uzbekistan and the People’s Republic of China, when “the Shanghai Five”, a five-country structure set up in 1996, was joined by Uzbekistan. According to the SCO’s website, the organisation’s core objectives are “to strengthen mutual trust and good-neighbourliness between member states; to promote their

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24. See the official CIS website: <http://cis.minsk.by/main.aspx?uid=13748>.



effective collaboration in the realms of politics, trade, economics, science, technology, culture, education, energy, transport, tourism, environmental protection etc.; to jointly ensure and maintain peace, security and stability in the region; to work for the creation of a democratic, just and rational new international political and economic order”.

The SCO’s supreme, decision-making body is the Council of Heads of State (CHS). Working meetings are held by the Council of Heads of Government. Both councils meet once a year. The SCO has two standing bodies: the Secretariat in Beijing and the Executive Committee of the Regional Anti-Terrorist Structure (RATS) in Tashkent. The recent military operations in the South Caucasus exposed differences between Russia and the organisation’s five other members, which unlike Moscow did not condemn Georgia’s actions and did not recognise the independence of the republics of South Ossetia and Abkhazia.

Journalists of the “Agentura”<sup>25</sup> website stressed, at a meeting with the members of the mission, the important role played by the SCO (in the context of the unfolding of events since 9/11) in creating a regional “preventive action” structure following President Karimov’s closing-down of the American military base in southern Uzbekistan.

In the opinion of the Civic Assistance Committee’s experts, the agreements that have been concluded within the framework of the SCO have made the extradition of political refugees to member states of the “Shanghai Six” significantly easier. Since the SCO was set up “there has been a sharp increase in extraditions of refugees to the countries of which they are citizens, especially to Uzbekistan and China. According to human rights organisations in Kazakhstan and Kyrgyzstan, the same trend can also be seen in their countries.”<sup>26</sup> In practice, this means there has been increased cooperation between the police and security services of SCO member states, making it possible to “conduct manhunts for and then hand over to their countries of origin individuals who left them because of political repression”<sup>27</sup>. The normative basis for the extradition of political and religious refugees to member states of the organisation consists of a number principles and mechanisms. The countries of the “Shanghai Six” have undertaken, amongst other things:

- not to provide asylum to individuals accused or suspected of terrorist, separatist or extremist activities, and to hand over such individuals when asked to do so by another member state of the SCO<sup>28</sup>;
- to assist in conducting international manhunts for individuals who are said to have committed acts cited in the Shanghai Convention on the Fight against Terrorism, Separatism and Extremism for the purpose of instituting criminal proceedings against them<sup>29</sup>;
- to reciprocally recognise acts of terrorism, separatism and extremism, irrespective of whether or not the legislation of SCO member states includes the acts in questions in that category of crime or uses the same terms to describe it<sup>30</sup>;

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25. Agentura.Ru, a Russian website devoted to the security services, the intelligence services and the fight against terrorism, was set up in 2000.

26. “Agreements of the Shanghai Cooperation Organisation: the ‘legal’ basis for the extradition of refugees”; analytical report by the Civic Assistance Committee, August 2008.

27. *Ibid.*

28. Declaration of the Heads of State of the Shanghai Cooperation Organisation (Part III), Astana, 5 July 2005 (<http://www.sectsc.org/html/00500.html>), and the Convention on Cooperation between member states of the SCO in the Fight against Terrorism, Separatism and Extremism, Astana, 5 July 2005 ([http://www.kremlin.ru/interdocs/2005/07/05/1307\\_type72067\\_90911.shtml?type=72067](http://www.kremlin.ru/interdocs/2005/07/05/1307_type72067_90911.shtml?type=72067)).

29. Agreement between member states of the SCO on a Regional Anti-Terrorist Structure (Article 6, Part 8), St Petersburg, 7 July 2002 ([http://www.ecrats.com/ru/docs/read/agreement\\_ecrats](http://www.ecrats.com/ru/docs/read/agreement_ecrats)).

30. Convention on Cooperation between Member States of the SCO in the Fight against Terrorism, Separatism and Extremism (Section II, Part 3), Astana, 5 July 2005 ([http://www.kremlin.ru/interdocs/2005/07/05/1307\\_type72067\\_90911.shtml?type=72067](http://www.kremlin.ru/interdocs/2005/07/05/1307_type72067_90911.shtml?type=72067)).

- to create and keep a register of individuals for whom an international manhunt has been declared for committing, or who are suspected of having committed, crimes of a terrorist nature<sup>31</sup>.

Representatives and officials of the Regional Anti-Terrorist Structure (RATS) created by the countries of the “Shanghai Six” enjoy diplomatic privileges and immunity under the 1961 Vienna Convention on Diplomatic Relations<sup>32</sup>.

As a result of this cooperation, individuals who have fled Uzbekistan on account of religious persecution, and followers of the Falun Gong system of spiritual and physical improvement who are being persecuted in China, not only do not receive asylum in Russia<sup>33</sup> but are hunted by her security services, which employ all possible methods, including unlawful ones, to achieve the goal that is openly stated in the SCO agreement: to deport those individuals to their countries of origin for the purpose of instituting criminal proceedings against them.

The following methods, in particular, are employed:

- fabricating charges after a wanted individual has already been arrested in Russia, in order to bring them into line with the norms of Russian criminal law;
- revoking an immigrant’s Russian citizenship in order to remove obstacles to his extradition<sup>34</sup>;
- unlawfully replacing the official, fairly lengthy extradition process with a far simpler and faster system of administrative deportation. There is also a clear tendency to fast-track court hearings on appeals against administrative-deportation decisions: whilst there is normally at least a month between the filing of such an appeal and the date when it is considered in court, in the cases under review this gap is normally between 1 and 8 working days;
- the kidnapping of individuals on Russian territory, including by foreign security services, and their subsequent deportation to their countries of origin with the direct involvement of the Russian security services;
- ignoring instructions from the European Court to halt the deportation of suspects. Russia has on two occasions already in October 2006 and December 2007 violated instructions from Strasbourg not to deport applicants to Uzbekistan. In both cases, the Russian authorities pleaded that there had not been enough time to notify the competent officials. However, whilst on the first occasion the interval between the sending of a notification to Russia’s Representative at the European Court and the departure of the aeroplane carrying the applicant was around 5 hours, on the second occasion it was more than 24 hours.

There have also been instances of a direct violation of domestic legislation, in particular the deportation of individuals before the court rulings ordering the same had come into effect. It should also be noted that human rights organisations’ efforts to provide legal assistance to refugees whose extradition is being sought have recently been encountering stiff resistance. The security services try to conceal the detention of refugees and the locations of their detention.

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31. Convention on Cooperation between Member States of the SCO in the Fight against Terrorism, Separatism and Extremism (Section III, Part 5), Astana, 5 July 2005 ([http://www.kremlin.ru/interdocs/2005/07/05/1307\\_type72067\\_90911.shtml?type=72067](http://www.kremlin.ru/interdocs/2005/07/05/1307_type72067_90911.shtml?type=72067)).

32. Agreement between member states of the SCO on a Regional Anti-Terrorist Structure (Article 16, Part 1), St Petersburg, 7 July 2002 ([http://www.ecrats.com/ru/docs/read/agreement\\_ecrats](http://www.ecrats.com/ru/docs/read/agreement_ecrats)).

33. Thus, for example, according to the official website of the Federal Migration Service of Russia only 14 immigrants from SCO countries have been granted refugee status in the Russian Federation since 2005 (see [http://www.fms.gov.ru/about/ofstat/bezhenci\\_stat/ack\\_countries.php](http://www.fms.gov.ru/about/ofstat/bezhenci_stat/ack_countries.php)).

34. The extradition of Russian citizens is categorically prohibited by the legislation of the Russian Federation.

Consequently, lawyers do not have free access to such individuals, who are thereby deprived of the ability to exercise their right to appeal against the decision to deport them.

The scale of this problem can be seen from the statements of high-ranking Russian officials. For example, in March 2006 the Deputy Director of the FSB Sergei Smirnov stated, at the end of a meeting of the Council of the SCO's Regional Anti-Terrorist Structure: "This year, we have detained and deported to Uzbekistan 19 people involved in the activities of Hizb ut-Tahrir". Mr Smirnov was in fact confirming the unlawful nature of these 19 extraditions, since the taking of decisions to extradite individuals to foreign states falls within the exclusive competence of the Public Prosecutor's Office. The Public Prosecutor's Office, for its part, stated in response to a request from the Civic Assistance Committee for the names of the people who had been deported that it could not provide them, since it did not keep a record of them, which is patently absurd, since the extradition decision was taken individually for each of these 19 individuals, and could be appealed through the courts.

In November of that same year the Russian Interior Minister Rashid Nurgaliyev stated, in a speech to the State Duma, that "over the past year more than 370 emissaries of the international terrorist organisations Hizb ut-Tahrir and the Islamic Movement of Turkestan have been extradited from Russian territory". In the light of the extradition methods outlined above, and of the level of "soundness", more accurately, the complete *groundlessness* of the terrorism charges in the cases examined by the human rights organisations, it can be confidently concluded that the overwhelming majority of these 370-plus individuals were deported without going through the extradition procedure, and that they were not provided with the legally guaranteed opportunity to appeal against the decisions to deport them.

Furthermore, there has been a totally unlawful attempt to deport to his country of origin a citizen of North Korea, a country that does not have relations with the SCO. This example shows that the practice of the security services' taking unimpeded, unlawful actions based on agreements between SCO countries is spreading outside the "Shanghai Six".

## **I.5 Abuses committed in the fight against extremism**

The mission received information on abuses committed in the application of anti-extremist legislation, which human rights organisations believe is being used to encroach on freedom of speech. It should be noted that the legislation is vague and allows for extreme flexibility of interpretation, which could lead to human rights violations. We thought it important to examine both the legislation itself and the uses to which it has been put<sup>35</sup>.

Federal legislation in the sphere of the fight against extremism was passed in 2002. Its critics immediately drew attention to the extreme vagueness of the definition of extremist activity, which covers a fairly wide range of actions, from serious crimes such as terrorism to actions that are not even punishable under the Russia Federation's Code of Administrative Offences<sup>36</sup>. Various punishments are stipulated for acts of extremism: from shutting down, or suspending the operations of, an NGO or newspaper that has been declared by a court to be extremist, to 6 years' imprisonment. And an individual can get up to 5 years' imprisonment for public calls to engage in any extremist activity even if that activity is not deemed criminal (Article 280 of the Criminal Code).

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35. We shall focus, in particular, on the material submitted by the expert Alexandr Verkhovsky – the Director of the "SOVA" information-and-analysis centre (see <http://xeno.sova-center.ru/6BA2468/6BB4208/AC00A73> and <http://xeno.sova-center.ru/6BA2468/6BB4208/B577A2C>).

36. A code of offences prescribed by an administrative body that are punishable either by that administrative body or by a judge.

Initially designed to combat fascist, racist and ultranationalist groups, this law is often used against entirely different targets. We note, however, that it has recently started to be used more frequently against skinhead groups. For example, a 14-man gang, including 9 minors, has been tried in Moscow for two murders and nine assaults. The indictment and the sentence cited motives of “racial and ethnic hatred”. However, given the seriousness of the crimes committed the sentence was not especially harsh: the gang’s leader received 10 years’ imprisonment, whilst its members under the age of 18 got 3 to 9 years’ imprisonment in a youth reformatory<sup>37</sup>.

The law against extremism has generally led to unjustified restrictions on rights and freedoms, as is confirmed in a number of specific cases. The same outcome could have been produced by the adoption of later proposals to introduce amendments to it. On the one hand, they were aimed at making punishments more severe (even though no court had yet imposed the maximum punishments envisaged by the relevant articles of the Criminal Code for such crimes); on the other hand, it was being proposed that the concept of a hate crime be expanded, namely that the initial definition, of a crime motivated by racial, ethnic or religious hatred, be widened to include hatred and enmity of a political, ideological or social nature.

An amendment was also proposed criminalising the justification of extremist activities. If these amendments had been adopted, they could have been used against any social-protest movement. Moreover, the draft amendments proposed adding to the Russian Federation’s Code of Administrative Offences an article on the distribution of extremist material.

On a positive note, it was proposed that the publication of lists of organisations that have been closed down or banned for extremist activities be made compulsory; in the absence of such lists, citizens have no way of knowing whether or not an organisation has been deemed extremist.

Anti-extremist legislation has also created a legal foundation for the prosecution of religious groups, mainly Muslim ones. Fairly easy to use, since it can be targeted against both written and spoken expressions of opinion, i.e. against intentions rather than actions, the law on fighting against extremism has proved extremely effective for prosecuting Muslim organisations<sup>38</sup>. The list of “banned” extremist publications gets bigger every day: it even includes any texts entitled “The Foundations of Islam”, with no bibliographical details of any kind. The impression is created that the State has, through this law, created a mechanism of political and ideological control that is extremely damaging to freedom of speech and freedom of religion.

For example, the FIDH/Civic Assistance Committee mission established that this legislation has wrongfully been used against the followers of Saïd Nursi, Russian translations of whose works have been declared extremist literature (which has provoked numerous protests in Russia, including by Russia’s Human rights Commissioner, V. Lukin).

The mission also found it worrying that in cases relating to written material (books, newspapers, leaflets) there is systematic recourse to religious, linguistics, psychological etc. experts presented solely by the prosecution, whilst the defence’s petitions to appoint experts are almost always rejected.

The mission also familiarised itself with cases of abuses in the use of anti-extremist legislation, in particular, for the purpose of encroaching on freedom of speech (for example, the criminal prosecution of Yuri Samodurov cited below).

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37. Press release from the SOVA centre, 22 September 2008.

38. Anti-terrorist and anti-extremist measures can overlap. The anti-extremist legislation is easier to use for prosecuting suspects for their presumed intentions.

Meanwhile, following a number of scandals and a radical revision of the amendments proposed in 2006, the reform of the anti-extremist legislation continued in 2007 right up until the new legislation came into force on 12 August 2007. We shall now examine the most significant changes that it underwent.

A definition of a “hate crime” was introduced; Article 63 of the Criminal Code was expanded: to the aggravating circumstances of racial, ethnic and religious hatred were added hatred of a political and ideological nature and hatred towards “a particular social group”. These changes could result in stiffer punishments for minor offences committed, for example, during political events. Moreover, the definition of “a social group” is extremely imprecise, and seems of little use in judicial practice. This new definition of a hate crime is applicable to a whole range of crimes and offences of a growing number that can now be more severely punished, since hatred as a motive for committing a crime constitutes a circumstance aggravating the guilt.

For example, the concept of “hooliganism” has been given a new definition: it is now “a gross breach of public order, expressing overt disrespect for society, committed using weapons or objects that can be used as weapons (Paragraph “a”), or for motives of political, ideological, racial, ethnic or religious hatred or enmity, or for motives of hatred or enmity towards any social group (Paragraph “b”)<sup>39</sup>. This definition covers any displays of social, political or ideological protest, to which the term “hooliganism” has indeed started to be applied. Possible punishments can thereby be more severe.

It is the same with the concept of “vandalism”<sup>40</sup>: in the absence of an aggravating circumstance such as hatred, a person accused of vandalism does not face a possible prison sentence, but someone who, say, writes political slogans on administrative buildings can henceforth end up behind bars.

The anti-extremist legislation authorises the tapping and recording of telephone conversations if an individual is suspected of committing “low-severity” crimes, which include most crimes and offences, including extremist ones.

It should be noted that the expansion of the concept of hatred “for political and ideological” motives does not affect Article 282 of the Criminal Code: incitement of political and ideological hatred is not a crime<sup>41</sup>. Nevertheless, hatred of a political and ideological nature can be deemed an aggravating circumstance of any other crime appearing in the Criminal Code. The amendments to the law have enabled extremist activities to be defined more precisely. They set out a list of motives (in accordance with Article 63 of the Criminal Code). The anti-extremist legislation thus aims to eradicate any crimes or offences of an ideological nature (in the widest sense), which include both offences committed for “traditional” motives of hatred (racial, ethnic, religious) and some other offences. A number of clauses were removed from the law, either because they were deemed too imprecise or vague or because they already appeared in other laws. We note that some crimes to which the anti-terrorist legislation is more applicable have been removed from the sphere of anti-extremism, which should simplify the legal situation (if only at the level of the legal text): crimes such as membership of an illegal armed formation, attempted murder of a politician or public figure, etc.

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39. Article 213 of the Criminal Code. “Hooliganism” appears amongst the articles devoted to breaches of public safety, rather than amongst those devoted to offences against the person or property.

40. Article 214 of the Criminal Code envisages punishment for defacing buildings or other structures, and for damaging property on public transport or in other public places.

41. Article 282 – incitement of hatred or enmity, and degrading human dignity: Section 1: “actions aimed at inciting hatred or enmity, and at degrading the dignity of a person or group of persons on the basis of sex, race, nationality, language, origin, attitude to religion, or membership of any social group, committed publicly or through the media”. We note that, unlike incitement of hatred for political or ideological reasons, incitement of hatred towards a particular social group has appeared in the wording of Article 282 since 2003.

It should be noted, moreover, that justifying extremist activities is no longer deemed extremism; the defenders of extremists are now not automatically deemed extremists.

Finally, we note that the prohibition on impeding the lawful activities of the government is henceforth extended to the same actions directed against local authorities, voluntary associations, and religious and other organisations; that provocations by police officers are unequivocally prohibited; that the publication of lists of organisations that have been banned or closed down for extremist activities is mandatory (even if the publication in question has no editor-in-chief, which might explain the failure to publish); that the distribution of material that has been declared extremist by a court is an offence only in the event of mass distribution (the law does not, however, provide a definition of “mass”). In connection with the last point, the list of material declared extremist by a court that was first published by *Rossiyskaya Gazeta* in July 2007, and that has been constantly updated ever since, is an official document that can constitute grounds for the criminal prosecution of individuals for distributing material included therein.

Although the text of the new law seems legally sounder and practically applicable, and contains (despite some shortcomings) fewer prohibitions posing a threat to fundamental freedoms and rights, vigilance is required to ensure that the “hatred” motives that were added to the Criminal Code do not lead to abuses (such as the examples of “hooliganism” and “vandalism” cited above). It is obvious that judges have a very wide – too wide – freedom to interpret it<sup>42</sup>. In any case, even if prosecutions do not always end in individuals’ being sentenced to imprisonment, this law facilitates the creation of a climate of intimidation, aggravating the situation still further<sup>43</sup>.

Special mention should be made of the use of the vague concept of “cautions about the impermissibility of violating anti-extremist legislation” that are issued to organisations and the media. In particular, one such caution was issued in 2006 to the society “Memorial”, which had published on its website a mufti’s opinion that some of the texts distributed by Hizb ut-Tahrir al-Islami were not of an extremist nature.

The legislative acts under examination legalised a practice that had already existed for many years, in particular in the conditions of the Chechen conflict. They are also being used to significantly strengthen punitive measures, especially against specific groups such as certain Muslim communities. The propaganda that accompanied the Chechen war played a vital role in spreading a negative image of Islam, which was associated with the “Wahhabist” threat. It was accompanied by cooperation within the framework of the Shanghai Cooperation Organisation (SCO) with authoritarian states hostile to so-called “non-traditional” Muslim movements (in particular in Uzbekistan), and by a general international atmosphere of suspicion of Islam. As a result, in both the North Caucasus and other regions of Russia, in the Volga-Urals Region, in particular, a politics ever more aggressive towards Muslims took shape.

In the next part of the report we will examine cases illustrating abuses of the norms of anti-terrorist and anti-extremist legislation, as well as numerous human rights violations committed in the administration of “ordinary” justice when applying the Criminal Code and the Code of

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42. Ella Pamfilova, Head of the Presidential Council on Promoting the Development of Civil-Society Institutions and Human Rights, stressed in her meeting with the mission that the President and the federal authorities have deep respect for fundamental human rights. In her view, the shortcomings that can be observed in law-enforcement practice are explained by the lack of experience and resources at the lower levels of judicial and executive bodies, whose officials may not fully understand the importance of respecting fundamental rights. Nevertheless, various different sources point out that training seminars, meetings etc. aimed at improving their skills are regularly held for officials at all levels of such bodies.

43. We recall the case of the blogger Savva Terentyev, who was given a suspended 1-year prison sentence by Syktyvkar City Court (Republic of Komi) on 7 July 2008 for inciting hatred towards a particular social group (Article 282, Paragraph 1, of the Criminal Code) for opinions expressed in his blog that were deemed to be insulting to the police.

Criminal Procedure, which were amended at the same time as the anti-terrorist legislation was adopted. The texts of the various articles of the Criminal Code that were used in these cases can be found in Appendix I. In the following sections we shall individually describe cases connected to the prosecution of various Muslim groups that were initiated under the guise of anti-terrorism and/or anti-extremism, and other criminal cases of a political nature.

# II “Keeping order” in the North Caucasus

## II.1 The North Caucasus: the spreading of conflict beyond Chechnya

Chechnya and the entire North Caucasus are the first and most revealing examples of the systematic application of the legal mechanisms of the fight against terrorism, from the wide geographical and temporal definition of a “zone of a counter-terrorist operation” to the bringing of criminal cases on fabricated charges in Chechnya and policing operations in Kabardino-Balkaria and Ingushetia.

The fight against terrorism and extremism has become one of the main concerns of the authorities throughout the region, and consists in prosecuting individuals professing a so-called “non-traditional” Islam that is followed, according to the authorities, by the Chechen armed resistance. Both anti-terrorism and anti-extremism are being used to strengthen repressive methods of policing, and of political and social control.

The mechanisms and methods of the “anti-terrorist operation” in Chechnya, and the human rights consequences thereof for the civilian population of the region, have been described many times by various Russian and international human rights organisations, in particular in various reports by FIDH, most of them produced jointly with the Memorial Human rights Centre<sup>44</sup>.

In this report we shall limit ourselves to revealing some facts and events connected to the unlawful application of the new anti-terrorist legislation, which is leading to an increase in the number of legal cases fabricated on the basis of terrorism charges in Chechnya and the neighbouring republics of Ingushetia and Kabardino-Balkaria.

The state of affairs in Dagestan is particularly worrying, but the complex situation in that violence-ridden republic is not covered in this report. A typical case can, nevertheless, be cited: that of the Dagestan village of Gimra, which was placed under a CTO regime for several months, during which time (the winter and autumn of 2008) the entire village was completely cut off from the outside world<sup>45</sup>. More detailed information on the situation in Dagestan can be found in the reports of the Memorial Human rights Centre<sup>46</sup>.

### II.1.1 Chechnya: increasing numbers of fabricated criminal cases on charges of terrorism

Given the legal mechanisms that existed prior to 2006, charges and sentences pronounced against the inhabitants of Chechnya were based mainly on Article 208 of the Criminal Code (“Organising or participating in an illegal armed formation”) rather than on Article 205.2 (“Terrorism” up to July 2006). The 2006 anti-terrorist legislation, with the introduction of the “legal regime of a counter-terrorist operation”, legalised practices such as increasing the period of time for which a person could be detained without charge and conducting searches

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44. “Torture in Chechnya: Stabilisation of the Nightmare”, FIDH-Memorial, 2006–2007; “Parliamentary Elections in a Climate of Fear”, FIDH *et al.*, 2005; “Chechnya. Normalisation: a Deceitful Discourse” March 2003; “Chechnya, Terror and Impunity: an Planned System”, FIDH *et al.*, 2002.

45. <http://www.kavkaz-uzel.ru/newstext/news/id/1203843.html> and <http://www.zaprava.ru/content/view/1227/2/>.

46. <http://www.memo.ru/2008/10/16/1610081.htm> and other reports, [www.memo.ru](http://www.memo.ru).



without a warrant, practices that had been, however, already employed prior to 2006. As a result, it has become much more difficult for human rights activists and lawyers to expose abuses committed after that law came into force. Yet even it does not permit torture and abuse, which continue to be widely practised in this region.

The mission's members met with the lawyers Abu Gaitayev, who practises in Moscow, and Mahomed Abubakarov, who works in the Chechen Republic. Messrs Gaitayev and Abubakarov have been defence counsel in a number of cases in which fabricated charges were based on testimony obtained under torture that was "legalised" by the new anti-terrorist legislation. Many of these criminal cases were investigated by the Second Operational Investigative Bureau (ORB-2), which is notorious for the brutality of its methods including the use of torture to obtain testimony<sup>47</sup>. Not infrequently, after a suspect has been arrested his relatives and lawyers are unable to find out immediately where he is being held. It is usually during this period that he is interrogated and forced to sign a confession under torture. Subsequently when the detention is officialised (sanctioned by the Public Prosecutor's Office) and the court has handed down a prison sentence it is too late for the detainee to withdraw his initial testimony. This makes the lawyers' work much harder, since it is extremely difficult and often impossible, to prove that this testimony was obtained from the detainee through illegal methods.

One fairly rare example of when it *has* been possible to do this is the case of Ali Techiyev. Ali Techiyev was accused of terrorism and possession of weapons, but was acquitted by the Supreme Court of the Chechen Republic on 12 December 2006.

Techiyev was arrested on 30 November 2005, having been given a suspended sentence that September for involvement in an illegal armed formation. He always denied these charges, and his confession had been obtained under torture. This time, Ali Techiyev was accused of participating in a 2004 attack on Grozny. On 17 November 2006 the Public Prosecutor asked for a sentence of 17 years' imprisonment. With the help of the Memorial Human rights Centre and lawyers, Techiyev was able to gather sufficient evidence to prove that his initial testimony had been obtained under torture and that the trial itself had been marred by numerous violations, including violation of the right to a defence.

A method widely employed by investigators consists in summoning a lawyer from the Public Prosecutor's Office, who signs the record of the interrogation, thereby giving the appearance of legality to testimony obtained from the detainee under pressure, and offers his "services" to his relatives, attempting to persuade them to come to a "financial arrangement" with the justice agencies, in other words, to put it bluntly, he advises them to pay for the prisoner's release or a more lenient sentence. The Chechnya Bar has expelled two lawyers who were well known for doing this, and for regularly collaborating with the Second Operational Investigative Bureau (ORB-2); but that does not happen very often.

The 2006 legislation permits "special operations" to be conducted in broad daylight in town centres, even without evacuating residential buildings. The mission talked with an eyewitness to an operation that was conducted on 31 December 2007 in a block of flats in Grozny. A flat was shelled, three people were killed, and their bodies were taken away by the security forces, acting under anti-terrorist legislation that allows them not to hand over the bodies of dead terrorists (or of those whom they have "designated" as terrorists) to their families for burial.

In criminal cases of the category under examination, it is normally articles 205, 317 and 222 that are used. Until 2005, it was routine practice to double the penalty if an individual was being charged with more than one act of terrorism. The Bashirov, Abubakarov and Mizayev cases were rare exceptions that proved the rule.

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47. See, for example, "Torture in Chechnya: Stabilisation of the Nightmare", *op. cit.*

## II.1.2 Ingushetia

In Ingushetia, a neighbouring republic to Chechnya, the situation, already extremely tense for several years, deteriorated significantly in 2007–2008, becoming even more dangerous and bloody than in Chechnya.

Whilst the spreading of special operations being conducted in Chechnya to Ingush territory could be observed after M. Zyazikov (a former FSB General and a close associate of Putin) came to power in the republic in 2002 (numerous kidnappings of Chechens who had crossed over into Ingushetia by various different security services, both Russian and pro-Russian Chechen), in 2007 the conflict acquired its own specific character.

It is typified, on the one hand, by armed attacks by groups of Ingush fighters, often radicalised young men, on police officers and administration officials, and on the other hand by an increase in the number of “special operations” conducted by law-enforcement agencies against the civilian population of Ingushetia. The victims of all this have included close relatives of suspects, citizens who have tried to protest against the authorities’ repressive policy during peaceful demonstrations, and people who were simply in the wrong place at the wrong time.

The current legal framework (see above) makes it possible to “lawfully” conduct punitive operations, which have become more frequent in the process of conducting the anti-terrorist operations provided for, in particular, by Article 11 of the new law. As a result, tragedies are not uncommon: for example, in the course of a special operation in November 2007 a 6-year-old boy, Rahim Amriyev, was killed, and in February 2008 FSB agents set fire to the house of the brother of a wanted man in order to force that man to come to the assistance of his relatives and then arrest him.

The increasing tension and the inaction, at best, of the civilian authorities of Ingushetia, or even their approval of such practices of the security services, have provoked a wave of protests and mobilised the population. However, all attempts to demonstrate peacefully and lawfully have been brutally suppressed.

It is in these conditions that the anti-terrorist legislation has been directly applied.

In January 2008, on the day before a protest rally against arbitrary arrests and the torture of detainees that had been announced by its organisers, in accordance with the law<sup>48</sup>, the security services decided, having made attempts to prevent the rally’s being held, to declare part of the republic’s territory a “CTO zone” including the centre of its capital, Nazran. Their actions were thereby placed within a legal framework. The rally nevertheless went ahead as planned on 26 January. It ended in violence and destruction including a fire in the building of the local newspaper “Serdalo”.

In February many opposition leaders were arrested, including Maksharip Aushev, Musa Aushev and Ruslan Hazbiyev. They were charged with participating in riots and setting fire to the newspaper building. The criminal case against the alleged participants was referred to the Supreme Court of Ingushetia on 19 February 2009.

The CTO regime was officially terminated on 3 February 2008. Yet “special operations” on the basis of the anti-terrorist legislation are still being conducted in Ingushetia on an almost daily basis<sup>49</sup>, and are still provoking popular discontent and retaliatory punitive meas-

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48. In Russia, the law provides merely that notice must be given of the holding of any rallies and demonstrations. In practice, however, whether in the North Caucasus, Moscow or anywhere else in the country, the authorities often ban demonstrations or demand that their routes be altered, asserting, for example, the demonstration poses a threat to public safety.

49. Lenta.ru: Novosti: <http://lenta.ru/news/2008/09/15/militia/>.

ures by the authorities, which deliberately conflate political and social discontent with armed insurgency<sup>50</sup>.

In 2007 a regional NGO based in Nazran, the Chechen National-Salvation Committee (CNSC)<sup>51</sup>, became the target of accusations of extremism: in August 2007 the FSB, suspecting that the CNSC was receiving financing from foreign extremist organisations, initiated an extraordinary inspection of its activities by the Federal Registration Service's Directorate for the Republic of Ingushetia. These suspicions were made public in April 2008 in the course of hearings at a district court in Nazran that was considering a complaint by the organisation against the unlawful extraordinary inspection. A letter from the Head of the FSB in Ingushetia, Igor Bondaryov, stated: "*According to information received, the CNSC is using the cover of activities in defence of human rights to pursue goals different to those stated in its constituent documents: representatives of the CNSC are gathering negative material on the socio-economic and political situation in Ingushetia, which is then published, in deliberately distorted form, on the website Ingushetia.ru*". On the grounds that the Chechen National-Salvation Committee was "*the recipient of grants from international structures*", the FSB colonel did not rule out the possibility that "*it was receiving funds from foreign extremist organisations*", which could be revealed by the inspection.

In the summer of 2008 Ingushetia again became a focus of the "fight against extremism", as a result of which the events surrounding the website "Ingushetia.ru" took a tragic turn. This independent information resource, which published true information on cases of punitive measures and torture used by the police and federal authorities against the civilian population, was closed down on 6 June 2008 by the Kuntsevo District Court in Moscow<sup>52</sup>. The court terminated its activities in response to a claim so to do from the Public Prosecutor's Office of Ingushetia, which believed that the website was disseminating information of an extremist nature. The website's representatives have filed an appeal against the court's ruling terminating the activities of the internet resource.

At the same time as the proceedings against the website, prosecutions were launched of its owner Mahomed Yevloyev and its editor-in-chief Roza Malsagova. Several criminal cases were brought against the latter. In the opinion of her lawyer Kaloi Ahilgov, these cases "*were undoubtedly connected to her activities at the website Ingushetia.ru*"<sup>53</sup>. In early August Roza Masalgova left Russia and requested political asylum in France.

On 12 August 2008 the Moscow City Court upheld the ruling of the Kuntsevo District Court that the activities of the website "Ingushetia.ru" were illegal. Roza Malsagova, who was in Paris at the time, declared that the website would continue working despite the court's ruling.

On 25 September 2008 workers at the website "Ingushetia.ru" received a letter from the Regional Centre for the Registration of Internet Domains informing them that, following the entry into force of the ruling of the Kuntsevo District Court, the right to use the domain had been withdrawn from them<sup>54</sup>. It should be noted that Ingush internet-providers had in fact already started blocking access to the website in April 2007.

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50. We recall that other demonstrations had already been brutally put down – for example, on 24 November 2007. The day before, a serious incident had occurred in Nazran: three journalists from a REN-TV film crew and a representative of the Memorial Human-Rights Centre, Oleg Orlov, were dragged out of the "Assa" hotel in the middle of the night and taken outside the city, where they were beaten up, threatened with death and then dumped on a deserted country road. See the FIDH statement "Intimidations et violence délibérée" ("Threats and Deliberate Violence"), <http://www.fidh.org/spip.php?article4972>.

51. <http://www.kavkaz-uzel.ru/articles/134455>.

52. <http://www.kavkaz-uzel.ru/newstext/news/id/1220464.html>.

53. <http://www.kavkaz-uzel.ru/articles/140389>.

54. <http://www.kavkaz-uzel.ru/newstext/news/id/1229662.html>.

On 31 August 2008 Mahomed Yevloyev, who knew that Ingushetia was unsafe for him yet risked entering the republic, died while in the hands of the police who had arrested him when he got off the aeroplane. The finding of the official inquest, pronounced immediately after Yevloyev's death, was that it has been an accident, the result of an accidental shot. The Ingush public, and Russian and international human rights organisations, expressed serious doubts about this and demanded an objective and impartial investigation into the circumstances of Yevloyev's death<sup>55</sup>, which had shaken the whole of Ingushetia.

Under public pressure the authorities, which had at first attempted to draw a line under the whole affair, were forced to deal with it more seriously. In November 2008 Nazran District Court ruled that the arrest of Mahomed Yevloyev had been unlawful, and that it had been carried out in violation of the norms of the Russian Federation's Code of Criminal Procedure<sup>56</sup>. The accused's counsel petitioned for the trial to be moved to another region of Russia, but in April 2009 the republic's Supreme Court ruled that the case had to be heard in Ingushetia, the place where the crime was committed.

The unrest provoked by this murder was clearly one of the factors that led to the replacement of the republic's leader: in October 2008 Murat Zyazikov, who had been President for over 6 years, was replaced by Yunus-Bek Yevkurov<sup>57</sup>.

### II.1.3 Kabardino-Balkaria

In the republic of Kabardino-Balkaria, too, especially since 2005, there has been an ever more tense situation characterised by a policy of systematic punitive measures against Muslim communities. Many members of these communities have been arrested and tortured, and some have been killed without either a trial or an investigation. It is in these extremely tense conditions that the tragic events in the republic's capital, Nalchik, occurred in October 2005.

On 13 October 2005 armed groups attacked a number of government buildings in Nalchik. According to the Russian authorities, these attacks were carried out by extremist fighters led by Shamil Basayev, with the aim of destabilising the foundations of the State. These actions were presented as the latest stage in Basayev's strategy of subversion following the destabilisation of Chechnya. After the events of 13 October, numerous citizens were arrested and imprisoned<sup>58</sup>.

The defence presented an entirely different version of events, stating that the attack was a reaction to the policy of punitive measures against Muslims accused of "wahhabi-ism" that was being pursued by the authorities of Kabardino-Balkaria, and in particular by the Interior Ministry, which for a long time had been headed by H. Shogenov. This policy was expressed in the closing-down of mosques, arrests, and the humiliating and degrading treatment of numerous Muslims targeted for persecution.

The new anti-terrorist legislation has facilitated these kinds of punitive measure: the concept of a "special operation" that it introduced has legalised actions that were already being taken but that were until then deemed unlawful.

The mission's members met with a lawyer acting as defence counsel in the criminal cases that were initiated following the events. Of the 59 such cases, the mission familiarised itself with the particularly significant case of Rasul Vladimirovich Kudayev, a disabled former

55. See the statement by Russian human-rights organisations on the general deterioration of the situation throughout the North Caucasus region, <http://www.memo.ru/2008/09/09/0909081.htm>.

56. <http://www.kavkaz-uzel.ru/articles/153234><http://www.kavkaz-uzel.ru/articles/153234>.

57. See the Memorial Human-Rights Centre's report on the situation in Ingushetia, "The situation in the conflict zone in the North Caucasus: the assessment of human-rights activists. Winter 2008/09", <http://www.memo.ru/hr/hotpoints/caucas1/index.htm>.

58. "Kabardino-Balkaria: on the road to catastrophe. The preconditions for the attack in Nalchik on 13–14 October 2005", Memorial Human-Rights Centre, Moscow, 2008, and other reports by the Memorial Human-Rights Centre, [www.memo.ru](http://www.memo.ru).

Guantanamo detainee. On the day of the attack, he was at home on a drip feed, as is confirmed both by friends of his who saw him on that day and by Moscow journalists with whom he was talking on the telephone. Nevertheless, on 23 October 2005 he was arrested in his home on suspicion of participating in the attack on the “Hassania” highway-patrol station. He was beaten and tortured in “Section 6”<sup>59</sup>, in an attempt to force him to confess to his involvement in the attack of 13 October (the details of this case can be found in Appendix II).

## **II. 2 Two symbolic cases: Zara Murtazaliyeva and Zaurbek Talhigov**

### **II.2.1 The Zara Murtazaliyeva case**

The Zara Murtazaliyeva case is a glaring example of the spreading to other regions of Russia of the abuses and fabrication of charges seen in the fight against terrorism in Chechnya.

Zara Hasanovna Murtazaliyeva was born on 4 September 1983 in the village of Naurskaya, in the Naurskaya region of the Chechen-Ingush Autonomous Soviet Socialist Republic. In 2003, following the death of her father, Zara, a third-year student at Pyatigorsk Language University, was forced to transfer to a distance-learning course in order to work and help her mother support the family, since her younger sisters had finished school and also wanted to get a higher education. The 20-year-old Zara moved to Moscow where, thanks to her good knowledge of English, she soon found a job in an insurance company.

Shortly thereafter, she made the acquaintance of two young Moscow women who had recently converted to Islam, Anya and Dasha. The girls became friends, and since Anya and Dasha wanted to live away from their parents they decided to move in with Zara.

The friendship between the Moscow girls and the Chechen girl was noticed by the security services that were watching Zara. The independence of the young Chechen girl and the fact that she had come to Moscow unaccompanied by any relatives, which were out of keeping with the traditions of her people, had attracted the attention of the security services. An officer from the Organised-Crime Directorate (OCD), Saïd Akhmayev, was ordered by his superiors to start taking Zara under his wing. He helped her when she was detained one day by the police in order to check her registration, and then started looking after the girl and her friends in all kinds of ways. He offered the girls a “free” flat which, as it subsequently turned out, had been crammed full of bugs and hidden video cameras.

The security services kept the girls under constant surveillance for more than two months, observing their every word and move; Zara was tailed continuously, even in the streets. Nevertheless, nothing reprehensible was revealed: there was nothing in Zara’s friendships, meetings and conversations that was of any interest to the security services. Later, during the trial, the public prosecutor would play many hours of recordings made in Zara’s flat, including conversations amongst the girls about future marriage and songs by Vysotsky and the Chechen bard Timur Mutsurayev, in a vain attempt to find anything to substantiate the charges. The tapes did contain some expressions of opinion of interest in two or three conversations about Chechnya, but they always came from Anya and Dasha. The facts showed that Zara was not involved in any violations of the law.

In the meantime, the court-sanctioned wiretapping period had expired without the intense surveillance’s having produced any results. And then, on 4 March 2004, the police detained

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59. A department of the Organised-Crime Directorate specialising in the fight against terrorism.

Zara to check her documents as she was leaving work in central Moscow, in Chinatown. Even though she had her passport on her, she was taken to a police station in the outlying district of Vernadsky Avenue to establish her identity. Once there, she was fingerprinted and given to believe that she was to be released. However, when Zara came back from the toilet after washing her hands she noticed that her bag had become bulkier. Zara refused to open the bag; this was done by police officers, who “discovered” in it some explosives wrapped in foil. In the absence of any other evidence, these two small packets (which were not even tested for Zara’s fingerprints), the recordings of Timur Mutsurayev songs and photos of the “Okhotny ryad” shopping centre, which the girls had visited early in the New Year, constituted the “evidence” demonstrating that she intended to commit an act of terrorism and involve her two girlfriends in it.

The criminal case against Zara Murtazaliyeva was at first brought under Article 222 of the Criminal Code of the Russian Federation for the unlawful acquisition, storage and transportation of explosives.

An investigation was launched by the Public Prosecutor’s Office of Nikula District, Moscow, but due to the “particular significance” of the case it was transferred to the Department for the Investigation of Murders and Banditry of the Moscow Public Prosecutor’s Office, and then to the FSB’s Directorate for Moscow and Moscow province. According to information received by the mission, Anya, Dasha and their parents were forced, under threat of the girls’ “ending up in the dock alongside Zara”, to testify that Zara had been urging them on to commit acts of terrorism.

In October 2004 Anya’s mother asked human rights organisations for help, complaining of threats and pressure on her and her daughter from the agencies in charge of the investigation. But her complaint to the Public Prosecutor’s Office went unanswered.

Zara’s mother related that she had had problems with the first lawyer, who had turned out to be an extortioner. This lawyer had demanded a large sum of money in exchange for the promise of a satisfactory court ruling, on condition that Zara pleaded guilty. In order to get rid of him, Zara’s mother had had to pay him a “penalty”.

The case was considered by Moscow City Court, with Judge Marina Komarova presiding. On 17 January 2005 she pronounced a verdict finding Zara Murtazaliyeva guilty of “preparing for terrorism” (Articles 30(1) and 205(1) of the Criminal Code), of “involving others in the commission of crimes of a terrorist nature” (Article 205-1(1) of the Criminal Code), and of “unlawfully acquiring and storing explosives” (Article 222(1) of the Criminal Code), and sentenced her to 9 years’ imprisonment.

On 17 March 2005 the Supreme Court of Russia reduced the sentence by 6 months, due to a change to the wording of one of the articles of the Criminal Code.

In June 2005 Zara’s lawyer, V.K. Suvorov, filed a petition with the Presidium of the Supreme Court for the review of the Moscow City Court’s judgement of 17 January 2005 and the cassation ruling of the Supreme Court’s Criminal-Cases Panel of 17 March 2005, but the petition was rejected.

In September 2005 a complaint was lodged with the European Court of Human Rights (case № 36658/05, *Murtazaliyeva v. Russia*).

Russian human rights organisations have repeatedly informed the public that the terrorism charge against the Chechen student was completely fabricated. “We are convinced that Zara Murtazaliyeva was convicted unlawfully and for political reasons”, they say in a statement “The only thing she is ‘guilty’ of, the only ‘crime’ she has committed, is being Chechen. The prosecution was unable to present any other evidence of her criminal intentions”<sup>60</sup>.

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60. <http://grani.ru/Society/Law/m.84282.html>.

On 8 February 2005 the pressure group “Common Action” asked Amnesty International to declare Zara Murtazaliyeva a political prisoner.

In the penal colony where Zara Murtazaliyeva is serving her sentence she is regularly subjected to unjustified punishments for petty, or even completely invented, violations of the regulations. It was for this reason that in October 2008 a court refused her application for parole.

## **II.2.2 The Zaurbek Talhigov case**

Zaurbek Yunusovich Talhigov was born on 22 July 1977 in the village of Shali, in the Shali Region of the Chechen-Ingush Autonomous Soviet Socialist Republic. In 1995, during the first Chechen war, Zaurbek moved temporarily to Dagestan with his mother and three sisters. The Talhigovs returned to Chechnya only in June 1996. In 1999 Zaurbek went to St Petersburg, where he started earning a living delivering meat products.

On the day when the hostages were taken in the Dubrovka Street theatre in October 2002, Talhigov was in Moscow on business. On the morning of 25 October he responded to the live TV appeal of State Duma deputy Aslanbek Aslakhonov, who called on all Chechens in Moscow to go to the Dubrovka Street theatre and surround it with a “human ring”, in order to force the terrorists to surrender. The plan failed: too few people responded to the appeal.

Aslakhonov then asked Zaurbek to contact the terrorists by telephone in order to convince them to free at least some of the hostages, and gave him the number of their leader, Movsar Barayev. Some Dutch journalists who were present, and a Dutch citizen of Russian origin, Oleg Zhironov, whose wife and child were amongst the hostages, also asked him to do this. Talhigov telephoned Barayev and talked to the hostage-takers, attempting to win their trust and obtain concessions with respect to the hostages. To do this, he had to tell the terrorists everything about himself, and where his family lived. Talhigov conducted all these negotiations in the presence of secret-service agents, who were listening to them attentively and made no criticisms of what he was saying.

According to eyewitnesses, Zaurbek Talhigov’s negotiations with the terrorists on freeing foreign citizens were successful. On 25 October, one day before the building was stormed, he and a deputy of the Ukrainian Rada, O.P. Bespalov, obtained a preliminary agreement on the immediate release of the Ukrainian citizens.

However, Zaurbek did not get the chance to conclude these negotiations: on that same day, one-and-a-half hours after his last conversation with the terrorists, he was arrested by FSB agents, who accused him of aiding and abetting the terrorists.

Despite the fact that, at the court hearings in the case on the hostage-taking in the Dubrovka Street theatre, all the witnesses confirmed the defendant’s innocence, on 20 June 2003 Moscow City Court found the 25-year-old Zaurbek Talhigov guilty of “aiding and abetting terrorists and complicity in the taking of hostages” (Articles 30, 205 and 206 of the Criminal Code of the Russian Federation), and sentenced him to eight-and-a-half years’ imprisonment in a maximum-security penal colony. On 9 September 2003, the court of cassation (the Judicial Panel for Criminal Cases of the Supreme Court) upheld the judgement, in the text of which it is directly stated that when Zaurbek Talhigov arrived at the theatre “he did not intend to aid and abet the terrorists”.

According to his lawyer, FSB agents stated at the hearings that “some of the printouts of Talhigov’s conversations with the terrorists had been destroyed, since they were of no interest”. The court was therefore able to familiarise itself only with a small portion of Zaurbek’s telephone conversations; the greater portion of those conversations, which related to the freeing of the hostages and could have been used to exonerate his actions, remained inaccessible

to the court. The public prosecutor acknowledged this, stating that “only a portion of the conversations has been presented to the court, but this was because the FSB agents were not immediately ordered to record them”. Zaurbek’s trials continued in the penal colony. After the European Court of Human Rights submitted an official inquiry about his case to Russia, the colony’s administration filed a court application to tighten the conditions of his detention on account of his having committed deliberate violations of detention regulations. On 11 August 2005, the court granted this application.

Talhigov was accused of 23 violations of regulations, including the following: Zaurbek had addressed a guard using the familiar, second-person-singular form; had refused to eat with a dirty wooden spoon that a guard told him had been brought over from the tuberculosis hut especially for him, and broke it; had disobeyed an order to leave, because he had not finished praying; and had turned up for roll call in new clothes that did not have any insignia, which he had been given only a minute earlier, even though he had not been given a needle and thread. He incurred disciplinary punishments for all these “violations”. Nevertheless, the court decided to transfer Talhigov from the colony to a prison for two years<sup>61</sup>.

On 22 December 2005 Anna Politkovskaya, a journalist at Novaya Gazeta, published an interview with Talhigov’s lawyer, S.A. Nasonov. Shortly afterwards, she asked the competent authorities for permission to visit Talhigov in the penal colony, but was refused on the grounds that Talhigov’s case was before the European Court of Human Rights and that, therefore, any publications before it had been considered could be seen as an attempt to influence the court.

On 13 June 2006 Talhigov was summoned to the offices of the colony’s administration, where he was strongly advised to refuse to meet with journalists. Zaurbek refused to agree to this. A week later he fell ill, and went to see the doctor. Analyses showed that he was suffering from a serious liver infection. Talhigov is not receiving the medical care that he needs, and his life is in danger.

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61. <http://www.memo.ru/hr/jbl/nov/talhigovru20060630.html>.



# III Persecution of Muslim organisation accused of extremism

## III.1 The Islamic Jamaat (Tatarstan) case



### Brief information on the situation in Tatarstan

Islam occupies an important place in the life of Tatars, who constitute 48% of the population of the Republic of Tatarstan, located right in the heart of the Russian Federation. The erection in 2005 of a Grand Mosque inside the Kazan Kremlin alongside Orthodox churches symbolises, in the Russian government's opinion, efforts to achieve interfaith harmony.

Since 1991 the republic, rich in natural and industrial resources, has been led by Mintimir Shaimiyev, who after several attempts at obtaining greater autonomy became a supporter of Putin's national policy. Shaimiyev is one of the leaders of the pro-presidential party United Russia.

The information presented below is based on the materials of the criminal case and on information obtained from individuals questioned by the mission's members in Moscow, Kazan and Naberezhniye Chelny. With rare exceptions, our interlocutors wished to remain anonymous.

The Islamic Jamaat case is extremely revealing: it helps us to understand the Russian authorities' priorities in the fight against terrorism following the tragedy in Beslan in September 2004. It also illustrates regional leaders' desire to show good results in that sphere in response to Putin's criticism that there was insufficient control over the situation in the regions, and the tension connected to the preparations for the celebration in 2005 of the symbolic historical and political event of the 1000<sup>th</sup> anniversary of the founding of Kazan.

The verdict cited both proven criminal offences and unproven facts relying on testimony obtained through torture and numerous violations in the administration of justice. Whilst some of the actions for which the defendants were blamed did indeed take place, the existence of a massive Islamist conspiracy appears to be pure fabrication, a hoax by the investigatory agencies that was taken on trust by the court.

Real criminal offences (murders), an alleged plot in the Volga-Urals Region of Russia, the second Chechen war and the Islamist threat supposedly coming from Central Asia – Kazakhstan and Uzbekistan – were all connected into a unified whole. A connection (imagined or real) was established and criminalised between genuine criminals and those whose only "crimes" are their religious and political convictions.

On 14 February 2008 the Supreme Court of the Republic of Tatarstan passed sentence on the 17 defendants in the "Islamic Jamaat" case. This happened two-and-a-half months after the jury had pronounced its verdict, which had taken them two days – 28 and 29 December 2007 –

to reach. The FIDH/Civic Assistance Committee mission was able to attend the trial the day before, when one of the defendants entered a final plea.

The Islamic Jamaat case began in November 2004, when around 50 people were arrested in Naberezhniye Chelny and other regions of Tatarstan on suspicion of adherence to radical Islam. Twenty-three of the detainees were subsequently charged with crimes of a terrorist nature including five minors, whose case was tried separately. These five youngsters were convicted on 2 August 2006.

The factual basis of the case was the indictment of Hafiz Razzakov for the religiously motivated murder of nine people. His victims were couples courting in a wooded park, which he found unacceptable. He confessed to one of the murders.

Razzakov had previously undergone military training in the “Caucasus” training camp in Chechnya. In the late 90s, four other defendants in the Islamic Jamaat case had spent time in the same camp, but unlike Razzakov their training there did not progress beyond studying the canons of Islam; two of them had been taken prisoner by militants on suspicion of collaborating with Russian security services (a few months later they had managed to escape from captivity and return home).

A former sportsman and “crime boss” from the town of Aznakayevo was also arrested; he had converted to Islam about a year before his arrest. He told the investigation, unprompted, that he kept various small arms, left over, to all appearances, from his shady past in the '90s.

All these unconnected facts were woven together by the investigation into a story of a secret criminal organisation that supposedly included both zealous Muslims and young men recruited, according to the prosecution, by the aforesaid “crime boss” (some of them had previously attended a madrasa in Tajikistan).

### **Description of the investigation in the case, and of the trial**

The basic facts described above constituted the basis for charging the detainees with belonging to an “illegal armed formation” called “Islamic Jamaat”, allegedly led by Ilmag Gumerov, who according to the investigation also headed the “Majilisul Shura” Military Council<sup>62</sup>. The prosecution asserted that the group had been making preparations for carrying out acts of terrorism during the celebrations of Kazan’s 1000<sup>th</sup> anniversary in August 2005. The defendants were also accused of planning to carry out explosions at the “KAMAZ” lorry factory and a water-treatment plant in Naberezhniye Chelny, and an aircraft factory in Kazan, in 2008. To this end, allegedly, weapons had been purchased and Jamaat members had undergone military training in a specially built military camp in forest in a mountainous region of Bashkortostan, where they prepared their acts of sabotage.

According to the indictment, this group promoted a radical version of Islam that incited religious hatred, which is punishable under Russian legislation. For example, Nazar Muhamedov was accused of forcing workers at the plant where he worked as a cook to pray and demanding a 100-ruble fine from anyone who refused to do so, and of stirring up conflict, as a Jamaat member, between believers and non-believers at the plant.

### **The arguments of the prosecution**

The investigation established that five of the accused had been in a military camp, which was not disputed by the defence: some of the defendants had indeed returned in 1999/2000 from the “Caucasus” camp in Chechnya, and had since then been kept under regular surveillance by the FSB (“preventive chats” were conducted).

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62. Military Council of the Battle Group.

Furthermore, in 2001 three young men from Aznakayevo went off to study at a madrasa in Tajikistan. Their parents took them back home soon thereafter, but they were then kept under surveillance by the security services.

Several of the accused, who wanted to go and live in a Muslim country (according to them Afghanistan), set up a training camp in a wooded, mountainous area of Bashkortostan, to which they took a pistol and a rifle.

The fact that some of the accused knew each other was used by the prosecution to establish a link between all the defendants in the case and create the outward appearance of an organised gang: Ilmir Shaidullin knew Gumerov, since they both went to the same mosque; he had asked him to help him find a Muslim wife. Gumerov had asked Shaidullin to introduce him to wealthy Muslims. Ilmir Shaidullin had put Gumerov in touch with a “crime boss” from Aznakayevo, Nafis Kalimullin, who, in turn, attracted young men to him by playing sports with them. Kalimullin still kept weapons that he had acquired in the '90s. It was he who took the young men who had previously spent time in Tajikistan to the training camp in Bashkortostan.

### **The arguments of the defence**

The defence categorically rejects the notion that this group constituted an “illegal armed formation”.

There is no evidence to substantiate the charge that the group was preparing acts of terrorism. The defence does not accept that any “illegal armed formation” as such existed. The investigation established that five of the accused had gone off to a so-called military camp. Evidence was presented of the storage of weapons: a registered hunting rifle (legally owned by Kalimullin), AK47 sub-machineguns, old pistols, and five grenades<sup>63</sup>. In the course of the investigation, only 9 cartridges were found at the site of the alleged “military training”. The defence emphasises that even the prosecution itself had found it difficult to present any information on the quantity of weapons in the camp. The indictment states that “the defendants had hidden the weapons so well that they were unable to find them”<sup>64</sup>. The prosecution also acknowledges that the weapons had been acquired by Kalimullin before he converted to Islam.

The defence is also unconvinced by the theory that Razzakov was preparing acts of terrorism, as “demonstrated”, according to the investigation, by a notebook of his containing diagrams of electrical devices (for example, a diagram of a common torch was presented by the prosecution as the switch of an explosive device) and by a manual for hikers containing advice such as “How to light a fire”. The defence contests the charge of “preparing an act of terrorism”: no plan was found, nor any diagram of the distribution of responsibilities amongst the members, who had not procured any funds for carrying out the acts of terrorism. As for the financing of these operations, “the only ‘evidence’ was the 6000 roubles (less than 200 euros) that one of the accused, the businessman Salavat Latypov, had given to Gumerov”<sup>65</sup>. There is no trace of any foreign financing of the organisation.

Observers of this case do not deny that a number of offences and crimes were committed (for instance murders, the illegal possession of weapons). But it is extremely significant that these did not in themselves constitute the basis of the charges against the accused, but served merely as the pretext for the “unmasking” of a massive conspiracy allegedly hatched for the purpose of undermining the foundations of Russian statehood.

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63. a 9-millimetre Izhevsk pistol; a 1979 Kalashnikov AK-74 sub-machinegun; a Tiger carbine; a 1943 TT pistol; a Walter pistol; a Luger pistol; an AK-74 Kalashnikov sub-machinegun; three F-1 grenades; two RGD-5 grenades; cartridges of various calibres for these weapons.

64. Irina Borogan, “Jamaat v dva khoda” (“Jamaat in two moves”), *Novaya Gazeta*, 7 February 2008.

65. Irina Borogan, “Jamaat v dva khoda”, *Novaya Gazeta*, 7 February 2008.

Despite the weakness of the prosecution's evidence, the defendants were sentenced to lengthy terms of imprisonment as punishment for the crimes that were allegedly being planned. The group to which the prosecution alleged they belonged has never carried out a single act of terrorism. Moreover, many of them got to know each other only after they had been arrested, during the investigation of the criminal case.

### **Human rights violations during the investigation**

The mission obtained testimony of numerous human rights violations – abuse and torture – that were committed, in the main, while the accused were in custody and during the investigation of the case. Many of them were held in solitary confinement in a detention centre in Naberezhniye Chelny for two months, even though detainees may be legally held in solitary confinement for a maximum of only 10 days. It should be noted that, according to both the relatives and lawyers of those arrested and individuals who had previously been held in the Naberezhniye Chelny detention centre, it enjoys an especially bad reputation for torture.

We shall now examine, principally, the violations that were committed against two of the accused in this case.

**Nazar Muhamedov**, a cook in an enterprise owned by Latypov (another of the accused, whom the investigation deemed to be the financier of “Jamaat”). In November 2004 Muhamedov was arrested at 11 in the morning in a mosque, where he was with his three-year-old son. Nazar had had no previous convictions, and had never been in trouble with the police. As well as working as a cook in Latypov's enterprise, he prepared food for religious ceremonies and worked at a book stall in the mosque. What makes Nazar different is that he was born in Uzbekistan: his parents, ethnic Tatars, had been deported to Uzbekistan in Stalinist times. Nazar moved to Russia in the '90s, married a Russian citizen, and planned to adopt Russian citizenship, in connection with which, as required by law, he sent a statement renouncing his Uzbek citizenship to the Embassy of Uzbekistan. At the time he was arrested, he had not yet managed to acquire Russian citizenship. The prosecution used his origin to bolster the appearance of an “international Islamist conspiracy”. Furthermore, Nazar was threatened with extradition as a “citizen of Uzbekistan”.

**Ilmir Shaidullin**, a student at the Emergencies Ministry's Academy of the State Fire fighting Service in Yekaterinburg, arrested on 4 February 2005. His father, Ilgiz Shaidullin, testified to the FIDH/CAC mission (see below). Ilmir's younger brother, Rustem, has also been convicted of “being a member of Jamaat”, though in a separate case along with four other young men who were minors during the period in question<sup>66</sup>.

### **Arrest and search**

Account of the arrest of the wife of one of the accused, who was arrested in December 2004:

*“People started ringing at the door in the morning, but I didn't let them in. They came back after lunch, I was alone with my daughter and I opened the door. It was the Interior Ministry police; they asked me where my husband was. I replied that he was at mosque. They then announced that they had arrested him and wanted to search the house, as they were looking for weapons. They had brought some neighbours with them to act as official witnesses, and they expressed their concern that their neighbour was “a woman terrorist”.*

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66. In Russia, criminal liability starts at the age of 14.

*The policemen found no weapons during their search of the house, but took away some books in Arabic, which they returned six months later. I was then taken to a police station, where they insulted me and threatened to put my daughter in a children's home and said that they were interrogating my husband. They then released me and said that my husband would return the next day. I never saw him as a free man again."*

### **Torture and abuse during preliminary detention**

It is extremely difficult to get evidence of torture, since it is normally practised at the initial stage of the investigation before the victims have had a chance to call a lawyer of their choice. This can be illustrated by what happened in another case similar to the one under consideration: in 2005, at the start of the New Year holidays, one of the accused<sup>67</sup> was tortured. For nearly two weeks afterwards, he concealed the signs of this torture to prevent their trying to heal the wounds: he wanted to show them to his lawyer when he came to see him on the first working days after the holidays. The lawyer sent telegrams to all public Prosecutor's offices from the Republican Public Prosecutor's Office to the Prosecutor-General's Office and secured an immediate forensic medical examination. Only in this way was he able to prove that torture had been used on his client.

#### **Nazar Muhamedov:**

- 1 – A polythene bag was put over his head and his access to air was cut off.
- 2 – For a month he was tortured repeatedly with electric current, and told that they might arrest his wife and force her to tell them where the weapons were hidden.
- 3 – He was strung up by his arms in his cell, in such a way that his feet could not reach the floor.
- 4 – He was for a long time deprived of food and water.

#### **Ilmir Shaidullin:**

- 1 – He had a black bag placed over his head, and a pistol held to his head, throughout the flight from Yekaterinburg. He was told to confess to being a member of Jamaat.
- 2 – Upon arrival in Naberezhniye Chelny, he was put in a cage measuring one square metre, where he was left for 9 days without food, handcuffed and suspended above the floor. His father Ilgiz found out about Ilmir's torture when he attended, in his capacity as the legal representative of his youngest son Rustem, a minor, who had been arrested on 29 December 2004, the court hearing on extending the period for which Rustem could be held in custody. Rustem told his father about the conditions in which Ilmir had for five days already been being held. The family then hired a new lawyer, and the defendant's father asked her to go to see his son and take a close look at his legs. The defence lawyer, deeply shaken by what she had seen during her visit to her client on 14 February 2005, demanded that Ilmir be immediately taken to hospital which was not done, however, until a week later. His father filed a complaint about the use of torture against his son ("unlawful methods of interrogation"); the local public prosecutor's office refused to investigate the case, but its decision was subsequently overturned by the Public Prosecutor's Office of Tatarstan, which ordered an investigation. Nevertheless, over the subsequent three years no information was received on the findings of the investigation, which was mentioned at the trial of the Islamic Jamaat case.

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67. The testimony was received on 15 February 2008 in Tatarstan; the witness wished to remain anonymous.

- 3 – When Ilmir was again taken for questioning by three detectives, who again threatened him and beat him, he smashed a windowpane and attempted to open his veins with a piece of glass. An ambulance was called for him, which took him to hospital, but only an hour after he had been given first aid he was taken back to the detention centre.
- 4 – After Ilmir [*sic*] had again sent a complaint to the Public Prosecutor’s Office of Tatarstan, the latter refused to institute criminal proceedings against the detectives, and instead charged Ilmir with breaking the piece of glass with the intention of attacking the policemen (a crime outlawed by Article 317 of the RF Criminal Code).
- 5 – Suffering from liver and stomach conditions, Ilmir spent 50 days in solitary confinement, far longer than the 10 days permitted by law. He was then transferred to a detention centre in Bugulma.

### **Falsification of the investigation: fabrication of evidence**

In the criminal case there are a number of witness testimonies against Nazar Muhamedov, which may have been obtained from individuals who were “ransomed” by their relatives (turned from suspects into witnesses in exchange for bribes), or from some of the accused in exchange for a promise to release them. It is possible that other arrested workers from the enterprise where Nazar worked testified against him and thereby “bought” their freedom. Nazar’s friends and family assert that they personally know at least three such “witnesses”, and at least one of them was freed during the investigation.

### **Problem of access to a defence**

On the basis of at least one of the testimonies gathered, we can say with confidence that the lawyers appointed by the investigation were corrupt: one of them, though obliged to work on the case free of charge for her client<sup>68</sup>, stated to a member of his family<sup>69</sup>: “Your relative costs 70,000 roubles, you can pay a ransom for him”. According to our interlocutor, some of the 50 people arrested in December 2004 paid to be released, having been told to keep quiet about everything they had found out about while they were in custody. Many of them have left the region. The witness also told the FIDH/CAC mission that the appointed lawyers offered the detainees’ families a deal whereby they would agree to work in the interests of their client only if they were paid money by his relatives. And although in a number of cases these lawyers did indeed start discharging their duty in the interests of their clients, in other cases they continued working for the prosecution even after they had been paid.

### **The trial and the verdict: pressure on the jury and attempts to influence the verdict**

The Islamic Jamaat case was tried by a jury at a trial presided over by Judge I.Z. Salikhov.

Numerous procedural violations were committed during the hearings, the most overt of which involved manipulation of the jury and violation of the defence’s rights during the proceedings.

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68. The work of lawyers appointed to render free legal assistance to suspects and defendants is paid for from public funds at the rates approved by the relevant government bodies.

69. The testimony was obtained on 15 February 2008 in Tatarstan. The witness wished to remain anonymous.

## **The trial**

The Islamic Jamaat trial, which ran from February 2007 to February 2008, started badly for the prosecution. About 300 witnesses were summoned, of whom only half turned up at the hearings and were questioned. Many of them testified in favour of the defence, even though they were deemed prosecution witnesses. This is explained by the fact that investigators frequently distort the records of witness-interrogations to the advantage of the prosecution version of events, as a result of which there can be surprises when the witnesses are questioned in the stand. The prosecution called as witnesses numerous police and FSB agents, and even they gave testimony that belittled the significance of the prosecution and differed noticeably from the testimony recorded in the records of the preliminary investigation.

The prosecution, in turn, attempted to influence the jury by presenting tangible evidence (weapons), but came up against difficult questions from the defence. There was also a manipulation of the materials of the preliminary investigation with respect to the brothers Ilmir and Rustem Shaidullin: the public prosecutor cited information relating not to Ilmir but to the already convicted Rustem, yet called him only by his surname, thereby misleading the jury.

## **The jury's verdict**

The chronology of the final stage of the trial clearly reveals the falsification technique that was used.

We stress from the start that when the jury was put together the twelve principal jurors were supplemented by a "corps" of eleven reserve jurors. Over the nine months of the trial, only one change was made to the composition of the jury. The jurors in general played an active role in the proceedings, asking many questions, especially the foreman.

According to numerous witnesses, in the final stage of the trial there were attempts to influence the jury's decision. In particular, right before the jury retired to consider its verdict the TV channel NTV broadcast a programme in which it was stated that Jamaat had been preparing not just acts of terrorism in Dagestan but also an act of terrorism against Putin. In addition, a local television channel broadcast an interview with the public prosecutor.

On 20–21 November 2007 the judge read out a list of 307 questions, which the jurors had to answer in writing. The answers had to be recorded by the foreman in the interrogatory, and certified with his signature. The jury was given a month to reach its verdict, meeting daily from 09.00 to 18.00.

During this month, there were big changes to the composition of the jury: first on 5 December four jurors were replaced including the foreman, and later the new foreman was himself replaced. According to the judge, the first foreman had left Tatarstan whilst the other jurors had refused to carry on due to health problems. Three foremen should thus have been involved in filling in the interrogatory, which should therefore have been filled in in three different hands and contained three signatures.

On 24 December the jury delivered a guilty verdict against the accused, which was pronounced on 28–29 December.

When the lawyers received copies of the interrogatory they noticed that it had been filled in in only one hand and contained only one signature, which provoked serious doubts about the lawfulness of the verdict. Numerous questions also arose about the workings of the jury while it was considering its verdict, since the questions in the interrogatory had been worded in such a way that they implied a guilty verdict. The lawyers' objections to these wordings were dismissed by the judge.

### **The sentence**

Even taking into account the relative leniency of the punishments handed out to some of the defendants (in a number of cases, they were less than the minimum prescribed by the relevant articles of the Criminal Code), it needs to be stressed that they were all sentenced to actual imprisonment. At the same time, the sentences received by other defendants were manifestly too harsh, despite the fact that the existence of a conspiracy had not been proven at the trial, and some of the incidents and some of the Criminal Code articles under which the defendants were charged had been excluded from the *corpus delicti*.

We note that the same thing had already happened when the sentences were pronounced against the five youngsters whose case was tried separately. Ilmir Shaidullin's brother Rustem and two other defendants, who were minors at the time of the events in question, were sentenced to six years' imprisonment, whilst the other two youngsters who were tried alongside them were given five years.

### **Summary of some of the sentences**

Hafiz Hamzayevich **Razzakov**, found guilty of the murder of nine people (he confessed to only one of the murders), having undergone military training in the "Caucasus" camp in Chechnya, was sentenced to life imprisonment in a maximum-security prison for especially dangerous criminals.

Ilgam Sharikovich **Gumerov**, the alleged "brains" behind Jamaat (in June 1999 he spent time in the "Caucasus" camp in Chechnya, was taken prisoner by militants on suspicion of being an FSB agent, and escaped and returned to Naberezhniye Chelny; he planned to go to Afghanistan), was sentenced to 12 years in a maximum-security penal colony.

Ilshtat Maratovich **Sharafullin** (who was taken prisoner by militants in Chechnya in 1999 along with Gumerov and then returned to Naberezhniye Chelny), who was kept apart from the other defendants during the trial and looked like he was cooperating with the prosecution, was sentenced to three-and-a-half years' imprisonment. He was released in May 2008, after he had served his sentence.

Nafiz [sic] Muzagitovich **Kalimullin**, who had the reputation in Aznakayevo of having been a "crime boss" in the '90s (the weapons he still had from those days were deemed by the investigation to constitute Jamaat's arsenal), was sentenced to 10 years in a maximum-security penal colony.

Ilmir Ilgizovich **Shaidullin** (a student at the Emergencies-Ministry Academy in Yekaterinburg, who was arrested in class), who knew Gumerov and Kalimullin, was sentenced to 8 years in a maximum-security penal colony.

Shamil Gambarovich **Tamimdarov** (the FIDH/CAC mission was present in court when he entered his final plea, prior to which he had been on hunger strike for 30 days in protest at the jury's guilty verdict), who according to the investigation was involved in circulating funds between Kazakhstan (where he lived), Chechnya and Tatarstan, was sentenced to seven years in a maximum-security penal colony.

Salavat Mirzagitovich **Latypov**, who handed 6000 roubles to Gumerov (earning him a charge of laundering the proceeds of crime pursuant to Article 174-1, Section 2, of the RF Criminal Code) and intended moving with him to Afghanistan, was sentenced to six years in a maximum-security penal colony. In February 2009 he was released on parole.

Nazar Midhatovich Muhamedov, a cook in Latypov's enterprise, was sentenced to five-and-a-half years in a maximum-security penal colony.



In the spring of 2008, Sharafullin and another four men who had been sentenced to between three-and-a-quarter and three-and-a-half years' imprisonment were released.

Nazar Muhamedov did not appeal against his sentence, in the hope of getting parole; he did not, however, get it.

On 30 December 2008 the Judicial Panel for Criminal Cases of the Supreme Court of the Russian Federation rejected the appeals in cassation of the remaining defendants, and the sentence entered into legal force.

### **III.2 Persecution of alleged members of Hizb ut-Tahrir: importing the theory of an international enemy as a catalyst to international cooperation**

The targets of a majority of anti-terrorist and a significant proportion of anti-extremist operations in Russia are individuals professing Islam. The authorities institute criminal proceedings against actual and hypothetical members of fundamentalist Islamic organisations, in particular Hizb ut-Tahrir al-Islami (which translates as “the Party of Islamic Liberation”). Hizb ut-Tahrir is an international pan-Islamic Sunni political party that seeks to unite all Muslim countries into a single Islamic state (caliphate) that would be governed by Sharia law and headed by an elected head of state (caliph). In Russia, this organisation has been added to the list of terrorist organisations and banned, the authorities claiming that one of its goals is the violent overthrow of the existing state system. However, the violent nature of Hizb ut-Tahrir's activities has not been substantiated. It is disputed both by many secular experts and by religious figures. The website Agentura.ru believes that the persecution of Islamist groups, including Hizb ut-Tahrir, is often motivated by their close links to organisations based in Uzbekistan that the Karimov regime sees as a threat to its existence.

Curiously, Russian policemen, intelligence officers and judges are rarely capable of distinguishing between wahhabi-ism and adherence to the ideas of Hizb ut-Tahrir, and use them as synonyms, although many specialists with whom we talked consider them to be barely compatible.

Formally, membership of Hizb ut-Tahrir is not in itself prohibited. It is only the organisation of or participation in its activities that are punishable. In practice, however, criminal cases are brought against individuals suspected of membership of this organisation, within the framework of which “evidence” of activities is frequently fabricated.

The violations committed during the investigation and trial of one such case – that against Eduard Husainov – have been analysed by the well-known Russian lawyer Yuri Kostanov. He also pointed out that propagandistic activities that are not accompanied by calls to violence (which the Supreme Court did not mention in its ruling banning Hizb ut-Tahrir) may not, in the absence of any other legally stipulated circumstances, constitute grounds for deeming an organisation to be terrorist.

In January 2004 Eduard Husainov, a young oil worker from Tyumen Province, asked the Supreme Court to provide him with the text of the Supreme Court's ruling banning Hizb ut-Tahrir in order to enable him to appeal against that ruling in accordance with the law, but he received no response. In 2004 the Civic Assistance Committee also requested the text of the court ruling, but received it only a year later following a second request, two weeks before its leader Svetlana Gannushkina was due to meet with the Russian President. A second request from Husainov himself, in the summer of 2004, led to criminal proceedings' being instituted against him. This fairly typical case is only one of many that illustrate the punitive and discriminatory nature of the Russian authorities' actions against alleged members of Hizb ut-Tahrir.

Just as typical is the first criminal case of this type in Russia: the case against Yusup Kasymakhunov and his wife. Yusup Kasymakhunov was an Uzbek citizen living in Russia who was wanted by the Uzbek security services. In February 2004 he was arrested by the Russian security services, who when interrogating him pressured him to collaborate by threatening to extradite him to Uzbekistan and unlawfully deport to that country his wife (a Russian citizen) and their baby daughter. One of the main pieces of evidence in the criminal case was the testimony of a woman journalist who had played the role of an *agent provocateur*. After Kasymakhunov's wife was arrested in the summer of 2004, their eight-month-old daughter was placed in a children's home; only when the girl turned three was her grandmother allowed to bring her up. In court, Kasymakhunov confirmed that he was a member of Hizb ut-Tahrir, but categorically denied that either he or the organisation were involved in terrorism. The judge declared that he understood this but that his hands were tied, since he had to be guided by the Supreme Court's ruling that this party was terrorist. In the end, Kasymakhunov was sentenced to eight years' imprisonment, and his wife, who categorically denied being involved in Hizb ut-Tahrir to four-and-a-half years (she served her sentence in full).

Similar criminal cases were then initiated. The campaign was intensified following the hostage-taking in the Beslan school in September 2004, and was justified by the need to fight against international terrorism, even though the motivation was clearly political. The defendants were accused of organising the activities of Hizb ut-Tahrir, and/or of involvement therein, and/or of recruiting new members, and/or of setting up a criminal association. According to information received, weapons, ammunition and explosives were frequently planted on suspects. Depending on the charges and the region in which the case was tried, the punishments handed down by the courts varied from a fine (in only four cases, in 2005 at the very start of the campaign) or suspended sentence to eight-and-a-half years' imprisonment. Later, in 2006, the detainees in a criminal case were charged with preparing a violent seizure of power, for which the Criminal Code stipulates a sentence of 12 to 20 years' imprisonment.

Of particular concern is the prosecution of individuals who have defended those accused of belonging to Hizb ut-Tahrir and other organisation that have been declared terrorist. It should be noted that all such organisations are Muslim.

More than once, witnesses summoned to court by the prosecution have admitted that their testimony at the preliminary investigation was false, and was given under pressure. In a number of cases, these admissions had negative consequences for the witnesses; in particular, in 2006 in Tobolsk (Tyumen Province) criminal proceedings were initiated against three people who had exercised their right to tell the court about the pressure that had been brought to bear on them by investigative agencies during the investigation of the criminal case. All three were convicted of perjury, which was how their admissions were interpreted. One of them was given a fine, while the other two were sentenced to forced labour.

Immigrants from Central Asian countries have repeatedly, under threat of deportation, been forced to give testimony supporting the prosecution's version. This form of pressure was employed, in particular, in 2005 during the trial of a case in Kazan (Republic of Tatarstan). OCD officers held on to a witness's passport until the term of his legal residency in Russia had expired, thereby depriving him of the ability to extend that term; the conditions were thus artificially created for a court to order his administrative deportation. Information about him was sent to Uzbekistan, and he was arrested as soon as he arrived in Tashkent. For the next 10 days, no news about him could be obtained. Numerous actions by Russian and international human rights organisations in defence of this man succeeded in securing his release, although a written undertaking had been extracted from him not to leave the jurisdiction. Since then,

more than three years ago already, he has not been able to return to Russia, where his entire family lives, having been granted Russian citizenship.

In a similar case, also in Kazan, a Tajik citizen was threatened with deportation for refusing to give false testimony. Unlike the previous case, this one ended not in the witness's deportation but in his being charged in the same criminal case in which he had refused to give false testimony.

These methods are used against individuals who are frightened of returning to their countries of origin due to religious persecution, and in particular against citizens of Uzbekistan. The practice of illegally deporting individuals suspected or accused of prohibited Islamic activities is described in a report by the Civic Assistance Committee<sup>70</sup>. Of the 14 people who the authors claim<sup>71</sup> were illegally extradited or deported from Russia between July 2003 and August 2008, seven were suspected of belonging to Hizb ut-Tahrir: Farhod Zulunov, Sherzod Niyezov, Marcel Isayev and Rustam Muminov, who were deported to Uzbekistan; and Akramzhon Mamatkarimov and Umid Abdullayev, who were deported to Kyrgyzstan. They have all been persecuted for their religious convictions.

According to the available information, the defendants in such cases have frequently been the victims of abuse: they have been forced to drink alcohol and to eat food forbidden by Islamic custom, have had their religious feelings insulted, and have been tortured to obtain confessions. Intimidation, and sometimes torture, have even been used against witnesses.

The use of many of these methods of "investigation" is confirmed in an information bulletin from the Civic Assistance Committee<sup>72</sup>, which talks about "a campaign of fabricating criminal cases connected to "Islamic extremism" that has been underway in a number of regions of the Russian Federation since 2004<sup>73</sup>: in Central Russia, the Volga-Urals Region, the South Urals and West Siberia". The CAC cites numerous testimonies of the use of torture and other methods of abuse outlawed by the UN Convention against suspects, convicts and even witnesses in criminal cases.

The torture is encouraged "from the top", and the police can therefore do whatever they like with detainees. Beatings, suffocation using a gas-mask (which they put onto the person and then shut off the air supply or put a lit cigarette up to the gas-mask's pipe; sometimes a simple plastic bag has been used for the suffocation), and threats of sexual violence against the person being interrogated or his wife, have all been used. A common practice is the "the stretch", or "the splits": "The person is made to stand against a wall face-first, lean against it with his outstretched arms and spread his legs wide; they then hit his legs, moving them apart until he starts to feel pain. He is made to stand in this position for a long time, having been warned that if his knees touch the floor he will be beaten again." In Tatarstan, they often use a "cell" measuring one square metre, into which they put a detainee for several days, sometimes fastening him to it with handcuffs and preventing him from performing natural functions for extended periods of time; as a result, his extremities become swollen, his circulation is cut off, etc.

In July 2008, individuals arrested on suspicion of belonging to the banned organisation Hizb ut-Tahrir were for the first time charged with preparing an act of terrorism in the city of Chelyabinsk (in the South Urals). Armed security-services officers burst into a fourth-floor flat through a window, where they found several people, one of whom had previously been given

70. <http://www.publicverdict.org/eng/articles/library/1050908.html>.

71. The CAC believes that the actual number of individuals unlawfully deported from Russia for such reasons is far higher, but cites only those cases about which the CAC has reliable information.

72. "The Torture of suspects and convicts within the framework of a campaign of fabricating criminal cases connected to 'Islamic extremism'", August 2008, <http://hro1.org/node/2971>.

73. In this report we do not touch on the North Caucasus, where the situation has its own, highly specific character.

a suspended sentence for membership of Hizb ut-Tahrir. According to information passed to the CAC, during the search a grenade wrapped in newspaper was planted in one of the rooms. All the people who were in the flat were taken to the public prosecutor's office for questioning. During the search of the flat of one of them, an ethnic Chechen living in Chelyabinsk, they seized several more grenades, which according to the CAC's source had also been planted. The following day another Chelyabinsk resident who had previously been given a suspended sentence for belonging to Hizb ut-Tahrir was arrested; it is claimed that when his place was being searched an instruction manual on how to make explosives was planted. Three of the detainees, the two who had previously been convicted and the ethnic Chechen, were charged with preparing an act of terrorism; a few months later, another two men, who had been questioned as witnesses, were arrested on the same charge.

Below we describe several cases with which the mission familiarised itself while it was in Kazan and Naberezhniye Chelny, where it met with lawyers and the friends and family of defendants.

### **III.2.1 The Alisher Usmanov case, Kazan (Tatarstan), 2004–2005**

On 30 September 2004 a teacher at the “100<sup>th</sup> Anniversary of the Adoption of Islam” madrasa, Alisher Usmanov, was arrested in Kazan. Originally from Uzbekistan, he had been living in Russia since 1995 and adopted Russian citizenship in 1999. That same year, 1999, the Uzbek police charged him with attacking the constitutional system of the Republic of Uzbekistan, and launched a manhunt.

During a search of the madrasa premises and a house in the countryside that Usmanov had not lived in for more than a year (he had put it at the disposal of the madrasa for housing an apiary), some literature of the banned party Hizb ut-Tahrir and a notebook with files about that organisation were seized. Furthermore, they found a grenade, a fuse and a block of TNT in boxes of honeycomb.

The following day, the Kirov-District Department of the Interior in Kazan initiated criminal proceedings against Usmanov under Article 222 (1) of the Criminal Code, and on 3 October 2004 the Senior Investigator of the FSB's Directorate for the Republic of Tatarstan, K.M. Trofimenko, initiated proceedings against Alisher Usmanov and the Kazan resident Azat Hasanov under Article 205-1 of the Criminal Code, for encouraging the inhabitants of Tatarstan to get involved in the activities of the party Hizb ut-Tahrir. Both cases were combined, and were investigated by the Investigations Department of the FSB's Directorate for the Republic of Tatarstan. In February 2005 the cases against Azat Hasanov and two other suspects, Azat Gataullin and Rafis Sabitov, were detached into separate proceedings.

Usmanov was later charged with organising the activities of a Hizb ut-Tahrir cell in Tatarstan, even though he openly stated that he had left that organisation in 2000, i.e. long before it was banned in Russia.

According to Alisher's relatives, the literature and ammunition had been planted in his house by the police<sup>74</sup>. Usmanov's fingerprints were not found on any of those items.

As for the contents of the computer, Usmanov's lawyer, commenting on the materials of the criminal case, points to the testimony of a work colleague of his client's at the madrasa that he had recorded the files relating to Hizb ut-Tahrir onto the hard drive long before he had handed the notebook to Usmanov, and had then deleted them at Usmanov's request.

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74. From an interview recorded by Y. Ryabinina in Kazan in May 2006.

In October 2004 FSB agents arrested in their homes three residents of Chuvashia who knew Usmanov, Mikhail Andreyev and the Salimzyanov brothers, and took them to Kazan. Ildar Salimzyanov has reported that they started torturing him even while he was on the way there, demanding that he testify that Usmanov was a member of Hizb ut-Tahrir. The torture continued when he arrived in Kazan, in the FSB building, where he heard his brother screaming in pain in the adjoining room (it later transpired that they had broken two of Rustem's ribs). The same methods were used to extract testimony against Usmanov from Mikhail Andreyev. After all three had been held in custody for 3 days, 2 of them in solitary confinement, they were released.

The evidentiary base of the charge was built mainly on documents sent from Uzbekistan, in which Usmanov was accused of absurd charges relating to 1991–99 and the chronology of the events described was broken. For example, they stated that in 1995 Usmanov went to Russia to escape criminal proceedings in his native country that were instituted against him four years later in 1999. Furthermore, the Uzbek documents failed to meet the requirements of Russian legislation on evidence received from abroad for admissibility in Russian judicial proceedings. Nevertheless, the investigator of the FSB's Directorate for the Republic of Tatarstan included them in the list of materials supporting Usmanov's guilt.

The police also took steps to remove the obstacles to handing Usmanov over to the Uzbek security services, which was impossible on account of his Russian citizenship. In particular, on 31 December 2004 Vakhitov District Court in Kazan, on the basis of a statement from the Passports and Visas Office of the Tatarstan Interior Ministry, established the "fact" that Usmanov had submitted forged papers and false information about himself when applying for Russian citizenship. On 25 April 2005 the Supreme Court rejected Usmanov's appeal against this ruling and it entered into legal force, and only two days later, on 27 April, the Passports and Visas Office of the Tatarstan Interior Ministry revoked Usmanov's Russian citizenship, although it delayed sending him notification of this decision until a month later: it is dated 27 May 2005.

As his lawyer pointed out in his appeal for oversight, throughout this process clear indications that the documents on the basis of which the courts had issued the aforesaid rulings were forgeries were ignored. The "fact" was also established that Usmanov had Uzbek citizenship, which he had never had. Nevertheless, the Supreme Court of the Republic of Tatarstan rejected the appeal for oversight.

The criminal case against Usmanov under Articles 222(1), 282-2(1) and 205-1(1) of the Criminal Code was tried by Novo-Savinovo District Court in Kazan. On 1 June 2005 he was acquitted of the charges against him under Articles 282-2(1) and 205-1(1) of the Criminal Code, on the grounds that he had not been involved in crimes envisaged thereby (organising the activities of a Hizb ut-Tahrir cell and involving others in it), and convicted of the charges against him under Article 222 (1) (illegal possession of ammunition), receiving a sentence of 9 months' imprisonment in a penal colony. On 27 June 2005 the Supreme Court of the Republic of Tatarstan upheld the judgement without variation, and rejected Usmanov's lawyer's appeal in cassation.

On the morning of 29 June 2005, when Usmanov's wife arrived at the detention centre to meet her husband upon his release at the end of this sentence, she was told by the centre's officials that he had been released a 5 a.m. and had left with some people who had come to meet him<sup>75</sup>.

That same day, the airline "Tatarstan" operated a scheduled flight from Kazan to Tashkent, which took off from Kazan airport at 11.00.

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75. Press release from the Memorial Human-Rights Centre of 01/07/05.

In October 2005 the media reported, citing the press office of Uzbekistan's National-Security Council, that Alisher Usmanov had been "transferred from Kazan to Uzbekistan in accordance with an Uzbek/FSB joint plan to combat international terrorism"<sup>76</sup>. It is known for certain that the Prosecutor-General's Office of the Russian Federation, which has jurisdiction over extradition matters, had taken no decision to extradite him.

It is also known that on 24 June 2005 a delegation of Uzbek VIPs attended the opening of the Kul-Sharif mosque in Kazan<sup>77</sup>.

In November 2005 Alisher Usmanov was sentenced in the town of Namangan (Uzbekistan) to eight years imprisonment.

The mission met with one of Alisher's relatives, who supplied further information on this case.

*"Usmanov had Russian citizenship. This citizenship was taken away from him in the ninth month of his incarceration, just before he was deported to Uzbekistan. When he came to Russia, he had a Soviet passport. Officially, he could not be extradited, since he was a citizen of Russia. When his Russian citizenship was revoked, nobody was notified.*

*For a long time we could not understand how he had been taken out of the country. There was nobody with his surname on the flight that he was supposed to be taking. He was most likely transported under forged papers.*

*We found out what had happened to Alisher in October 2005, when his father gave us news about him. I think Alisher was one of the first victims of the strengthening of anti-terrorist cooperation between Russia and Uzbekistan that followed the events in Andizhan.*

*After he was convicted in Uzbekistan, he was first kept for 18 months in a penal colony near Karshi, and was then transferred to another colony near Tashkent. He is entitled to packages, letters, and two family visits a year. He is not eligible for any parole. His only hope is a presidential pardon, but to get that you need to admit your guilt."*

### **III.2.2 The Hizb ut-Tahrir case, Kazan (Tatarstan), 2006–2009**

On 5 December 2006 the investigations department of the FSB's Directorate for the Republic of Tatarstan initiated criminal proceedings under Articles 205-1(1) and 282-2(1&2) of the Criminal Code against nine people suspected of being involved in the activities of the party Hizb ut-Tahrir: Almaz Hasanov, Farhat Faizulin, Tagir Nurmuhametov, Dias Rafikov, Shavkat Ahmedov, Azat Sabirov, Rafael Sabitov, Rustam Gimranov and Radik Zaripov<sup>78</sup>.

On 7 December 2006<sup>79</sup> searches were conducted in the suspects' flats and a number of other residential premises, including the home of the Tajik citizen Umejon Jurayev (more than 20 addresses in all). He later reported that he had been arrested and beaten up by OCD officers, who told him they would "suffocate him legally if he didn't help them". After the interrogation Umejon was released, though they kept his passport.

During the searches, Islamic literature (including literature relating to Hizb ut-Tahrir), computers, CDs, DVDs, personal notebooks etc. were seized. Around 15 people were arrested, and 9 of them were taken into custody. A few days later, according to their relatives, an FSB

76. <http://www.rian.ru/politics/20051024/41873300.html>.

77. <http://www.tatar.ru/?full=17786>.

78. Four of the nine – Hasanov, Ahmedov, Rafikov and Zaripov – had previously been arrested, in March 2005, for taking part in a demonstration in defence of persecuted Muslims (see below); Almaz Hasanov and Shavkat Ahmedov were amongst those arrested in a mosque in May 2005 and sentenced to seven days administrative detention; moreover, in September 2005 Almaz Hasanov was given a 1-year suspended prison sentence for involvement in the activities of Hizb ut-Tahrir.

79. On the same day, similar searches were conducted at a number of addresses in the Chuvash Republic, on 8 December in Magnitogorsk (Chelyabinsk Province), and on 11 December in Tuimazy (Bashkortostan).

investigator announced that dangerous terrorists who had been tailed for more than a year had been arrested.

On 26 December 2006 all nine were charged under the aforesaid articles, and also with preparing actions aimed at violently changing the constitutional system of the Russian Federation (Articles 30(1) and 278 of the Criminal Code).

The sole justification offered in the indictments for applying these articles was that Hizb ut-Tahrir's ideology considered any state systems other than a caliphate to be faulty. The Investigations Department of the FSB's Directorate for the Republic of Tatarstan held that the direct corollary of this was the planning of a *coup d'état*<sup>80</sup>. The aforesaid documents did not adduce any other arguments in support of the contention that the activities of the individuals under investigation were aimed at violently changing the constitutional system of the Russian Federation.

In early 2007, three of the accused, Sabirov, Gimranov and Nurmuhametov, were released, after they had given written undertakings not to leave the jurisdiction.

On 16 May 2007 criminal proceedings under the same articles of the Criminal Code were instituted against Marcel Gimaliyev, the director of the regional human rights centre Nova, which worked to protect the rights of Muslims<sup>81</sup>. On 22 May his home was searched, and on 29 May he was taken in for questioning as a suspect to the FSB's Directorate for the Republic of Tatarstan, where he was arrested. On 30 May a court ordered that Gimaliyev be taken into custody, and he was later charged. In August 2007 a hospital forensic psychiatric examination established that Marcel Gimaliyev was suffering from mental illness that made it impossible for him to grasp the actual nature of the acts with which he had been charged.

On 22 May Ilnar Zyalilov was taken into custody; he had been a witness in the criminal case for five-and-a-half months. He was later charged with the same offences as the others. On 25 May 2007, six days after his wedding, Umejon Jurayev was arrested in a street near his mosque; he had not been able to register his place of residence on time, since the OCD officers had held on to his passport back in December. Umejon was again taken to the OCD, where he was interrogated under torture.

The mission managed to meet with Jurayev's 21-year-old wife, Mukkadam, who told us about her husband's arrest and about the methods employed in the investigation of the criminal case, methods that were typical for such cases, in particular, putting pressure on immigrants from Central Asia by threatening them with deportation<sup>82</sup>.

Mukkadam, a Russian citizen originally from Tajikistan, is a practising Muslim; she works in a shop that sells articles for her co-religionists. She had been introduced to Umejon, who was looking for a Muslim girl, and 6 months later they decided to get married.

A few days before Umejon was arrested, OCD officers called on his wife's parents and told them that their son-in-law was a terrorist and had participated in an act of terrorism, and

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80. Extract from one of the indictments: "NNN, being a member of the international terrorist organisation "The Party of Islamic Liberation" ("Hizb ut-Tahrir al-Islami"), between January 2005 and December 2006, acting jointly and in concert with[...], for the purpose of recruiting new people and entering into a conspiracy with them for taking part in clandestine and illegal activities based on an ideology of the need to remove the governments and replace the systems in countries that fail to meet the requirements prescribed by the party documents of that illegal organisation, of principled rejection of other forms of government, and of the need to seize power in such countries and establish on their territory a theocratic state in the form of a "Global Islamic Caliphate", deliberately created the conditions for the expansion, development and operation of the structure of that organisation in the Republic of Tatarstan and organised and carried out successive clandestine activities aimed at violently changing the constitutional system of the Russian Federation."

81. Marcel Gimaliyev wrote many times to government agencies of the Republic of Tatarstan to inquire about violations of the law with respect to individuals accused or convicted of charges of being involved in Hizb ut-Tahrir. Moreover, he acted as Almaz Hasanov's defence counsel in his previous case. He has also provided the human rights community with information on abuses of power committed by the police against detained or arrested Muslims.

82. Interview of 13 February 2008, Kazan.

showed them as evidence some doctored photographs. The girl's father, a former policeman who had worked in a criminal-investigation department in Tajikistan, believed them, even though Mukkadam's parents had made inquiries about Umejon's family in Tajikistan before the wedding and had received positive testimonials.

On 25 May, when the newlyweds were in a café after prayers, they bumped into Mukkadam's mother. The frightened woman, seeing her daughter with her son-in-law, who she had been told was a terrorist, telephoned the OCD:

*“When we left the café, three blokes cuffed him and told him “you’re nicked, and now you’re going to pay” ... My mother was crying. And I was in shock. They asked for his papers, and he replied that it was they who had his passport. I asked them where the arrest warrant was, and who they were. They replied that they were from the FSB, but they were in fact officers from the OCD’s Section 6. They started beating him as soon as he got into their car, and then took him away to Section 6, where they told him to cooperate with them by testifying against others. They then said to him: “We’re going to kill you, we’ll get away with it. We have the right to do that.” When he refused to bear false witness against others, they put a gas-mask on him and shut off the oxygen inlet, while continuing to beat him. He thought he was going to die. They beat him on his head, on his shoulders, on his whole body. When I telephoned, they told me: “We’ve released him, he’ll be home soon”. They were lying. I threatened to telephone the public prosecutor’s office. Then they told me that Umejon was in a special centre for individuals awaiting deportation<sup>83</sup>. He spent a week there. I asked them for his passport so that I could buy a plane ticket to Tajikistan, but they wouldn’t give it to me. Over the course of several days, indictments were brought against him. Then he went on hunger strike, which he kept up for ten days, and demanded in writing that a medical examination be carried out in order to record the wounds that had been inflicted on him. On 8 June he was taken away to be examined. When he demanded to be given the findings of the medical examination, OCD officers told him that they’d kill him if he insisted on getting them. He then sent a complaint to the public prosecutor’s office, yet still managed to get what he wanted<sup>84</sup>. In June or July 2007 his complaint was examined by a court, which rejected it, despite the best efforts of his lawyer. The OCD officers stated that on the day in question they had been on leave, and this was confirmed by the public prosecutor. Until December 2007 I was able to visit my husband twice a month, but after that they prohibited me from seeing him, without giving any reason for the prohibition. I haven’t received any letters since January 2008, and now we only hear from him through his lawyer.”*

On 22 June 2007 U. Jurayev was indicted under the following articles of the Criminal Code: organising and participating in the activities of an extremist organisation (Article 282-2(1&2)); facilitating terrorist activities (Article 205-1(1)); preparing for a violent seizure of power (Articles 30(1) and 278). Later, in November 2007, another charge was added under Article 150(4): involving a minor in the commission of crimes.

The mission also met with a relative of Dias Rafik.

Dias had joined a madrasa in Kazan in September 2004. In March 2005, some friends of his from the madrasa asked him to take part in a demonstration in defence of persecuted

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83. Having failed to get him to testify against others and agree to cooperate with them, they took him to court the following day; the court ordered his administrative deportation, and that he be put in a deportation centre.

84. The mission received copies of U. Jurayev's medical-examination reports and complaints to the public prosecutor's office, including the report of a medical examination carried out in June 2007 that does indeed confirm signs of blows and injuries to different parts of his body dating from between several weeks to several days prior to the medical examination.



Muslims that was going on in Freedom Square in Kazan. The demonstration was filmed by the FSB; for a month thereafter, Rafikov was tailed. In April 2005 the administration of the madrasa wrote him a letter asking him “to leave the educational establishment voluntarily”. Dias decided to go to the Islamic University; however, even though he passed the entrance examinations they wouldn’t enrol him, because he had not completed his two-year course of study at the madrasa. In the end, in September 2006, he joined the psychology department of a teacher-training college.

*“On 7 December he was suddenly arrested. He was very ill at the time, and the day before had missed his classes at college. At 05.55 there was a knock at the door; eight officers from the OCD, the FSB and the district police came in. They had two neighbours with them to act as official witnesses. They presented a search warrant and demanded that the dog be taken away, threatening to shoot it. Dias took the dog out onto the balcony. His room was searched for six hours. The police planted some Hizb ut-Tahrir leaflets and a magazine. They took away all his notes and all the Arabic documents that he had kept from his studies in the madrasa.*

*The police also wanted to take away the old family Koran, but the Rafikov family would not allow them to do that, so they took a new Koran. They took Dias away, saying that they’d release him in 48 hours.”*

On 8 December the family found a lawyer, who recommended trying to get Dias released on the basis of a medical certificate, since he was suffering from a whole range of serious chronic conditions.

*“The lawyer sent a special letter saying that Dias could not be kept in custody, but it was too late. The doctors had been intimidated by FSB agents, who had confiscated Dias’s medical history and declared that he was a Wahhabite. Over the following three months, Dias’s health deteriorated. We were not able to see him, but he would write that he felt worse and worse. When we first got to see him in March, and then again on 13 April, he could barely stand up. He said that his legs had swollen up due to an infection he had caught from ticks.”*

His parents bought an expensive French medicine, but their son wrote in his next letter that the medicine had not been handed to him. Then in May the Civic Assistance Committee sent representations on this matter to the Prosecutor-General’s Office and the Federal Service for the Execution of Sentences (FSEN), which is responsible for detention centres.

*“Dias said that the general in charge of the detention centre then came to see him and gave him the medicine, and that after that his condition immediately improved. He had been being held in a mass cell with 69 other people, but after this visit he was transferred to a 12-man cell.*

*His belongings were confiscated twice. The first time, they were returned to him after the visit from the general. The second time, his Koran and vitamins were confiscated, most probably in revenge for his complaints and his appeals to human rights organisations – he had written 19 complaints, which had gone unanswered. He was not allowed any visits from his family, though his family was allowed to send him 3 parcels a month weighing up to a total of 30 kilograms. His electric kettle and his small stove for preparing halal food were confiscated.”*

In the end, Dias was charged under the same articles as Umejon Jurayev and all the others under investigation in this case. His “guilt” supposedly consisted in his being in possession of Hizb ut-Tahrir literature, which is not in itself unlawful, unlike the production and distribution of such literature.

Dias Rafikov's case has been cited by the UN Special Rapporteur on Freedom of Religion and Conscience<sup>85</sup>.

The mission also recorded the account of the wife of Farhat Faizulin, Gulnara. She is a doctor, and a graduate of Kazan University as is her husband. They have three children. Farhat founded in Kazan the Muslim organisation "Ansar" (meaning "The Faithful"), which was engaged in educational activities. In 2006 it started publishing "Saffat", a socio-political newspaper devoting to the problems of the Muslim community. Two issues came out; a third issue was about to go to press when Farhat was arrested.

Gulnara says that they were the victims of stereotypes of Muslims as Wahhabites, extremists, terrorists etc. She believes that their family suffered due to jealousy-induced denunciations from former criminals and drug addicts, since most of Ansar's members were well off. In her opinion, they had been slandered by semi-criminal elements with links to the police — they distorted the content of the sermons that Farhat read in the mosque.

On 7 December 2006, at 6 a.m., eight men turned up at the Faizulins to conduct a search: agents from the FSB, OCD and OMON. During the search, which lasted for six hours, they seized audio and video recordings of Farhat's sermons which were all subsequently returned. This in itself confirms that they contained nothing reprehensible, and that these recordings were of no use as evidence in the criminal case. From the legal perspective, the search at the Faizulins was conducted properly. Gulnara heard two of the agents conducting it say to each other that they had to be careful, otherwise the Faizulins "would write complaints".

They also seized several issues of the magazine "Al-Vai" (which was connected to Hizb ut-Tahrir), which it is prohibited to distribute (but not to be in possession of!). Farhat was interested in this type of literature, since as someone who read sermons in mosque he had to familiarise himself with the various different views of his co-religionists. According to Gulnara, the prosecution was disappointed with the results of the search, and this was why it came up with the idea of a "conspiracy".

Farhat was arrested along with eight other suspects in the case. According to his wife, many of them come from an active section of society such as students at Kazan universities on an intellectual quest.

In January 2007 relatives of the detainees held demonstrations to let the public know that the people under investigation were not in any sense terrorists, had no connection to anything like that, had not been trained in any camps, etc. However, it turned out that even their co-religionists were afraid to defend them; in Gulnara's view, this was a direct consequence of the atmosphere of fear that had gripped society. This conclusion is supported by the fact that it took his wife two months from when Farhat was arrested to find a lawyer who would agree to take a case controlled by the FSB.

For the first three months, Gulnara was not allowed to see her husband, and after a year all visits were stopped.

In August 2007, while several of the accused were being transported from the detention centre for questioning, one of them was hit violently by an escort. Two of the others, including Farhat, filed a complaint about the guard's actions. They were told to withdraw it, and when they refused they were sent to an isolation ward for seven days. There they were subjected to various forms of abuse: they were forced to wear dirty prison uniforms that had not been washed since being worn by other detainees, and the isolation ward's internal regulations were broadcast over the prison radio non-stop for twelve hours, all the while being told that they were in an isolation ward "of superior comfort".

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85. See the document A/HRC/7/10/Add.1 of 28/02/08.

Later, the application to institute criminal proceedings over the incident of the beating-up of the detainee was rejected, after an investigation supposedly showed that “the facts were not corroborated”.

Gulnara also said that investigators had put pressure on her when they questioned her as a witness in April 2007. When she exercised her right under Article 51 of the Constitution of the Russian Federation not to incriminate herself and her family, she started to be treated extremely rudely; they even tried to accuse her of intending to hit an FSB agent. She felt that her blood pressure had risen sharply, and said that as soon as the questioning was over she was going to see a doctor, who would record the deterioration in her state of health. After that, she was simply chucked out.

She also knows that psychological pressure was put on her husband to force him to sign confessions stating that he was a member of an international terrorist organisation.

The mission also met with a close relative of Almaz Hasanov, who said that the first case against Almaz had been brought in December 2004. In September 2005 he was given a one-year suspended sentence for being involved in Hizb ut-Tahrir.

In March 2005 A. Hasanov took part in the same demonstration as Dias Rafikov; all 20 of the people who took part (two women and eighteen men) were arrested. According to the relative, they were all taken to a police station, where they tried to force them to sign a statement saying that they had gathered near the Kremlin and refused to disperse. Neither of these assertions was true: they had been unable to disperse, since they were surrounded by the police, and were not near the Kremlin (they would have needed official permission to be there). They therefore refused to sign the statements, and handed in blank pages. They were all held in the same room and summoned for interrogation one by one. They were held for one-and-a-half days without food and water, and subjected to indignities during the interrogation. They didn't have lawyers, their mobiles had been taken from them, their relatives were not allowed to see them, and it was extremely difficult to pray. A court then fined each of them 1000 roubles, and 4 hours later they were released.

On the eve of the celebration of the 60<sup>th</sup> anniversary of Victory Day (9 May 2005), the authorities took advantage of an incident that had occurred a few days earlier in a mosque: on 3 May the imam had banned Almaz and his friends from coming to the mosque to address the congregation, as they had wanted to do. When they nevertheless turned up at the mosque the imam called the FSB, which arrested them and released them only seven days later. While Almaz was in custody, he was beaten up<sup>86</sup>. In the opinion of witnesses whom the mission talked to, this incident shows that there are agreements between the imams and the FSB in accordance with which the imams have to cooperate with the security forces in the investigation of criminal cases of this type.

In the summer of 2005, according to the testimony of people close to Almaz's family who were interviewed by mission members but asked to remain anonymous, Almaz's wife had a baby and went away for a while to her mother's in Naberezhniye Chelny. In August, some men knocked at the door of her mother's flat. When she refused to open up, they explained to her through the door that they had come to check whether an act of terrorism was being prepared in their home in the run-up to the celebration of the 1000<sup>th</sup> anniversary of the founding of Kazan (see “the Islamic Jamaat case” above). She told them that she wouldn't let them into the flat without a search warrant.

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86. Almaz Hasanov told a CAC representative about this in May 2005.

In September 2005 Almaz Hasanov was given a one-year suspended prison sentence. After the sentence was pronounced, his wife continued to be tailed. In November the whole family returned to Kazan; Almaz reported to a police station every week.

There was a new development in the case in December 2006.

On Thursday 7 December, at 6 a.m., Almaz's mother opened the front door to FSB and OCD agents armed with sub-machineguns. They had come to search the flat and presented a warrant, which did not, however, contain a stamp. The police had brought a neighbour and a total stranger with them to act as official witnesses. In the house, along with Almaz, were his mother, his wife and their 18-month-old twin girls, the wife of Almaz's brother Azat (who was serving a sentence in a penal colony for involvement in Hizb ut-Tahrir) and her two-year-old daughter, and a three-year-old daughter of Azat's from his first marriage. The four children, the three women and the man were all put into a room and told not to leave it without permission. They started searching the flat room by room using sniffer dogs. The policemen refused to give their names, and prohibited the family members from using the telephone. They even escorted them to the toilet. The search lasted from the morning until 5 in the afternoon; various different literature was found, including Islamic literature. It took several hours to draw up an inventory of what they had seized. The police took away a computer along with its monitor and keyboard, CDs and a flash card, personal diaries, and all the family's mobiles. They would not allow them to contact their lawyer, and expressed their surprise that the family even had one. They took Almaz away with them. At midnight, the family received a telephone call saying that Almaz had been arrested. Over the next few days, the family filed a complaint against the unlawful search, since it had been conducted on the basis of a warrant that did not contain a stamp, and petitioned for Almaz to be released on the grounds that he was the father of two young children. The complaint was rejected.

On 26 December 2006 Almaz Hasanov was charged under Articles 282-2(1&2), 205-1(1), 30(1) and 278 of the Criminal Code. In November 2007, another charge was added under Article 150(4): involving a minor in the commission of crimes.

Almaz sent appeals to the embassies of 12 different countries, but received a response only from the German embassy, which advised him to appeal to the UN.

In November 2007 A. Hasanov, S. Ahmedov, D. Rafikov, R. Zaripov, F. Faizulin, U. Jurayev and A. Sabirov were also charged with involving minors in a criminal group for the purpose of committing a serious or particularly serious offence (see Article 150(4) of the Criminal Code). In April 2008, R. Gimranov was charged with the same offence.

By the end of the preliminary investigation, the case file contained 66 volumes, and the indictment 1500 pages. It is noteworthy that the material evidence seized from the twelve defendants and a number of witnesses in the case concerning the preparation of a violent seizure of power (Article 278 of the Criminal Code), which was investigated for 18 months, consists entirely of literature on various different mediums: books, pamphlets, leaflets, notebooks, optic disks, computer hard drives, etc. We recall that the aforesaid article of the Criminal Code stipulates punishment in the form of 12 to 20 years' imprisonment.

On 26 February 2009 the Supreme Court of Tatarstan began hearing the criminal case. The trial was preceded by events that resulted in the defendants' being denied the opportunity to be tried by a jury.

The decision on their petitions for the case to be tried by a jury should have been taken during the preliminary hearings, which were set for 29 December 2008. Five days before that date, on 24 December, one of the accused, Radik Zaripov, was rushed to the prison hospital for a medical examination on suspicion of having tuberculosis. Zaripov was only returned to the detention centre (the diagnosis was not confirmed) on the afternoon of 29 December,

immediately after the preliminary hearings had been postponed by a month on account of his absence.

Meanwhile, on 30/12/08 Federal Law № 321-FZ entered into force; this law abolished jury trials for a number of categories of criminal case including those connected to charges under Article 278 of the Criminal Code.

As a result, the case was tried by a panel of three federal judges. In the light of the following two factors:

- the emergency examination of Zaripov was arranged for right before the court hearing, even though the latest X-ray examination of him had been conducted in the detention centre several months prior to that (in August 2008);
- the evidentiary base of the charge of preparing a violent seizure of power relies on extremely debatable expert opinions on the seized literature and on the testimony of witnesses over 20% of whose identities (15 out of 73) were kept secret and amongst whom were two OCD officers and twelve experts who had in one way or another participated in conducting expert appraisals on instructions from FSB agents i.e. it is difficult to call nearly 40% of the prosecution witnesses impartial,

it can safely be assumed that the conjunction of circumstances that led to the case's being removed from the jurisdiction of a jury trial was not entirely accidental.

### **III.2.3 The Hizb ut-Tahrir case, Chuvashia, 2006–2007**

On 6 December 2006 the Investigations Department of the FSB's Directorate for the Chuvash Republic initiated criminal proceedings under Article 282-2(2) of the Criminal Code, relating to the activities on the republic's territory of the banned party Hizb ut-Tahrir.

On 7 December FSB agents and police officers conducted searches at a number of addresses in the cities of Cheboksary and Kanash, during which they seized literature (including literature relating to Hizb ut-Tahrir), audio and video cassettes, compact disks, and computer hard drives. That same day, the individuals in whose homes the searches had been conducted were interrogated at the FSB.

On 16 January 2007 the Public Prosecutor's Office of the Chuvash Republic initiated criminal proceedings against the Cheboksary residents Pyotr Vasilyev and Sergei Bespalov for inciting religious hatred (Article 282(2)(c)), which on 17 January were joined with the proceedings relating to involvement in Hizb ut-Tahrir. On the same day, Vasilyev and Bespalov were arrested on suspicion of belonging to that organisation and distributing its leaflets.

On 28 February 2007 another three individuals were arrested in Kanash in the same case: Rustem Salimzyanov, Amir Valiullof and Mikhail Andreyev.

All five were later charged under Articles 282-2(2) and 282(2“c”) of the Criminal Code.

According to information received, heavy pressure was put on witnesses during the preliminary investigation by police officers, who demanded that they give testimony supporting the investigation's version of events. The interrogations were accompanied by threats to get them sacked from their jobs, arrest them, etc., which some of them subsequently talked about in court.

The case was tried in the Lenin District Court in Cheboksary, with Judge A.A. Sevastyanov presiding.

The defendants pleaded not-guilty, and declared that the witnesses had slandered them under pressure from investigative agencies.

The witnesses questioned in court failed to confirm that the defendants had displayed any intolerance of members of other faiths or made statements inciting religious or ethnic enmity.

On the contrary, a number of witnesses testified to the defendants' benevolent attitude to people irrespective of their religious affiliation.

The court nevertheless found them guilty not only of participating in the activities of a banned organisation (Article 282-2(2) of the Criminal Code) but also of inciting religious hatred (Article 282(2)(c) of the Criminal Code), on the basis of the findings of expert appraisals of the literature that had been seized from them conducted on the instructions of investigative agencies.

On 19 September 2007 the five defendants were sentenced:

Rustem Salimzyanov – to four years and six months' imprisonment in a minimum-security penal colony;

Mikhail Andreyev – to four years and three months' imprisonment in a minimum-security penal colony;

Amir Valiullof – to four years and four months' imprisonment in a maximum-security penal colony;

Pyotr Vasilyev – to four years and four months' imprisonment in a minimum-security penal colony;

Sergei Bepalov – to four years and five months' imprisonment in a minimum-security penal colony.

It should be noted that this was the first verdict in Russia in which individuals accused of belonging to the banned party Hizb ut-Tahrir were found guilty of inciting religious enmity<sup>87</sup>.

The Supreme Court of the Chuvash Republic upheld the judgement without variation, and rejected the defendants' appeals in cassation.

### **III.2.4 The Hizb ut-Tahrir cases, Naberezhniye Chelny, 2004–2007**

On 6 November 2004, at the height of the searches and arrests of Muslims in a number of towns in Tatarstan on suspicion of being implicated in the criminal case that subsequently became known as "the Islamic Jamaat case", a search was conducted in the flat of the Naberezhniye Chelny resident Bahodir Shukurov, during which Hizb ut-Tahrir books and leaflets were seized. On 15 November Bahodir was arrested, and the following day a court ordered that he be taken into custody.

On 25 November Shukurov was released after he had given a written undertaking not to leave the jurisdiction, but on 3 December he was re-arrested, this time within the framework of a new criminal case concerning involvement in a banned religious organisation that had been initiated against him that same day. This new case was combined into single proceedings with the Islamic Jamaat case (see above).

During the preliminary investigation, witnesses testified that on 15 November 2004 Shukurov handed out Hizb ut-Tahrir leaflets in one of the town's mosques, which Bahodir himself did not deny.

For nearly three months, Shukurov was accused of belonging simultaneously both to Islamic Jamaat, which according to the investigation was a "Wahhabist" organisation, and to the party Hizb ut-Tahrir<sup>88</sup>. He was also accused of inciting ethnic and religious enmity (Articles

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87. Earlier, Bahodir Shukurov, convicted of being involved in Hizb ut-Tahrir, had been charged under Article 282(2" c") of the Criminal Code, but no substantiation of his having incited religious enmity was presented at the trial and he was acquitted under that article.

88. The religious and political views of so-called "wahhabi-ites" and "hizb-ites" differ significantly – so much so that followers of one of these strands of Islam cannot simultaneously be followers of the other one. According her testimony, Y. Ryabinina has been told on numerous occasions by adherents of both movements that the other movement had been "specially created to split the Islamic world".

282-2(2) and 282(2“c”) of the Criminal Code) and preparing acts of terrorism (Articles 30(1) and 205(3) of the Criminal Code).

On 28 February 2005 the criminal case on Shukurov’s involvement in Hizb ut-Tahrir and his inciting of ethnic and religious enmity (Articles 282-2(2) and 282(2“c”) of the Criminal Code) was detached into separate proceedings.

An indictment was drawn up by junior legal counsel V.A. Maximov, an investigator of particularly serious cases at the Department for the Investigation of Murders and Banditry of the Tatarstan Public Prosecutor’s Office, and approved by senior legal counsel F.H. Zagidullin, Deputy Public Prosecutor of the Republic of Tatarstan.

The case was heard in May 2005 in Naberezhniye Chelny City Court, with Judge A.G. Sakhipov presiding. There is evidence<sup>89</sup> that restrictions were placed on the public’s being allowed into the courtroom, even though it was supposed to be an open hearing.

The accusations of inciting ethnic and religious enmity were not proven at the trial, as a result of which Shukurov was acquitted under Article 282(2)(c).

On 1 June 2005 he was found guilty under Article 282-2(2) of the Criminal Code, and sentenced to one year’s imprisonment in a penal colony.

As far as we know, this is the first time in the Russian Federation that someone charged only with participating in the activities of a banned social or religious organisation (Article 282-2(2) of the Criminal Code) has been given a prison sentence.

On 12 August 2005 the Supreme Court of the Republic of Tatarstan upheld the judgement without variation, and rejected Shukurov’s appeals in cassation.

On 4 April 2005 a criminal case against a number of persons unknown on charges of membership of Hizb ut-Tahrir was separated from the case against Bahodir Shukurov on the same charge. On 4 June 2005 proceedings in the case were suspended, but resumed on 22 June.

On the same day, Viktor Sychev was arrested as a suspect. During a search of his house in the countryside outside Naberezhniye Chelny, openly available Islamic literature was seized, and subsequently returned to its owner. For two days, Sychev was interrogated about his alleged membership of Hizb ut-Tahrir and told to name other individuals connected to it. According to the available information, he was not subjected to any direct physical pressure but was put into a cage measuring about 1 square metre, in which it was impossible to sit or lie down<sup>90</sup>. Forty-eight hours after being arrested he was released, having given a written undertaking not to leave the jurisdiction, but on 30 June he was charged under Articles 282-2(2) and 282(2“c”) of the Criminal Code.

On 6 July, during a search in a roadside café in the Mamadysh Region of the republic where Artur Iskanderov worked, OCD officers seized Hizb ut-Tahrir books and leaflets, and detained Artur for 48 hours. According to his statement, he was taken to the regional OCD in Kazan, where he was beaten up in an attempt to force him to confess to committing acts of terrorism.

On 22 July 2005 Bahodir Shukurov, who was serving a sentence for involvement in Hizb ut-Tahrir, wrote to the Naberezhniye Chelny Public Prosecutor from the city’s detention centre to complain that, the day before, a Section 6 officer had locked him for the night in a “cell” and, alternating threats with promises to improve the conditions of his detention and not to torture him any more, had forced him to testify that Viktor Sychev, Marat Mullaganiyev and a certain Ildar from Almetyevsk were members of Hizb ut-Tahrir. The same methods were used to extract promises from him to testify, if need be, to their supposed involvement in terrorist activities. Shukurov therefore asked the Public Prosecutor not to accept any more confessions

89. In the statements of Naberezhniye Chelny residents.

90. From interviews recorded by Y. Ryabinina in Kazan in May 2006.

of guilt from him, nor any more testimony of his containing slanders against other people. It later transpired that this complaint allegedly did not reach the special section of the detention centre, and as a result was not sent to the Public Prosecutor's Office.

On 23 July 2005 police officers re-arrested Artur Iskanderov. They took him from his house, having promised his parents that he would be released by the evening. According to a statement from his father, it was only 2 weeks later that he managed to ascertain that his son had been arrested on suspicion of being involved in blowing up a power line in the Tyulyucha Region of Tatarstan not long before.

In the first month of his detention, Iskanderov, who was tortured during that time in the Naberezhniye Chelny detention centre (torture that he described in detail in his statement), was a suspect in three separate criminal cases:

- the case concerning the preparation and commission of acts of terrorism throughout practically the whole of the Volga-Urals Region, including the blowing-up of a gas pipeline in the town of Bugulma;
- the Islamic Jamaat case;
- the case concerning organising Hizb ut-Tahrir and inciting its members to religious and ethnic enmity.

During this time, Artur repeatedly refused to sign depositions about events and people he had never heard of, even in exchange for his freedom, which the investigator Vadim Maximov promised him if he did so<sup>91</sup>.

On 23 August 2005 Iskanderov was indicted on the last of the aforesaid charges, supposedly on the day after he was arrested in that criminal case, although he had already been in custody for a month.

On 24 August Raïs Gimadiyev, Ildar Faskhutdinov and Damir Halikov from Naberezhniye Chelny were arrested, as was, on 25 August, Ildar Shaihutdinov from Almet'yevsk, who had previously been given a suspended sentence for involvement in Hizb ut-Tahrir. On 6 September Marat Mullaganiyev was taken from Orenburg Province to Naberezhniye Chelny, where he was put in the detention centre.

It is clear from the statements and complaints of all of the detainees that during their interrogation they were coerced with threats (to beat them, "bend"<sup>92</sup> them etc.) into testifying against themselves and others, and that some of them were tortured.

On 1 September 2005 Shaihutdinov was charged under Articles 282-2(2) and 282(2"с") of the Criminal Code; on 2 September Gimadiyev, Faskhutdinov and Halikov, and on 16 September Mullaganiyev, were charged under the same articles.

On 9 and 16 September Faskhutdinov and Halikov, respectively, were released having given written undertakings not to leave the jurisdiction. The criminal prosecution of Halikov was later dropped, and he then participated in the criminal case as the main prosecution witness.

There are statements<sup>93</sup> attesting to heavy pressure's having been put on witnesses during the preliminary investigation; in particular, Alexandr Verhovyykh (a Major in the Almet'yevsk OCD) and the investigator Maximov used threats to force Tagir Fairuzov to sign depositions against Shaihutdinov. Those depositions were along the same lines as those that had been extracted from him under torture in 2004 during the investigation of the earlier Hizb ut-Tahrir case in Almet'yevsk.

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91. From the statements of A. Iskanderov and R. Iskanderov.

92. "Bending" is a word used by inmates for homosexual violence, and a man who has been subjected to it is called a "bender". Such men are amongst the most vulnerable prisoners: it is considered shameful to associate with them – to such an extent that someone who touches a "bender" risks being considered one himself.

93. The statements of T. Fairuzov and B. Shukurov.



During the autumn of 2005 Shukurov, who was still in prison, also told human rights organisations about the torture that had been used to get him to testify against the accused.

In November 2005 he was released at the end of his sentence. According to his statement, only a month later police officers again started putting pressure on him, demanding that he confirm the testimony against the others that he had given under torture, and threatening him with more torture.

In February 2006 the charges against Gimadiyev, Shaihutdinov, Mullaganiyev and Iskanderov were supplemented by a charge under Article 210 of the Criminal Code, which outlaws setting up and participating in a criminal association.

In April, the indictment was once again “beefed up” by adding new charges under different articles of the Criminal Code; in particular, the charges of “involving others in the activities of a terrorist organisation” (Article 205-1(1)) and “attempting to involve others” (Articles 303(3) and 205-1(1)) were added, even though no new evidence had been presented. Faskhutdinov and Sychev were taken into custody.

On 2 November 2006 Bahodir Shukurov was arrested again, this time on a charge of attacking a police officer, a charge that people who know him insist was fabricated<sup>94</sup>.

According to complaints lodged by his cellmates in the detention centre, when he arrived from Elektrotekhnicheskoy police station, where he was being held, he had a broken hand and signs of heavy beatings on his body, did not react normally to those around him, and did not understand how and why he had ended up in prison. He was then put into a cage measuring one square metre, where he was kept for a week. His cellmates reported that when he returned to the detention centre from having a medical examination he was in a bad state; he appeared sedated, and was able to say only that he had been given some sort of injection. Prisoners from another cell stated in their complaint to the public prosecutor’s office that when Shukurov came round he told them that his condition had been caused by some sort of injections that he had been given prior to being interrogated.

There are similar complaints from individuals who were being held in three different cells of the Naberezhniye Chelny detention centre, where Shukurov was kept for the first two weeks of his incarceration.

In a complaint written in March 2007, Shukurov stated that when the police patrol stopped him in the street to check his papers he got frightened and tried to run away. He was caught, beaten up, and taken to Elektrotekhnicheskoy police station in Naberezhniye Chelny, where the following day he was again ordered to confirm his testimony against the defendants in the Hizb ut-Tahrir case. When he refused, he was put in the Naberezhniye Chelny detention centre, where he was injected with something, following which his vision became strange and distorted, and he later noticed that his memory had deteriorated.

After that, he writes, he was transferred to the detention centre in Bugulma, where he was put into a cell for prisoners with mental problems, and later into a psychiatric hospital in Kazan, which Shukurov called in his statement “an experimental centre”. Following an examination, he was declared to be *compos mentis*.

In February 2007 Naberezhniye Chelny City Court, with Judge I.I. Sukhanayev presiding, sentenced Shukurov under Article 318(1) of the Criminal Code to two years and six months’ imprisonment in a minimum-security penal colony.

In the indictment in the case concerning the six men’s membership of Hizb ut-Tahrir that was drawn up at the end of the investigation by V.A. Maximov, an investigator of particularly serious cases at the Department for the Investigation of Murders and Banditry of the Tatar-

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94. From interviews recorded by Y. Ryabinina in Naberezhniye Chelny in March 2007.

stan Public Prosecutor's Office, the accused were charged under the following articles of the Criminal Code:

Shaihutdinov – under Articles 210(1), 205-1(1), 30(3) and 282-2(1);

Mullaganiyev – under Articles 210(1), 205-1(1), 30(3) and 282-2(2);

Iskanderov – under Articles 210(1), 205-1(1), 30(3) and 282-2(2);

Faskhutdinov – under Articles 210(1), 205-1(1), 30(3) and 282-2(2);

Sychev – under Articles 210(1), 205-1(1) and 282-2(2);

Gimadiyev – under Articles 210(1) and 282-2(2).

However, on 28 December 2006 the Deputy Public Prosecutor of Tatarstan, who had been sent the indictment for his approval, ordered that the charges under Articles 205-1 and 210 be removed from it. The grounds for this decision were that Federal Law № 153-FZ, which came into force in July 2006, had changed the wording of Article 205-1 of the Criminal Code, in particular the words “persuading an individual to participate in the activities of a terrorist organisation” had been taken out; and the removal from the indictment of the charges under Article 205-1 entailed, in turn, the removal of the charges under Article 210.

In the end, out of all the serious and extremely serious crimes with which the accused had been charged by the investigation team led by Vadim Maximov, for which sentences of up to 15 years' imprisonment were envisaged, all that remained were the charges against Shaihutdinov under Article 282-2(1) and against the others under Article 282-2(2).

The case was heard by G.G. Halikova, a Justice of the Peace in Judicial District № 10 in Naberezhniye Chelny. She had wanted to hold the hearings *in camera*, but her decree ordering this was revoked by the City Court. The judge also failed in her attempt to bar observers from the trial on the pretext that the courtroom had “not been adapted” for the public.

The witness Halikov, who took the witness stand twice during the trial, answered in reply to almost all the questions put to him that he remembered nothing, and referred the court to the depositions he had given at the preliminary investigation. The testimony of other witnesses also contained some rather odd things; for example, one and the same individuals were described by some witnesses as men and by others as women.

Bahodir Shukurov was not called to the witness stand. There is good reason to believe that the criminal case concerning “the use of violence against police officers” was fabricated against him in order to rule out the possibility of his taking the witness stand and making public the methods that had been used to obtain “evidence” in the criminal case against the six defendants.

On 26 March 2007 the defendants were sentenced:

Shaihutdinov – to two years' imprisonment in a penal colony;

Gimadiyev and Iskanderov – to one year seven months' imprisonment in a penal colony;

Mullaganiyev – to one year six months' imprisonment in a penal colony;

Faskhutdinov – to one year's imprisonment in a penal colony;

Sychev – to eleven months' imprisonment in a penal colony.

All the defendants except for Shaihutdinov were released from custody in the courtroom, since they had already done their time.

On 16 July 2007 Naberezhniye Chelny City Court pronounced a ruling upholding the judgement without variation and rejecting the men's appeals (except for Mullaganiyev, who did not appeal against the judgement).

On 28 August 2007 the Supreme Court of the Republic of Tatarstan, having considered the appeals in cassation of Gimadiyev and Iskanderov, removed from the judgement the references to their involvement in a criminal association, but upheld the rest of the judgement without variation and rejected the men's appeals.

Testimony gathered by the mission on the circumstances surrounding the cases of Rais Gimadiyev, Artur Iskanderov and Bahodir Shukurov indicates that numerous violations were committed during their arrest, their detention, and the investigation of the criminal case.

### **Artur Iskanderov**

*“I was working in a roadside café. On the day I was arrested, July 6 2005, I had gone out to get some groceries. A neighbour called me on my mobile and said he’d seen some policemen in the café. When I got back there, they started abusing me, handcuffed me and took me to my home to carry out a search. My mother was at home. They asked me where I had hidden the explosive, and what else I had there that was illegal. They showed me a warrant and took away my notebook, disks, and Islamic leaflets (including two Hizb ut-Tahrir leaflets). The search was conducted by FSB agents. One of them said that it was a real pity he couldn’t get his wife a nice present after the search, obviously hinting that he was willing to take a bribe. Then they drove me to Mamadysh. On the way they arrested another Muslim. He was taken to the Kazan OCD.*

*They put me into a room in the police station and started shouting at me, insulting me, calling me a terrorist. Then they drove me to the Kazan OCD, where they started naming various people and asking me whether I knew them. I replied that I knew some of them, as I worked in a café and I had many acquaintances. They were particularly interested in Musa<sup>95</sup> Hairullin [this name crops up in the affair of the explosion in Bugulma – see below], whom I did not know. They suggested that I take a lie-detector test to establish whether I did indeed know the people they were interested in and whether I was involved in any crimes. Only later did I realise that I had agreed to this. They beat me, and made me stand in the “stretch” position until the next morning. As morning approached, a young policeman came into the interview room where I was being held and hit me on the neck. Then I was put into a car and driven to Mamadysh. We got there at night, and I was kept there until the morning; there was nowhere to sleep. I was released on 8 July at around midday, and went home.*

*On the morning of 22 July I was at home with my parents when OCD officers showed up and asked me to go to the police station with them. I refused to go, but my parents persuaded me not to object, since the policemen promised to get me back that evening. The OCD officers were lying. I returned only 18 months later. They drove me to the Mamadysh OCD, tied my hands and asked whether I was afraid of physical pain. Then I was driven to Naberezhniye Chelny.*

*On the way, they blindfolded me with my own T-shirt, then they dragged me out of the car, took off the rope, handcuffed me and handed me over to some people in another car. This car took me off to somewhere in the woods, where there was what looked like a building site. They tied my hands behind my back and tied me to a post. Some people came up to me and said that they were from the Uzbek security services (the others were from the Naberezhniye Chelny OCD), and that they were interested in me in Uzbekistan as well as Moscow. I was born in Kyrgyzstan, on the border with Uzbekistan, and lived there until the age of 13, and then our whole family moved to Tatarstan. They asked me if I belonged to a terrorist organisation. They were constantly shaking me and beating me. The Uzbeks were interested in Hizb ut-Tahrir. They threatened to rape me if I didn’t tell them “the whole truth” about Musa and Hizb ut-Tahrir, and asked about the recent blowing-up of*

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95. Musa is the Muslim name of Vilsur Hairullin. On 2 August 2007 he was sentenced by the Supreme Court of Tatarstan to 17 years’ imprisonment on charges of preparing and carrying out a number of explosions in Tatarstan, Bashkortostan and Kirov province.

*the electricity pylon in the Tyulyucha Region of Tatarstan. Then they took my clothes off, and when I started resisting they said “let’s take him to our place”.*

*I was driven to the Naberezhniye Chelny OCD and put in a room on the top floor, still in handcuffs and with a bag over my head. I sensed that there was someone else in the room. They took the bag off me, gave me some water, and started drawing up the custody report; later, some young policemen came in and started threatening to beat me up. Then I was driven to the detention centre and put into a cage measuring one square metre. I was kept there for 15 days except for the weekends when I was transferred to an ordinary cell. Only rarely was I allowed to go to the toilet. At night I was kept in another cell, where they chained my hands to a grille above my head, and I stood like that all night. My legs swelled up. At night they would come in and threaten to torture me with welding tongs and electricity, cut my heels and pull out my fingernails. They gave me a sheet of paper for me to write down everything I knew and testify against other Muslims. This went on for 15 working days and four weekend days. My parents did not know where I was for these nearly three weeks. Throughout this time, all their inquiries went unanswered.*

*This man Musa was taken from Kazan to Naberezhniye Chelny, to get him to confess that he knew me and had asked me to join the jihad. They called this “an investigative experiment”.*

*Finally, my father met with the investigator, who allowed him to see me on condition that he tried to persuade me to confess to knowing Musa. My parents were given 18 days to talk me into it. My father was accompanied by Rais Gimadiyev. My father was let in to see me when there was no-one else around although there may have been video cameras in the room. My father was shocked to see me in such a state. He told me about the investigator’s proposal, but didn’t make me change my mind.*

*Maximov (the investigator) printed out “my” statement and give it to me for me to sign. He said he’d release me that evening, but I refused, and I was taken back to the cell. A new order to keep me in custody for another month was issued, and my first month in prison was re-registered as detention on suspicion of terrorism. I had bad bruises on my legs, and handcuff marks on my hands. I didn’t have a good lawyer, only one appointed by the investigator; he showed up for the first time when my detention had already been extended. My father hoped that I’d be coming home, and was afraid of making the situation even worse. In late August I saw Rais Gimadiyev in a 1-square-metre cage while I was being taken to the doctor, as I had scalded myself with boiling water while trying to make tea in the cell. That was during Kazan’s anniversary celebrations. After that, they left me in peace in the prison.”*

### **Rais Guimadiev**

*“I came to Naberezhniye Chelny in 1988, to study; I settled there and got married and we had two children. In the ’90s, I began feeling outraged at the consequences of the social crisis and abuses of power by the police. I knew many people who had been victims of such abuses. I hadn’t been a religious person, but the new circumstances pushed me towards a spiritual quest. In 2004 I adopted Islam. I started going to mosque and living my life by the principles of Islam. This was at the time of the arrests in the Jamaat case. The congregation of the “Tauba” mosque started having problems at this time. I was outraged by how Muslims were being treated. In late 2004 I took part in two demonstrations. The local media did not report them, though everyone who took part in them was later implicated in one way or another in this criminal case. In the spring of 2005 I sensed I was being followed. First Sychev was arrested, then Artur Iskanderov disappeared. On 24 August*

*I, too, was arrested. On that day I had been in the countryside, digging up potatoes with my father. I had then loaded them into the car and driven off with my son. I met up with a relative at a crossroads, so as to unload the potatoes into his car. A car with blacked-out windows drove up to us. The people inside said they were policemen, and asked me “Are you Raïs?”. I asked what the problem was, but they immediately handcuffed me and shoved me into the car. My seven-year-old son thought they were bandits. They didn’t present any warrant, and were wearing gun holsters but no uniforms. They said to me: “You’re nicked. You’ll find out what the problem is at the police station”. They drove me to Naberezhniye Chelny, where they said that I was “in serious trouble”. I realised from later conversations that they had taken me to the same building as Artur Iskanderov. They went off, and some other policemen appeared. They started taunting me, and kept making me sometimes stand, sometimes sit by the wall. They ordered me to tell them what I had done and what had happened. They started asking about Hizb ut-Tahrir – how long ago I had joined that organisation. I denied everything. I was interrogated by five policemen, some of whom were drunk. After the threats came physical pressure, they put handcuffs on me and began squeezing them tighter. I could hear the voices of Damir and Ildar coming from an adjoining room, and I realised from their screams that they were being beaten. They stood me against a wall, made me spread my legs and started hitting them. This went on for quite a while. I realised that Ildar was in the same position. I had been arrested at 6 in the evening, and only an hour later I was being tortured.*

*They didn’t finish drawing up the arrest report until 10 a.m. in the morning. In the morning my wife hired a lawyer, he came in with the investigator Maximov. The latter asked me the same questions. I later found out that Ildar stated that he had been tortured, and asked for a forensic medical examination. I met with the lawyer when I was being taken to the detention centre. I said to him: “If I need you, I’ll let you know. If they’re going to interrogate me, they’ll call you themselves.”*

*I was put in a cage measuring 1 square metre, in a room with a metal stool and a table. After six days in these conditions, I was transferred to a cell with six double wooden bunks, a wash-basin and a toilet, which was not partitioned off from the rest of the cell. There was no window, only a small ventilation hole and grilles or, rather, metal gauze; light seeped in only through the slits above the door. There was a light in the room with the cage, but it was always turned on.*

*I was then left in peace for one day, but in the evening I was again locked into the cage, held without food and water and not allowed to sleep. They said to me: “Confess, or we might arrest your wife as well.” I was so exhausted that I began to doubt myself and thought that I’d end up cracking and telling them everything they wanted to hear. I was being handled only by rank-and-file policemen. There was never an investigator present.*

*After three days in these conditions I said that I was prepared to make a statement, and asked them to call an investigator. Maximov came up from Kazan, and came into my cell. He asked me: “You’re not bluffing?” I replied: “No, but I’ll only talk in the presence of my lawyer.” “If you’re bluffing, you’ll regret it”, he said. I nodded, and called the lawyer. Seeing me in the cage, the lawyer got indignant, and I then told him that I hadn’t been let out of it since the last time. Maximov then realised what I was up to and started threatening me with torture, unconstrained by the presence of my lawyer. “You know we haven’t yet used every technique, right? There’s still electricity and other techniques. You’ve seen what we’ve done with the people from Jamaat?” I had indeed spent two days in a cell with men accused in the Jamaat case, and already knew about the techniques that were being used.*

*My lawyer sent a complaint to the public prosecutor's office, which conducted an investigation. The policemen who were questioned did not deny that they had put me in the cage, but claimed that they had done so to stop me trying to kill myself. In the complaint my lawyer wrote only about my being kept in the cage, but not about the threat to torture me with electricity. I realised that pressure was being put on the lawyer, and indeed he himself admitted as much: "You can pay me, I'll come to see you, but there's nothing I can do to help you."*

*While I was in the cage they brought in Ildar and Damir. Lawyers had been appointed for both of them. Both of them denied having testified against me. Damir later admitted that he had indeed testified against me. He had "cracked". Ildar pleaded Article 51 [refused to testify on the basis of Article 51 of the Constitution of the Russian Federation on the right not to incriminate oneself and one's family].*

*While I was in the detention centre in Bugulma I asked for medical assistance, because my legs were hurting from the beatings, but I was refused. Once, when I was taken for questioning, I ran into Marat and found out that he, too, was being beaten and was not being allowed to go to the toilet.*

*I shared a cell with Artur Iskanderov for one month. They used to taunt us, calling us wahhabites, terrorists etc. The officer in charge of our block threw the Koran onto the floor and trampled on it.*

*A lot of interesting things came out during the trial. For example, that during the preliminary investigation witnesses had been shown photographs of the suspects they were supposed to identify. One of the witnesses said that policemen had come to her home and told her to testify that on the day in question she had seen a man, not a woman. When Damir was in the witness stand I asked him why he thought I was a member of Hizb ut-Tahrir – on the basis of personal convictions, or facts? The only evidence against me, you see, was the declaration extracted from Damir that I was a member of Hizb ut-Tahrir. After the verdict was pronounced, when I stated that I intended to appeal, the judge and the public prosecutor took me off into a separate room and said that this would only make things worse. They persuaded all the others not to appeal against the verdict."*

Elvira, the wife of Bahodir Shukurov, confirmed to the mission that the testimony that her husband gave against the suspects in this case had been extracted under torture.

*"Bahodir testified against them, but wrote complaints to the public prosecutor's office and Civil Assistance, to inform them that his testimony had been given under torture. He had been held in a cage for 38 days and for 18 days he had been tortured, by tightening his handcuffs. He wrote a complaint in July, but it was not sent from the detention centre. In it he asked that his testimony not be accepted, even if given in the presence of a lawyer, since he might have been tortured before the interrogation.*

*In November 2005 Bahodir was released, and in February 2006 we got married. Then he was re-arrested: while he was on his way home late one evening he was stopped by a patrol, and he didn't have his papers on him. He was beaten. He tried to run away, but they hit him until he lost consciousness. I realised that he was missing only when a friend of his telephoned and said that he hadn't showed up. I started phoning around the hospitals and other places, and found out that he was in a detention centre. I wasn't told what he was being accused of, so I called the public prosecutor's office. They told me that he had attacked some policemen, and bitten one of them on the hand and another one on the leg. I didn't believe this, as he isn't remotely aggressive. He had been taken in a cage from the police station to the detention centre, where he was seen by Rai's Gimadiyev and Artur*

*Iskanderov. He was badly beaten. The police wouldn't let me see him. Raïs Gimadiyev wrote a letter to his wife, who told Artur Iskanderov's wife, whom I know. That's how I found out about the condition he was in.*

*It turned out that the police had called an ambulance. He dimly recalls a woman in a white gown giving him injections in his arm and back. He started hallucinating. He was taken to Kazan for treatment in a clinic. He spent 10–15 days in Kazan. He wasn't treated, he was kept in terrible conditions. The lawyer went there to see him. I wasn't allowed to visit him.*

*According to his cellmates, he behaved strangely after he returned from there. The lawyer demanded that he be given a medical examination. As a result, he was declared healthy. He was also behaving strangely when he was put into the cell for the first time after he had been hit over the head.*

*Bahodir was supposed to be transferred from the detention centre to Bugulma pending his trial, but they refused to take him in Bugulma because he had been beaten and was in a mentally disturbed condition. The Bugulma detention centre eventually agreed to take him, but they kept him in a special psychiatric cell. This was in December 2006. At the request of Ildar Shaihutdinov Bahodir was transferred to his cell so that he could look after him. In February 2007, before the trial, his lawyer was misinformed about the time and place of the hearing, so he was not there. In his place, Bahodir was given an appointed lawyer. I too was misled about the trial, and was also not present at the hearing. The judge strongly recommended not appealing against the verdict.*

*I went to Kazan to see the Interior Minister of Tatarstan. As soon as I mentioned Bahodir's surname he immediately remembered him, but denied that he had been beaten up by the police. I shouted and complained, but to no avail.*

*When I was allowed to see my husband, his memory had already improved.”*

### **III.2.5 The pipeline-explosion case, Bugulma (Tatarstan), 2005**

Following the mass arrests of Muslims in Tatarstan in the autumn of 2004<sup>96</sup>, two residents of Naberezhniye Chelny, Fanis Shaihutdinov and the former Guantanamo prisoner Ravil Gumarov<sup>97</sup>, considered it their duty to deliver parcels of provisions to their co-religionists who were being held in the Bugulma detention centre, where they were denied the ability to observe Islamic culinary rules. Shaihutdinov later told human rights organisations that they thereby incurred the extreme displeasure of the local OCD, whose officers warned them that no good would come from their humanitarian activities.

They made one such delivery on 6 January, after which they returned to Naberezhniye Chelny and, according to Shaihutdinov, did not go to Bugulma again until the end of January<sup>98</sup>.

On 8 January 2005 there was an explosion in a low-pressure domestic gas pipeline in Bugulma, which damaged the heating network and blew out the glass in the windows of a nearby hostel.

On 31 March 2005 a taskforce from the FSB's Directorate for the Republic of Tatarstan arrested Rustam Hamidullin in Nefteyugansk, in the Khanty-Mansi Autonomous Area, and

96. In Naberezhniye Chelny, Aznakayevo, Almetyevsk and other towns.

97. R. Gumarov and T. Ishmuratov (whose story appears below), who had been arrested during the American operation in Afghanistan, were declared innocent upon their return to Russia from Guantanamo. Nevertheless, they were forced to spend several months in a detention centre in Pyatigorsk (in the south of Russia) while the FSB investigated allegations of their possible involvement in armed actions in Afghanistan. Timur Ishmuratov explained his stay in Guantanamo thus: he had adopted Islam following a family tragedy and had gone off to life in a Muslim country. In Afghanistan the Taliban suspected him of having links to the FSB and took him prisoner. Then, during the American operation in late 2001, the Taliban handed him over to the Americans.

98. <http://www.islamnews.ru/news-5649.html>.

escorted him to Bugulma, which he had left on 9 January 2005. (He had lived with his family in Bugulma, moved to Nefteyugansk in the autumn of 2004, and in early January went to stay for a while at his mother's, where his wife and child were still living.)

On the evening of 5 April the duty lawyer informed his mother over the phone that Rustam had confessed to blowing up the gas pipeline. Information soon came out<sup>99</sup> that he had been forced under torture to implicate his step-brother, the former Guantanamo prisoner Timur Ishmuratov, along with Ravil Gumarov and Fanis Shaihutdinov.

On 1 April Ishmuratov<sup>100</sup> and Ildar Valiyev were arrested in Bugulma. They were both taken to the city's police headquarters, where administrative-offences reports were drawn up. They had allegedly been swearing like troopers and failed to respond to reprimands from police officers, on the basis of which a court ordered that they be incarcerated for 5 days.

On 2 April Ravil Gumarov and Fanis Shaihutdinov were arrested in Naberezhniye Chelny on suspicion of acquiring, storing and transporting explosives. On 7 April both of them were charged under Article 222(3) of the Criminal Code. On 12 April they were also charged under article 205(3).

The case was investigated by the FSB's Directorate for the Republic of Tatarstan.

Ishmuratov claims, in a statement and a number of interviews, that while he was in administrative detention he was forced under torture to write an "explanation", dictated to him by an OCD officer, of how he, Gumarov and Shaihutdinov had supposedly blown up the gas pipeline, and to repeat what he had written to the FSB investigator Lomovtsev. Whenever Timur made a mistake in his narration of the required version of events he was corrected, and the corrected version was entered in the record.

On 6 April, when the term of his detention expired, Ishmuratov was arrested, without having been released from custody, on suspicion of carrying out the explosion of the gas pipeline. On 29 April he was charged under Articles 205(3) and 222(3) of the Criminal Code.

A month later, Valiyev and Hamidullin were released without charge, but they were not handed the orders terminating their criminal prosecution. They were subsequently questioned as witnesses, and were periodically reminded that whether they remained witnesses or became suspects depended on the "correctness" of their testimony and that of their families<sup>101</sup>.

During the preliminary investigation Ishmuratov repeatedly withdrew his initial confessions, following which the torture resumed<sup>102</sup>. The same method was used to obtain a confession from Ravil Gumarov, who has said that he could not endure the torture and decided to assume the role of "organiser" in order to make things easier for the others. Fanis Shaihutdinov, despite being tortured, incriminated neither himself nor the others.

In July 2005, when the investigation of the case was almost over, a certain Vilsur Hairullin, who had been arrested on suspicion of committing several acts of terrorism, confessed that it was he who had blown up the gas pipeline. He subsequently wrote in his depositions that he had agreed to take the blame for that explosion in exchange for the investigators' promise to release him<sup>103</sup>.

The investigatory agencies did not inform Gumarov's, Ishmuratov's and Shaihutdinov's lawyers of Hairullin's confession.

The indictment was drawn up by Major S.Y. Lomovtsev, Senior Investigator at the Investigations Department of the FSB's Directorate for the Republic of Tatarstan, and approved by A.Y. Nikolayev, Acting Public Prosecutor of the Republic of Tatarstan.

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99. From the statement of T. Ishmuratov.

100. Ishmuratov was not in Bugulma on the day of the explosion.

101. From the statement of Z. Ishmuratova.

102. Statements of Z. Ishmuratova, interview with T. Ishmuratov in Moscow in the autumn of 2005.

103. There are also records of Hairullin's interrogation in the Islamic Jamaat case – in which he testifies against all of the defendants.



Amongst the arguments supposedly supporting the guilt of Gumarov, Shaihutdinov and Ishmuratov the investigation cites those same food parcels that were delivered to the Bugulma detention centre: *“The fact that R.S. Gumarov and F.A. Shaihutdinov rendered support to individuals against whom criminal proceedings had been instituted and who were being held in custody in Detention Centre № 3 in Bugulma for committing crimes of an extremist and terrorist nature... is objectively confirmed by their earlier testimony, which states that one of the aims of the crimes they committed was to influence the authorities’ decision-making in order to alleviate the situation of the aforesaid individuals.”*<sup>104</sup>

Furthermore, one of the pieces of material evidence relating to the charge was the literature kept by Gumarov and Shaihutdinov, some of which *“can in many respects be ascribed to the wahhabi ideology. Moreover, many of the books are popular not only among adherents of traditional wahhabi-ism but also among “fundamentalists”, radical Muslims, members of terrorist groups”* states the indictment. ...

And, finally, the indictment states: *“The fact that R.S. Gumarov and T.R. Ishmuratov are extremists is attested to by their involvement in armed conflict on the territory of the Islamic State of Afghanistan (ISA) as members of detachments of the Islamic Movement of Uzbekistan (IMU), which is structurally part of the so-called Taliban movement operating on the territory of the ISA...”*, even though, as already stated in the same indictment, *“R.S. Gumarov and T.R. Ishmuratov had been held for about two years in the American naval base in Guantanamo (on the island of Cuba), before... being handed over to the competent agencies of the Russian Federation. Criminal proceedings were instituted against R.S. Gumarov and T.R. Ishmuratov by the North-Caucasus Directorate of the Prosecutor-General’s Office of the Russian Federation under Articles 322(2) and 359(3) of the Criminal Code... The criminal charges against R.S. Gumarov and T.R. Ishmuratov were dropped on 22 June 2004 on the grounds envisaged by Articles 24(1)(2) and 27(1)(2) of the Code of Criminal Procedure of the Russian Federation”* (the absence of the constituent elements (corpus delicti) of the crime).

According to the prosecution, Ravil Gumarov planned this act of terrorism in order to intimidate the authorities and draw attention to the arrests of Muslims, and had arranged with Ishmuratov and Shaihutdinov that on the 7<sup>th</sup> they would spend the night at Ishmuratov’s place, in order to carry out the explosion early on the morning of the 8<sup>th</sup>.

It should be noted that on the day of the explosion it was not mentioned by any of the local media. Moreover, at the trial a taxi-driver who had been close by at the moment of the explosion was questioned; he stated that he had seen neither people nor cars in the vicinity.

According to a relative of one of the accused whom the mission met with<sup>105</sup>, numerous facts demonstrate that the charges were fabricated, including by torturing witnesses to get them to testify against the defendants.

### **Fabricated charges and the extraction of confessions:**

- This is attested to, in particular, by the “confessions” of Rustam Hamidullin, who was forced by torture and threats against his pregnant wife to testify that his step-brother Timur Ishmuratov had slept at his place on the night of 7/8 January, even though Rustam was not there.

104. Quote from the indictment. It is completely obvious, moreover, that an act of terrorism during the investigation of a separate “terrorist” case can only worsen the position of the suspects and defendants, as has happened many times already.

105. The witness asked to remain anonymous.

- In the course of the trial many prosecution witnesses went over to the defence side and testified that their initial statements had been obtained from them under torture. They also confirmed the alibis of all three defendants.
- The backpack that Fanis Shaihutdinov wore throughout January and then washed was used by the prosecution as evidence, since traces of hexogen were allegedly found on it, even though investigators first examined the backpack in April – a week after Shaihutdinov was arrested, i.e. three months after the explosion.

### **Torture and abuse<sup>106</sup>:**

The defendants have reported that in addition to being subjected to “normal” torture they were also subjected to specific forms of abuse connected to insulting their religious sensibilities:

- making insulting pronouncements about Islam;
- shaving off their beards;
- pouring vodka down their throats.

This is but one of numerous serious consequences of the fact that many police officers and security agent participated in special operations and military operations in Chechnya, from where they returned home with both Islamophobia and a habit of behaving with cruelty towards those they perceive as enemies.

Timur Ishmuratov and Ravil Gumarov have stated that the tortures they endured were far worse than those they had been subjected to in Guantanamo.

At one point Ishmuratov stated that all he cared about was seeing his child, who was about to be born. As for Gumarov, he “confessed” to being the main organiser of the act of terrorism, and to involving all the others in it, in order to spare both himself and the others any further torture.

The case was heard by the Supreme Court of the Republic of Tatarstan in front of a jury, with Judge A.F. Galiakberov presiding. In September 2005 the jury found the defendants not guilty, and they were released in the courtroom.

The Tatarstan Public Prosecutor’s Office appealed against the verdict on the day it was pronounced.

On 17 January 2006 the Supreme Court of the Russian Federation quashed the not-guilty verdict and ordered a retrial of the case.

Over the following month the police put renewed pressure on the witnesses in the case<sup>107</sup> on to get them to testify to the defendants’ guilt.

In late January Timur Ishmuratov, fearing re-arrest, torture and an unjust conviction, attempted to flee to the Ukraine. As soon as he had gone through the border checkpoint he was arrested on Ukrainian territory and returned to the Russian Federation. On 11 March 2006 Sevsk District Court in Bryansk Province found him guilty under Article 322(1) and sentenced him to 6 months’ imprisonment.

On 22 February the Supreme Court of Tatarstan ordered that Gumarov and Shaihutdinov, who were not present at the preliminary hearings, be taken into custody. Yet no account was taken of the fact that they had not been duly notified of the date of the hearing, nor of the fact that they had faxed the court petitions for the hearing to be postponed, since they had found out about it too late and did not have time to get to it from Moscow, where they were at the time.

On 7 March 2006 Shaihutdinov and Gumarov were arrested in Moscow by an FSB snatch squad.

106. <http://gzt.ru/society/2005/10/11/215519.html>.

107. Statements of R. Hamidullin and I. Valiyev.

On 5 May a new jury, before which the case had been retried at the Supreme Court of the Republic of Tatarstan, found the defendants guilty of all the charges.

On 12 May the presiding judge P.M. Kondratyev sentenced the defendants to:

Shaihutdinov – 15 years 6 months’ imprisonment in a maximum-security penal colony;

Gumarov – 13 years’ imprisonment in a maximum-security penal colony;

Ishmuratov – 11 years 1 month’s imprisonment in a maximum-security penal colony.

On 29 November 2006 the sentences were reduced on appeal by the Supreme Court of the Russian Federation:

Shaihutdinov – to 10 years 6 months’ imprisonment in a maximum-security penal colony;

Gumarov – to 9 years’ imprisonment in a maximum-security penal colony;

Ishmuratov – to 8 years 1 month’s imprisonment in a maximum-security penal colony.

The rest of the judgement was upheld without variation. Shaihutdinov’s lawyer made a number of attempts to contest the jury-selection procedure, which violates the principle of the equality of the parties, since the prosecution, but not the defence, is able to obtain information on the composition of the jury. The course of a number of famous jury trials in recent years strongly supports this point of view. Fanis Shaihutdinov has filed several complaints against the conditions in which detainees are kept, none of which has been accepted. These complaints related to:

- the size of the cells: one square metre per person;
- the lack of a place to pray;
- the lack of medical care;
- the lack of halal food.

Gumarov’s and Ishmuratov’s cases were mentioned in a report of the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Forms of Treatment and Punishment<sup>108</sup>.

### **III.3 The cases concerning followers of Saïd Nursi and publications of his works. A typical example of the improper use of anti-extremist legislation**

The Russian authorities deem followers of the Muslim theologian Saïd Nursi to be extremists; it is prohibited to distribute Russian translations of 14 of his works in Russia.

Saïd Nursi (1877–1960) was a prominent Islamic scholar of Kurdish origin who was born in Turkey, and the author of the work “Risale-i Nur”, a commentary on the Koran over 5000 pages long. Nursi’s followers also call him “Badiuzzaman”, which in Turkish means “The Timeless One”.

Punitive measures against Saïd Nursi’s followers – the so-called “Nursi-ites” – began even before the ban on his works<sup>109</sup>. In September 2004 criminal proceedings were instituted in Omsk against Jambul Isabayev for distributing Nursi’s book “The Fruits of Faith”. Accusations of storing explosives that were allegedly found during a search of Isabayev’s home were refuted during the trial. Witnesses stated that Nursi’s works had had a positive influence on them. According to the findings on “The Fruits of Faith” produced by the Council of Muftis of Russia, the Central Spiritual Directorate of the Muslims of Russia, Professors of Theology at Moscow State University and the Europe Institute of the Russian Academy of Science, Nursi’s books could become an inoculation against the ideology of terrorists who shelter behind the Koran but do not know it. In the end, on 6 April 2005 Kirov District Court in Omsk acquitted

108. The document A/HRC/7/10/Add.1 of 28/02/08

109. In the description of these cases we used, in addition to material from the CAC and information received by the mission, material from the “SOVA” information-and-analysis centre (<http://sova-center.ru/>) and the Slavonic Law Centre (<http://www.sclj.ru/>).

Jambul Isabayev. Moreover, the Judicial Panel for Criminal Cases of Omsk Provincial Court pronounced an interlocutory judgement that says the following about the actions of the police: *“all the accusations on manifestly invented charges provoked outrage in a significant portion of the Muslim population, and allowed its most radical leaders to claim that Muslims were being prosecuted solely for their religious convictions. Judging by the outcome of the trial, they have a strong case.”*

On 28 March 2005 the Tatarstan Public Prosecutor’s Office instituted criminal proceedings against a group of believers in Naberezhniye Chelny who had been studying the books of Saïd Nursi, for inciting religious and ethnic enmity (Article 282(2)(c) of the Criminal Code). On 28 March 2006 the investigation was suspended. In the course of the one-year investigation into this case, the Tatarstan Public Prosecutor’s Office failed both to identify any individuals suspected of inciting enmity and to establish that any incitement of enmity had even occurred. There were no suspects in the case.

On 12 July 2005 searches were conducted at around twenty addresses in Naberezhniye Chelny, during which some works of Saïd Nursi were seized. According to Marat Tamimdarov, a translator of Nursi’s works from Naberezhniye Chelny, the Tatarstan Public Prosecutor’s Office initially instituted criminal proceedings against the organisation “Nurjular”, which was allegedly spreading the teachings of this theologian, and declared that its members were “involved in the activities of a criminal sect”. The Turkish Interior Ministry stated in response to an inquiry from the Public Prosecutor’s Office that no “Nurjular” organisation existed in Turkey. Both the followers of Saïd Nursi and many experts state that no such organisation exists at all.

Nevertheless, investigators have deemed Nursi’s works extremist. Those who have studied his works have been advised not to congregate, and not to read or discuss them. Yet no one has seen the official charges of the Tatarstan Public Prosecutor’s Office, since no-one has been entitled to familiarise himself with the criminal case.

One of the investigators told Saïd Nursi’s followers that, even though the case had been suspended, the Tatarstan Public Prosecutor’s Office would get Nursi’s books declared extremist and would then institute criminal proceedings against the whole group of Muslims from Naberezhniye Chelny. Moreover, in February 2006 the Assistant Director of the Naberezhniye Chelny FSB, Siren Galiakberov, declared that he intended to ban Saïd Nursi’s books, which “have a negative effect on people’s consciousness and worsen their psychological condition”<sup>110</sup>.

Pressure from the security services on individuals studying the works of Saïd Nursi has not stopped. In Naberezhniye Chelny in 2006, FSB agents and investigators from the Public Prosecutor’s Office used threats and intimidation to force some “Nursi-ites” – mainly elderly women – to agree to undergo “voluntary” psychiatric examinations, from the findings of which it was concluded that Nursi’s books had a “zombifying” effect.

In April 2006 the Tatarstan Public Prosecutor’s Office applied to Koptyevsk District Court in Moscow for Saïd Nursi’s works to be declared extremist.

The case was heard in closed hearings over the course of more than six months, and on 21 May 2007 the court ruled that Russian translations of 14 of Nursi’s works from the “Risale-i Nur” collection were extremist literature.

On 18 September 2007 Moscow City Court rejected an appeal against this judgement, which then entered into legal force.

In October 2007 the Prosecutor-General’s Office conducted an inspection of Tatar-Turkish high schools. They were looking for books by Saïd Nursi. The press reported that they failed

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110. Anatoly Pchelintsev, “Can Islam manage without religion?”, 2006, <http://www.sclj.ru/news/detail.php?ID=1274>.

to find the banned literature: *“Not one book. Things got ridiculous. They demanded that they stop studying physics, mathematics and chemistry in English, and that Oxford textbooks and even Russian translations be confiscated, on the grounds that there was a danger that they might contain “Islamic ideology”.*

On 3 December 2007 the investigation of the criminal case that had been suspended (in March 2006) was resumed in Tatarstan.

On 9 December searches were conducted in Kazan, Naberezhniye Chelny and Novosibirsk, during which books by Saïd Nursi and other Islamic literature were seized.

On 15 January 2008 a search was also conducted in a bookshop in Makhachkala.

On 10 April 2008 the Supreme Court of the Russian Federation delivered a judgement declaring the international religious association “Nurjular” extremist and banning its activities on the territory of Russia. This judgement entered into legal force on 25 April 2008.

It is curious that, as already noted above, there are serious doubts about the very existence of the organisation banned by this judgement.

The mission was told about a search conducted in December 2007 in the home of a mathematics professor in Novosibirsk, who was a witness in the criminal case that was being investigated in Tatarstan (see above). During the search a photo was taken of seized literature; the police officers had placed several books by Saïd Nursi on the top of a big pile of various literature. The events surrounding the search caused serious concern, since it could not be ruled out that the professor was being reclassified (from being a witness) as a suspect or defendant; happily, these fears were not confirmed.

The ban on distributing the works of Saïd Nursi is being rigorously enforced by the police. The mission met with a lawyer who represented suspects in the aforesaid criminal case concerning “Nurjular”. He said that he had been defending suspects in cases relating to violations of freedom of conscience – and fairly successfully – since as early as 2000, but that it was now becoming more and more difficult to do so (see below on the case of the Pyatigorsk imam Anton Stepanenko).

The mission also met with a group of Muslims who were questioned by the police in connection with this case. They are women and children who used to get together on a regular basis to, as they put it, *“read books and mix with co-religionists”*. Within the framework of the Nurjular criminal case some of them were unlawfully subjected to psychiatric examinations, which they had either not given their consent to or had agreed to under pressure, including under threat of enforced “hospitalisation”. Not long before our meeting, police officers had strongly “advised” them not to talk about anything with representatives of FIDH and the Civic Assistance Committee.

We obtained testimony from one of the followers of Saïd Nursi:

*“Until 2005 we had a licence to teach in one of the madrasas, but then it wasn’t extended. Our men would gather in the mosque, and the women in a flat that we were renting. One of the distinctive features of our community is that we sometimes read the Koran uninterruptedly, if someone is ill, for example. Money for the community’s needs is given by its own members; we teach our children, read them the Koran. Our teachers are trained in Turkey. We talk in Turkish, Tatar and Russian. We are considered a sect, but that’s not true. We’re not a sect and not an organisation, we’re simply a community of like-minded Muslims who revere Saïd Nursi.*

*Our problems started in March 2005, when proceedings were instituted in the Nurjular case. Many searches were conducted and various books were seized, often those that had been published in Turkey. The FSB very quickly started taking notice of us. After a strange psychological appraisal was conducted, which came to the conclusion that this literature*

*might be pernicious for the psyche, the FSB tried to force some of us (five women from Naberezhniye Chelny) to admit to being “victims”, so that they could launch a criminal case. “Think about your daughters”, “you’ll see yourself in the newspapers”. These were the sort of arguments they used to persuade them. As a result of this pressure, 4 poorly educated women agreed to sign the required statement.*

*In May 2005 a search was conducted in the flat that we were renting for the women. My young daughter was there at the time, and she was horrified by what she saw. They broke down the door, buzzed the flat with a helicopter, the house was surrounded. They took my daughter’s telephone, seized computers, photographed the girls. Some of them were half-dressed. The media reported the search thus: “A secret madrasa has been discovered where young girls are trained for combat”. A woman journalist subsequently told me that the FSB had demanded that the story be portrayed in this light. We went to complain. The deputy director of the local FSB bureau told me: “You should be praying like your grandmothers used to. Why do you read foreign books? We have already arrested 20 sects like yours.” They then tried to dissuade us from filing a complaint...*

*This all carried on in 2006 and 2007. Various different departments, one after the other, decided that this literature was extremist. In December 2007, after the ban on the works of Saïd Nursi had come into force, new searches were conducted. They wouldn’t leave us alone. During the second search, they came with a warrant that talked about organising and participating in a sect, and about advocating and inciting interfaith and interethnic hatred. We still haven’t managed to get back the things that they took from us on that occasion. They’d ask us strange questions, from which it was clear that they thought we were mad, like “Are you afraid of death?” “What does your family think about what you are reading?” “Have you met this Nursi?”. Someone should explain to them that he died many years ago...*

*At the moment, there are neither suspects nor defendants in the case. If there ever are any, they and their lawyers will be entitled to see the case file. The investigation may be trying to delay that moment. No-one knows how long this is going to continue.”*

### **III.4 Other examples of the use of “classic” articles of the Criminal Code against Muslim organisations**

#### **III.4.1 The case of the “Russian imam” from Pyatigorsk, Anton Stepanenko, 2006–2007**

The “Nursi-ites” lawyer also told the mission about the criminal case against the young imam Anton Stepanenko (His Muslim name is Abdullah), who was a prominent public figure, often to be seen in meetings and on TV. One of the young members of his community, who suffered from a mental illness and had to take regular courses of treatment in a clinic, was forced to state that Imam Abdullah had extorted money from him, and that on the imam’s orders he had been kidnapped and kept under lock and key. He was also forced to testify that when he turned eighteen the imam ordered him to start a jihad, namely to murder a Slav, in order to become a “real adult Muslim”. Two witnesses, fourteen- and fifteen-year-old adolescents, were arrested one night and told that they would be raped if they didn’t admit to having seen Stepanenko threatening that young man. According to the imam’s acquaintances, this young man later admitted that the security services had infiltrated him into the community in order to discredit it. While Stepanenko was being held in custody, while the preliminary investigation was being conducted, he was repeatedly beaten and tortured. His rights to perform religious

rites were restricted in every way possible in prison and his cellmates were enlisted to do this.

The court cleared him of the charge of unlawful imprisonment. In March 2007 Anton Stepanenko was given an eighteen-month suspended sentence for “arbitrariness” (Article 330 of the Criminal Code) – this was how the court had re-categorised the charge of extortion against him – and for inciting religious hatred or enmity (Article 282(1) of the Criminal Code). The verdict on the second charge was based on the findings of a psychological and linguistic appraisal, commissioned by the prosecution, of the book “Monotheism”, which had been seized from the imam<sup>111</sup>.

In the trial, the judge committed gross procedural violations and behaved improperly towards the defence lawyers. For example, when they demanded that experts a petition to question whom had been granted be brought to the hearing, the judge rudely interrupted them and threatened to summon the bailiffs to remove them from the courtroom.

The defence lawyer appealed against the verdict, but to no avail. In December 2007 a complaint about Anton Stepanenko’s case was filed with the European Court of Human Rights.

The police have also intimidated other clients of this lawyer, and interrogated his former assistants. An attempt was made to institute criminal proceedings for tax-evasion against a colleague of his from the same law practice. The telephone number of another lawyer from the same practice was put up on a website offering sexual services, as a result of which the lawyer was unable to work normally due to constant phone calls.

The lawyer had his own explanation for the persecutions for religious non-conformism: according to him, opinions that differ from the official line are deemed extremism, just as such opinions used to be regarded as anti-Soviet propaganda. He also stated that panels of “experts” simply mock religious people, and form conclusions on the basis of their personal prejudices. In practice, lawyers are unable to get independent experts included in panels of experts that are formed to conduct court-ordered appraisals because the courts refuse to allow this. As a result, the findings of such appraisals are given far more weight than the opinions of specialists called by the defence, which the court does not, in practice, take into account. For example, the defence called a specialist, the author of a doctoral dissertation on Islam, to explain the concept of “jihad”, but his testimony was regarded by the court as biased.

The lawyer explained that this sort of thing happened frequently not only in cases concerning accusations of “Islamic extremism” but also in cases relating to other faiths, with the exception of Orthodoxy, which in today’s Russia has in practice become the “state religion”.

#### **III.4.2 The Jamaat Tablig case, Astrakhan Province, 2007**

On 9 June 2007 the police arrested five members of the Muslim movement “Jamaat Tablig”<sup>112</sup> (“The Society of Preachers”) in Ikryanoye Region, Astrakhan Province: two Muscovites, two brothers from Astrakhan, and a citizen of Tajikistan. They had met up not long before in order to travel through the villages of Astrakhan Province and preach Islam. Before embarking on their travels through Ikryanoye Region, they went to the regional police headquarters to notify the police of their intentions and purpose.

In the village of Svetloye they were stopped on the way back from the mosque and beaten

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111. This was the first Muslim book to be banned in modern Russia – it was declared to be extremist by Savelovo District Court in Moscow on 02/04/04. It is considered one of the fundamental books of the “wahhabi-ites”.

112. Jamaat Tablig is a Muslim movement whose members see their goal as to preach Islam. A report written by H. Ashirov, Co-Chairman of the Council of Muftis of Russia and Chairman of the Spiritual Directorate of the Muslims of Russia in Asia, states: “The Society of Preachers firmly adheres to the principle of a non-political public movement acting against all forms of violence against the person, including spiritual violence. It categorically refuses to discuss political issues in its preaching. It considers any military or other violent actions in its activities to be sinful, and therefore unacceptable.”

up, and then taken to the house they were staying in. There were already policemen there. The policemen selected the bags of 3 of the 5 men to search. From one of them, they immediately pulled out a grenade, CDs and some leaflets, and from the other two, small packets of a green substance, which subsequently turned out to be marijuana. The men stated that the prohibited articles that had been found did not belong to them. The policemen did not search the other two bags, which indirectly confirms that they had planted all those things just before the search.

The three men whose bags had been inspected were taken to the local police station. The following day, the other two were questioned as witnesses in the criminal proceedings that had immediately been instituted and were released, whilst the other two were left in custody. According to one of the witnesses, they were told by an officer from the regional OCD that if they continued with “these walkabouts” through the villages then the next time “they would find something more serious” in their bags.

Criminal proceedings were instituted against two of the detainees for unlawful possession of drugs (Article 228(1) of the Criminal Code). Criminal proceedings were also instituted against the third man, in whose bag the grenade, leaflets and CDs had been found.

Over the following month, the Muscovite who had not been detained was under constant police surveillance. In the end he was warned that the police would be waiting for him in the next village he planned going to preach, and that if he didn’t want to run into any more “masked men” he’d better go away. Which is what he was forced to do.

The case against the two detainees in whose bags marijuana had so unexpectedly been found was tried in Ikryanoye Regional Court, Astrakhan Province, with Judge A.S. Sukhachov presiding. According to one of them, when the policemen testified in court they got their “recollections” mixed up: one of them stated that it was in that detainee’s bag that the grenade and Arabic literature had been found.

On 9 October 2007 this man was sentenced to five years’ imprisonment in a penal colony.

The other “Tablig-ite” received the same sentence for his “possession” of marijuana.

The CDs and Arabic literature taken from the bag of the third man were sent off for a linguistic appraisal, but they were not later used as evidence in the case. He was charged under Article 222(1) of the Criminal Code for unlawful possession of ammunition. His court trial ended in the spring of 2008; he was sentenced to a term of imprisonment equal to the one that he had spent in custody during the preliminary investigation and the trial.



# IV Other targets in the fight against extremism

The fight against extremism is being waged against various different targets. Cases do not always end in trials and guilty verdicts. Yet punitive measures for imaginary extremism are indisputably facilitating the creation of a general climate of intimidation of NGOs, the media, political movements, trade unions and religious organisations. Accusations of political extremism are one of the tools that the Russian government has been using since 2000 to consolidate its political control through the “United Russia” party, and to stifle protest movements. For example, opposition associations such as Gary Kasparov’s “Another Russia” and E. Limonov’s “National Bolshevik Party” are regularly the victims of political and legal attacks conducted under cover of the fight against extremism. The governing party positions itself as “centrist”, and the authorities are fighting ultra-rightists and ultra-nationalists just as they are fighting anarchists and anti-fascists. Cases within the framework of the fight against extremism, just like the cases described above, are conducted with violations of procedural norms, first and foremost violations of the rights of the defence.

## IV.1 The Grozny–Moscow train-explosion case

### The investigation

On 12 June 2005 a Moscow-bound passenger train from Grozny was blown up in Moscow Province. Amongst its passengers there were many inhabitants of Chechnya who were going to Moscow for treatment. The explosion of a bomb weighing four to five kilograms caused five train carriages to go off the rails. There were no fatalities, but 42 people needed medical assistance.

Two people were suspected of being behind it: a 47-year-old engineer, Mikhail Klevachov, and a 48-year-old businessman and former research chemist Vladimir Vlasov. Klevachov had participated in military operations in Bosnia on the side of the Serbs. Amongst the literature found at his home were military books, a survival manual for extreme conditions, and Serb nationalist publications. Vlasov’s life story is less remarkable: a university career, a quiet life, no previous convictions. The prosecution used against Vlasov the fact that a copy of *Mein Kampf* and works by E. Limonov had been found at his home<sup>113</sup>.

On this occasion, human rights organisations (with the exception of “Memorial”, which got involved in this case) did not rush to the defence of the accused, since they perceived these (as it subsequently transpired) victims of judicial caprice as supporters or even active members of nationalist groups. Klevachov’s nationalist sympathies are attested to by his participation in military operations in Yugoslavia, and by the literature found in his home. Nevertheless, these facts may not in themselves constitute the basis of the charge, nor be used to paper over the holes in that charge.

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113. In Russia it is easy to acquire both *Mein Kampf* and the works of Eduard Limonov, who also fought in Yugoslavia and is one of the leaders of an anti-Kremlin coalition.

According to the prosecution, Vlasov and Klevachov were operating as an organised group motivated by racial hatred towards people of non-Slavic origin that over a long period of time, and with a division of responsibilities, planned a crime: to commit mass murder and cause serious damage. The prosecution argument also relied on accusations of terrorism (i.e. causing an explosion terrifying civilians and endangering human life, and causing significant property damage, in order to influence the authorities' decision-making).

The defendants' families believe that a number of material circumstances were ignored in the investigation into the preparation and commission of the act of terrorism such as the absence of the defendants' fingerprints on the physical evidence. The accusation of manufacturing explosive chemical substances relied on a dubious appraisal, and failed to take the personal details of one of the defendants into account. In particular, the presence of the chemical products that were found during the search of Vlasov's home can be explained by the fact that he is a professional chemist who had set up a business manufacturing chemicals. After the verdict was pronounced, the lawyer of one of the defendants pointed out that the size of the rail examined by experts in order to determine which explosive had been used mysteriously "changed" in the course of the trial.

### **The trial**

30 November 2006, at the end of a trial in Moscow-Province Court and a 3-hour deliberation, the jury handed the judge a written verdict, which should then have been pronounced. After studying it, the judge announced that serious mistakes had been committed in the verdict and demanded that they be corrected. An hour or so later the jury handed the judge a corrected version, but she declared that the mistakes had still not been corrected and ordered that the session be postponed until the following day. However, the foreman then declared that he could not attend for family reasons, and as a result the verdict was annulled. The following day, the jury was supposed to choose a new foreman and deliberate on the case once again in the judge's chambers.

At the next court session, the public prosecutor moved for the jury to be dismissed on the grounds that, according to him, some of its members had consorted with the defendants' lawyers, and were therefore incapable of delivering an objective verdict. The court granted the public prosecutor's petition, and the jury was dismissed. Some of the jurors later told journalists that they had acquitted the defendants by a majority vote.

In the view of a number of witnesses in that trial, its outcome was the result of machinations. According to the family of one of the defendants, the court session set for 1 December was moved by the judge from one room to another, but neither the jury nor the lawyers were notified of the change. In the corridors and on the staircases they helped each other find the right room. It was these conversations of theirs that constituted the public prosecutor's "grounds" for declaring that there had been collusion between them. According to the newspaper *Kommersant*, the public prosecutor's petition to dismiss the jury was provoked by the fact that, before his very eyes, the lawyer of one of the Chechen victims had deliberately approached one of the jurors.

Several jurors subsequently reported that they had been pressured by the judge during the trial: he allegedly asked them "not to let him down", and to keep in mind that the defendants were actually much more dangerous than they might have appeared. According to them, the judge said: "*The state is spending money on you [jurors are paid a daily fee]. You need to find them guilty, don't let them deceive you*".

There were also reports of manipulations of the jury: "*The judge replaced 7 of the jurors with alternate jurors on account of their lack of objectivity. By way of comparison, during the second trial not one of the jurors was challenged, although 4 decided to absent themselves.*"

The defendants' families believe that the main criterion for selecting the new jurors was their compliancy. In March 2007 this jury found the defendants guilty of all the charges by a majority of ten to two. On 10 April Vladimir Vlasov and Mikhail Klevachov were sentenced, respectively, to eighteen and nineteen years' imprisonment in a maximum-security penal colony.

The Grozny–Moscow train-explosion case received wide media coverage. Channel 1 TV broadcast a report in which Vlasov's family and lawyer, and members of the first jury, which had delivered a not-guilty verdict, had their say. The newspaper *Kommersant*, an authoritative Russian publication, devoted a number of articles to this case, in which the defendants' version of events was set out. The trial was also covered by publications with an ultra-nationalist reputation, such the newspaper *Zavtra*.

## **IV.2 The cases of the exhibitions in the Andrei Sakharov Museum and Civic Centre**

The Andrei Sakharov Museum and Civic Centre is a unique institution, being both a civic human rights centre and a non-governmental museum. Ever since it was opened, the Sakharov Centre has had more operational freedom than both museums operating under stricter regulations and other NGOs. It has the legal status of an independent cultural institution, and is registered as an international NGO. The Centre has traditionally provided premises for meetings of opposition movements. It also holds art exhibitions.

From the day it was founded until August 2008, the Executive Director of the Sakharov Fund, and the Director of the Centre, was Yuri Samodurov.

Two of the exhibitions put on by the Centre provoked a heated public reaction. In the first case, it was fairly unexpected. This was the 2003 exhibition "Caution! religion!", which challenged people to think about the dangers associated with the clericalisation of society. Forty artists freely expressed their opinion on this subject. The exhibition was raising the question not of faith as such but, rather, of the place of the institution of the church in the state. The press gave it a lot of coverage, around 1200 articles were written about it.

But a section of the Orthodox community perceived the exhibition as anti-religious. Shortly after it opened, it was attacked by people who had decided that the exhibition, even though it was displayed in a separate room, insulted their religious sensibilities. The exhibition was not merely denounced. The demand was raised to institute criminal proceedings against its organisers and participants.

Following a two-year investigation, the case against the Centre's Director Yuri Samodurov, the museum's Curator Lyudmila Vasilovskaya and the artist Anna Mikhalchuk was taken to court. During the trial, Samodurov again and again tried to explain the goals of the exhibition. Sociologists and respected art historians also tried to do so, but none of this convinced the prosecution. Public prosecutors demanded three years' imprisonment for the organiser and two years' imprisonment for the curator, as well as the destruction of the exhibits.

On 28 March 2005 Anna Mikhalchuk was acquitted, but Samodurov and Vasilovskaya were found guilty of inciting enmity towards and degrading the dignity of a group of persons on the basis of their nationality and attitude to religion, committed in public and using their official positions (Article 282(2)(b) of the Criminal Code), and each of them was fined 100,000 roubles. Twenty-seven of the forty works were declared "an instrument of crime". The decision seems to have been taken at the very highest level.

The exhibition was open for only four days; it was seen by around sixty people (the artists and their friends) at the opening, and another twenty or so people managed to see it before it was closed down. Most of those who discussed it had not seen a single exhibit.

This outcome provoked entirely reasonable apprehension in artistic circles, and museum directors started getting cautious and turning down certain projects. The story of the “condemned exhibition” revealed a trend towards intimidating cultural circles under cover of the fight against extremism: the prosecutions had, after all, been launched on charges of “inciting hatred on the basis of attitude to religion”.

In response to these processes in society, Samodurov decided to hold another exhibition, “Forbidden art – 2006”. Its curator was Andrei Yerofeyev, head of the Latest-Trends Department of the Tretyakov Gallery. The exhibition ran in the Andrei Sakharov Museum from 7 to 31 March 2007. A wall was put up in front of the exhibits, which had holes that visitors were invited to look through to see photographs, pictures, collages and other works of art that had been rejected at other exhibitions. These were works by extremely famous artists whose works are exhibited in Russia and all over the world such as Ilya Kabakov, Alexandr Kosolapov, Alexandr Savko, Mikhail Roginsky, and the “Blue Noses” group. Some sections of the exhibition were not allowed to be seen by children under the age of sixteen. Thus people older than sixteen who came to the exhibition and considered themselves offended knew exactly what they were going to see, and did so entirely of their own free will.

Nevertheless, the exhibition was subject to a number of threats.. Two pickets – fascists and nationalists – attempted to block the entrance to the Sakharov Centre. This time around, the following complaints were made against the exhibition which gathered together both Soviet-era and modern works of art:

- 1 – the use of religious images (icons) was an absurd accusation, since the Soviet-era artists were mocking the sacralisation of ideology;
- 2 – the presence of naked male and female bodies in works displayed in rooms that were open to children under the age of sixteen;
- 3 – plays on words from “non-standard” vocabulary that are nevertheless found in dictionaries and in common use; in children’s drawings, words were used that were deemed rude, for example “penis”.

Samodurov called on people to fight against censorship in a broadcast on the radio station Echo of Moscow (*Ekho Moskvy*). The reaction was heated: someone published an appeal on the Internet to burn the exhibition, a window was smashed, and traces of a sprayer were found in the office.

In May 2008 criminal proceedings were again instituted under Article 282(2)(b) of the Criminal Code, against Yuri Samodurov and Andrei Yerofeyev.

The indictment, approved by the Tagansk-District Public Prosecutor in Moscow, stated: “*At the exhibition works were displayed containing images that were degrading and insulting to the Christian religion and to citizens professing that religion, to Orthodox citizens in particular.*” The investigation commissioned philologists, psychologists and other experts to conduct appraisals of the exhibits. One of them, an expert on iconography, stated: “*The negative impulses emanating from the exhibits might provoke aggression or, at the very least, lack of respect towards the religious objects displayed in the exhibition or towards any other objects of religious cults.*” With no further explanations of any kind, the expert concluded that these sorts of works of art made people to want to set fire to the homes of religious leaders and murder them and their children.

In June 2008 Andrei Yerofeyev was sacked from the Tretyakov Gallery. In August, less than two months later Yuri Samodurov decided to resign his post as the Director of the Andrei Sakharov Museum and Civic Centre.

In July 2008 the criminal case went to court, but in late August proceedings in it were suspended indefinitely due to Andrei Yerofeyev’s being ill.

On 3 April 2009, preliminary hearings in the case were held in Tagansk District Court in Moscow. The defence petitioned for the case to be sent back to the public prosecutor's office on the grounds that the indictment had not been drawn up properly, but the court rejected this petition. "*The prosecution is essentially absurd; people should not be tried for organising an exhibition*", said the lawyer of one of the defendants. The defence also insisted that a number of the appraisals be carried out again, but the court rejected this petition as well.

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In recent years, many other cases connected to accusations of extremism have been launched and taken to court. It is impossible to mention all of them in this report. The "SOVA" information-and-analysis centre constantly monitors such cases, and publishes reports on their outcomes. The anti-extremist legislation, whilst deficient, is indeed being used against the organisations that this legislation was devised to combat: politically extremist organisations inciting religious or racial hatred. However, this legislation is frequently used for other purposes, namely to create obstacles to the activities of human rights organisations and opposition movements. The appendices describe cases from both the former category (the explosion in Cherkizovo Market in Moscow) and the latter category (the cases of the *Neva Express* train and the Russo-Chechen Friendship Society).

# V Conclusions and recommendations

There cannot be the slightest justification for acts of terrorism and crimes against the civilian population. Those responsible for them should stand trial, with the strictest observance of universal human rights norms. But even though the fight against terrorism is justified and necessary, a careful analysis of regional and national mechanisms shows how much this fight can be used to infringe on the population's rights and fundamental freedoms. In the light of the fact that in the fight against terrorism there is a need for information, and sometimes even the methods of investigation, to be kept confidential, abuses of this "non-transparency" by law-enforcement agencies need be stamped out. This report describes numerous examples of gross human rights violations committed in the course of anti-terrorist operations, and simply of unlawful actions taken on the pretext of anti-terrorist measures.

The mission concentrated its attention on the various institutional mechanisms operating in the country, and also on the main targets of the fights against terrorism in the Russian Federation.

In Russia a "multilayered" legal mechanism has been created, consisting of:

- anti-terrorist legislation, substantially amended in 2006;
- anti-extremist legislation passed in 2002 and revised in 2007, widely used against the political opposition, the media, and religious associations;
- the Criminal Code, periodically amended to bring it into line with the requirements of the aforesaid two bodies of legislation.

This "multilayered" mechanism is targeted against various groups in different parts of the country. The catalyst for many of the institutional and legal innovations was the events in the North Caucasus. Muslim organisations are widely targeted for prosecutions, using all three components of the aforesaid legal mechanism. Finally, the legislation is used to combat radical political organisations from skinhead neo-Nazis to antifascist anarchists.

The new anti-terrorist legislation passed in 2006 contains a number of provisions that threaten human rights. We are referring, in particular, to the ability enshrined therein to deviate from the principles of the rule of law by declaring the launching of a "counter-terrorist operation" (CTO) with neither temporal nor geographical limits: its territory is defined at will by the leader of the operation. A CTO regime means the absence of any accountability and any control by parliament or the international community.

The new definition of terrorism includes not only "the practice of influencing decisions of government bodies, local authorities or international organisations by terrorising civilians and (or) through other unlawful acts of violence" but also "an ideology of violence". As for "terrorist activities", they are deemed to include the promotion of terrorist ideas, the distribution of material calling for terrorist activities to be undertaken, justifying or supporting terrorist activities, and any form of aiding and abetting, including passing on information that might assist terrorists.

The anti-extremist legislation revised in August 2007 was initially, when it was passed in 2002, aimed at combating extremist and far-right organisations. In reality, it has been used far more frequently against the Russian political opposition and against newspapers and NGOs reporting on the situation in the North Caucasus.

In the provinces, the FIDH/CAC mission was able to obtain numerous testimonies showing that, under cover of the fight against terrorism and/or the fight against extremism, the following are being committed in the Russian Federation:

- 1 – numerous abuses against civil society, made possible, in particular, by the vagueness of the definitions of extremism and terrorism; the persecution of several groups, especially members of the Muslim community. A climate of intimidation of individuals, NGOs, movements and associations has been created;
- 2 – numerous violations of legal procedures, including: threats and insults during detention; attempts to plant drugs or weapons on suspects (in their flats, cars or bags); extracting under torture testimony corroborating the prosecution version of events; falsification of facts, material evidence and testimony; keeping detainees in solitary confinement for longer than is legally permitted; abuses and unlawful interference by the public prosecutor's office during trials; widespread subordination of judges to agencies and representatives of executive authority.

The Muslim community is not the only part of the population that is suffering from the methods being employed by Russia to combat terrorism. Members of other faiths are also being persecuted, except for members of the traditional Russian Orthodox faith, which the State, although secular, does everything in its power to protect, granting it, in practice, most-favoured-religion status.

The campaign of repression intensified following the hostage-taking in the Dubrovka Street theatre (2002) and the school in Beslan (2004). It not only demonstrates the Russian leadership's participation in the fight against international terrorism following the events of 9/11, but also reflects the Russian authorities' desire to use that fight to achieve its own domestic- and foreign-policy goals.

Yet at the international level Russia has not developed a genuine policy of cooperation with her western neighbours in the sphere of counter-terrorism, despite the fact that the need to combat terrorism has been proclaimed many times in various "roadmap" negotiations on a new Partnership and Cooperation Agreement between Russia and the EU.

The situation is entirely different with respect to her eastern neighbours, with which cooperation in the sphere of the fight against terrorism is effected within the framework of the Shanghai Cooperation Organisation (SCO, or "the Shanghai Club"). This standing inter-governmental security organisation was created on 15 June 2001; its members are the Russian Federation, Kazakhstan, Tajikistan, Kyrgyzstan, Uzbekistan and the People's Republic of China. The organisation has a Regional Anti-Terrorist Structure (RATS), whose headquarters are in Tashkent. Within the framework of this cooperation, the Russian Federation refuses to grant refugee status to people from "Shanghai Six" countries who are being persecuted in their mother country for political and religious reasons. Furthermore, Russia extradites to some of these countries individuals who are wanted by their authorities. The extraditions are often carried out with gross violations of the law even to the extent of Russian police forces' and security services' aiding and abetting the kidnapping of such individuals and their illegal deportation from the Russian Federation.

There is a trend towards standardising approaches to the fight against terrorism, separatism and extremism in all member states of the SCO, a trend that is the direct consequence of agreements concluded within the framework of that organisation. In particular, these agreements cite as core goals, objectives and principles of cooperation: "developing common approaches amongst SCO member states to the fight against terrorism, separatism and extremism" and "developing the legal foundations of cooperation, and developing and harmonising the legislation of SCO member states, in the sphere of the fight against terrorism, separatism and extremism".

As a result, the instructive example of Uzbekistan in the sphere of religious and political repression, for example, is being copied in the other SCO countries. We note that the afore-said ruling of the Supreme Court of the Russian Federation of 14 February 2003 banning organisations deemed to be terrorist was delivered a month after Russia ratified the Shanghai Convention on 10 January 2003. It is extremely likely that these two events are interconnected.

## Fears of a general nature

### **A common feature of all the above-mentioned cases is the violation of judicial procedures.**

FIDH and the Civic Assistance Committee, having gathered testimony from a number of individuals in Moscow, Kazan and Naberezhniye Chelny, have devoted particular attention to the following problems:

- 1 – In the investigation and trial of these sorts of cases in Russia, there are systematic and gross violations with respect to:
  - the conditions of arrest and search, and the use of witnesses who in one way or another have an interest in the outcome of the case: many victims talk of threats and insults, and of numerous (and frequently successful) attempts to plant drugs, ammunition or explosives in detainees' homes;
  - the methods used in the preliminary investigation: systematic use of cruel treatment, sometimes including torture and/or the threat of torture, to extract confessions or obtain testimony against other defendants;
  - the conditions of preliminary custody, in particular, being kept for an illegally long period of time in solitary confinement prior to the investigation and to be being transferred to a detention centre for interrogation;
  - the independence of justice: abuses by agencies of the public prosecutor's office and unlawful interference thereby in trials, which testifies to the courts' subordination to the executive authorities;
  - the abolition of jury trials for a number of categories of criminal case, including those connected to charges of terrorism, which creates even more favourable conditions for convicting individuals on trumped-up charges.
  
- 2 – Infringement of the rights of the defence, e.g.:
  - the appointing for (and in a number of cases the foisting on) defendants of "free" lawyers who often are almost openly working in the interests of the prosecution rather than their clients; amongst such lawyers, there are frequent instances of corruption;
  - systematic use, during the investigation and trial of cases, of experts nominated by the prosecution to carry out court-appointed appraisals; widespread refusal to include on panels experts proposed by the defence; courts' refusal to take the opinions of independent experts into account. There is a problem with the admissibility of evidence: courts admit evidence obtained under pressure and/or under torture, and frequently even fabricated evidence, which discredits the judicial process;
  - the delivery of guilty verdicts in the vast majority of trials, which clearly demonstrates the prosecution bias of the courts;



- manipulation of juries, which leads (as in the case of the gas-pipeline explosion in Bugulma) to the annulment of not-guilty verdicts on invented pretexts and the convening of a new jury, which then delivers a guilty verdict. This manipulation is a side effect of a measure that was initially devised in order to bring the Russian justice system into line with international standards.

In the current conditions, the only means of protection for individuals who have been victims of the campaign of repression is the European Court of Human Rights. However, the slowness of the complaints-examination procedure in Strasbourg significantly reduces, for applicants who have been sentenced to imprisonment, the chances of a timely restoration of their rights. FIDH and the Civic Assistance Committee recall that Russia is blocking a reform of the Court that, amongst other things, would make it possible to streamline the procedure for hearing cases.

- 3 – In the conducting of anti-terrorist operations the following are frequently seen:
  - deviation from the principles of the rule of law when a “zone of counter-terrorist operations” is declared by that operation’s “leader” (about whose functions and powers the law is silent), with no temporal or geographical limits (unlike a state of emergency, which is limited to thirty days, although it may be extended provided the country’s parliament and the Council of Europe have been notified); a CTO regime makes it possible to censor correspondence, intrude into citizens’ private lives at will, monitor and restrict (and even completely prohibit) any forms of communication, ban articles in the press (except for official channels), forcibly move populations, act without any negotiations, shoot down civilian aircraft that “pose a threat”, etc.;
  - constant violations even of the new law that was created in order to legitimise methods that had previously been deemed unlawful. In particular, there are still instances of kidnappings, cruel treatment, torture, and extrajudicial executions;
  - rivalry between the FSB and the Interior Ministry – a rivalry that was finally settled in favour of the former; anomalies caused by the disappearance of certain posts at the municipal and regional levels, and by the appearance of new structures not provided for by the law (the NAC – National Anti-Terrorism Committee);
  - a lack of transparency and non-compliance with international norms, legal basis and procedures for extraditing individuals between Russia and SCO member states, in particular Uzbekistan.
  
- 4 – Within the framework of the fight against extremism, the following can be seen:
  - prosecutions of certain sections of the population such as Muslims, nationalists, ultra-leftists, on charges of belonging to extremist groups or distributing extremist literature, which testifies to such prosecutions’ being ideologically motivated, since individuals’ opinions and convictions are frequently categorised as criminal;
  - the practice of intimidating NGOs and voluntary organisations through “warnings” and “cautions” from the public prosecutor’s office that could eventually lead to those organisations’ being disbanded;
  - the creation of a general climate of suspicion, intimidation and constant political and social control. We are currently witnessing a smooth transition from the old system of control by the army/police/FSB to a system regulated by the organs of justice. This transition has been made possible by defining as criminal the expression of worldviews that are, first and foremost, manifestations of freedom of speech and conviction.

## Recommendations

On the basis of observations made in the course of the mission, FIDH and the Civic Assistance Committee call on

### **A – the Russian authorities:**

- 1 – To bring legislation and law-enforcement practices into line with international human rights agreements that have been ratified by the Russian Federation;
- 2 – To take steps to eradicate the current practice of violating the principles of judicial independence and of freedom of speech, conscience and association, and to guarantee adherence to them in all circumstances;
- 3 – To amend the current anti-terrorist and anti-extremist legislation in order to:
  - a – specify clearly the sphere of their application;
  - b – bring them into line with Russia’s international human rights obligations, and in particular with the obligation to respect the principle of legality, the right not to be arrested arbitrarily (without an arrest warrant) and the right to judicial oversight of the lawfulness of detention in custody, as required by Article 5 of the European Convention on the Protection of Human Rights and Fundamental Freedoms;
- 4 – To reinstate jury trials for those categories of criminal case for which they were abolished by Federal Law № 321-FZ of 30/12/08;
- 5 – To guarantee the principle of the equality of the parties in criminal proceedings: to eliminate the currently existing privileges of the prosecution over the defence, particularly in the sphere of the commissioning of appraisals and the selection of the experts to conduct them; to put the defence on an equal footing with the prosecution as regards the ability to access information on the composition of juries;
- 6 – To ensure that the complete texts of judgements of the Supreme Court banning organisations’ activities are officially published early enough to enable those judgements to be appealed in accordance with the legislation of the Russian Federation. To publish the complete texts of the Supreme Court’s judgements:
  - a – of 14/02/03 banning fifteen organisations deemed to be terrorist;
  - b – expanding that list by adding another two organisations to it;
  - c – of 10/04/08 declaring the organisation “Nurjular” extremist and banning its activities on the territory of the Russian Federation;
- 7 – To conduct a comprehensive and objective examination of the documents and activities of the organisations that were banned by the aforesaid Supreme Court judgements, and review those judgements in the light of its findings;
- 8 – To establish common procedures for appointing lawyers to provide free legal assistance to suspects and defendants through written approaches from investigators to bar associations; to devise measures aimed at ruling out any ongoing collusion between investigators and lawyers;
- 9 – To send regular country reports to the UN Committee against Torture;
- 10 – To give a more precise definition of the concept of torture in the Criminal Code; to unambiguously prohibit the use of torture in accordance with Article 4 of the Convention against Torture, by amending Article 117 of the Criminal Code;
- 11 – To systematically conduct objective and impartial investigations of all instances of the use of torture, violent disappearances and extrajudicial executions in which policemen are involved;

- 12 – To guarantee adherence to the principle of the inadmissibility of evidence obtained under physical or psychological pressure, in accordance with Article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Forms of Treatment or Punishment;
- 13 – To pay equitable compensation to the victims of torture and their families in accordance with Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Forms of Treatment or Punishment, and to set up programmes for compensating and rehabilitating the victims of torture;
- 14 – To introduce appropriate criminal, civil and administrative sanctions for violations of the lawfulness of legal proceedings (arrest, interrogation, treatment of prisoners);
- 15 – To retry the cases of all individuals convicted on charges of terrorism and belonging to terrorist organisations, ensuring in full their right to a defence; to thoroughly and objectively investigate, when retrying such cases, all claims that individuals were forced to testify and that evidence was falsified; to introduce legislative norms on inadmissible evidence in the light of the findings of such investigations; and to acknowledge the right to rehabilitation of previously convicted individuals in all cases when they are acquitted following a retrial of their cases, and apply the consequences of that rehabilitation.

To devote particular attention to:

- a – the cases of the exhibitions in the Andrei Sakharov Museum and Civic Centre; the case of the “Caution! Religion.” exhibition should be retried, and the criminal prosecution of the defendants in the case of the “Forbidden art — 2006” exhibition should be terminated;
  - b – the case of Zara Murtazaliyeva; she should be released on parole immediately, and the criminal case should then be retried;
  - c – the case of Zaurbek Talhigov; he should immediately be given qualified medical treatment and released on parole, and the criminal case should then be retried;
  - d – the Islamic Jamaat case; the case should be retried, proven offences separated from fabricated charges of setting up a terrorist group and preparing acts of terrorism, individuals not involved in unlawful deeds should be released, and individuals who have committed proven offences should be given punishments that fit the crime;
  - e – the case of the gas-pipeline explosion in Bugulma; the case should be retried taking into account the criteria set out in paragraph 15 of these recommendations;
  - f – the cases relating to the charging of individuals with belonging to the organisation Hizb ut-Tahrir; all the criminal cases should be retried taking into account the criteria set out in paragraph 15 of these recommendations;
- 16 – To ensure that the conditions in which those suspected of, charged with and convicted of crimes connected to terrorism and indeed all prisoners are held conform to international norms;
  - 17 – To guarantee that individuals who are being persecuted in their countries of origin for political and religious reasons receive a thorough and objective consideration of their applications to be granted refugee status under the 1951 UN Convention relating to the Status of Refugees and that Article 3 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Forms of Treatment or Punishment, and Article 3 of the European Convention on the Protection of Human Rights and Fundamental Freedoms, are adhered to;

- 18 – To devise an effective mechanism for training law-enforcement officers in international and national human rights norms, and to systematically monitor their adherence to those norms;
- 19 – To put an end to all acts of violence, persecution and intimidation against representatives of civil society and human rights activists; to stop acts of defamation against human rights activists; to conduct an impartial and thorough investigation of all instances of attacks on them and of the unlawful institution of criminal proceedings against them;
- 20 – To include the elaboration of mechanisms guaranteeing respect for human rights in the course of the fight against terrorism within the framework of the Russian Federation's relations with the UN Security Council's Counter-Terrorism Committee;
- 21 – To ratify the International Convention for the Protection of all Persons from enforced disappearances and bring national legislation into line therewith, in particular by categorising enforced disappearances as criminal offences, as required by Article 4 of the Convention;
- 22 – To issue representatives of UN Special Procedures including the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism with a standing invitation, and to look positively on requests to invite to the Russian Federation the UN Special Rapporteurs on the situation of human rights defenders and on the promotion and protection of the right to freedom of opinion and expression, and also the UN working parties on extrajudicial executions and arbitrary arrests;
- 23 – To create, in as short a time as possible, the necessary conditions for a visit from the UN Special Rapporteur on Torture, assist him in his work, and provide him with all the information that he needs, in accordance with Resolution 2001/62 on the mandate of the Special Rapporteur.

## **B – Organised formations**

FIDH and the Civic Assistance Committee unconditionally condemn the human rights violations being committed by members of organised formations, and call on them to rigorously adhere to international human rights norms and national legislation. The human rights violations that they commit should be investigated and the individuals responsible should be prosecuted, with full observance of the right to a fair trial.

## **C – The international community:**

- 1 – Since the fight against torture is a priority for the EU, pursuant to EU guidelines on torture and other cruel, inhuman or degrading treatment or punishment, FIDH and the Civic Assistance Committee call on the EU to raise the issue of the human rights violations being committed in the name of the fight against terrorism within the framework of bilateral dialogue with the Russian authorities.
- 2 – Member states of the UN's Counter-Terrorism Committee (CTC) should bring up the issue of human rights violations in the fight against terrorism during the forthcoming examination of the country report of Russia, and promulgate the Committee's findings.

# APPENDICES

**In addition to the articles of the Criminal Code that are most frequently cited in the report, the authors decided to include in the appendices several cases that were brought to the attention of the mission and deserve attention. However, the mission did not gather any direct testimony on these cases.**

## APPENDIX I

### Articles of the Criminal Code most frequently cited in the report<sup>114</sup>

#### **Article 30 – Preparations for a Crime, and Attempted Crimes**

1. The looking for, manufacturing, or adapting by a person of means or instruments for committing a crime, the finding of accomplices for a crime, the conspiracy to commit a crime, or any other intentional creation of conditions to commit a crime shall be deemed preparations for a crime, unless the crime has been carried out owing to circumstances outside the control of this person.
2. Criminal responsibility shall ensue only for preparations to commit grave or especially grave crime.
3. Intentional actions (inaction) by the person concerned, directed expressly towards the commission of a crime, shall be deemed to be an attempted crime, unless the crime has been carried out owing to circumstances beyond the control of this person.

#### **Article 150 – Involvement of a Minor in the Commission of a Crime**

1. Involvement of a minor in the commission of a crime by means of promises, deceit, threats, or in any other way, by a person who has reached 18 years of age, shall be punishable by deprivation of liberty for a term of up to five years.
2. The same deed committed by a parent, teacher, or any other person charged by law with bringing up a minor, shall be punishable by deprivation of liberty for a term of up to six years, with disqualification to hold specified offices or to engage in specified activities for a term of up to three years, or permanent disqualification.
3. Deeds provided for by the first or second part of this Article, and committed with the use of violence or with the threat of its use, shall be punishable by deprivation of liberty for a term of two to seven years.
4. Deeds stipulated by the first, second, or third parts of this Article, and connected with the involvement of a minor in a criminal group or in the commission of grave or especially grave crimes, shall be punishable by deprivation of liberty for a term of five to eight years.

#### **Article 205 – Terrorism**

1. Terrorism, that is, the perpetration of an explosion, arson, or any other action endangering the lives of people, causing sizable property damage, or entailing other socially dangerous consequences, if these actions have been committed for the purpose of violating public security, frightening the population, or exerting influence on decision-making by governmental bodies, and also the threat of committing said actions for the same ends, shall be punishable by deprivation of liberty for a term of eight to twelve years.

2. The same deeds committed:

- a) by a group of persons in a preliminary conspiracy;
- b) abolished
- c) with the use of firearms

shall be punishable by deprivation of liberty for a term of ten to twenty years.

3. Deeds stipulated in the first or second part of this Article, if they have been committed by an organized group or have involved by negligence the death of a person, or any other grave consequences, and

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114. Unofficial translation.

also are associated with infringement on objects of the use of atomic energy or with the use of nuclear materials, radioactive substances or sources of radioactive radiation, shall be punishable by deprivation of liberty for a term of fifteen to twenty years or by deprivation of liberty for life.

*Note:* A person who has taken part in the preparation of an act of terrorism shall be released from criminal responsibility if he facilitated the prevention of the act of terrorism by timely warning governmental bodies, or by any other method, unless the actions of this person contain a different *corpus delicti*.

### **Article 205.1 – Facilitating terrorist activities**

1. Persuading, recruiting or otherwise involving an individual in the commission of one or more of the crimes envisaged by Articles 205, 206, 208, 211, 277, 278, 279 and 360 of this Code, and arming or training an individual for the purpose of committing one or more of the aforesaid crimes, and financing terrorism, shall be punishable by deprivation of liberty for a term of four to eight years.
2. The same deeds perpetrated by the person through the use of his official position shall be punishable by deprivation of liberty for a term of seven to fifteen years with or without a fine in the amount of up to one million roubles or in the amount of the wages or other income of the convicted person over a period of up to five years.

#### **Notes:**

1. The term “financing of terrorism” used in this Code shall be understood to mean providing or collecting funds, or rendering financial services, in the knowledge that they are to be used to finance the organisation, preparation or commission of one or more of the crimes envisaged by Articles 205, 205.1, 205.2, 206, 208, 211, 277, 278, 279 and 360 of this Code, or to finance an organised group, illegal armed formation or criminal association (criminal organisation) that has been or is to be set up to commit one or more of the aforesaid crimes.
2. A person who has committed the crime envisaged by this article shall be released from criminal responsibility if through his timely warning of the authorities or otherwise he helped to prevent or suppress the crime that he has financed and/or facilitated the commission of, unless the actions of this person contain a different *corpus delicti*.

#### **Previous wording of 24/07/02 № 103-FZ**

### **Article 205.1 – Involvement of a Person in the Commission of Crimes of Terrorist Nature or Otherwise Assisting in Their Commission**

1. Involvement of a person in the commission of the crime stipulated by Articles 205, 206, 208, 211, 277 and 360 of this Code or persuading a person to participate in a terrorist organisation, the arming or training of a person with the aim of perpetrating the said crimes as well as the financing of an act of terrorism or an terrorist organisation shall be punishable by deprivation of liberty for a term of four to eight years.
2. The same deeds perpetrated by the person through the use of his official position shall be punishable by deprivation of liberty for a term of seven to fifteen years with or without a fine in the amount of up to one million roubles or in the amount of the wage or salary, or any other income on the convicted person over a period of up to five years.

*Note:* A person who has committed the crime specified in this Article shall be released from criminal responsibility if through his voluntary and timely warning of the authorities or otherwise he assisted to prevent the act of terrorism or suppress the crime of terrorist nature named in this article, unless the actions of this person contain a different *corpus delicti*.

### **Article 205.2 – Public calls to engage in terrorist activities or public justification of terrorism**

1. Public calls to engage in terrorist activities or public justification of terrorism shall be punishable by a fine in the amount of up to three hundred thousand roubles or in the amount of the wages or other income of the convicted person over a period of up to four years.
2. The same deeds perpetrated through the media shall be punishable by a fine in the amount of between one hundred thousand and five hundred thousand roubles or in the amount of the wages or other income of the convicted person over a period of up to four years, or by deprivation of liberty for a term of up to five years, with deprivation of the right to hold specified offices or to engage in specified activities for a term of up to three years.

*Note:* In this article, “public justification of terrorism” shall be taken to mean a public pronouncement declaring that the ideology and practice of are terrorism correct and need to be supported and imitated.

### **Article 208 – Organisation of an Illegal Armed Formation, or Participation in It**

1. Creation of an armed formation (unit, squad, or any other group) that is not envisaged by a federal law, and likewise operating of such a formation, shall be punishable by deprivation of liberty for a term of two to seven years.
2. Participation in an armed formation that is not provided for by a federal law shall be punishable by restraint of liberty for a term of up to three years, or by arrest for a term of up to six months, or by deprivation of liberty for a term of up to five years.

*Note:* A person who has ceased to take part in an illegal armed formation of his own free will, and has handed in his weapons, shall be released from criminal responsibility unless his actions contain a different corpus delicti.

### **Article 210 – Organisation of a Criminal Community (Criminal Organisation)**

1. Creation of a criminal community (criminal organisation) for committing grave or especially grave crimes, and likewise operation of such a community (organisation) or its structural subdivisions, and also creation of an association of organizers, leaders, or other representatives of organized groups for formulating plans and conditions for the commission of grave or especially grave crimes, shall be punishable by deprivation of liberty for a term of seven to fifteen years, with or without a fine in the amount of up to one million roubles or in the amount of the wage or salary, or any other income of the convicted person for a period of up to five years
2. Participation in a criminal community (criminal organisation) or in an association of organizers, leaders or other representatives of organized groups, shall be punishable by deprivation of liberty for a term of three to ten years with or without a fine in the amount of up to 500 thousand roubles or in the amount of the wage or salary, or any other income of the convicted person for a period of up to three years.
3. Acts provided for by the first or second part of this Article, and committed by a person through his official position, shall be punishable by deprivation of liberty for a term of 10 to 20 years, with or without a fine in the amount of up to one million roubles or in the amount of the wage or salary, or any other income of the convicted person for a period of up to five years.

*Note:* A person who has voluntarily ceased to participate in a criminal association (criminal organisation) or a structural subdivision thereof, or in an association of organizers, heads or other representatives of organized groups and who has actively contributed to the solution or suppression of this crime, shall be released from criminal liability, if his actions do not contain formal elements of other crime.

### **Article 222 – Illegal Acquisition, Transfer, Sale, Storage, Transportation, or Bearing of Firearms, Its Basic Parts, Ammunition, Explosives, and Explosive Devices**

Federal Law No. 73-FZ of July 21, 2004 amended the first part of Article 222 of the present Code

1. Illegal acquisition, transfer, sale, storage, transportation, or bearing of firearms, its basic parts, ammunition, (except for civil smooth-bore ones, their basic parts and ammunition for them), explosives, or explosive devices shall be punishable by restraint of liberty for a term of up to three years, or by an arrest for a term of up to six months, or by deprivation of liberty for a term of up to four years, with or without a fine in the amount of up to 80 thousand roubles, or in the amount of the wage or salary, or any other income of the convicted person for a period of up to three months.
2. The same acts committed by a group of persons in a preliminary conspiracy, shall be punishable by deprivation of liberty for a term of two to six years.
3. Acts stipulated by the first or second part of this Article, and committed by an organized group, shall be punishable by deprivation of liberty for a term of five to eight years.
4. Illegal sale of gas weapons and cold weapons, including missile weapons, shall be punishable by compulsory works for a term of 180 to 240 hours, or by corrective labour for a term of one year to two years, or by arrest for a term of three to six months, or by deprivation of liberty for a term of up to two years, with a fine in the amount of up to 80 thousand roubles, or in the amount of the wage or salary, or any other income of the convicted person for a period of up to six months, or without any fine.

*Note:* A person who has at his own desire will handed in the objects referred to in this Article shall

be relieved from criminal responsibility, unless his actions contain another *corpus delicti*. There may not be deemed as voluntary handing in of the objects indicated in this Article, as well as in Article 223 of this Code, seizure thereof, when detaining a person, as well as when committing investigative actions aimed at their detection and seizure.

### **Article 228 – Illegal Acquisition, Storage, Transportation, Making or Processing of Narcotic Drugs, Psychotropic Substances or Analogues Thereof**

1. Illegal acquisition, storage, transportation, making or processing of narcotic drugs, psychotropic substances or analogues thereof on a large scale without the purpose of sale shall be punishable by a fine in the amount of up to 40 thousand roubles, or in the amount of the wage or salary, or any other income of the convicted person for a period of up to three months, or by corrective labour for a term of up to two years, or by deprivation of liberty for a term of up to three years.
2. The same deeds committed on an especially large scale shall be punishable by deprivation of liberty for a term of three to 10 years with or without a fine in the amount of up to 500 thousand roubles or in the amount of the wage or salary, or any other income of the convicted person for a period of up to three years.

**Note 1:** A person guilty of the crime provided for by this Article who has handed in narcotic drugs, psychotropic substances or their analogues of his own free will, and who has actively contributed to the uncovering and suppression of crimes connected with the illegal traffic in narcotic drugs, psychotropic substances or their analogues, to the exposure of persons who have committed the crimes, or the discovery of property obtained in a criminal way, shall be released from criminal responsibility for the given crime. There may not be deemed as voluntary giving in narcotic drugs, psychotropic substances or their analogues the seizure of said drugs, substances or their analogues, when detaining a person, as well as when committing investigative actions aimed at their detection and seizure.

**Note 2:** “Large scale” in this Article, as well as in Article 228.1 and 229 of this Code, shall mean a quantity of a narcotic drug, psychotropic substance or their analogue exceeding the average one-time consumption dose by 10 or more times, and an especially large scale - by 50 and more times. The quantity of average one-time doses of narcotic drugs and psychotropic substances for the purposes of this Article, as well as of Articles 228.1 and 229 of this Code, shall be endorsed by the Government of the Russian Federation.

### **Article 282 – Incitement of Hatred or Enmity, as Well as Abasement of Human Dignity**

1. Actions aimed at the incitement of hatred or enmity, as well as abasement of dignity of a person or a group of persons on the basis of sex, race, nationality, language, origin, attitude to religion, as well as affiliation to any social group, if these acts have been committed in public or with the use of mass media, shall be punishable by a fine in the amount of 100 to 300 minimum wages, or in the amount of the wage or salary, or any other income of the convicted person for a period of one to two years, or by deprivation of the right to hold specified offices or to engage in specified activities for a term of up to three years, or by compulsory works for a term of up to 180 hours, or by corrective works for a term of up to one year, or by deprivation of liberty for a term of up to two years.
2. The same deeds committed:
  - a) with the use of violence or with the threat of its use;
  - b) by a person through his official position;
  - c) by an organized group, -

shall be punishable by a fine in the amount of 100 thousand to 500 thousand roubles or in the amount of the wage or salary, or any other income of the convicted person for a period of one to three years, or by deprivation of the right to hold specified offices or to engage in specified activities for a term of up to five years, or by compulsory works for a term of 120 to 240 hours, or by corrective works for a term of one to two years, or by deprivation of liberty for a term of up to five years.

#### **Article 282.1 – Organizing an Extremist Community**

1. Creation of an extremist community, that is, of an organized group of persons for the preparation or for the performance, with the motives of the ideological, political, racial, national or religious



hatred or enmity, as well as on the motives of hatred or enmity towards any one social group, of the crimes mentioned in Articles 148, 149, in the first and in the second parts of Article 213, in Articles 214, 243, 244, 280 and 282 of this Code (crimes with an extremist thrust), as well as the leadership of such an extremist community, of a part of it or of the structural subdivisions included into such community, and also setting up an association of the organizers, leaders or other representatives of the parts or of the structural subdivisions of such community for the purposes of elaboration of the plans and or the conditions for committing crimes with an extremist thrust shall be punished with a fine in the amount of up to 200 thousand roubles, or in the amount of the wages or of other income of the convicted person for a period up to 18 months, or by the deprivation of the right to occupy definite posts or to engage in a definite activity for a term of up to five years, or by imprisonment for a term up to four years.

2. Participation in an extremist community shall be punished with a fine in the amount up to 40 thousand roubles, or in the amount of the wages or of the other income of the convicted person for a period up to three months, or by imprisonment for a term of up to two years with the deprivation of the right to occupy specific posts or to engage in a specific kind of activity for a term of up to three years, or without any term.

Federal Law No. 73-FZ of July 21, 2004 amended the third part of Article 282.1 of the present Code

3. The actions envisaged in the first and second parts of the present Article committed by the person with the use of his official status, shall be punished with a fine in the amount of 100 thousand to 300 thousand roubles, or in the amount of the wages or of other income of the convicted person for a period of one to two years, or by imprisonment for a term of up to six years with the deprivation of the right to occupy specific posts or to engage in a specific kind of activity for a term of up to three years.

**Note:** A person who voluntarily stops his participation in an extremist community shall be relieved of criminal liability unless a different *corpus delicti* is contained in his actions.

### **Article 282.2 – Organizing the Activity of an Extremist Community**

- 1 - Organizing the activity of a public or religious association or of another organisation, with respect to which the court has adopted an already enforced decision on the liquidation the prohibition of the activity in connection with the performance of an extremist activity shall be punished with a fine in the amount of 100 thousand to 300 thousand roubles, or in the amount of the wages or of other income of the convicted person for a period of one to two years, or by the arrest for a term from four to six months, or by imprisonment for a term of up to three years.
2. Participation in the activity of a public or religious association or of another organisation, towards which the court has adopted the already enforced decision on the liquidation or on prohibition of the activity in connection with the performance of an extremist activity, shall be punished with a fine in the amount up to 200 thousand roubles, or in the amount of the wages or other income of the convicted person for a period up to 18 months, or by the arrest for a term of up to four months, or by the deprivation of freedom for a term of up to two years.

**Note:** A person who has voluntarily ceased participation in the activity of a public or religious association or of another organisation, towards which the court has passed an already enforced decision on the liquidation or prohibition of the activity in connection with the performance of an extremist activity, shall be relieved of criminal liability, unless a different *corpus delicti* is contained in his activity.

### **Article 318 – Use of Violence Against a Representative of the Authority**

1. Use of violence that does not endanger human life or health, or threats to use violence against a representative of the authority, or his relatives, in connection with the discharge by his official duties, shall be punishable by a fine in the amount up to 200 thousand roubles, or in the amount of the wage or salary, or any other income of the convicted person for a period up to 18 months, or by arrest for a term of three to six months, or by deprivation of liberty for a term of up to five years.
2. The use of violence endangering the lives or health of the persons referred to in the first part of this Article shall be punishable by deprivation of liberty for a term of five to ten years.

**Note:** A public officer of a law-enforcement or controlling body, and also other public officials vested in the statutory order with regulatory powers in respect of persons who are not dependent on them by virtue of employment, shall be deemed to be a representative of the authority in this and other Articles of the present code.

# APPENDIX II

## The North Caucasus: a criminal case fabricated on the basis of charges of terrorism

### The Kudayev case

Rasul Vladimirovich Kudayev, a resident of the settlement of Hassania in the Kabardino-Balkarian Republic, former Guantanamo prisoner, was arrested at his home on 23 October 2005 on suspicion of attacking the “Hassania” highway-patrol station in Nalchik on 13 October 2005. After his was arrested, he was tortured and beaten in “Section 6” (OCD) in Nalchik in order to get him to confess to committing the armed attack in Nalchik.

On 24 October 2005 I.F. Komissarova, a lawyer from the Bar of the Kabardino-Balkarian Republic, was called to Section 6 to attend the interrogation of R.V. Kudayev. Upon arrival at Section 6, she was handed the examination record, already typed up, by the investigator A. Artemenko. She was able to talk with Mr Kudayev, who told her that he had been beaten and pressured by Section 6 officers, and that they were demanding that he admit his guilt. After talking with the lawyer, Mr Kudayev stated that he wished to exercise his constitutional right not to incriminate himself. But the police officers, in the presence of the investigator and the lawyer, would not allow him to exercise this right, threatening to beat him and torture him; threats were also made against the lawyer. Both Kudayev and his lawyer had to sign the examination record.

There are confirmed reports that ambulances were twice called to Section 6 for Mr Kudayev.

The lawyer Komissarova subsequently wrote in a statement to the Public Prosecutor’s Office of the Kabardino-Balkarian Republic: “Upon arrival at Section 6, I saw R.V. Kudayev, who was sitting on a chair writhing, with his hands on his belly; on the right side of his face, near his eye, there were numerous scratches and a huge hematoma. There were a lot of people in the room besides the investigator...”, “R.V. Kudayev told me during our talk that he had been tortured and beaten after he was brought to Section 6, and that he had not given the testimony set out in the examination record; it had been made up, and was not true...”

On 25 October 2005 R.V. Kudayev was transferred to the Nalchik detention centre, where he was again tortured.

The I.F. Komissarova was questioned as a witness in response to her statement on the use of torture against Mr Kudayev, and was dismissed as his defence lawyer.

According to Mr Kudayev, he and the other people who had been arrested in this case were beaten every day for several hours, tortured with electricity, and had prison dogs set on them when they were taken out for exercise with their hands handcuffed behind their backs. They were all forced to testify against the others.

The violence stopped, more or less, only in January 2006.

On 13 October 2005 R.V. Kudayev was at home the whole day; he had had health problems since returning from Cuba, and was undergoing outpatient treatment. He was seen by relatives, neighbours and friends. In the afternoon, he personally talked on the telephone with the Moscow correspondents of various newspapers. But his alibi was not even checked out by the investigation.

On 12 December 2005 the city’s Public Prosecutor’s Office issued a decision not to institute criminal proceedings over the use of torture against Mr Kudayev.

On 22 September 2006 Nalchik City Court declared the Public Prosecutor’s Office’s decision of 12 December 2005 unlawful, and overturned it.

On 7 December 2006 the Nalchik Public Prosecutor’s Office issued another decision not to institute criminal proceedings over the use of torture against Mr Kudayev.

On 25 December 2006 a higher-ranking public prosecutor overturned the decision of 7 December 2006 and sent the case file back to the Public Prosecutor’s Office for further examination.

On 25 January 2007 the Nalchik Public Prosecutor’s Office issued yet another decision not to institute criminal proceedings.

But this decision, just like the previous ones, was overturned by the court as unlawful, and the case file was sent back for further examination.

The Public Prosecutor’s Office filed an appeal in cassation against the court’s ruling.

The Supreme Court of the Kabardino-Balkarian Republic upheld the court’s ruling without variation.

But this July the Public Prosecutor's Office, despite the court rulings, once again issued a decision not to institute criminal proceedings.

This decision by the Public Prosecutor's Office was appealed, just as the others had been, and on 9 November 2007 the court overturned the Public Prosecutor's Office's decision as unlawful and unfounded, and sent the case file back to the Public Prosecutor's Office for further examination, and for it to take a decision that complied with the law.

The Public Prosecutor's Office filed an appeal in cassation against the court's ruling, in which the Nalchik Deputy Public Prosecutor stated that the court's citing of judgements of the European Court of European Rights was unjustified. "The Deputy Public Prosecutor believes that the practice of the European Court is the practice of foreign countries, and that it may not influence legal proceedings in the Russian Federation."

The defence filed objections to the appeal in cassation.

R.V. Kudayev and the other detainees have been charged with committing the crimes envisaged in Articles 205(3), 317, 105(2)(f&h), 209(2), 162, 166, 222(3), 30(3), 205(2)(a), 206(3), 210(1&2), 226(4) (a&b), 279 and 223(3) of the Criminal Code.

Kudayev has health problems (pains in his heart, back and liver). He is not receiving treatment. Medicines sent by relatives to the detention centre's medical department are not being handed to Mr Kudayev. The response to Mr Kudayev's complaints is to make the conditions of his detention worse.

A preliminary hearing in this case is underway at the Supreme Court of the Kabardino-Balkarian Republic.

Source: the text was sent to the mission by M.S. Abubakarov on 14 November 2007.

# APPENDIX III

## Other cases in the fight against “political extremism”

### **The case of the explosion in Cherkizovo Market**

In the summer of 2006, 14 people were killed and several dozen were wounded by an explosion in Cherkizovo Market. The investigation uncovered the existence of “an informal club of a chauvinistic persuasion” called *Spas* (“The Saviour”) led by Nikolai Korolyov, which was using violence to combat illegal immigration. *Spas* operated as a sports club, but had not been officially registered. The investigation showed that between April and August 2006 this group organised a number of acts of terrorism: at a research institute, a workers’ hostel, chambers of commerce and other places. One of the group’s members was acquitted in this case, but found guilty of murdering an Armenian student, Vigen Abramyants, in the Moscow metro in April 2007. The eight people who stood trial in this case, in April 2008, were convicted by the jury of terrorism (Article 205), organising or participating in a criminal group (Article 210), and unlawfully acquiring and storing weapons and explosives (Article 223). Four of the defendants (including Nikolai Korolyov) were sentenced to life imprisonment, the murderer of the Armenian student to thirteen years’ imprisonment, and one man to 20 years. The final two defendants were both sentenced to two years’ imprisonment.

In this case, there was no charge of extremism (although “chauvinistic motives” were cited). However, the absence of such a charge had no effect on the severity of the sentences, since a charge of extremism is not as serious as a charge of terrorism, which entails a harsher sentence. It is clear from this example that anti-terrorist instruments can also be used against groups that are not normally prosecuted in the Russian courts under such legislation.

Other court cases involve ultra-leftist groups, as can be seen from the example of the case of the “Neva Express” train.

### **The case of the *Neva Express* train**

On 13 August 2007 the *Neva Express* came off the rails in Novgorod Province, between St Petersburg and Moscow. An investigation established that the accident, which injured 60 people, had been caused by an explosion.

On 16 August 2007, in the course of the investigation, two members of the Petersburg League of Anarchists, Andrei Kalyonov and Denis Zelyonok, were arrested, charged with the explosion, and taken into custody for a month. They both went on hunger strike. The prosecutions were stopped, and the two completely innocent citizens were released in September 2007, a month after being arrested, having given written undertakings not to leave the jurisdiction. They filed a claim for unlawful detention, and Andrei Kalyonov is demanding one million roubles from the state in compensation for the mental distress and financial expenses caused by his detention.

A third suspect, Hasan Didigov, a native of Chechnya living in Novgorod Province, was arrested in August 2007. He too was released. Other suspects were also arrested within the framework of this case. In October 2007 two brothers, Amirkhan and Maksharip Hidriyev, along with Salanbek Dzakhkiyev, were arrested in Ingushetia and charged with terrorism. Two of them were released in April 2008 having given written undertakings not to leave the jurisdiction. Only Maksharip Hidriyev is currently still in custody. According to the investigators, the Chechens and the Ingush were targeted because a few days before the explosion three “individuals of Caucasian nationality” had been spotted at the crime scene. Finally, in July 2008 there was a new development in the case: charges were brought against the lawyer Mahomed Razakov and his client Salanbek Dzakhkiyev, who had been caught trying to offer a bribe. They were trying to bribe an official from the Public Prosecutor’s Office who was investigating the case of the *Neva Express* train to drop the charges against *Salanbek Dzakhkiyev*<sup>115</sup>.

### **The Russo-Chechen Friendship Society**

The Russo-Chechen Friendship Society, set up at the start of the war in Chechnya in order to inform the Russian public of human rights violations and the situation on the ground, and also to provide assistance to the civilian population of Chechnya, was repeatedly subjected to persecution. It was directed

115. Lenta.ru, 14 July 2008.

both against the Society's headquarters in Nizhny Novgorod and its director, S. Dmitriyevsky, and against local offices in the North Caucasus, some of whose workers were, starting in 2000, kidnapped or murdered. Following a trial, in which there were many unexpected developments and a whole arsenal of legal arguments relating to the fight against extremism were employed, the Society was closed down in October 2006, and then banned following a court case that it lost in January 2007, when the Supreme Court upheld the judgement of Nizhny Novgorod Provincial Court of 13 October 2006 ordering that the Russo-Chechen Friendship Society be closed down, on the grounds that in February 2006 Stanislav Dmitriyevsky had been given a two-year suspended sentence for "inciting racial hatred". Indeed, Article 15 of the Law on Counteracting Extremist Activities provides that "if the leader or a member of the governing body of a voluntary association, religious association or other organisation makes a public statement calling for extremist activities to be carried out without stating that this is his personal opinion, and likewise if a court sentence for a crime of an extremist nature comes into effect against such a person, the voluntary association, religious association or other organisation in question must within five days... publicly state that it does not agree with that person's pronouncements or actions. If the voluntary association, religious association or other organisation in question fails to make such a public statement, this may be deemed a fact that attests to there being indications of extremism in its activities." The judge also based his ruling on Article 19 of the Federal Law on Non-Governmental Organisations, which provides that "a person with respect to whom a court judgement that has come into legal effect has established that his actions contain indications of extremist activities may not be a founder or member of a voluntary association."

This organisation was therefore forced to cease its activities. The Society was then reborn in the form of three new organisations, including the Nizhny Novgorod Foundation to Promote Tolerance in, and was registered as a legal entity in Finland. Since then, there has been no slackening of the pressure on the Russo-Chechen Friendship Society's former leaders in an attempt to force them to stop their activities in defence of human rights. In particular, they are under constant surveillance by the police.

On 22 March 2007 police officers turned up at the Foundation's headquarters, intending to search it and arrest two of the organisation's leaders: Mr Stanislav Dmitriyevsky and Oxana Chelysheva. The latter managed to foil the police's plans by contacting international human rights organisations and western diplomats in Moscow.

In the end, on 17 August 2007, Nizhny Novgorod District Court in Nizhny Novgorod granted a petition that had been lodged with it by the Nizhny Novgorod Directorate for the Execution of Sentences in connection with "the violation by Dmitriyevsky of administrative legislation". The court ruled that, should Dmitriyevsky commit a further two administrative offences, the suspended sentence would be replaced by an actual sentence.

On 20 March 2008 the police raided the Nizhny Novgorod office of the Nizhny Novgorod Foundation to Promote Tolerance and confiscated all the computer equipment<sup>116</sup>. The police also confiscated the mobile phone of Mr Stanislav Dmitriyevsky, the Foundation's director and the executive director of the Finnish-registered Russo-Chechen Friendship Society. The search warrant had supposedly been signed by the provincial public prosecutor's office.

On 8 April 2008 bailiffs turned up at the flat where Mr Stanislav Dmitriyevsky was living with his family, and threatened to confiscate all their belongings "to pay off the debts of the Russo-Chechen Friendship Society".

That same day, the police searched the homes of several Fund members and opposition activists in Nizhny Novgorod and neighbouring Arzamas, including the homes of Ilya Shamazov and Yuri Starovyrov, who were actively involved in the Foundation's investigation of war crimes and human rights violations during the war in Chechnya. The police also searched the flat of Yelena Yevdokimova, and confiscated Mr Starovyrov's and Mrs Yevdokimova's mobile phones. Several people connected to the "Another Russia" movement in Nizhny Novgorod were also questioned as witnesses in another criminal case concerning alleged counterfeiting of software, which had been launched in October 2007 against the Fund for the Promotion of Tolerance, whose director is Mrs Oxana Chelysheva<sup>117</sup>.

Investigators also subpoenaed former members of the Fund's staff, who then stopped working at the Fund.

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116. See the urgent appeals of the Observatory for the Protection of Human rights Activists (FIDH-OMCT), RUS 002 / 0308 / OBS 041 and RUS 003 / 0408 / OBS 054.

117. See the Annual Report of the Observatory for the Protection of Human rights Activists for 2007.

### **The smear campaign against the leadership of the Nizhny Novgorod Foundation to Promote Tolerance<sup>118</sup>**

On 27 June 2008 Mrs Almaz Choloyan, Director of the Nizhny Novgorod Centre to Support Migrants, appeared on the national TV channel NTV in the film “Humanitarian Ration” and stated that that local human rights activists had launched a smear campaign against her. She accused several NGOs, including the Russo-Chechen Friendship Society, Nizhny Novgorod Foundation to Promote Tolerance and the opposition coalition “Another Russia”. She stated that local human rights activists were “crooks, interested only in getting money from abroad”.

Mrs Choloyan named several people, including Stanislav Dmitriyevsky and Oxana Chelysheva, Director of the Nizhny Novgorod Foundation to Promote Tolerance. After this film was broadcast, Mrs Choloyan’s accusations were widely reported in the Russian media. The impression is created that the Nizhny Novgorod authorities are conducting a planned campaign of persecution of local dissidents.

It should be pointed out that Mrs Choloyan is herself facing possible criminal charges, and might be acting under pressure. Mrs Choloyan subsequently officially confirmed that everything she had said on NTV was true, and that she was prepared to defend her position in court.

### **The attack on the flat of Mr Stanislav Dmitriyevsky<sup>119</sup>**

On 14 August 2008 at 4.20 a.m. persons unknown attacked the ground-floor flat in a five-storey building where Mr Stanislav Dmitriyevsky and his family live. The attackers threw a brick that had been painted red, and covered with drawings of swastikas and threatening inscriptions, at the living-room window. However, they managed to break only the outer window, and the brick fell to the ground outside, under the window. Abusive inscriptions and swastikas were also found on the front door, the kitchen window and the outside wall. Mr Dmitriyevsky immediately called the police. A patrol arrived forty minutes later, and investigators turned up at the crime scene only at around 7 a.m. They removed some of the paint for analysis, and took the brick away as evidence. They said that the case was going to be investigated by the local police. However, it was the Nizhny Novgorod Committee against Torture that photographed the crime scene and all the inscriptions.

In the night, Mr Dmitriyevsky’s neighbours had noticed two suspicious-looking characters and thought that they were car-thieves. Since it was very dark, all the neighbours could make out was that they were wearing tracksuits.

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118. See the urgent appeal of the Observatory for the Protection of Human rights Activists, RUS 007 / 0708 / OBS 118.

119. See the urgent appeal of the Observatory for the Protection of Human rights Activists, RUS 009 / 0808 / OBS 141.

# APPENDIX IV

## **The Hizb ut-Tahrir case, Ufa, 2004**

In December 2004, following the handing-out of Hizb ut-Tahrir leaflets during the celebration of the Muslim festival of Uraza-bairam<sup>120</sup>, searches and arrests were carried out in several regions of Bashkortostan. Ten of the more than fifteen people detained (according to some reports, at least 20 people were detained between 12 and 15 December<sup>121</sup>) were arrested on suspicion of belonging to Hizb ut-Tahrir: Rinat Gabdrakhmanov and Marcel Alibayev from Ufa, Vitaly Ryadinsky and Ilgiz Gumerov from Baimak, Musa Ahmetsafin and Yevgeny Savelyov from Byeloretsk, and the brothers Bulat and Salavat Gayanov and their father, Mars Gayanov, from the village of Raiman in Tuimazy Region.

During searches in the flats of Gabdrakhmanov and Alibayev and the houses of Ryadinsky and the Gayanovs, ammunition and explosives were seized that, according to Gabdrakhmanov's, Alibayev's and Ryadinsky's wives and Mars Gayanov, had been planted by police officers. Gayanov and Ryadinsky were not charged with their possession, which in our view supports the allegation that they were planted.

During the preliminary investigation many of the accused were tortured, and one of them was raped in a cell in a detention-centre cell<sup>122</sup>. For example, on 1 January 2005 Mars Gayanov was put into a so-called "pressure cell"<sup>123</sup>, where he was beaten until morning, following which he was returned to his previous cell. In order to be able to show the traces of the beatings to his lawyer, Gayanov had to hide his wounds from the detention centre's staff, who would otherwise have stopped him from doing so, for twelve days (the national New Year and Christmas holidays).

There are reports of pressure's being put on witnesses in the case and on people helping the detainees' families.

A number of statements in defence of the detainees, containing a large number of signatures, were sent by the Muslim community of Bashkortostan to government agencies of the Russian Federation.

The accused were charged:

Rinat Gabdrakhmanov and Marcel Alibayev – under Articles 205-1(1), 210(1) and 222(1) of the Criminal Code;

Vitaly Ryadinsky, Musa Ahmetsafin and Bulat Gayanov – under Articles 205-1(1), 210(1) of the Criminal Code;

Salavat Gayanov and Yevgeny Savelyov – under Articles 205-1(1) and 210(2) of the Criminal Code;

Ilgiz Gumerov – under Articles 210(2), 282-2(2) and 222(1) of the Criminal Code;

Mars Gayanov – under Articles 210(2) and 282-2(2) of the Criminal Code.

The indictment was drawn up by A.N. Halikov, an investigator of particularly serious cases at the Public Prosecutor's Office of the Republic of Bashkortostan, and approved by A.V. Konovalov, Public Prosecutor of the Republic of Bashkortostan.

The trial of the case at the Supreme Court of the Republic of Bashkortostan, with Judge R.N. Sadykov presiding, commenced on 27 April 2005.

According to testimony from the defendants' families, the public was not allowed into the courtroom. The restrictions were lifted only after an observer from the Civic Assistance Committee arrived.

On 16 May 2005, the day when the police broke up a demonstration outside the court building whose participants were demanding an objective hearing of the case, Salavat Gayanov, who had been subject to a written undertaking not to leave the jurisdiction since January, was taken into custody in the courtroom. The pretext for doing this was that a witness in the case, an imam at the Tuimazy mosque, Rim Shayakhmetov, had alleged that he was being pressured by the defendants' relatives. According to people who attended that mosque, he admitted in their presence that police officers had, in fact, forced him to make that statement<sup>124</sup>.

120. On 14 November 2004 Hizb ut-Tahrir leaflets were distributed in a number Russian towns.

121. From interviews recorded by Y. Ryabinina in Ufa in June 2005.

122. From the suspects' statements and interviews recorded by Y. Ryabinina in Ufa in June 2005. There is a personal statement by the man who was raped – which can be trusted completely, since such information makes life worse for the prisoner concerned for the whole time he is in prison.

123. A "pressure cell" is a cell in which a prisoner is beaten or otherwise pressured by other prisoners, who have been unofficially told to do so by the prison administration or prison officers in order to get the desired results from him – including testimony corroborating the prosecution version of events.

124. From interviews recorded by Y. Ryabinina in Ufa in June 2005.

The following day, explosives and ammunition were seized from the car of someone who had participated in the demonstration, the Tuimazy resident Eduard Gabdrakhmanov, who had been publicly defending the arrested Gayanovs and helping their family; he was arrested on suspicion of preparing to blow up an electricity pylon in Ufa. Gabdrakhmanov categorically denied that the things that were seized belonged to him, and asserted that they had all been planted on him by the police<sup>125</sup>. (A month later the charge of preparing an act of terrorism was dropped, and six months later the criminal proceedings relating to possession of ammunition and explosives were terminated and Eduard was granted the right to rehabilitation.)

The public prosecutor had, in fact, suggested answers to the questions put to a secret witness who was questioned at the trial, which did not provoke any objections from the judge<sup>126</sup>.

The expert A.B. Yunusova, who had conducted a theological analysis of the literature that had been seized from the defendants, confirmed her bias at the trial by declaring from the witness stand that her negative attitude to Hizb ut-Tahrir was formed long before she started analysing the material in question<sup>127</sup>. Despite this, the court regarded her conclusions as evidence of the defendants' guilt.

On 04/08/05 the defendants were found guilty on all charges and sentenced:

R.R. Gabdrakhmanov – to 8 years 6 months' imprisonment in a maximum-security penal colony;  
M.A. Alibayev and V.N. Ryadinsky – to 8 years' imprisonment in a maximum-security penal colony;  
M.S. Ahmetsafin and B.M. Gayanov – to 7 years 6 months' imprisonment in a maximum-security penal colony;  
S.M. Gayanov – to 5 years' imprisonment in a minimum-security penal colony;  
Y.A. Savelyov – to 4 years 6 months' imprisonment in a minimum-security penal colony;  
I.R. Gumerov – to 3 years 6 months' imprisonment in a minimum-security penal colony;  
M.G. Gayanov – to 4 years 6 months, suspended, with 5 years' probation.

The verdict contained the following passages (amongst others) justifying the conclusion that the defendants were guilty:

“The participation of S.M. Gayanov, M. Gayanov, Y. Savelyov and I.R. Gumerov in a criminal association can be seen from the fact that they joined the party Hizb ut-Tahrir by taking oaths, carried out the instructions of cell leaders to spread the party's ideas amongst the population, drew up tables and reported back to the leadership on how many discussions and lectures to spread its ideology they had held.”<sup>128</sup>

“R.R. Gabdrakhmanov and M.A. Alibayev's argument that the explosives and ammunition had been “planted” by FSB and Interior Ministry officers cannot be considered well founded. The fact that an ammonite charge was found and seized at the home of R.R. Gabdrakhmanov, and an F-1 grenade at the home of M.A. Alibayev, is not disputed by them. This was confirmed at the hearing by the official witnesses who were present during the searches. The witness Nuriyev testified that he had taken part in the search, and had been responsible for keeping an eye on the flat's residents to make sure they didn't destroy any physical evidence. He had not brought the grenade with him, and had not put it on the shelves in Alibayev's flat.”

“The records of interviews with Tuimazy residents stating that B.M., S.M. and Mars Gayanov had not been trying to get people to join Hizb ut-Tahrir that were presented by the defence do not release Bulat Gayanov and Salavat Gayanov from liability for persuading the individuals named in the indictment so to do.”

“As regards the assertion that on 13 January 2005 bruises, thigh and shin abrasions and a bruise in the area of the iliac crest were found on M.G. Gayanov, there is no evidence that these bodily injuries were caused during interrogation<sup>129</sup>. M.G. Gayanov himself told the court that he had been beaten up in a cell by other prisoners, and forced to testify. Furthermore, M.G. Gayanov's lawyer, Gorobets<sup>130</sup>, was present while he was being interrogated. The court therefore believes that the argument that it was

125. From interviews recorded by Y. Ryabinina in Ufa in June 2005.

126. According to testimony from Y. Ryabinina, who attended the trial as an observer.

127. According to testimony from Y. Ryabinina, who attended the trial as an observer.

128. This is a pretty eloquent illustration of the “terrorist” association that the defendants were accused of participating in. It does, in fact, confirm the ideological nature of the prosecutions of individuals suspected of belonging to Hizb ut-Tahrir.

129. It should be remembered that the bodily injuries were inflicted on a person who was at the full disposal of the police, who put him in the cell in question for precisely 1 day before returning him to his previous cell. This leaves no room for doubt that he was purposefully subjected to the beatings “in the interests of the investigation”.

130. As was pointed out above, Gayanov was beaten up *before* the interrogation, in order to force him to give the “necessary” testimony.



after M.G. Gayanov came back from being interrogated that the bodily injuries were discovered on him is groundless.”

On 03/11/05 the Supreme Court of the Russian Federation upheld the judgement without variation, and rejected the convicted men’s appeals in cassation.

On 21/11/05 some of the convicted men, who were being held in a detention centre in the town of Dyurtyuli, went on hunger strike, demanding a review of the unjust judgement.

After Federal Law № 153-FZ of 27/07/06 came into effect, which changed the wording of Article 205-1 of the Criminal Code, the convicted men’s sentences under that article were quashed, in response to petitions from them and their lawyers:

Rinat Gabdrakhmanov (date unknown) – sentence reduced to 8 years;

Marcel Alibayev (in January 2007) – sentence reduced to 7 years 6 months;

Bulat Gayanov (21 November 2006) – sentence reduced to 7 years;

Salavat Gayanov (7 November 2006) – sentence reduced to 4 years.

The convicted men’s petition to remove offences under Article 210 of the Criminal Code was rejected, even though, as the lawyer argued, the deeds with which they had been charged no longer included any crime under that article, as a result of its having been amended.

In considering an analogous petition from Musa Ahmetsafin, the court replaced the reference to Article 205-1 with a reference to Article 205-2 of the Criminal Code, even though the deeds envisaged by Article 205-2 were not criminally punishable at the time when the verdict was pronounced (the article was inserted into the Criminal Code in July 2006).

This report has been produced with the support, among others, of the European Union and OSI Assistance Foundation. Its content is the sole responsibility of FIDH and should in no way be interpreted as reflecting the view(s) of the European Union.”

## Keep your eyes open

### Establishing the facts – Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1 500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

### Supporting civil society – Training and exchange

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

### Mobilising the international community – Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

### Informing and reporting – Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.

## Civic Assistance Committee

## ГРАЖДАНСКОЕ СОДЕЙСТВИЕ

Общественная благотворительная организация помощи вынужденным мигрантам

**The Civic Assistance Committee was created in 1990 when the first refugees fleeing Nagorno-Karabakh arrived in Moscow. The Committee was the first non-governmental organisation to provide assistance to forced migrants and refugees coming from foreign countries but also to Russian citizens who were refugees: to displaced persons and people fleeing armed conflicts.**

**The Committee provides assistance to forced migrants concerning:**

- relations with official institutions
- access to medical care, benefits and education
- right to housing and access to the labour market
- legal, humanitarian and other types of assistance

**Civic Assistance Committee** – Tel: (7 495) 973-54-74, 973-54-43 – Fax: (7 495) 251-53-19

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# FIDH represents **155** human rights organisations on **5** continents



of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest,

## ABOUT FIDH

- FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

- A broad mandate

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

- A universal movement

FIDH was established in 1922, and today unites 155 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

- An independent organisation

Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

**fidh**

International Federation for Human Rights

Find information concerning FIDH 155 member organisations on [www.fidh.org](http://www.fidh.org)