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Date: 06/09/2013

DH-DD(2013)935

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Meeting: 1179 meeting (24-26 September 2013) (DH)

Item reference: Action plan (14/08/2013)

Communication from the Russian Federation concerning the Khashiyev and Akayeva group of cases against Russian Federation (Application No. 57942/00).

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Réunion : 1179 réunion (24-26 septembre 2013) (DH)

Référence du point : Plan d'action

Communication de la Fédération de Russie relative au groupe d'affaires Khashiyev et Akayeva contre Fédération de Russie (requête n° 57942/00) (**anglais uniquement**)

DGI

14 AOUT 2013

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

ACTION PLAN
On execution of the judgments of
the European Court of human rights in Khashiev Group of cases

I. Violation

In its judgments in *Khashiev* group of cases the European Court of Human Rights (the European Court) found violations by the authorities of the Russian Federation of Articles 2, 3, 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) and Article 1 of the Protocol n.1 to the Convention on account of the violation of the rights of citizens during the counterterrorist operation in the Chechen Republic and failing to conduct an effective investigation of violations.

Russian authorities had repeatedly informed the Committee of Ministers of the Council of Europe (CMCE) about general measures taken, in particular, in their reports nos. 14-1189-11 of 25 February 2011, 14-6303-11 of 1 November 2011, 14-1990-12 dated 14 May 2012 and 14-3520-12 dated 28 August 2012.

This is an updated version of the report on general measures taken and planned by the Russian authorities on the enforcement of the European Court judgments in the above group of cases. These measures are taken in the framework of the strategy of execution of the said judgments that is being realized by the Russian authorities.

II. Strategy of execution of the European Court’s judgments in the Khashiev group of cases (taking into account findings of the European Court in “Aslakhanova and Others” judgment).

The strategy of execution of the European Court judgments in the *Khashiyev* group of cases was defined with due regard to the analysis of the said judgments. This strategy is now being implemented by the Russian authorities and includes the following crucial points:

- Implementation of the Convention provisions and legal views of the European Court into the legal system of the Russian Federation.
- Ensuring appropriate interagency coordination in the process of enforcement of the European Court judgments of the category under examination.
- Use of the amnesty mechanism as an instrument of peaceful settlement of the situation and establishing the constitutional order in the region.
- Improvement of the legislation in force and law-enforcement practice related to counter-terrorism activity.
- Improvement of the legislation and law enforcement practice in order to prevent illegal detentions, ill-treatment of detainees and disappearance of citizens.
- Increase of effectiveness of investigation of criminal cases upon the facts of committed violations, including:
 - ensuring of the investigative authorities’ independence, as well as their organizational, personnel, technical and other equipment;
 - cooperation with the victims and ensuring of their rights during investigation process;
 - improvement and intensification of the missing persons search;
 - investigators’ overcoming of difficulties related to investigation of the remote

events, including use of powers to access archive documents;

- Creation of new and improvement of existing domestic remedies;
- Strengthening interaction with institutions of civil society.

III. Realization of the strategy of execution of the European Court judgments in *Khashiyev* group of cases

Within the framework of realization of strategy of the European Court judgments in *Khashiyev* group of cases the Russian authorities have carried out a set of measures to eliminate the violations established by the European Court and to prevent them in future.

1. Implementation of provisions of the Convention provisions and case-law of the European Court into the legal system of Russian Federation

In order to implement the provisions of the Convention and case-law of the European Court into the legal system of the Russian Federation, translation of all judgments of the European Court in the cases of *Khashiyev* group that had come into force have been sent to competent government bodies, which in turn took them into consideration and to execution according to their competence.

At the same time detailed studying and discussion of the relevant judgments was organized in all competent government bodies. Such study was conducted within different forms, including operational meetings, seminars, conferences (among them – international, involving leading scientists, judges, specialists of the Secretariat of the European Court, Directorate General of Human rights and Rule of Law of the Council of Europe and etc.), professional training and study of high level personnel, education etc. The Minister of Defence of the Russian Federation issued a special instruction on study of the European Court judgments in subordinated military units and the organizations.

The Russian Academy of Justice, the Russian Legal Academy, Institute of Qualification Improvement for High-level Personnel of the Academy of the Prosecutor General Office of the Russian Federation, All-Russian Institute of Qualification Improvement for the Russian Ministry of the Interior organize special programs training in view of the European Court case-law and law enforcement practice of Russian law-enforcement agencies.

Under the auspices of the Council of Europe the Russian Academy of Justice holds annual seminars for judges on application and interpretation of the Conventional provisions in view of the European Court's case-law, as well as the annual international conference with participation of representatives of competent state authorities and the judge of the European Court elected from Russia.

A section "Armed conflict and international law" is included in the program of Federal Security Service of the Russian Federation quick combat training for the military personnel. This subject studying includes the law of armed conflicts and legal guarantees for protection of civilian population during armed conflict settlement. Special training is also held with employees of the FSB of Russia to study provisions of the Convention and case-law of the European Court in the *Khashiyev* group of cases.

A lecture theses named "Observance of norms of international law in conditions of armed forces using in the Northern Caucasus" had been prepared to improve professional

training of the military prosecutors and personnel serving in Northern Caucasus region. These theses had been sent to all military prosecutor's offices of districts and fleet. These theses are also sent to the Ministry of Defense of the Russian Federation, to the command of internal troops of the Ministry of Internal Affairs and to Russian Federal Border Service. According to information of these ministries and departments this subject is included in the training program and is used during studies with military personnel.

According to the training program on the social-and-state training of the military personnel who serve on a contract basis, they study the subject of "International humanitarian law and protection of victims of armed conflicts. The forbidden ways and means of conducting combat operations". The subject "Basic provisions of the international humanitarian law" is included in training program for the military personnel serving by conscription.

A number of events were held by Russian authorities together with the CMCE Secretariat and the Department of the Council of Europe for execution of the European Court judgments. Such events involved specialists from the European Court and international experts and contributed to profound studying of the international standards, practice of the European Court and experience of other countries related to execution of similar judgments of the European Court.

In particular, consultations and seminars were held during recent years with participation of the Investigative Committee of Russia (the Investigative Committee), the Prosecutor General's Office of the Russian Federation (the Prosecutor General;'s Office), territorial prosecutor bodies, the Ministry of Internal Affairs of Russia, the Ministry of Justice of the Russian Federation, the Supreme Court of Russia and the Supreme Court of the Chechen Republic. Consultations were held in Strasbourg (concerning execution of judgments of the European Court in so-called "Chechen cases", and experience of other countries in dealing with similar issues), and a seminar was held in Paris (concerning search of the missing persons).

There was an educational visit to Strasbourg of Russian investigators, including those working in the Chechen Republic. During this visit meetings took place with lawyers of the European Court, the judge from Russia, and with employees of executive structures of Committee of ministers of the Council of Europe.

Two visits of the Russian investigators to Great Britain were organized in order to study the experience of "Historical enquiries team", created in Northern Ireland.

Professional development and training is carried out in close cooperation with human rights organizations.

Officers of internal troops of the Ministry of Internal Affairs of Russia before their assignment to the territory of Chechen Republic pass a special training of the International Committee of the Red Cross and receive an international certificate after this training.

On the basis of the Ministry of Internal Affairs for the Chechen Republic there were organized Uniform days of professional training with participation of representatives of public human rights organizations of the republic, including Public council at the Ministry of Internal Affairs for the Chechen Republic, human rights center of the Chechen Republic, inter-regional public organization "Committee against Tortures", and Spiritual

department of the Muslims of the Chechen Republic. The subject of these days was: "Protection of human and citizen rights by the staff of law-enforcement bodies of the Chechen Republic during carrying out immediate and office tasks".

2. Measures ensuring interagency coordination

Under the Federal Law no. 2202-1 "On the General Prosecutor's Office of the Russian Federation" the prosecution bodies of the Russian Federation coordinate activities of the bodies of the interior, the federal security service bodies and other law enforcement agencies.

A number of measures were carried out in order to ensure appropriate interdepartmental coordination at execution of judgments of the European Court in the cases of the said category, including during the organization of work for the search of missing persons and investigation of criminal cases.

For this purpose the issues of execution of the judgments of the European Court in the *Khashiyev* group of cases were discussed during boards and interdepartmental coordination meetings at the level of central offices, as well as directly in the Chechen Republic. A number of joint orders and instructions was issued. Heads of departments have send instructions and information letters to subordinate bodies and subordinated employees. These instructions and letters concerned strengthening and improving of interdepartmental cooperation. Under issued decisions, orders and instructions, a set of joint measures had been realized, directed at execution of judgments of the European Court including organization of search of the abducted and missing persons, measures to increase efficiency of criminal cases investigation and of supervising validity of procedural decisions.

3. Amnesty as an instrument of peaceful settlement of the situation and maintaining constitutional order in the region

On 22 September 2006 the resolution of the State Duma of the Russian Federation No. 3498-4 was accepted, *About the amnesty announcement concerning the persons who have committed crimes in the period of carrying out counter-terrorist operations in the territory of subjects of the Russian Federation, being in borders of the Southern federal district* (Resolution on amnesty of 26 September 2006).

The Russian authorities had previously informed in detail that the purpose of this act, as directly specified in the said resolution, is to achieve peace and conciliation in the Chechen Republic. It should be particularly noted that amnesty (including it's application for the purposes of peaceful settlement) is provided by the Constitution of the Russian Federation, corresponds with international law and is an internal affair of the state.

According to the above resolution, amnesty is applied both to persons participating in illegal armed groups, and to representatives of federal forces who committed crimes during the counter-terrorist operation. According to the National Anti-terrorist Committee, the Amnesty act was applied to 546 members of illegal armed groups.

Thus, issuing of the Amnesty act and its application allowed to achieve the asserted goals, namely – to reach the fair balance which strongly contributed to the peaceful settlement of situation in the Chechen Republic.

In accordance with Article 71 of the Constitution of the Russian Federation, amnesty is under exclusive authority of the Russian Federation and can be proclaimed exclusively by the State Duma of the Russian Federation in respect of individually undetermined number of people.

Amnesty is proclaimed by adoption of special resolutions of the State Duma – the resolution proclaiming amnesty and the resolution on the procedure of its application. These documents contain the inter-related provisions.

The resolution proclaiming amnesty specifies categories of persons to whom amnesty can be applied, conditions of its application, and categories of persons to whom amnesty cannot be applied.

The resolution on the procedure of amnesty application specifies the State bodies responsible for amnesty application, and clarifies terms and certain provisions of the resolution proclaiming amnesty, providing maximum legal certainty during application of amnesty.

Thus, the grounds, conditions and order of amnesty application in each case are clearly defined and completely exclude arbitrary application of the amnesty act by law-enforcement bodies.

Decision to apply amnesty is taken by the authorized body in respect of each person individually.

If amnesty cannot be applied in respect of one of the several crimes committed by a person before the date when act of amnesty comes into force, amnesty is not applied to that person in respect of the rest of crimes committed by him. Thus, amnesty cannot be applied to persons who committed abuse of powers connected with murder or infliction of grave harm to health

The suspect, accused and the defendant, as well as the victim have a right to object against the decision on application of amnesty. If a criminal case is terminated due to application of amnesty the relevant decision can the said persons can lodge an appeal against that decision with an investigator, prosecutor or a court. Therefore effective remedies, including judicial remedies, are available during the process of amnesty application.

The Judgment of the Constitutional Court of the Russian Federation of July 5, 2001 N 11-P defines amnesty acts as a unique regulatory legal act that has specific properties. The resolution proclaiming amnesty does not cancel or change criminal law regulations, does not eliminate criminality and punishability of a deed, and does not challenge validity, reasonableness or fairness of a court sentence.

It should be noted that the persons, who fall within the scope of the resolution proclaiming amnesty, are not released from obligation compensate harm inflicted as the result of socially-dangerous act committed by him and provided for by the Special part of the Criminal Code of the Russian Federation.

As it follows from Articles 71 and 103 of the Constitution of the Russian Federation, the State may renounce exercising criminal prosecution if there are relevant grounds and conditions for such a renouncement, but the State has no right to leave it's obligations under the Constitution unfulfilled. In particular, the state is not released from the need to guarantee protection of the rights and freedoms of other persons, including to

provide victims of crimes with access to justice and with compensation for the caused damages (part 2 of Article 45; part 1 of Article 46; Article 52 of the Constitution of the Russian Federation).

The Constitutional Court of the Russian Federation in its judgment 24 April 2003 N 7-P directly specified that application of an amnesty act to persons accused of commission of crimes or sentenced for the deeds that fall in the scope of amnesty act shouldn't result in deprivation of persons who suffered from crimes from their constitutional right to judicial remedy and to restoration of violated rights and interests. The Constitutional Court pointed out that neither scope, nor level of guarantee of the victims' rights specified above can not depend on the state realization of it's power to exercise criminal prosecution or the state renouncement of this power through issuing an amnesty act.

In turn, victims have the right to present their arguments against termination of a criminal case due to amnesty proclamation. In cases of refusal to initiate a criminal case or termination of criminal proceedings, the victims have the right to appeal against the relevant decisions within established judicial procedural order on the grounds of their unlawfulness and groundlessness and to claim compensation for inflicted damage.

Taking into account the above, the issuing and application of the Resolution on amnesty of Resolution on amnesty of 26 September 2006 does not contradict with Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations adopted on 30 March 2011.

As it was reported earlier in detail, cases of individual application of the amnesty act to military personnel (which besides is of singular character) were based on the law and carried out in strict accordance with it. The relevant decisions were checked by the prosecutor bodies and recognized as lawful. The said decisions also were not appealed by the victims.

4. Improvement of Russian legislation

Since the time of events that became subject of the European Court consideration, the Russian legislation was significantly reformed. Among these reforms was adoption of the federal laws *On Counter-terrorism Activity* and *On the Police*, a number of amendments were made to the Code of Criminal Procedure of the Russian Federation.

A number of decrees of the Government of the Russian Federation, departmental orders and instructions had been issued in furtherance of the said laws. Clarifications on important issues related to law-enforcement practice in the field in question were given by the Constitutional Court and the Supreme Court of the Russian Federation. This allowed to progress in solving many problems pointed out by the European Court.

5. Measures for improvement of counter-terrorism activity

After the events which were subject of the European Court's examination, a number of measures was taken to improve the regulatory environment and law enforcement practice in the counterterrorism area, allowing to prevent possible violations found by the European Court, from occurring in the future.

On 15 February 2006, the Decree of the President of the Russian Federation "On measures of counteracting terrorism" (as amended on 2 September 2012) was issued,

pursuant to which the National Counterterrorism Committee (NCC) was created to coordinate the activities of federal government authorities and local government bodies against terrorism.

The creation of NCC allowed to unite and coordinate the efforts of various state authorities in their activities to combat terrorism and eliminate its consequences, as well as to organize their cooperation with regional authorities and local government bodies, civil society organizations and associations.

Moreover, the Decree of the President of the Russian Federation assisted further improvement of the counterterrorism legislation.

On 6 March 2006 the Federal Law No.35-Φ3 “On counteracting terrorism” (as amended on 8 November 2011) was adopted. This law created the legal basis of combating terrorism in all its forms and manifestations, as well as the basic principles, definitions, organization and coordination mechanisms of counteracting terrorism, considering international conventions ratified by the Russian Federation and practice of international interaction in the relevant field of relations. This law contains the definitions of “terrorism”, “terrorist activities”, “terrorist attack”, “counteracting terrorism”, “counterterrorist operation”. It regulates preparation and holding of counterterrorist and rescue operations, participation of competent state authorities, method of engaging necessary power and resources, order of negotiations with terrorists etc. This law also contains norm regarding compensation for damage resulting from a terrorist act, social rehabilitation of persons, injured as the result of terrorist acts and those participating in combating terrorism, legal grounds for bringing to responsibility for participation in terrorist activity etc.

The provisions of the law establish grounds and order of using of force, weaponry, military equipment and special means during planning and holding counter-terrorist operations. These provisions had been detailed in the Order of the Government “On the Measures for Realization of the Federal law On Counteracting Terrorism” and departmental acts. The regulations include requirements on offering reasonable possibility to fulfill the lawful demands of the authorities, proportionate use of force taking into account specific situation and only if life of people is in danger.

The Concept of combating terrorism approved by the President of the Russian Federation on 5 October 2010 defines the areas of further development of the national strategy of combating terrorism in the Russian Federation.

Within the framework of this concept the Decree of the President of the Russian Federation had been adopted on 14 June 2012 No. 851, approving the “Order of leveling of the terrorist threat, providing for adoption of supplementary measures to ensure the protection of a person, society and state”. This regulative act provide a complex of measures aimed at timely informing the civilians about an appearance of the terrorist act threat and organization of activity on it’s prevention in accordance with special plans developed in advance and disseminated between the responsible persons. Such measures and plans cannot restrict the rights of citizens and people,

6. Measures aimed at prevention of torture and other ill-treatment

The Russian authorities are taking measures for preventing torture and other ill-

treatment within the framework of enforcement of the European Court's judgment in the *Mikheyev* group of cases.

Detailed information on the measures effected in this area was presented by the Russian authorities in their reports under the said group of cases

7. Increase of efficiency of investigation

7.1. Independence of investigation

A completely independent body of investigation – the Investigative committee of the Russian Federation (the Investigative Committee) and its Departments for the regions of the Russian Federation, including department for the Chechen Republic, had been created as the result of consecutive reforms. This helped to eliminate the departmental dissociation, which allowed to improve the quality of the investigation, as well as to ensure its independence.

7.2. Specialized and comprehensive approach to investigation

A special division was created in the Investigative committee for investigation of cases related to violation of the rights of citizens in the period of carrying out a counter-terrorist operation in the Chechen Republic, and become a subject of consideration of the European Court.

The structure of the Investigative committee includes military investigative department. In order to improve investigation of crimes of the said category the special order and the instruction of the Investigative Committee had been issued. These acts regulate transfer of criminal cases between the divisions of the Investigative committee. These acts provide that if there is sufficient data indicating that crimes, perpetrators of which have not been established, had been committed by military personnel, such crimes investigation should be conducted by military investigative bodies of the Investigative committee. At the same time joint investigation teams consisting of military and civil investigators have been created for investigation of all crimes where the version of military personnel involvement in commission of crime had to be checked. During the investigation of criminal cases of the said category joint plans of investigative and other procedural actions are prepared.

Interaction is organized between investigators of military investigative departments and Investigative Department for the Chechen Republic. According to the joint order No. 19/6 of 31 January 2011 the heads of Military Investigative Department for the Southern military district and Investigative Department for the Chechen Republic had created the joint work group. This group organized studying of criminal cases relating to abductions and murders committed in the past years where there is sufficient data indicating that military personnel had taken part in committed crimes.

In order to coordinate activity of investigators of the Investigative Department for the Chechen Republic and Military Investigative Department for Southern Military District on a regular basis hold operational meetings at the deputy head of the Department.

The above mentioned measures, along with staff education and training allowed to provide a specialized and integrated approach to investigation of the cases in question.

7.3. Difficulties of the investigation

In respect of the investigation it should be noted that the certain group of cases related to violation of the rights of citizens of the Chechen Republic, that had become the subject of consideration of the European Court, is a limited number of cases. These are cases where due to a number of objective reasons it had appeared impossible to provide observance of all conventional requirements and to establish perpetrators of crimes.

At the same time, over the 2001 to 2008, the general jurisdiction courts of the Chechen Republic, the Grozny Garrison Military Court and the North Caucasus military district court had examined (delivering a sentence afterwards) about 600 criminal cases related to the facts of murders, robberies, criminal negligence, abuse of powers and other criminal offences committed in the Chechen Republic. More than 500 members of illegal armed groups were convicted, as well as about 200 members of armed forces, police officers and other representatives of federal and local authorities.

Effective investigation in a number of cases allowed citizens to lodge claims for compensation of pecuniary and non-pecuniary damage within criminal and civil proceedings. These claims were subsequently satisfied. The persons who suffered from crimes were recognized as victims in these cases. They were granted the rights provided by the criminal procedure legislation.

The following reasons can be noted among the main obstacles, which until now had not allowed to finish investigation on the cases which had become a subject of consideration of the European Court, and to fully establish circumstances of the cases and perpetrators of crimes.

- The first stage of the investigation was carried out during armed conflict, at the time when a considerable part of the territory of the Chechen Republic was under control of illegal armed groups and many government agencies did not function.
- The same circumstances in many respects entailed irreplaceable loss of the most important evidence, as well as materials for carrying out forensic studies.
- Identification of the persons involved in apprehensions was complicated by use of cover names by them and absence or loss of necessary archival documents (e.g., destruction of documents as a result of military operations or acts of terrorism – explosions, fires, etc.).

In a number of cases the investigators received court decisions in order to get access to remained archival documents that contained data, regarded as a state secret. However no data relevant to investigations was found in the archives yet.

- Besides, during the material period employees of a number of government agencies from various regions of Russia were engaged in the counter-terrorist operation on a temporary basis, on a rotation principle.
- It cannot be denied that in at the initial stage of certain cases investigations (as it was established by the European Court) a number of violations took place which cannot be eliminated anymore.
- It is not always possible to conduct necessary forensic studies, for example, molecular and genetic examinations for the reasons that do not depend of investigators.

One of the reasons of it is that corpses of the killed during military operations in the territory of the republic have been buried immediately after such opportunity had

appeared, in conditions connected with risk for life of persons who were engaged. Such burials had been conducted without waiting for forensic examinations of corpses.

Due to national customs relatives of missing persons in some cases block carrying out exhumation of corpses, as according to national traditions and Islam canons, burial is to be carried out at the day of death. For the same reason the removal of organs for research isn't allowed.

For example, in the criminal case upon the murder of members of the Estamirovs family (application before the European Court no. 60272/00 "Estamirov and others against the Russian Federation") in response to the procedural decision on exhumation of the dead persons the injured M lodged an application with the prosecutor's office of Oktyabrsky district of Grozny asking not to carry out the said investigative action as it contradicts with customs of Islam. The application was dismissed. Exhumation was allowed by court after a petition of the investigator. However, the relatives of the deceased prevented carrying out this investigative action, by surrounding the grave and preventing investigators from getting to it. As a result it wasn't possible to carry out the expertise.

There are cases where relatives of the abducted persons refuse to participate in investigative actions, in particular to give evidence and to give a sample of their DNA to the investigator under established procedure of the Criminal Procedural Code of the Russian Federation (for example, criminal case upon abduction of B. Asadulayeva, whose location is not established so far).

- The Russian authorities have to pay attention to the fact that in some cases during the investigation it was established that allegedly missing persons do not always appear to be missing, even in cases of submission of complaints in the European Court.

For example, in 2009 the relatives of Sh., T. and G. applied to the European Court stating that the said persons had disappeared in connection with illegal actions of federal forces agents. The applicants also asked the Court to apply urgent measures according to Rules of 39-41 of the Rules of the Court.

In July, 2009 the applicants withdrew their applications from the European Court because the missing persons had returned home. At the same time all three of them refused to report where had they been all this time and informed the European Court that they had no claims against the Russian authorities.

It should be noted that such cases are repetitive. According to information of the Investigative Committee received during investigation of other criminal cases, father of Ts. applied to the Malgobek investigative department of investigative Department for the Republic of Ingushetia of Investigative Committee at the Prosecutor's office of the Russian Federation. He stated that Ts. had disappeared.

During the check conducted upon the message about the crime it was established that Ts had joined an illegal armed group. Subsequently Ts. and other persons attacked agents of the Ministry of the Foreign Affairs for the Chechen Republic in the village of Muzhichi of the Republic of Ingushetia. During the fight Ts. had been captured and arrested. He admitted the fact of participation in an illegal armed group. The criminal case upon this fact had been directed to Sunzhensky district court and Ts. subsequently was convicted for the crime under p.2 Article 208 of the Criminal Code of the Russian Federation ("Participation in illegal armed group").

Nevertheless, the Russian authorities take all possible efforts to provide effective investigation on such cases with regard to conclusions of the European Court and recommendations of the CMCE.

7.4. Measures to increase investigation efficiency

Issues of preliminary investigation in Investigative committee of the Russian Federation are regulated by the order No. 2 of 15 January 2011 which contains essential regulations on the need to ensure effective interaction and activity coordination during check of information about crimes; investigation of cases and solving of crimes, including a, which includes taking urgent initial and other investigative actions, choosing and extension of a measure of restraint in the form of detention, consideration of petitions of criminal proceedings participants, adoption of procedural decisions on initiation and refusal to initiate proceedings, on and the termination of criminal case etc.

Also the order No. 10 of 15 January 2011 "On the organization of work in the Investigative Committee of the Russian Federation on solving of crimes committed during past years". This order comprehensively regulates the order of investigation organization of the relevant cases, including using analytical groups coordinated by the Main Department of Criminalistics.

In relation to Khashiyev group of cases additional algorithm of investigation is developed, which is constantly improved. This allows to significantly eliminate shortcomings of investigations established by the European Court.

In particular, operational investigative teams are established with representatives from various agencies depending on the circumstances of the crimes in the framework of investigation of criminal cases of this category. On all this cases a set of necessary investigative actions is carried out, including actions indicated by the European Court (except cases when it wasn't possible due to objective reasons).

According to information from the Investigative committee the Main Department of procedural control of the Investigative Committee prepares the letter after analysis of each judgment. Such letters, containing detailed recommendations given by the European Court, are sent to heads of the investigative departments for all regions of the Russian Federation for taking into account in practice.

Violations established in all delivered judgments of the European Court had been summarized in the Prosecutor's office of the Chechen Republic. Subsequently information letters in this regard were directed to city, region and interdistrict prosecutors, with instructions to undertake additional measures to eliminate and prevent in future the violations of standards of the criminal procedure law and the Federal law "On operational-search activities", established by the European Court. Similar letters were also sent to the Minister of Internal Affairs of the Chechen Republic and to the Head of investigative Department of the Investigative committee of the Russian Federation for the Chechen Republic.

Investigation of each case that had become the subject of consideration of the European Court is resumed. Also plans of investigative and other procedural actions had been made with due regard to conclusions of the European Court, indications of bodies of procedural control and supervising prosecutors, and additional data received during the

investigation.

Plans of investigative actions include development of various versions, including those about participation of federal forces agents in commission of crimes.

Investigators take measures to establish and expand the circle of witnesses, including witnesses from among close relatives, neighbors, acquaintances, co-workers, representatives of municipal administration, heads of district and settlement administrations. All of them are questioned about circumstances of crimes the investigation is interested in.

Practically all the victims, main witnesses and eyewitnesses of crimes are additionally questioned about circumstances of crimes, description of kidnappers and their vehicles and armored machinery and on other arising questions. This questioning is done in order to complement and specify essential circumstances which can affect a course of further investigation. The statements received are checked on crime scenes. Schemes to protocols of investigative actions are formed.

The investigators consider the issue of carrying out additional surveys of crime scenes with application of technical means in each criminal case. This is done in order to detect and withdraw additional evidence that have criminalistic value.

As it was specified by the European Court in a number of judgments, the Russian authorities did not perform interrogations of government officials and representatives of federal forces who were participants or eyewitnesses of the events which had become the subject of consideration of the European Court. Therefore the investigators had carried out the relevant interrogations.

Taking into account conclusions of the European Court and additional data obtained during the investigation, victims and eyewitnesses of crimes are also repeatedly interrogated in order to complement and clarification of all essential circumstances which can affect a course of further investigation. The circle of witnesses systematically extends, it includes eyewitnesses and close relatives, as well as the neighbors, acquaintances and other persons.

During investigation measures are taken for clarification of circumstances of arrests of persons who subsequently went missing, as well as circumstances of violations committed in this regard for subsequent consideration of the issues of sufficient basis for bringing guilty officials to responsibility (if relevant arrests took place in fact).

Procedural control of criminal cases investigation.

The Investigative Committee issued the order of 15 January 2011 No. 1 (edition of 2 December 2011) "On organization of procedural control in the Investigative committee of the Russian Federation" which in details regulates the course of procedural control during criminal proceedings according to requirements of the criminal procedure legislation. This order regulates course of reaction of procedural control bodies to revealed violations at reception, registration, organization of timely and comprehensive check by investigators of each message about a crime, and at investigation of criminal cases. It also regulates activities of procedural control bodies ensuring efficiency and comprehensiveness of pre-investigation checks, efficiency of investigation of initiated criminal cases. Powers of the said bodies on elimination of revealed violations are fixed and in details regulated by the order.

Standards of the said order are completely applied to investigation of criminal cases of Khashiyev group. Additional measures aimed at activization and increasing of procedural control effectiveness are taken in respect of these cases. For this purpose divisions of procedural control had been created within the structure of the Investigative Committee, including such division (department of procedural control) in the Investigative Department of the Investigative Committee for the Chechen Republic. Any decision of the investigator to suspend the investigation, to terminate it or to refuse to initiate proceedings is transferred to the department of procedural control within 24 hours along with all case papers.

Lawfulness of decisions suspending the investigation is checked three times within the bodies of the Investigative Committee: by the investigative department of Investigative committee for the Chechen Republic and by the central office of the Investigative committee of the Russian Federation – particularly by the Main department of procedural control and Main department of criminalistics.

The authorities of the Russian Federation would like to draw attention to the fact that suspension of the case (that sometimes takes place in this category of cases at some stage of the investigation) does not mean that the work on the case is terminated. Operational-search activities are continued in each suspended case. This activities are directed at solving of crimes and brings the guilty to responsibility. Department of the Investigative committee for the Chechen Republic in majority of cases concerned takes exhaustive measures directed at implementation of all investigative actions possible without the accused.

If any information opening new possibility of carrying out investigative actions is received, the investigation of the suspended cases immediately resumes in accordance with established procedure.

Prosecutor's supervision of investigation of criminal cases

According to Russian legislation the bodies of prosecutor's office are charged with the function of supervision of lawfulness and validity of procedural decisions made by investigators within established periods and procedures. The bodies of prosecutor's office have the right to make relevant checks based on their own initiative and in connection with the complaint of participants of the process, providing observance of constitutional rights of citizens and paying special attention to observance of the Convention provisions.

In this regard the CMCE specially noted the information letter of the deputy Prosecutor General of the Russian Federation, aiming prosecutors at direct application of Convention provisions during supervision of lawfulness of national investigations.

On 2 June 2011 the Prosecutor general issued the order No. 162 "On organization of public prosecutor's supervision of procedural activities of preliminary investigation bodies". This order contains specific instructions for the prosecutors on supervision procedure on the direction considered.

In particular, the prosecutors are required to systematically check the lawfulness of actions and decisions of investigative authorities during pre-judicial proceedings at reception, registration and consideration of messages on crimes. They are also required to visit investigative authorities for supervision at least monthly.

Special attention is focused on ensuring appropriate check of lawfulness and

validity of all procedural decisions refusing to initiate proceedings. Such checks include studying of materials of pre-investigation checks and messages about crimes, with specific attention paid to neutrality and completeness of these checks . If decision on refusal to initiate proceedings is found unlawful and/or unreasonable, instructions are given to issue a motivated decision on its cancellation within 5 days. Such decision must specify circumstances which are subject to additional check, violations of the law. If there are relevant grounds under criminal procedure law, such decision must raise the issue of criminal proceedings initiation.

In order to prevent issuing of unlawful decisions based on results of additional checks the prosecutors are required to closely supervise the checks and adoption of procedural decision. If repeated facts of ignoring legal requirements of the prosecutor are established, the prosecutors are required to accept exhaustive response measures to bring guilty officials to responsibility and to achieve adoption of lawful and reasonable procedural decisions.

During the check of legality of decisions suspending criminal cases the prosecutors have to apply integrated approach to assessment of completeness of investigation and operational search activities, as well as to studying materials of suspended criminal cases and corresponding cases of the operational accounting. Prosecutors are obliged to carry out analysis of suspension of preliminary investigation validity including studying of materials of all criminal cases of this category, paying attention to existence of the grounds for investigation renewal. Such analysis is to be carried out at least once in six month.

According to the order the prosecutors are obliged to pay attention to factual observance of the rights (guaranteed by the Constitution of the Russian Federation) of criminal proceedings participants during supervision of lawfulness of decisions terminating criminal cases. If such decision terminating a criminal case is found unlawful and unreasonable, prosecutors are obliged to cancel relevant procedural decisions, pointing out specific circumstances that should be additionally investigated.

The instructions are also given, requiring to pay attention to the facts of repeated adoption by investigative authorities of decisions terminating criminal cases or suspending preliminary investigation. At that it is required to assess the volume of investigative and procedural actions that had been carried out during investigation renewal. Additional investigation on such cases is subjected to additional control. The prosecutors are required to achieve adoption of the lawful and reasonable procedural decisions. If necessary it is required to direct to higher prosecutor draft acts of prosecutor reaction addressed to the head of higher investigative body.

The order pays special attention to need of strengthening prosecutor's supervision of observance of procedural terms and an order of their extension by investigators.

Annual generalization and analysis of current condition of public prosecutor's supervision of procedural activity of preliminary investigation bodies, including supervision of results of consideration of demands and ideas of the prosecutor of elimination of violations of the federal legislation, and also efficiency of public prosecutor's reaction is provided.

Requirements of the said order are fully realized by prosecutor offices bodies of the Chechen Republic which exercise systematic and purposeful supervision of relevant investigations reacting to the facts of revealed violations. The Russian authorities had

earlier informed CMCE in details, information offered during bilateral consultations between the Secretariat of CMCE and representatives of prosecutor's office bodies (The Prosecutor General's Office, the Main military prosecutor's office, prosecutor's office of the Chechen Republic).

7.5. Ensuring rights of victims

One of the main priorities during investigations is observance and protection of the rights and legitimate interests of victims at the pre-judicial stage of criminal proceedings and increasing interaction level of investigation authorities and victims.

The Russian authorities recognize that according to international treaties, CMCE recommendations, and to Russian legislation, the most important function of criminal justice is protection of legitimate interests of the victims, respect of their dignity, increase of trust of the victim to criminal justice.

Presently investigative Department of the Investigative committee for the Chechen Republic developed and is now realizing a comprehensive program organizing the work with victims.

They are provided with necessary information about the major investigative actions. They are also provided with copies of procedural documents in a manner prescribed by the criminal procedure legislation.

In order to observe person's rights in accordance with the provisions set out in a number of judgments of the Constitutional Court of the Russian Federation and the European Court, access to relevant information for immediate appeal to the court is granted to the victim.

Victims are notified about all major procedural decisions on their cases by relevant notices reflecting results of criminal case investigations. These notes also contain report on the measures taken to solve the crime. Also, an investigator provides the victim with information on the criminal investigation and investigative action taken to locate missing persons and those who had committed their abduction is the victims or his representative formally asks for it.

Presently the problem of ensuring victims access to investigation materials is practically solved. The victims in all the investigated cases now have the opportunity to familiarize themselves with the case materials in full, as well as to realize their right to appeal against unlawful or unreasonable (from their point of view) actions and decisions of investigative authorities. It is an important element both for increase of efficiency of investigations, and for more effective and productive use of domestic remedies by the victims.

Taking into account particularity of the investigation of crimes of considered category and experience studied during the visit of Russian authorities to Great Britain, additional measures are taken to ensure the rights of victims and their maximum informing about the course of investigation, in particular :

- the practice of holding meetings with victims was introduced. During such meetings the following is explained to them: organization of work on investigation of criminal cases, measures of special control of investigation completeness and efficiency, problems of the investigation and possible ways to solve them. Also issues troubling the victims are discussed and taken into account;

- the questionnaire of the victim in criminal cases had been developed. It is filled up after meetings with the victims. It provides clarification of the victims' point of view of victims with regard to quality and outcome of the investigations, their comments and suggestions;

- practice of submitting a victim expanded report about the investigation and its outcome had been introduced. (Order of the Head of Investigative Department of the Chechen Republic № 44/216-r "On procedure of reporting about the work done to victims of criminal offences, which became the subject of consideration of the European Court of Human Rights").

Effective judicial and other remedies of the rights of victims are also created in the Russian Federation. They will be described below in the relevant section of the report.

7.6. Measures for search and discovery of fate of the missing persons

Coordination of search for the abducted and missing persons

Discovery of missing persons' fate is one of priority aims to be solved during investigation of criminal cases about unknown disappearance of citizens during the period of crisis settlement in the territory of the Chechen Republic. The Russian authorities have organized an integrated approach to the solution of this problem.

A number of measures had been taken to strengthen interdepartmental coordination ensuring search of missing persons. Interdepartmental coordination meetings are annually held in North-Caucasus federal district and in the Chechen Republic. They are devoted to issues of fight against abductions and of search for missing persons.

The Prosecutor of the Chechen Republic adopted the Decision no. 73/15p on 5 August 2010 "On Establishment of Interagency Cooperation for Detection and Investigation of Especially Grave Crimes against Persons". In compliance with the said decision in the prosecutor's office of the Republic and in all local prosecutors' offices there had been created continuing interagency working groups. During these meetings the groups examine criminal cases related to disappearance of persons and provide recommendations to the investigating authorities on conducting of certain investigative actions. Also as the result of these meetings measures are taken to eliminate the problems existing in the field of cooperation with investigating authorities. The investigation of all cases is taken under control.

For the purposes of improvement of coordination of actions conducted by investigative authorities and operative divisions of the bodies of the interior, on 31 March 2012 a joint order of the Department of the Investigative Committee of Russia and the Ministry of the Interior of the Chechen Republic "On Approval of the Regulations on Interagency Meeting for Examination of Criminal Cases Investigated based on the Facts of Non-Solved Grave and Especially Grave Crimes which have become the Subject of Examination of the European Court of Human Rights".

On 21 December 2011 the Criminal Investigations Department of the Chechen Republic founded a special division for coordination of the bodies of the interior for search of persons. The division duties include search of missing persons, criminals, children and minors, identification of persons based on unidentified corpses.

For the purposes of ensuring coordination of all the competent state authorities in the North Caucasian and Southern Federal Districts, including the territory of the Chechen Republic, the necessary operative and search activities, as well as operative-recording and operative-prevention activities are developed and conducted by the bodies of the Interior jointly with the territorial divisions of the FSB of Russia and the Ministry of Defense of the Russian Federation.

The department of criminalistics of investigative department of the Investigative Committee for the Chechen Republic had organized the analysis of execution of the order of the Prosecutor General of the Russian Federation and the Minister of Internal Affairs of the Russian Federation No. 70/122 "On approval of instruction on the course of consideration of statements, messages about crimes and other information on the incidents connected with unknown disappearance of citizens", as well as of timeliness and lawfulness of criminal cases initiation upon the facts of unknown disappearance of citizens. Results of analysis are used for amending law-enforcement practice, including the activity directed at improvement of interdepartmental interaction.

Taking into account the importance and relevance of these issues the new comprehensive program on fight against abductions and on search of missing persons for 2011-2014 had been adopted at the coordination meeting of law enforcement agencies of North Caucasus federal district on March 30, 2011. This program is developed with due regard to experience earlier received by law enforcement agencies of the district in the called field. It includes a set of joint actions of all subjects of fighting against crimes.

During implementation of the above-mentioned Complex Program keeping of unified logs and records of abducted and missing persons as well as persons apprehended by law enforcement officials has been ensured.

The called program gave a new impulse to fight against abductions and to search of missing persons in each region of the Russian Federation of North Caucasus federal district, including Chechen Republic.

The measures taken have presently led to certain positive results in modern cases.

Thus, in January 2013 the Ministry of Internal Affairs for the Chechen Republic received information, according to which two unidentified persons who told they were police officers, put Ch. (a civilian) to a car and drove away. Coordinated and prompt measures taken allowed to establish the whereabouts of the abducted person as well as detain A. and B., residents of the Chechen Republic, on suspicion of committing this crime. It was established that these persons had not been policemen or representatives of any other authority. They have confessed in commission of this crime. Presently the criminal case has been referred to the court for further examination.

In March 2013 the duty unit of the division of the Ministry of the Interior for the Achkhoy-Martanovskiy District of the Chechen Republic received a message from M. According to the applicant he was abducted in February 2013 by armed persons wearing camouflage uniform and put into a deserted house at the outskirts of the village Barnut. M. managed to escape. The abductors had been established and identified by the applicant. They appeared to be participants of an unlawful armed group, who were killed during a counter-terrorist operation.

The most important direction of interdepartmental coordination during discovery of missing persons fate is interaction with the institutes of civil society.

Systematic interaction is organized between the department of prosecutor's office of the republic, investigative department of the Investigative Committee for the Chechen Republic, the management of NGO's, including Committee of the Red Cross, the Committee against torture, Human Rights Center "Memorial". Arising problems and ways of their solving are discussed during the meetings. Also exchange and experience accumulation etc. takes place. Within this interaction meetings are held for obtaining information on the known facts of abduction in order to organize relevant checks. Specific measures are developed for prevention of abduction and unknown disappearance of citizens.

The parliament of the Chechen Republic established the Committee for search of the persons disappeared during counter-terrorist operation in the Chechen Republic, which works closely on discovering the fate of missing persons with the Department of the Investigative Committee for the Chechen Republic and the Ministry of the Interior of the Chechen Republic.

Constructive interaction had been achieved between investigative authorities, agencies of prosecutor's office of the Chechen Republic and the Commissioner on Human Rights in the Chechen Republic, including concerning search of missing persons and the abducted persons. On official site of the Commissioner on Human Rights, the information on the abducted and missing persons, as well as contact information, is published. The Office of the Commissioner on Human Rights in the Chechen Republic on which citizens can give any information connected with abductions is published.

In addition, in order to inform the public and to counteract abductions in the Chechen Republic and the Republic of Ingushetia on the weekly television program *Dezhurnaya chast* and *Kriminalnaya Khronika* as well as on the Chechen state television and radio broadcasting companies *Vaynakh* and *Grozny* the photographs and descriptions of missing individuals are published, as well as contact numbers, whereby citizens can report any information, anonymously if need be.

Examination of the statements and reports and abduction and unknown disappearance. Measures on search of the abducted and missing persons

It should be noted that on the basis of federal laws *On Police* and *On Operational Search Activity*, actions for search of the abducted persons begin immediately upon receipt of the report on the committed crime, irrespective of the fact of initiation of criminal proceedings.

According to Article 144 of the Code of Criminal Procedure of the Russian Federation, the decision to initiate criminal case on the application of the abduction is made by the bodies of preliminary investigation within three days from the date of the registration of the application. In accordance with Article 151 § 2 (a) of the Code of Criminal Procedure of the Russian Federation, the preliminary investigation on criminal cases of this category is carried out by divisions of Investigative Committee of the Russian Federation.

For the purpose of activity improvement on establishment of location of the abducted citizens and missing persons, the Ministry of the Interior of Russia issued instructions about an order of reception, registration and consideration of messages on

unknown disappearance of citizens and detection of unknown corpses. These instructions had been forwarded to call centres of territorial bodies of the ministry.

As it is in detail stated above, in all the cases which became subject of examination of the Court and according to its conclusions, and requirements of the Russian legislation, there were taken measures for ensuring effective investigation, including discovery of fate of missing persons.

For the specified category of cases in accordance with the established procedure in district divisions of the interior there are cases of the operational registry had been established. Within these cases the operational search activities are held in order to establish the location of abducted persons and persons, involved in crimes commission.

The investigators and heads of investigative authorities within their powers y provided by the Code of Criminal Procedure of the Russian Federation, take measures to activate work of internal agencies for search of missing persons as by giving necessary instructions and control of their execution, as well as by introduction of acts of the reaction aimed at elimination of found violations (the Russian authorities in their reports provided examples of effective and essential actions of investigators for the purpose of appropriate execution by competent officials of law-enforcement bodies of the duties).

According to the Investigative Committee of the Russian Federation presently interaction of the investigators who are carrying out investigations in the Chechen Republic, with law-enforcement bodies of the republic does not cause any complaints.

The investigative authorities proceed working on improvement of practice of carrying out molecular and genetic examinations of close relatives of the abducted or missing persons (whose whereabouts are not established yet) to define their genotype and create database for subsequent identification with the unknown corpses found in the territory of the Chechen Republic. So far more than 500 genetic examinations conducted on orders of investigative authorities.

Criminal case upon abduction of A. can be used as an example of successful use of genetic data bank. (application no. 37193/08 Malika Alikhadzhiyeva v. Russia). Due to conducted molecular and genetic examination in this criminal case in November 2012 it was determined that A.'s body had been delivered to the Forensic Examinations Centre as unidentified body of illegal armed group member. The investigation is ongoing.

In order to enhance effective interaction and activity coordination in the field of judicial examination the draft interdepartmental order *On Establishment of the Interdepartmental Commission on Questions of Improvement of Judicial and Expert Activity* and provisions to it are being currently prepared. The main objectives of specified commission are to ensure coordination of judicial and expert activity and uniform scientific and methodical approach to expert practice, vocational training and specialization of experts.

During the seminar held in Paris on 20-21 June 2012 representatives of the Russian government authorities had an opportunity to study the techniques of search of the persons who were missing in the conditions of operations, used by the various specialized institutions in other countries.

It should be noted that discussion of the questions connected with search of

missing persons at this seminar, was very useful for mutual exchange of opinions and available international practice in that field. The received recommendations and methodical recommendations prepared by various experts for the International Committee of the Red Cross, were studied by the corresponding heads of Head Department of Criminal Investigation Department of the Ministry of the Interior of Russia, General Directorate of Ministry of the Interior of Russia in North Caucasus Federal District, Criminal Search Office of the Ministry of the Interior for the Chechen Republic.

Despite the fact that transfer of unchanged methods of studied experience to situation in the Chechen Republic (taking into account specifics of a situation) is not possible, the Russian competent authorities showed interest in the experience on organization of search of mass burial places not only from the point of view of applied methods, but also from the point of view of effective use by law enforcement agencies of results of this activity at establishment of circumstances of an event and the persons involved in committing the crimes.

The results of the seminar were used during the interdepartmental meeting of heads of law enforcement agencies of the North Caucasus Federal District *On a Course and Results of Implementation of the Comprehensive Program on Fight against Abduction and Search of Missing Persons for 2011-2014* regarding inspection of the cases of the operating registration, and also during preparation for meeting of board of the Prosecutor General's Office of the Russian Federation *On Execution of the Laws During Implementation by Authorized Bodies of Activity on Search of Missing Persons, Including Children, Identification of the Identity of Unknown Corpses, Conduct of Search Cases and Investigation of Crimes of this Category*.

System of abducted persons registration

Under implementation of the above comprehensive program on fight against abductions and search of missing persons for 2011-2014, the joint database of abducted, missing, and detained by law enforcement officers has been established, including by means of the automated information systems.

In compliance with the Instruction on Forming and Keeping Centralised Operative Reference, Criminalistic and Search Registers of the bodies of the Interior of the Russian Federation approved by the order of the Russian Ministry of the Interior, the information centres of the Central Office of the Ministry of the Interior of the Russian Federation and the information centres of the Ministry's territorial divisions keep a unified record of missing persons and unidentified corpses discovered.

In the Ministry of the Interior for the Chechen Republic, the uniform database of all abducted and missing persons *Forpost* is created. Information on such persons is also forwarded to FSB of Russia and Penal Service Department of Russia for the Chechen republic.

The work on modernization of the automated identification information retrieval system *Opozvaniye* is on a completion stage. On the basis of this system centralized data base of persons, missing persons, and the found unknown corpses is being developed.

In the Investigative Department of the Investigative Committee for the Chechen Republic the information and analytical database is being working since 1999 according to

the Articles 126, 127 of the Criminal Code of the Russian Federation, in order to collect information about abduction in the territory of the Republic. This database includes data on circumstances of abduction and persons involved in committing the crimes is conducted. On each such fact the analytical report is formed, which, in particular, contains data on measures taken by the investigation to ensure its effectiveness, victims and relatives of the abducted, their testimonies on the merits of the cases.

According to Rules of filling and submitting the registration documents on the crime, criminal cases and case-files available in the agencies of military prosecutor's office and military investigative authorities, the information in electronic form on the results of investigation of criminal cases is prepared and regularly updated from the moment of their initiation, data on guilty and injured parties if they are granted the victim status in the criminal case (information search complex *Prestupnost*).

According to the Federal law no. 87-FZ of 25 June 2012, the amendments according to which unknown corpses are subject to obligatory photography and fingerprinting are made to the Article 178 of the Code of Criminal Procedure of the Russian Federation. The databank of unidentified corpses found in the territory of the Northern Caucasus region during the period of counter-terrorist operations has been created in State Centre of Forensic Medical and Criminalistics Examinations no. 16 (in Rostov-on-Don). It is successfully used during investigations

The forensic medical expert institutions run the DNA databases. Along with the existing database in the State Centre of Forensic Medical and Criminalistics Examinations no. 16 (in Rostov-on-Don), the examinations connected with DNA examination of unknown body remains, are also carried out in the expert and criminalistics centre at General Directorate of Ministry of the Interior of Russia in the Stavropol Territory. The DNA databases in the forensic medical expert institutions of the Ministry of Defence of the Russian Federation are created and updated.

According to the federal law no. 242-FZ *On State Genome Registration in the Russian Federation* in the Forensic and Criminalistics Centre of the Ministry of the Interior of the Russian Federation, the federal database of genomic information (further – FBDGI) where data of DNA of unknown corpses received from the various departments and persons, missing persons are located is created. On FBDGI is checked the genotype of relatives of the missing persons.

Prosecutor supervision of missing persons search

According to the federal law *On the Prosecutor's Office of the Russian Federation*, supervision of execution of the federal law *On operational search activity* during implementation of operational search actions by the inquiry body is carried out by agencies of prosecutor's office.

During their visit to Grozny of the Chechen Republic, the members of delegation of the Secretariat of the Committee of Ministers of the Council of Europe in the Prosecutor's Office of the Republic were in detail informed about the procedure and active implementation by prosecutors of appropriate powers.

The prosecutors regularly review the cases of operational registration and if they find any violations, they submit statements on elimination of the found violations and bringing the guilty officials to disciplinary responsibility. The reason for a prosecutor's review can also be the motivated motions for review of the cases of operational registration of heads of investigative authorities in cases of non-execution as body of inquiry of the specific orders of the investigator, delayed and incomplete execution, and also by results of the analysis of other results of the operational search activity testifying to allowed violations and shortcomings available in criminal case.

For the purpose of enhancing the effectiveness of departmental control on the criminal cases raised on the facts of abduction citizens and their unknown disappearance, and also for the operational account, in 2012 the Prosecutor's Office of the Chechen Republic sent information letters with instructions on taking additional measures aimed at improvement of quality of departmental control, to prosecutors of districts of the Chechen Republic, and also to Investigative Department of the Investigative Committee of the Russian Federation and the Ministry of the Interior of the Chechen Republic.

Taking into consideration the major importance of the issues of compliance with law during organization of search based on information about missing persons, in 2012 at the meeting of the Division of the Prosecutor's Office of the Russian Federation special attention was paid to discussion of the existing negative tendencies and problems encountered while conducting operative and search activities and during investigation of criminal cases on the facts of disappearance of persons and discovery of unidentified corpses.

On 16 May 2012 the Prosecutor's Office of the Chechen Republic held a collegium "On the Practice of Prosecutor's Control over Law Enforcement during Conducting by Authorised Bodies of Activities Aimed at Search of Missing Persons, including Children, Identification of Non-identified Corpses, Conducting Search Activities and Investigation of this Category of Crimes".

In compliance with the decisions adopted on this collegium in September 2012 the analysis had been carried out of criminal cases initiated in 2008-2011 under Articles 105, 116 of the Criminal Code of the Russian Federation based on the fact of disappearance and abduction of persons simultaneously with studying of operative recording cases. The objective of the study is to check into the involvement of the missing person in the activities of illegal armed groups and the correctness of crime qualifications. Based on the results of the review, information letters were sent to the district prosecutors and prosecutors of similar rank regarding taking additional measures aimed at improvement of supervisory activities for improvement of the work of investigating authorities as well as the authorities performing operative and search activities for solving of murder crimes, including the crimes committed during the previous years involving disappearance or abduction of persons.

7.7. Influence of limitation periods of the criminal prosecution and their expiration on effectiveness of investigations and bringing the perpetrators to criminal liability

The principles of legal definition of time limitation are based on humanistic idea according to which, firstly, the threat of criminal liability cannot prevail over the person

during the whole his life, and secondly, the criminal prosecution after a certain term turns into unjustified revenge and therefore loses meaning and need though act objectively made by the person completely did not lose the threat to public.

The authorities of the Russian Federation note that in Europe there is no unified standard concerning limitation periods for bringing to criminal responsibility. The limitation periods established by the Russian law for criminal prosecution only insignificantly differ from the criminal prosecution limitation periods for similar crimes in other State parties to the Convention.

Besides, according to Article 10 of the Criminal Code of the Russian Federation the criminal law establishing criminality of act, strengthening punishment or otherwise worsening position of the person, has no retroactive effect. Application of a retroactive effect of the criminal law worsening position of the person, is also forbidden by Article 7 of the Convention.

Therefore even in case of increase in limitation periods of criminal prosecution, the established periods cannot be applied to the persons who have committed the corresponding crimes in the period of crisis settlement and targeting of a constitutional order in the Chechen Republic.

According to existing national legislation, the limitation periods are counted from the moment of committing the crime and until the sentence of court becomes final (Article 78 § 2 of the CC RF). The person is exempted from criminal liability if the following terms are expired: 2 years – after committing the crimes of little gravity; 6 years – crimes of average gravity; 10 years – grave crimes; 15 years – especially grave crimes.

Presently, taking into consideration the limitation periods for bringing to criminal liability, the Russian authorities have taken comprehensive measures for enhancing the investigation proceedings in the above-mentioned group of cases. More detailed information thereof is contained in Sections 7.4 and 7.6 of this Report.

The issue of limitation periods application to persons who had committed a crime, punishable by death penalty or lifetime imprisonment, according to Article 78 § 4 of the Criminal Code of Russian Federation is settled only by a court. In this regard, the expiration of 15-year term from the moment of committing the above mentioned crime is not an obstacle for initiation of legal proceedings, investigation, charge and the direction of criminal case to the relevant court which examines application of limitation periods to the defendant in procedure of preliminary hearing (if the defendant does not object to such decision) or regularly (if the defendant objects to the termination of criminal case behind the expiration of limitation periods of criminal prosecution).

Pursuant to Article 78 § 3 of the Criminal Code of the Russian Federation, the limitation period suspends if the person who committed a crime, evades from investigation or the court.

At the same time it should be noted that decisions refusing to initiate criminal proceedings or ordering to terminate criminal proceedings due to expiry of limitation periods can be appealed against with the head of the respective investigating authority, the prosecutor or the court under the procedure stipulated by Articles 124-125 of the Code of Criminal Procedure of the Russian Federation. At that, not only the victims but any other participants of the criminal proceedings whose rights might be infringed by the respective decision(s) have the right to contest the said decision(s).

At the same time, pursuant to Article 27 § 2 of the Code of Criminal Procedure of the Russian Federation, termination of the criminal proceedings after expiration of the limitation period is not possible if the suspect or accused objects to it.

Therefore, the national criminal and criminal procedure legislation provides for application of limitation periods of criminal prosecution for crimes only if persons guilty of their commission are established.

In development of the mentioned provisions of the Code of Criminal Procedure of the Russian Federation, the Chairman of the Investigative Committee of the Russian Federation issued on 15 January 2011 the order no. 2 *On organization of Preliminary Investigation in Investigative committee of the Russian Federation*. The order notes that according to the requirements of the Code of Criminal Procedure of Russia, the criminal proceedings cannot be terminated before establishment of the person who has committed a crime.

If the perpetrators were not established, the expiration of limitation periods, including on the criminal cases of the *Khashiyev group of cases*, cannot form the basis for termination of the criminal proceedings. In fact, no criminal cases which became a subject of the Court's examination in the judgments delivered on the *Khashiyev group of cases*, were terminated on the basis of criminal prosecution expiration of the time limitation.

In view of the above, the expiration of limitation periods in criminal cases of considered category does not hinder the operational search activities and investigation, establishment of the facts of the case and the persons who have committed a crime in the *Khashiyev group of cases*.

At the same time, during establishment of the perpetrators, the expiration of limitation periods can form the basis for release of the corresponding person from criminal liability (if the limitation period did not expire in connection with evasion of the person from investigation and court).

The attention is paid to the fact that continuation of investigation in the criminal case upon expiry of limitation periods of criminal prosecution, cannot lead to criminal punishment of perpetrators, however it promotes achievement of other important purposes, namely establishment of circumstances of an event, fate of missing persons, circumstances of death and places of burials of victims, etc., and also as it is in detail stated above, allows victims to claim compensation from those guilty of the damage sustained.

7.8. Ensuring access of investigators to archive documents

The existing Russian legislation in detail regulates the questions related to access to the archive documents.

The legal basis for storage, gathering, registration and use of Archive Fund and other archive documents in the Russian Federation are established by the federal law no. 125-FZ *On Archiving in the Russian Federation* ("the federal law on archiving"), and also departmental regulations.

By the federal law on archiving it is established that the structure of Archive Fund of the Russian Federation includes the archive documents in the Russian Federation, irrespective of a source of their origin, time and a way of creation, a type of the carrier, forms of ownership and a storage place. According to Article 6 of the Law, the archive documents are included in structure of Archive Fund of the Russian Federation on the

basis of examination of their value. The archive documents are subject to storage during the terms established by Lists, accepted by the authorized executive bodies.

According to Article 23 of the federal law on archiving, the authorized executive bodies are obliged to develop and approve the list of documents, obtained in the course of their activity, with the indication of terms of their storage.

In pursuance of the called standards of the federal law on archiving, the Ministry of the Interior of Russia and the Ministry of Defence of the Russia established the procedure and periods of storage of separate types of documents, as well as the procedure of their destruction after periods of storage expire. According to the data provided by these government bodies, cases of violation of an order of destruction of documents in their activity weren't available.

At the same time, in some cases destruction of documents took place in the conditions of armed conflict, as a result of operations or terrorist attacks (explosions, fires, etc.), and for this reason it is now not possible to receive the documentary evidence of their destruction. Now within the investigation of criminal cases, the efforts on search of documents of interest a consequence and/or the evidence of their irrevocable destruction are made.

On the other hand, as it is noted above, in some cases investigation and search of archive documents becomes complicated by the fact that the officers of certain Russian governmental agencies were involved in the counter-terrorist operations on a temporary basis and rotation principle. Identification of the persons involved in detentions, and search of necessary documents were also complicated by use by such persons of pseudonyms.

In order to access to the remained archive documents containing data of the state secret in a number of cases the investigators received the court decisions. However the information of interest was not yet found the relevant archives.

Nevertheless, despite the existing difficulties, investigation proceeds and the investigators make all possible efforts to ensure its effectiveness, including search of the necessary documents.

For the additional settlement of problems connected with obtaining information on events which became a subject of Court's examination in August, 2012, including the data of the state secret, the interdepartmental order On the Procedure of Obtaining Information on the Persons Participating in counter-terrorist Operations was issued.

8.Improvement of existing and creation of new national human rights mechanisms

First of all, the attention is paid to the fact, that the Article 119 of the Code of Criminal Procedure of the Russian Federation provides that the persons participating in criminal proceedings, have a right to address to the inquiring officer, investigator or court (depending on a stage of investigation or examination of the criminal case) the motions for procedural actions or adoption of procedural decisions for establishment of the circumstances important in the criminal case, and also for ensuring their rights and legitimate interests. The inquiring officer, investigator or judge deliver a decision, and the court delivers a ruling, which informs these persons who filed the motion on granting it or

its full or partial dismissal.

The rights of participants of the criminal proceedings are guaranteed by possibility of acceleration of legal proceedings and receiving compensation for excessively long investigation or excessively long examinations of the corresponding cases in the courts (more information on mechanism of ensuring the civil rights in section 8.2).

The Federal law no. 119-FZ *On State Protection of Victims, Witnesses and Other Participants of Criminal Proceedings* established set of measures of the state protection of victims, witnesses and other participants of the criminal proceedings, including security measures and social support of these persons, and defined the basis and procedure of their application. The decisions of the Government of the Russian Federation approved the Rules of protection of data on implementation of the state protection of victims, witnesses and other participants of criminal legal proceedings (decision no.134), Rules of applications of separate security measures concerning victims, witnesses and other participants of criminal legal proceedings (decision no. 630). In development of the federal law no. 119-FZ by the decision of the Government of the Russian Federation no. 792 the State program *Safety of victims, witnesses and other participants of criminal legal proceedings for 2009 - 2013* were approved. The order of the Ministry of the Interior of Russia no. 281 approved the Administrative regulations of the Ministry of the Interior of Russia on execution of the state function of providing according to the legislation of the Russian Federation of the state protection of judges, officials of the law-enforcement agencies and supervisory authorities, safety of participants of criminal legal proceedings and their relatives.

In view of the findings stated in the Court's judgments, including those in *Khashiyev group of cases*, a number of the additional measures aimed at improvement of law-enforcement practice on ensuring protection of the rights of victims were taken.

The Constitutional Court of the Russian Federation which repeatedly addressed the problem of protection of the rights of victims in criminal trial in the decisions specified that case papers which affect their rights, and also the main procedural decisions have to be provided to victims.

Thus, information has to be provided to victims for observe their right to immediate appeal to the court, and also to the prosecutor or the higher head of investigative body with complaints to the decision of the investigator, violating their rights during the preliminary investigation. (Judgment of the Constitutional Court of the Russian Federation no. 5-P of 23 March 1999, Decisions no. 43-O of 14 January 2003, no. 430-O of 4 November 2004, no. 3000-O of 11 July 2006). In order to ensure correct and uniform application by the courts of the standards of the criminal procedure law regulating participation of the victim in criminal proceedings, ensuring its rights and legitimate interests, on 29 June 2010 the Plenum of the Supreme Court delivered the Ruling no. 17 *On Practice of Application by the Courts of the Norms Regulating Participation of Victims in Criminal Proceedings*. In this ruling the Supreme Court presented explanations to issues concerning participation of victims in the criminal proceedings, ensuring their rights and legitimate interests.

In particular, in this ruling it is noted that strict observance of the norms regulating participation of the victim in the criminal proceedings, serves as an important guarantee of execution by the person, the victim of a crime, the constitutional law on access to justice,

judicial protection and compensation of the damage caused to it. The rights of victims of the crimes and abuses of the power are protected by the law (Article 52 of the Constitution of the Russian Federation).

8.1 Preventive remedies

The Russian authorities on a constant basis and in view of the case-law of the Court and international standards, work on improvement of the current legislation, departmental standard legal regulation for improvement of national human rights mechanisms and ensuring the rights of participants of the criminal proceedings.

This work is carried out by the Russian authorities in close interaction with institutions of civil society.

For improvement of this interaction as well as strengthening protection of procedural laws and freedoms of the citizens, in March 2012 the Agreement *On Forms of Interaction between the Investigative Department of the Investigative Committee of the Russian Federation for the Chechen Republic and the Commissioner for Human Rights in the Chechen Republic for Providing Procedural Guarantees on Protection of the Rights and Freedoms of Citizens at a Stage of Preliminary Investigation* was signed.

On 25 April 2012, the prosecutor's office of the Chechen Republic and the Commissioner for Human Rights in the Chechen Republic signed the Agreement on interaction concerning protection of the rights and freedoms of the person and the citizen. This agreement provides for exchange of information on human rights violations and measures taken for their prevention. An organized participation of the Representative in the meetings of interdepartmental meetings of law enforcement agencies of the republic and the working groups on questions of protection of human rights and the citizen. In prosecutor's office of the republic systematic carrying out working meetings with the Deputy and his representatives was organized.

For improvement of cooperation with civil society institutions the Ministry of the Interior for the Chechen Republic was also included in the number of the participants of the cooperation agreements with the Ombudsman of the Chechen Republic, the Civic Chamber of the Chechen Republic and the Council of Non-Government Organizations working in the Republic.

The work in this direction is also based on close contacts with Department of the Council of Europe on control of execution of the judgments of the European Court. Thus, in February 2012 for improvement of the remedies provided by Articles 124–125 of the Code of Criminal Procedure of the Russian Federation, the Russian authorities together with Department organized and carried out in Moscow a round table on a perspective of effectiveness of the national remedies at a stage of examination of statements for a crime and investigations of criminal cases (including the rights of citizens connected with violation at suppression of acts of terrorism and activity implementation on counteraction to terrorism).

The Russian judges, prosecutors and investigators, including those working in the Chechen Republic, and also representatives of the European Court and the international experts took part in the event.

During a seminar there was a discussion of possible measures for protection of the

rights of citizens in connection with carrying out anti-terrorist operations, and also experiment of other countries on creation of similar human rights mechanisms. The participants with a great interest learned about the practice of Turkey on acceptance and implementation of the *Law On Compensation of Damage in connection with the Terrorist Attacks and Measures for Fight against It* which was recognized by the European Court as an effective interstate remedy.

The results of the discussion were taken into consideration by the Russian authorities for improvement of national remedies.

Judicial means of legal defence

The victims, as well as other participants of criminal proceedings, are entitled to effective mechanisms available in the Russian Federation for appealing against decisions, actions or omissions of the inquiring officers, investigators or prosecutors.

Such decisions, actions or omission can be appealed against according to the procedure established by the criminal procedural law (Articles 122-123 and 125 of the Code of Criminal Procedure of the Russian Federation).

As to the claim received according to Article 125 of CCP RF), the judge shall consider the legitimacy and validity of decisions, actions or omissions of inquiring officers, investigators and prosecutors no later than 5 days since the receipt of the complaint with the participation of the claimant and its advocate, representative (legal representative) or other persons whose immediate interests are affected by actions, omissions or decisions appealed against, and also with the participation of an investigator and the prosecutor.

Article 125 of CCP RF provides that procedural decisions of investigators and prosecutors can be appealed against in court, including decisions about refusal to initiate a criminal case, about termination or suspension of the criminal proceedings, as well as other actions or omissions of above-mentioned officials, as well as of the prosecutors, if they can interfere with the constitutional rights and freedoms of the participants of criminal proceedings or with the citizens' access to public justice.

The Plenum of the Supreme Court, in its Ruling no. 1 of 10 February 2009 *On the Practice of Processing Claims according to Article 125 of the Code of Criminal Procedure of the Russian Federation*, provided the courts with a clear explanation of those legal provisions. It is also mentioned that besides the decisions of the inquiring officer, investigator and the prosecutor to refuse to initiate criminal proceedings or terminate the criminal proceedings, other actions, omissions and decisions of the investigator taken at the pre-trial stage can be appealed against according to Article 125 § 1 of CCP RF, if they can interfere with the constitutional rights and freedoms of the participants of criminal proceedings or with the citizens' access to public justice.

Therefore, the rights to use means of legal defence stipulated by Article 125 of CCP RF do not depend on the procedural status of the affected party: any person that considers that his/her right of access to public justice was violated by actions or omissions of the investigating authority, can make a claim pursuant to Article 125 of CCP RF. Besides, the above-mentioned Ruling of the Plenum of the Supreme Court gives substantial explanations of other important issues that helped to improve the legal practice in this sphere.

At the same time, an effective mechanism had been created for execution of court decisions delivered under Article 125 of the CCrP RF.

In accordance with Article 392 of the CCrP RF, court decisions establishing illegal actions (omission) or a decision of a relevant official and imposing an obligation to eliminate the relevant violations, are obligatory to all officials and bodies after such court decisions come into force. This includes inquiry officers, investigators and prosecutors. Moreover, non-enforcement of a court decision entails criminal responsibility under Article 315 of the CCrP RF stipulating punishment up to prison term.

Enforcement of the court decision is started by the court which delivered it. This court send a copy of a decision delivered under Article 125 of the CCrP RF to the applicant, the prosecutor and the head of an investigating body. These authorities supervise execution of the said decisions in the framework of realization of supervision powers and internal control powers respectively.

According to the Prosecutor General's Office, if the court satisfies the complaints lodged by the applicants under Article 125 of the CCrP RF, the prosecutor promptly takes measures to quash the contested decision. Preliminary inquiry and/or investigation of the criminal case with regard to which the applicants lodged complaints with the court under Article 125 of the CCrP RF is immediately taken under control of prosecution bodies. If necessary, the progress of relevant inquiry and/or investigation is discussed at the meeting held by the supervising prosecutor with participation of investigating and operative officers.

If investigating authorities do not execute a court decision delivered under Article 125 of the CCrP RF, the applicant is also entitled to lodge a complaint against their omission. Such application is also considered according to procedure established in Article 125 CCrP RD. In such cases the mentioned Resolution no. 1 of the Plenum of the Supreme Court of the Russian Federation of 10 February 2009 recommends the courts to examine the applicants' complaints and at the same time deliver a special ruling where attention should be paid to committed violations which require special measures. The Russian Federation Code of Administrative Offences (Article 17/4) stipulates administrative responsibility for failure to take measures based on the court's special ruling.

This legal positions were confirmed by Ruling of the Constitutional Court of the Russian Federation of 23 June 2005 no. 299-O where the Court noted that in case a decision refusing initiation of criminal proceedings is found unlawful the Court is not authorized to directly oblige the competent body to quash such a decision and initiate criminal proceedings. However, this circumstance can not be assessed as relieving a prosecutor, investigator and inquiry officer from the obligation to eliminate the violations noted by the court. Non-fulfilment of this obligation can serve as the grounds for contesting the relevant actions (omission) before the higher prosecutor or in court, as well as for taking other measures of responsibility (disciplinary, criminal, administrative) for non-enforcement of a court decision.

Thus, the legislation in force provides for sufficient complex measures for implementation of the guarantees of judicial protection of the citizens' rights and freedoms stipulated by Article 125 of the CCrP RF.

According to the Supreme Court of the Russian Federation, in 2012 the Russian

courts had examined approximately 129,454 complaints against the actions of officials conducting criminal proceedings, of which 11,210 of complaints had been satisfied. Among the satisfied claims there is a considerable number of claims made in the Chechen Republic and other republics of the Northern Caucasus.

In January 2012, a decision by the judge of the Urus-Martanovsky City Court of the Chechen Republic, that was upheld by the appeal court, granted the claim of I. about declaring illegal and ill-founded the refusal to initiate the criminal proceedings into the murder of the claimant's relative during a counter-terrorist operation, and the investigator was made responsible for the rectification of those violations. In August 2012, a decision of the Nalchik City Court of Kabardino-Balkarian Republic declared illegal the inquiring officer's failure to comply with the prosecutor's indications on carrying out additional the investigative actions. In July 2012, the Prigorodny District Court of the North Ossetia – Alania declared illegal the investigator's failure to take a number of investigative actions on the victim's claim, and the investigator was made responsible for the rectification of the violations, etc.

Therefore, the existing legal practice presents substantive proof of the effectiveness of remedies stipulated by Article 125 of CCP RF that guarantees the rights granted to the participants of the process, including the victims, at the pre-trial stage of the criminal proceedings.

Appeals against decisions, actions (omission) of investigators and inquiring officers to the prosecutor and the head of the investigative body

Pursuant to Article 124 of the CCP of Russia, decisions, actions (omission) of the investigator and inquiring officer can be appealed to the chief of the investigative body and/or the prosecutor, who are obliged to examine a complaint within 3 days from the date of its receipt. In exceptional cases, when discovery of additional documents or any other measures are required for the verification of the complaint, investigation of the complaint can take up to 10 days, whereof the applicant shall be informed. Upon investigation of the complaint the prosecutor, the chief of the investigative body shall deliver a decision either on total or partial granting, or dismissal of the appeal. In case of granting the appeal on account of exceeding the reasonable time limit in the criminal proceedings, the decision shall provide for procedural action implemented expedite the proceedings and the enforcement terms. The applicant shall be informed immediately on the decision, adopted in the result of examination of his complaint, and on the further procedure of his appeal.

The Decision of the Constitutional Court of the Russian Federation no. 42-O of 25 January 2005 pays special attention to the fact that provisions of Article 124 of the CCP of Russia (in its constitutional and legal interpretation) do not allow the inquiring officer, investigator, prosecutor and the court (in consideration of application, petition or complaint of the party involved in the criminal proceedings) to dismiss investigation and assessment of all the reasons given in the complaint, as well as motivation of the decisions taken (with reference to the specific grounds, reasonable from the point of view of the principle of rationality).

In the above-mentioned order of the investigation committee of Russia no. 1 of 15 January 2011 *On the Organization of Procedural Control of the Investigative Committee of the Russian Federation*, the officials of the Investigative Committee of Russia are charged with the duty to duly investigate complaints against decisions, actions (omission) of the investigators in the manner, provided by the Article 124 of the Code of Criminal Procedure of the Russian Federation, including study of the case-file of the criminal case or review, and take appropriate response measures within the authority.

Pursuant to this order, the regions of the Russian Federation issued their own orders and instructions. Thus, in 2012 the investigation department of the Chechen Republic developed and published organizational and administrative acts *On the Procedure of Consideration of Proposals, Applications and Complaints* and *On Measures to Improve the Effectiveness of Examination of Applications and Complaints*," which provides among other matters, the order of consideration of complaints pursuant to Article 124 of the Code of Criminal Procedure, with compulsory study of the investigation case-file or pre-investigation reviews. When implementing these acts, the heads of the investigative authorities provide quality and timely consideration of appeals of the parties to a criminal proceeding.

In order to ensure full realization of the rights of citizens to unhindered lodging of complaints and appeals in each subject of the Russian Federation, reception offices of the Chairman of the Investigative Committee of the Russian Federation are organized, as well as hotlines and online-reception of the Investigation Committee of Russia.

The order of the Prosecutor General of the Russian Federation no. 162 of 2 June 2011 *On the Organization of the Prosecutor's Supervision of the Procedural Activities of the Preliminary Investigation Agencies* is focused on the fact that prosecutors shall place a priority on the protection of rights and legitimate interests of victims of crimes. Emphasis was laid on the necessity for a balanced approach to the consideration of complaints and appeals of the parties to a criminal proceeding, taking measures for the restoration of violated right within granted powers, and compensation for pecuniary and non-pecuniary damage.

8.2 Compensatory remedies

Compensation of damage caused by terrorist attacks or counter-terrorism actions

Currently, the Russian legislation contains a number of provisions governing compensation of damage caused by terrorist attacks or counter-terrorism actions.

In accordance with Article 18 of the federal law no. 35-FZ of 6 March 2006 *On Counter-Terrorism Activity*, the State, subject to the procedure stipulated by the Government of the Russian Federation, shall compensate financial damage caused by a terrorist attack (article 18 § 1) or counter-terrorism actions (article 18 § 2), as well as non-pecuniary damage caused by lawful counter-terrorism actions (article 18 §2).

● Currently, the regulations adopted by the Government of the Russian Federation pursuant to the said federal law, which govern payments to persons who sustained damage during settlement of the crisis in the Chechen Republic and payment of compensation for lost accommodation and/or personal property, are applied rather

successfully. Here, the following is meant:

The procedure for payment of compensation for lost housing and/or property to people who sustained damage as a result of settlement of the crisis in the Chechen Republic and left the Republic forever (approved by decision of the Government of the Russian Federation no. 510 of 30 April 1997) – regulates compensation by the state of financial damage to persons who left the Chechen Republic;

Regulation on payment of compensation for lost housing and/or property to people who sustained damage as a result of settlement of the crisis in the Chechen Republic (approved by decision of the Government of the Russian Federation no. 404 of 4 July 2003) – regulates compensation by the state of financial damage to persons permanently residing in the Chechen Republic.

It should be pointed out that the Procedure and the Regulation referred to above, just as set forth in Article 18 § 1 of the federal law *On counter-terrorism Activity*, provide for payments for lost housing and property irrespectively of the guilt of public authorities and their officials, as well as irrespectively of whether or not a concrete guilty person has been found. Practical implementation of the said Procedure and Regulation proved their effectiveness as a national remedy. According to the data provided by the Federal Migration Service, compensations have been paid to 100,000 families upon their request and amounted to RUB 24.6 billion.

The analysis of the orders issued by the European Court with respect to the so-called "Chechen" cases showed that persons who sustained damage during settlement of the crisis in the Chechen Republic usually do not claim compensation of financial damage connected with lost housing or property, or such claims are rejected with complaints concerned excluded from a list of cases subject to consideration (see *Shemilova and Shemilov v. Russia*).

● Pursuant to the federal law *On counter-terrorism Activity*, decision of the Government of the Russian Federation no. 750 of 13 October 2008 (amended on 22 November 2011) *On Budget Allocations from the Reserve Fund of the Government of Russia for Prevention and Liquidation of Emergencies and Consequences of Natural Calamities* (Order 750) approved the Rules for allocating respective budget funds. The said order provides for *inter alia* allocations from the reserve fund to pay compensation to individuals and legal entities, which suffer damage as a result of a terrorist attack or lawful counter-terrorism actions. In particular, it provides for payment of fixed amounts and funeral assistance to the family members of persons who die, payment of allowance to persons who suffer health damage, as well as payments to hostages, and financial aid for emergency, rescue and recovery operations, and financial aid in connection with loss of property.

The said order is also successfully applied in practice, and thereunder compensations were paid in connection with recent terrorist attacks, including those in the North Caucasus region.

● Currently, the amendments to the existing legislation are under consideration in order to improve the procedure for compensation of damage caused by terrorist attacks or counter-terrorism actions.

Under consideration, on a conceptual basis, are the issues of regulation, with due account for the international principles and case-law of the Court, additional grounds and

improved procedure for payment by the state of appropriate compensations. In particular, the following issues are being studied: increasing the scope of the state's compensatory function in the area of relations under consideration, introducing a new type of compensation – with respect to person missing as a result of a terrorist attack or counter-terrorism actions, and payment of compensation in cases when investigators fail to identify the persons who are guilty of causing damage (including cases where this is not possible for objective reasons).

It is important that a proposal is made to provide for a procedure of compensation, which will be clearer and more understandable for people, including drawing up and filing of a compensation claim, consideration thereof, decision-making with respect to payment or denial of compensation, and enforcement of relevant decision.

Compensation of damage connected with excessively long investigation and trial of criminal cases

Possible compensation in connection with excessively long investigation and trial of criminal cases is provided for by Federal law no. 68-FZ *On Compensation for Violation of the Right for Trial within a Reasonable Period of Time and for Performance of a Judicial Action within a Reasonable Period of Time* (Compensation Law).

The purpose of this law is to improve national legislation and national judicial system and transfer the burden of protection of the rights of Russian people to national authorities. The law is based on conventional principles that for many times have been confirmed by the practice of the Court and are reflected in the documents of the Committee of Ministers of the Council of Europe.

Additionally, under Part 1 of Article 45 of the Code of Civil Procedure of the Russian Federation, the interests of the citizens who, due to age, illness or other valid reasons, are not able to apply with a complaint against violation of the right to trial within a reasonable time or to enforcement of a court judgment within a reasonable time, can be defended by the prosecutor who is entitled to lodge apply with the court a respective application in defense of their rights.

Therefore, the drafts provide for remedies that will enable persons who suffer from criminal offence to seek compensation of damage suffered in connection with long investigation or trial of their criminal cases and, as was mentioned above, seek acceleration of investigation of trial of their cases.