

### **34 Complaints against the Russian Federation**

No. 57947.00 – *Isayeva, Yusupova and Bazayeva v the Russian Federation*, judgment of 24.02.2005, final on 06.07.2005;

57942.00 – *Khashiyev and Akayeva v the Russian Federation*, judgment of 24.02.2005, final on 06.07.2005, amended 01.09.2005;

69481.01 – *Bazorkina v the Russian Federation*, judgment of 27.07.2006, final on 11.11.2006;

60272.00 – *Estamirov and others v the Russian Federation* judgment of 12.10.2006, final on 12.01.2007;

7615.02 – *Imakayev v the Russian Federation*, judgment of 09.11.2006, final on 09.02.2007;

69480.01 – *Luluyev and others v the Russian Federation*, judgment of 09.11.2006, final on 09.02.2007.

## **Information Submitted by the General Prosecutor's Office of the Russian Federation**

### **Measures of an Individual Nature**

Since the commencement of counter-terrorist operations (as of 01.10.2007), 269 criminal cases regarding offences of servicemen on the territory of the Chechen Republic have been investigated by agencies of the Military Prosecutor's Office, and, from 07.09.2007, by investigative agencies of the Military Investigative Department of the Investigative Committee for the Prosecutor's Office of the Russian Federation.

At present, 193 investigations into criminal cases have been completed, of which the PO of cases for 139 persons have been submitted for consideration to the military courts, among them 23 regarding murder (Article 105 of the Criminal Code of the Russian Federation); 1 regarding causing harm to health through negligence (Article 118 of the Criminal Code of the Russian Federation); 29 regarding the theft of another's property (Article 159-162 of the Criminal Code of the Russian Federation); 12 regarding the infringement of driving regulations for military vehicles (Article 350 of the Criminal Code of the Russian Federation); 7 regarding the infringement of regulations on the handling of weapons (Article 349 of the Criminal Code of the Russian Federation); 8 regarding disorderly conduct (Article 213 of the Criminal Code of the Russian Federation); 2 regarding rape (Article 131 of the Criminal Code of the Russian Federation) and 23 regarding other offences.

The military courts have considered criminal cases against 130 servicemen who have committed crimes against citizens of the Chechen Republic. 33 of these servicemen are officers, 9 warrant officers, 42 regular soldiers and sergeants and 46 national service soldiers and sergeants.

### **Measures of a General Nature**

The legislation of the Russian Federation regulating the activities of law enforcement agencies in the prevention and suppression of terrorist acts is constantly being updated. The principles of counterterrorism, the legal and organisational basis for preventing and combating terrorism, for minimising and eliminating the consequences of terrorist incidents, as well as the legal and organisational basis for the use of the armed forces of the Russian Federation in combating terrorism is regulated by the Federal Law 'On Counterterrorism' of 06.03.2006, No 35-FZ (as amended by Federal Law No 153 of 07.07.2006), and by other federal laws. Corresponding departmental secondary legislation on specific matters is issued in ministries and departments.

The activity of the armed forces is also regulated by the Federal Law 'On Defence' of 31.05.96 No 61-FZ and 'On the Status of Service Personnel' of 27.05.98 No 76-FZ, and other laws and secondary legislation.

Issues concerning the investigation of criminal cases instituted in relation to infringements of human rights are under the permanent control of the Head of the Prosecutor's Office of the Northern Caucasus Region and the Main Department of the General Prosecutor's Office of the Russian Federation in the Southern Federal District. Investigative materials are given timely consideration; the legality of procedural decisions is verified and all adopted measures in their entirety are checked. City and regional prosecutors are instructed to inform the republican prosecutor's office immediately about any case involving the abduction of citizens.

Inter-departmental instructions on mutual co-operation during the conduct of special operations in the Chechen Republic between Internal Affairs Department and Federal Security Service officials, Combined Troops (Forces) Group and Special Forces servicemen and the agencies of the Military Prosecutor's Office provide for the mandatory participation of the military prosecutor in the conduct of special measures by forces of the Combined Troops (Forces) Group, and for all resulting documents to be submitted to him so that he can verify that the actions carried out by officials were in accordance with the requirements of the law.

In the Southern Federal District, a complex programme for combating abduction and tracing missing individuals, adopted on 29.03.2007 at a coordination meeting of the heads of the law enforcement agencies, has been developed and is being implemented for the period 2006-2010. All complaints by citizens regarding unlawful arrest, imprisonment and acts by members of law enforcement agencies which exceed their official powers are reviewed in accordance with established procedure, and, where there are grounds to do so, criminal proceedings are instituted.

Questions regarding the ineffectiveness of an investigation, unlawful acts (failure to act) by officials and violations committed during an investigation are resolved by means of the applicant appealing to a higher ranking authority, as well as by way of judicial proceedings.

In some cases it is not possible to submit all investigative materials concerning a specific criminal case to the European Court of Human Rights, in so far as this would be contrary to the requirements of Article 161 of the Criminal Procedure Code of the Russian Federation regarding the impermissibility of divulging information concerning a preliminary investigation. As a rule, this is due to the fact that the case

materials contain information concerning military secrets, which would make it possible to ascertain the distribution of military and special formations and the nature of their operations. Moreover, the documents contain the details and addresses of parties in criminal proceedings. In such cases, in order to fulfil the requirements of Article 38 of the Convention For the Protection of Human Rights and Fundamental Freedoms, the European Court is supplied with full and exhaustive information about the course of the investigation, sufficient for an investigation into the complaints made by citizens.

The organization and the work procedures of the Prosecutor's Office of the Russian Federation and the powers of prosecutors are defined by the Federal Law of 17.01.92 No 2202I ('On the Prosecutor's Office of the Russian Federation'), by the Criminal Procedure Code of the Russian Federation and by other federal laws and international agreements. The organization and work procedures of the Investigative Committee within the Prosecutor's Office of the Russian Federation are also defined by normative legal acts of the President of the Russian Federation.

In accordance with Article 8 of the Federal Law 'On the Prosecutor's Office of the Russian Federation', the agencies of the Prosecutor's Office co-ordinate the work of all law enforcement agencies in combating crime.

The decisions taken by the European Court on Human Rights on complaints about the actions of officials have been studied at the Scientific Research Institute for Issues of Strengthening Legality and Law and Order at the General Prosecutor's Office of the Russian Federation. Their content has been brought to the attention of all staff at the Prosecutor's Office of the Chechen Republic. The decisions have been discussed at co-ordination meetings of the law enforcement agencies, as a result of which effective measures for the prevention of the shortcomings which have been exposed have been taken. Lectures have been prepared within the agencies of the Military Prosecutor's Office on the topic of 'Observing Norms of International Law under the Conditions of Military Engagement of Troops in the Northern Caucasus'. These are sent to district and fleet military prosecutor's offices for the legal training of prosecution and investigation staff. A study of the decisions of the European Court has served as the basis for conducting lessons on the topic 'The Method of Investigating Offences and Incidents Connected to the Use of Aviation and Artillery Attacks'.

Article 1070 of the Civil Code of the Russian Federation regulates issues regarding compensation for damage caused by the actions of staff working for an initial investigation, a preliminary investigation, the prosecutor's offices and the courts. Full compensation is made for damage caused to a citizen as a result of an unlawful conviction, an unlawful criminal prosecution, the unlawful use of imprisonment as a restrictive measure and other incidents, at the expense of the exchequer of the Russian Federation and regardless of the guilt of officials working for the agencies of initial or preliminary investigation, the prosecutor's offices and the courts.

The Criminal Code of the Russian Federation provides for limitation periods at the end of which criminal responsibility ceases due to prescription. These limitation periods are calculated from the time of the offence being committed and are dependent on the severity of the offence. Thus, in the case of a minor offence a person is absolved from criminal responsibility if two years have elapsed since the

time the offence was committed, and in the case of a person who has committed a more serious offence, after a period of 15 years. However, depending on the presence or absence of aggravating circumstances, the same offence may belong to different categories of seriousness. The running of a limitation period may be suspended while there is a search for the person accused of committing an offence. There are no limitation periods for criminal proceedings in regard to people accused of committing crimes against peace and security.

Article 42 of the Criminal Procedure Code of the Russian Federation regulates the rights and responsibilities of victims. In accordance with Part 2 Article 42 of the Criminal Procedure Code of the Russian Federation, during a preliminary investigation, victims have the right to be acquainted with the protocols of the investigative actions carried out with their participation, and in certain cases – with decisions regarding the commissioning of expert reports and with their findings. On completion of an investigation, the victim has the right to be acquainted with all the materials of the investigation. The victim has the right to file a declaration of objection, but the investigator has the right to refuse redress. A refusal of redress may be appealed by way of judicial proceedings.

As there is no information in the communication<sup>1</sup> as to the period and precise nature of the statistical data required on criminal proceedings against representatives of the federal forces, it is not possible to meet the requirements of the communication in this respect. Moreover, as the practice of co-operation with international organisations has shown, the publication of statistical data may be used to harm the interests of the Russian Federation

It may be noted that during the period when counter-terrorist operations were being conducted in the Northern Caucasus, the military courts alone have considered criminal cases concerning 130 servicemen who have committed crimes against citizens of the Chechen Republic.

Taking the reforms of the law enforcement system of the Russian Federation into account, measures will be taken by staff at the Prosecutor's Office and other law enforcement bodies aimed at an even more effective use of the powers at their disposal for protecting the rights, freedoms and lawful interests of citizens, among other things in accordance with the generally acknowledged principles and norms of international law.

## **Information Submitted by the Ministry of Internal Affairs of the Russian Federation**

1. *Regarding the progress of investigating criminal cases connected to the complaints on which the European Court has delivered judgments ('Khashiyev and Akayeva v Russia', mm E/942/00, 57945/00; 'Bazorkina v Russia' No 69481/01; 'Isayeva v*

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<sup>1</sup> Copy Editor's note – it is possible that this should read 'memorandum', if either the 2006 or 2007 memorandum is what this information is in reply to.

*Russia*, No 57950/00; *Isayeva, Yusupova and Bazayeva v Russia*, No 57947/00, 57948/00, 57949/00; *Estamirov v Russia*, No 60272/00; *Luluyev v Russia*, No 69480/01; *Imakayeva v Russia*, No 7615/02).

In accordance with Sub-Paragraph 'a', Paragraph 1, Part 2 of Article 151 of the Criminal Procedure Code of the Russian Federation, a preliminary investigation into criminal cases concerning offences provided for in Article 105 of the Criminal Code of the Russian Federation (murder) and Article 126 of the Criminal Code of the Russian Federation (the abduction of a person) is carried out by the agencies of the Prosecutor's Office of the Russian Federation.

The agencies of the preliminary investigative system of the Russian Ministry of Internal Affairs did not participate in the investigation of criminal cases connected to the aforementioned complaints.

*2. Regarding measures for the improvement of the legal and procedural framework regulating the anti-terrorist activity of the armed forces and law enforcement bodies.*

The national legislation of the Russian Federation contains a whole slate of laws aimed at counteracting and combating terrorism.

Thus, the Federal Law of 6 March 2006 No 35-FZ 'On Counteracting Terrorism' defines the legal and organisational framework for combating terrorism in Russia, the conceptual apparatus, the participants involved in the fight against terrorism and the method of co-ordinating their activity, the legal regime in a zone where counter terrorist operations are being carried out, and also the rights, obligations and guarantees of participants and of citizens in the context of carrying out the fight against terrorism.

There are particular provisions aimed at counteracting terrorism in the Federal Constitutional Law of 20 May 2001 No 3-FKZ 'On the State of Emergency,' which introduce a state of emergency where a terrorist act has been committed. The time limit for such a state of emergency is 30 or 60 days – depending on the territory where a state of emergency has been introduced. These provisions define the measures and temporary restrictions to be implemented under the conditions of a state of emergency (legal regime). For example:

- a) Full or partial suspension of the powers of the executive bodies of a constituent entity or entities of the Russian Federation, as well as that of local self-government bodies, on a territory where a state of emergency has been introduced.
- b) a ban or restrictions on conducting meetings, rallies and demonstrations, marches and picketing, as well as other mass events;
- c) a ban on strikes and other means of suspending or stopping the work of organisations;
- d) restrictions on transport services and the conduct of checks in regard to them.

It is intended that the forces and equipment of the internal affairs agencies, of the internal affairs troops, and also the forces and equipment of other federal bodies of executive power will be used for securing the state of emergency.

A joint decree of the General Prosecutor's Office of the Russian Federation, the Russian Ministry of Internal Affairs, the Russian Ministry for Emergency Situations, the Russian Ministry of Justice, the Russian Federal Security Service, the Russian Ministry of Economic Development and the Federal Service of the Russian Federation for the Control of Trade in Narcotics 'On the Reporting of Crimes' of 29 December 2005 No 39/1070/1021/253/353/399 was confirmed by the Prosecutor's Office of the Russian Federation and the Ministry of Internal Affairs in a joint statement of 5 December 2006 No 112/11/1, Schedule No 22 of which lists the articles of the Criminal Code of the Russian Federation relating to offences of a terrorist nature:

1. Offences provided for in Articles 205, 205<sup>1</sup>, 205<sup>2</sup>, 206, 208, 277 and 360 of the Criminal Code of the Russian Federation.
2. Offences considered to be of a terrorist kind depending on the timing of the criminal act:
  - by Article 207 of the Criminal Code of the Russian Federation, if the act was committed before 6 March 2006;
  - by Articles 211, 278, 279, 280, 282, 282<sup>1</sup> of the Criminal Code of the Russian Federation, for those committed after 6 March 2006.

The laws of the Russian Federation establish criminal and administrative responsibility for carrying out terrorist activity in any form.

By the Federal Law of 27 July 2006 No 153-FZ 'On the Amendment of Particular Legislative Acts of the Russian Federation in Connection with the Adoption of the Federal Law "On the Ratification of the Council of Europe Convention For The Prevention of Terrorism" and the Federal Law "On Counteracting Terrorism"' amendments were introduced to the Federal Law of 6 October 1999 No 184-FZ 'On the General Principles of Organisation of the Legislative (Representative) and Executive State Bodies of the Constituent Entities of the Russian Federation' and to the Federal Law of 6 October 2003 No 131-FZ 'On the General Principles of Organisation of Local Self-Government in the Russian Federation'. The powers of the state bodies of the constituent entities of the Russian Federation and of the bodies of local self government in the sphere of preventing terrorism and of minimizing and eliminating the consequences of terrorist incidents were defined, allowing the constituent entities of the Russian Federation to plan and carry out anti-terrorist measures locally.

Overall, the existing normative legal base allows both preventative measures and the suppression of acts of terrorism. Practice shows that success in combating these negative phenomena depends largely on the organisational standard of the law enforcement agencies implementing the legislation.

At present, bill No 340283-4 'On the Amendment of Articles 292, 293 and 326 of the Criminal Code of the Russian Federation and Article 114 of the Criminal Procedure Code of the Russian Federation', aimed at the establishment of increased

responsibility for actual connivance by officials facilitating the commission of a terrorist act and impeding its timely prevention at the stages of preparation and attempt, has been approved by the State Duma of the Federal Assembly at its first reading.

With the aim of regulating the manner in which weapons and military equipment are used by the armed forces of the Russian Federation when suppressing terrorist acts in the air, interior waters, territorial seas, on the continental shelf of the Russian Federation, when guaranteeing the security of national shipping and when taking part in counter-terrorist operations carried out by the Russian Ministry of Defence, a draft decree of the Government of the Russian Federation entitled 'On Measures for the Implementation of the Federal Law "On Counteracting Terrorism"' has been prepared. At present the agreement process is being concluded.

*3. Regarding the training and instruction of servicemen and officers of law enforcement agencies on issues regarding the observance of human rights during the conduct of anti-terrorist operations.*

*4. Regarding programmes and training courses for the staff of law enforcement bodies, judges and prosecutors on issues regarding the observance of human rights on the territory of the Chechen Republic.*

In 2006, a training manual for trainees and students in the educational establishments of the Russian Ministry of Internal Affairs and in the system of further professional education of staff at internal affairs agencies entitled 'Safeguarding Human Rights in the Work of Internal Affairs Agencies' was prepared for centralized publication and distribution.

The model special professional training curricula for rank and file and command level staff at internal affairs agencies include the topic 'Safeguarding the Rule of Law and Human Rights in the Work of Internal Affairs Agencies' as part of the sections 'Legal Training' and 'Specialised Training', consisting of 34 academic hours.

As part of the project 'Human Rights for Police Officers', implemented by the Centre of Support for Democratic Youth Initiatives and financed by the European Union agency 'European Initiative On Democracy and Human Rights', a methodical manual was prepared for teachers at the training centres of the Ministry of Internal Affairs, the Main Department of Internal Affairs, the Office of Internal Affairs for Constituent Entities of the Russian Federation and the Office of Internal Affairs for Transport, which is used in the special professional training of internal affairs agencies staff.

It explains existing norms in the sphere of human rights in international and national law which law enforcement staff must know. Principal attention is paid to the methods of explaining to students both the theoretical material and the means of finding a practical solution to concrete tasks connected to the safeguarding of human rights and freedoms in the professional work of police officers.

By way of a supplement to this book, the collection 'The European Court of Human Rights. Selected judgments. Issue 1; Police, Military and Security Services' is widely used. The judgments published in it, which have become classics of the European

Court, allow the teacher to familiarise him- or herself more thoroughly with the cases which are studied as examples as part of the recommended lessons.

As part of staff training, two manuals for police officers entitled 'Human Rights in the Work of Police Officers (Frequently Asked Questions)' and 'Human Rights That Must be Defended' are also used.

In addition, in accordance with state educational standards for higher professional education within the specialisations 'Law Enforcement' and 'Jurisprudence', the subject 'Securing Human Rights in the Work of Law Enforcement Agencies' (60 hours) is studied in the educational institutions of the Ministry of Internal Affairs of Russia, covering the following topics:

'Rights and Freedoms of the Individual in the Modern World', 'Rights and Freedoms of the Individual in Russia', 'Legal Grounds for the Limitation of Rights and Freedoms in the Work of Law Enforcement Agencies', 'Safeguarding Citizens' Rights During Arrest and the Period of Their Detention' and others.

Within this subject, issues regarding the observance of human rights on the territory of the Chechen Republic are also examined.

At the Moscow University of the Ministry of Internal Affairs of Russia, students at the international law faculty (specialisation – international-legal) study a specialist course in 'International Humanitarian Law' (100 hours), within which issues concerning the observance of human rights on the territory of the Chechen Republic are also considered.

Principal attention is paid to the legal aspects of observing the rule of law and human rights in the training of staff of internal affairs agencies who are sent to the North Caucasus region to conduct counter-terrorist operations.

More than 10 training programmes have been developed for the instruction of officials of various categories including a compulsory section entitled 'Safeguarding and Protecting Human Rights'.

This section provides for the study of:

historical and ethnic particularities, religious tendencies in the republics of the North Caucasus, special characteristics of relations with the local population

the system of legislative and normative acts which regulates the work of the internal affairs agencies<sup>2</sup> in carrying out their duties in the fight against terrorism, concepts and contents of the principle of legality in the work of the internal affairs departments;

criminal and administrative legislation which gives rise to liability in particular circumstances;

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<sup>2</sup> Abbreviation ОВД used - органы или отдел внутренних дел?



the imposition of restrictive conditions, the use of physical force, special means, fire-arms and battle equipment;

the provisions of the Constitution of the Russian Federation and the Criminal Code of the Russian Federation on human rights and liability for their breach;

the norms of the Criminal Procedural Code of the Russian Federation which secure the rights and interests of citizens who become involved in criminal-procedural work.

Over the last five years, the following have been developed and disseminated by internal affairs agencies for use in the training of staff who are assigned for the conduct of counter-terrorist operations on the territory of the North Caucasus region:

A Russian-Chechen phrase-book, also containing recommendations for mutual relations with the local population (dated 28.02.2006 No 21/10/1283);

An instruction book for staff of internal affairs agencies posted to the North Caucasus region containing a description of the customs of the local population, recommended rules of conduct and obligatory security measures (dated 23.07.2007 No 21/10/6612);

A revised 'Programme for Tactical–Specialist Training at Educational Institutions of the Ministry of Internal Affairs of Russia', approved by the Main Personnel Department of the Ministry of Internal Affairs of Russia on 20.08.2003, has been disseminated to the educational institutions of the Ministry of Internal Affairs of Russia.

With reference to the education of servicemen in the internal forces of the Ministry of Internal affairs, it should be noted that, in accordance with the Standard Curriculum established by the decree of the High Command of the Internal Forces of the Ministry of Internal Affairs of Russia of 1 February 2007 No 36 entitled 'On the Organization and Conduct of Legal Education of the Internal Forces of the MVD (Ministry of Internal Affairs of Russia)', lessons are held for all categories of servicemen on the subject of 'The Basic Regulations of International Humanitarian Law which Apply to Armed Conflicts' (Hague Convention 1907. Geneva Convention 1949. The law of war. Combatants. Prisoners of war. Military targets. Civilians, civilian targets. Individuals and targets. Individuals and targets enjoying special protection).

In addition, lessons are held for individual categories of servicemen in which the following are examined: issues of legal liability by servicemen for breaches of the law, the observance of the law in carrying out duties, the rights of servicemen in the internal forces during battle service, the conditions and the limits of the application of physical force, special means, arms, battle and special equipment.

Training of servicemen of the internal forces of the Ministry of Internal Affairs of Russia has been organized at «Senezh<sup>3</sup>» courses (operative since 1999), conducted under the leadership of the General Staff of the Armed Forces of the Russian Federation on the initiative of the International Committee of the Red Cross in the

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<sup>3</sup> I couldn't find this word in the dictionary or on the abbreviations website. It is a lake in the Moscow district. Perhaps it is where the academy is located?

Russian Federation at the Base of the Combined Forces Academy of the Armed Forces of the Russian Federation, with the aim of perfecting the training of the officer corps of the armed forces of the Russian Federation in the observance of the norms of international humanitarian law and the implementation of the obligations of the Russian Federation under international law.

During the preparation of servicemen for their duties, instruction exercises are undertaken with servicemen including compulsory tasks covering the legality of the use of weapons, ammunition, special means, battle and other equipment.

*5. On the regulation of issues related to the conduct of counter-terrorist operations on the basis of secondary legislation*

Issues relating to the conduct of counter-terrorist operations are regulated by the following secondary legislation:

1. By decree of the President of the Russian Federation
  - 22 January 2001 No 61 ‘On measures in the Fight Against Terrorism in the Territory of the North Caucasus Region of the Russian Federation’;
2. By resolutions of the State Duma Federal Assembly of the Russian Federation:
  - 13 December 1999 No 4784- I SD ‘On the Declaration of an Amnesty in Relation to Persons who have Carried out Socially Dangerous Acts in the Course of Conducting an Anti-Terrorist Operation in the North Caucasus’;
  - 13 December 1999 No 4785 –I SD ‘On the Procedure for the Application of the Resolution of the State Duma Federal Assembly of the Russian Federation “On the Declaration of an Amnesty in Relation to Persons Who Have Carried Out Socially Dangerous Acts in the Course of Conducting an Anti-Terrorist Operation in the North Caucasus”’;
  - 31 March 2000 No 223-111 SD ‘On the Results of the Work of the Group of State Duma Deputies Studying the Conditions of Military Service and Questions of the Social Protection of Servicemen Participating in Anti-Terrorist Operations on the Territory of the North Caucasus Region of the Russian Federation’.
3. By resolutions of the Government of the Russian Federation
  - 9 February 2004 No 69-10 ‘On Some Issues Related to the Conduct of Counter-Terrorist Operations on the Territory of the North Caucasus Region of the Russian Federation’;
  - 4 June 2007 No 343 ‘On Measures for Implementing the Federal Law “On Counteracting Terrorism”’;and also by departmental normative legal instruments.

*6. On measures taken for the protection of persons from unlawful and arbitrary detention in breach of Article 5 of the Convention on the territory of the Chechen Republic.*

In accordance with Article 22 of the Constitution of the Russian Federation, every person has the right to freedom and personal inviolability. Arrest, taking into custody and keeping in custody are only permitted in accordance with a court order. Until a

court order has been made, a person may not be subjected to detention for a period of more than 48 hours.

The legal status of a suspect, the grounds and procedure for detention, as well as the rights and obligations of the person detained on suspicion of having committed an offence are set out in the Criminal Procedural Code of the Russian Federation.

Thus, the following measures for the protection of a person from unlawful and groundless detention on suspicion of having committed an offence are set out in the criminal procedure legislation.

Article 91 of the Criminal Procedure Code of the Russian Federation lays down an exhaustive list of grounds on which the initial investigation agency, the initial investigator and the investigator have the right to detain a person on suspicion of having committed an offence punishable by imprisonment.

After the suspect is brought to the initial investigation agency or to the investigator, a custody report shall be compiled within a period of no more than 3 hours. The suspect must have explained to him his rights and obligations as set out in Article 46 Criminal Procedure Code of the Russian Federation and this must be noted in the custody report. The investigator or the initial investigator must interview the suspect no later than 24 hours after the moment of his actual detention (the moment of the actual deprivation of liberty of the person suspected of an offence carried out in accordance with the procedure laid down in the Criminal Procedure Code of the Russian Federation).

Before the commencement of the interview, the suspect shall be given the opportunity, at his request, to meet his defence counsel in private and confidentially. The meeting may not last for less than 2 hours.

No later than 12 hours from the moment of detention of the suspect, the initial investigator or the investigator shall notify one of the suspect's close relatives or, if there are no close relatives, one of his other relatives, or shall give the suspect the opportunity to do so himself. In the event of the detention of a suspect who is a serviceman, the command of his military unit shall be notified. If the suspect is a citizen or subject of another state, the embassy or consulate of this state shall be notified.

Within 12 hours from the moment of detention of the suspect, the initial investigation agency, initial investigator or the investigator must report the detention in writing to the public prosecutor. By this means prosecutorial oversight of the lawfulness of the detention is ensured.

The suspect shall be released if the detention was carried out in breach of the requirements of Article 91 (Grounds for detention of a suspect) of the Criminal Procedure Code of the Russian Federation.

In accordance with the Federal Law of 15 June 1995 No 103-F3 'On the Detention of those Suspected of, and Charged with, the Commission of Offences', the General Prosecutor of the Russian Federation and the public prosecutors under his authority

oversee the lawfulness of individuals being held in places of detention, and also the observance of the rights and obligations of detained persons laid down in the legislation of the Russian Federation.

Thus, these officials have the right to visit detained persons at any time and interview them, to familiarize themselves with the documents on the basis of which such persons are detained as well as the operational materials concerning these persons.

An investigator or initial investigator who detains a person unlawfully will be guilty of a criminal offence pursuant to Article 301 (unlawful detention, taking into custody or keeping in custody).

In order to secure the observation of the above regulations in the legislation of the Russian Federation as well as the regulations laid down by the Convention on the Protection of Human Rights and Fundamental Freedoms concerning detained persons, the following general measures have been taken by the Ministry of Internal Affairs of Russia:

1. With the aim of preventing unsanctioned detentions, a special directive was issued by the Operational Staff in the Chechen Republic on 23 October 2006 in accordance with which a procedure was laid down whereby the Ministry of Internal Affairs, the Central Directorate of Internal Affairs and the Directorate of Internal Affairs for the Constituent Entities of the Russian Federation of the Southern Federal region must be informed of any operational-investigative measures being planned on the territory for which they are responsible.

2. Instructions have been issued by the Chief of the Regional Operative Staff to the Command of the Combined Troops (Forces) Group and to the Ministry of Internal Affairs of the Chechen Republic, to take additional measures to ensure that no groundless limitations on the rights and lawful interests of citizens are allowed in connection with the conduct of counter-terrorist operations on the territory of the North Caucasus Region of the Russian Federation.

3. Reviews of complaints by citizens to the European Court relating to the area of competence of the Ministry of Internal Affairs of Russia have been sent to the subdivisions of the system of the Ministry of Internal Affairs of Russia, including those in the Chechen Republic. These contain an analysis of the essential content of typical complaints, commentaries on the meaning of European Court judgments as well as recommendations<sup>4</sup> on how to eliminate failings in the work of the internal affairs agencies and how to prevent similar violations in the future.

*7. On measures for the protection of persons from cruel treatment during detention and whilst in custody on the territory of the Chechen Republic during a counter-terrorist operation and the accountability of persons guilty of such cruel treatment.*

The legal system of the Russian Federation is based on generally acknowledged

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<sup>4</sup> Copy Editor's Note: There appears to be an error in the original here, which has recommendations 'for not allowing for eliminating'. This error has been omitted in the translation.

international principles concerning the respect and observance of human rights.

Thus, Article 21 Part 2 of the Constitution of the Russian Federation prohibits the use of torture, violence or other cruel or humiliating treatment or punishment. In particular, they are considered as an offence against human dignity and condemned as an infringement of human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.

The Criminal Procedure Code of the Russian Federation prohibits actions from being taken and decisions from being adopted in the course of criminal proceedings which degrade the honour of the participant in criminal proceedings, as well as humiliating treatment or treatment which threatens his life or health. No participant in criminal proceedings may be subjected to violence, torture, or any other cruel or humiliating treatment (Article 9 Criminal Procedure Code of the Russian Federation).

Article 10 of the Criminal Procedure Code of the Russian Federation lays down the principle of inviolability of the person. No person may be detained on suspicion of having committing an offence, or taken into custody in the absence of the legal grounds set out in the Criminal Procedure Code of the Russian Federation. Before a court order, a person may not be detained for a period of more than 48 hours. A person in relation to whom custody was selected as a means of restriction as well as a person detained on suspicion of committing an offence must be held in conditions which do not threaten his/her life or health.

Article 38 of the Criminal Code of the Russian Federation defines the concept of excessive measures unnecessary for the detention of a person who has committed an offence, which occurs when there is a clear lack of correspondence between the character and degree of the social danger of the crime committed by the person detained and the circumstances of the detention, and unnecessary excessive harm which is not required by the situation is caused to the person. Such excess gives rise to criminal liability. Article 108 Part 2 imposes liability for murder committed by way of measures which were in excess of those necessary to effect detention of a person who has committed an offence. Article 114 Part 2 of the Criminal Code of the Russian Federation imposes liability for the intentional infliction of a grave injury or an injury of medium gravity, caused by measures in excess of those needed to detain a person who has committed an offence.

Acts connected with cruel treatment including those connected with the detention of a person are considered by the criminal law as offences for which criminal liability is imposed. Chapter 16 of the Criminal Code of the Russian Federation provides for liability for murder (Article 105), intentional infliction of grave injury (Article 111), intentional infliction of injury of medium gravity (Article 112), intentional infliction of light injury (Article 115), beating (Article 116), torture (Article 117).

In addition, under Article 301 of the Criminal Code of the Russian Federation, unlawful detention, taking into custody and keeping in custody give rise to criminal liability.

Liability for the coercing of a suspect, defendant, victim or witness into giving evidence or expert evidence, or of a specialist to give conclusions or evidence, by

means of threats, blackmail or other unlawful actions by an investigator or other person conducting the inquiry or by another person with the knowledge or tacit agreement of the investigator or person conducting the inquiry is provided for in Article 302 of the Criminal Code of the Russian Federation.

In addition, the Criminal Code of the Russian Federation imposes criminal liability for the commission by an official of acts which clearly exceed his authority and involve a substantial infringement of the rights and lawful interests of citizens or organizations or the interests of society and the state protected by law (Article 286 CC RF).

As a preventive measure and to ensure that the violations revealed by the examination of the ‘Chechen complaints’ by the European Court will not be allowed to occur in future, and in the interests of the observance of the rights and freedoms of individuals and citizens in the work of the internal affairs agencies and the internal forces in the North Caucasus, the following general measures have been taken by the Ministry.

1. The subordinate subdivisions of the system of the Ministry of Internal Affairs of Russia, including those in the Chechen Republic, have been given guidance on carrying out their duties while observing minimum standard rules on the treatment of prisoners adopted within the framework of the United Nations, in regard to escorting and organizing transfers of suspects and persons guilty of a criminal offence.
2. A directive has been issued by the heads of the subdivisions of the system of the Ministry of Internal Affairs of Russia, including those in the Chechen Republic, not to allow detention in special facilities of internal affairs agencies of persons suspected of, accused of, or being prosecuted for, administrative offences.
3. Work is being carried out on the development of new model plans for the building of isolators<sup>5</sup> for the temporary detention of suspects and defendants, as well as for the reconstruction and the improvement of the technical equipment of existing facilities, taking into account the requirements of international standards in this area.

*8 On the means of oversight by the public prosecutor on the territory of the Chechen Republic, in the light of the passing of the Federal Law ‘On Counteracting Terrorism’ of 6 March 2006 No 35 – F3.*

In accordance with Article 129 of the Constitution of the Russian Federation, the Russian Federation Prosecution Service represents a unified centralised system with lower ranking prosecutors being answerable to senior ones and to the Prosecutor-General of the Russian Federation.

The requirements of Article 1 of the Federal Law of 17 January 1992 NO 2202-1 ‘On the Prosecution Service of the Russian Federation’ are that the Prosecution Service is to be a unified federal centralised system of agencies which, in the name of the Russian Federation, monitor the observance of the Constitution of the Russian

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<sup>5</sup> According to Oxford Russian dictionary, an “isolator” was a special prison for political detainees and espionage suspects in the former USSR. An alternative meaning is “solitary confinement cell”.

Federation and the implementation of the laws that are in force throughout the territory of the Russian Federation.

The Chechen Republic is an inseparable part of the Russian Federation and the laws of the Russian Federation are in force on its territory, their enforcement being supervised by the prosecution authorities.

Article 12, Part 3 of the Federal Law of 6 March 2006 No 35 ‘On Counteracting Terrorism’ obliges the heads of federal executive agencies working in the area of security to inform certain persons of the introduction of the legal regime which accompanies counterterrorist operations and of the territory where these are being carried out. These persons are the President of the Russian Federation, the Head of the Government of the Russian Federation, the Head of the Federation Council of the Russian Federation, the Head of the Federal Assembly of the State Duma of the Russian Federation, the Prosecutor-General of the Russian Federation and, if necessary, other officials in cases where significant forces and resources are required for carrying out the counterterrorist operation and where it affects a territory inhabited by a substantial number of people.

The rules for recognising an organisation as a terrorist organisation subject to dissolution are laid down in Article 24 Part 2 of the above mentioned Federal law. According to these provisions, an organisation is to be recognised as a terrorist organisation and to be dissolved (and its activities to be prohibited) by a decision of a court on the basis of declarations by the Prosecutor-General of the Russian Federation or a prosecutor under his authority where activities<sup>6</sup> provided for in Articles 205, 206, 208, 211, 277-280, 282.2 and 360 of the Criminal Code of the Russian Federation are being carried out on behalf of or in the interests of the organisation, and also where these activities are being carried out by an individual who controls the implementation of the organisation’s rights and duties. The decision of the court to dissolve the organisation (and to prohibit its activities) extends to the regional and other structural subdivisions of the organisation.

*9. On programmes (seminars, conferences etc.) during which the issues raised by the Court in its judgments on the Chechen cases are considered, preferably by concrete department*

In April and May 2007 representatives of the Ministry of Internal Affairs of Russia and of the Ministry of Internal Affairs of the Chechen Republic took part in seminars on ‘The Application of the European Convention on Human Rights and Fundamental Freedoms in the Chechen Republic’, organised in conjunction with the Council of Europe, the Office of the Russian Federation Human Rights Plenipotentiary, the Centre for the Development of Economics, Politics and Law and the International Centre for Projects and Programs for the Development of Federal Relations and Regional Politics.

The following issues were discussed at the seminars:

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<sup>6</sup> There appears to be another error in the original here, which has ‘organisations carried out on behalf or in the interest of the organisation’

- mechanisms and problems of the interrelationship between the Human Rights Plenipotentiary for the Russian Federation and the law enforcement and military ministries and departments;
- the importance of a correct understanding of the decisions and the use of police ethics in the management of the law enforcement agencies;
- the activities of the Parliament of the Chechen Republic in the protection of human rights and fundamental freedoms;
- the principal powers of the police, security, military and law enforcement ministries and departments and human rights: right to a fair trial, the use of force and of weapons, acts when making arrests;
- the methods of initial investigation and investigation and the observance of human rights and fundamental freedoms in the courts of the Chechen Republic;
- domestic remedies for the protection against cruel treatment: the demands of the European Court of Human Rights as regards the investigation of such cases and compensation for damage caused;
- the realisation of the principles and the development of an ethical program by the leadership of the police, security and military ministries and departments: an analysis of styles of management;
- the application of the European Convention on Human Rights and Fundamental in the adjudication by the European Court on complaints by citizens of violations of their rights in the Chechen Republic involving matters within the competence of the Ministry of Internal Affairs of Russia ;
- the application of the European Convention on Human Rights and Fundamental Freedoms in the work and management of the Ministry of Internal Affairs of the Chechen Republic;
- the penitentiary system in the Chechen Republic. Adoption of European standards under Russian conditions;
- the work of the Human Rights Plenipotentiary in the Chechen Republic in terms of raising legal/rights awareness of amongst citizens;
- measures for the protection of human rights during detention in the temporary detention facilities of the internal affairs agencies of the Russian Federation
- experiences of creating a state system of preventive measures against rights violations in the constituent entities of the Russian Federation,
- other issues.

In July 2007, the Office of the Human Rights Plenipotentiary in the Russian Federation organised and conducted a round table entitled ‘Application of the European Convention on Human Rights and Implementation of the Judgments of the European Court in the Chechen Republic.’ The Deputy Head of the Justice Department of the Russian Ministry of Internal Affairs and the Minister of Internal Affairs of the Chechen Republic took part in this event.

Participants from the Russian and Chechen Ministries of Internal Affairs spoke on issues concerning the organization of work in the Russian Ministry of Internal Affairs in response to questions by the Russian Federation Envoy to the European Court on Human Rights and also on issues relating to the implementation of the European Convention on Human Rights and Fundamental Freedoms and the judgments of the European Court on Human Rights in the Chechen Republic, as well as taking part in discussions and exchanges of opinions.



10. *On issues relating to the enactment of the Criminal Procedure Code of the Russian Federation*

*What remedies and sanctions (eg civil, administrative and criminal) are currently provided for in Russian legislation concerning state officials, and in particular police officers, staff at investigative agencies and at prosecution agencies who fail to respond duly and adequately to complaints of citizens relating to serious offences?*

At present the legal relations concerning the exercise of the right of a Russian Federation citizen to apply to state agencies and agencies of local self-government, as well as the procedure for considering applications of a citizen to state agencies, local government bodies and officials, are regulated by the Federal Law of 2 May 2006 No 59 'On the Procedure for Considering Applications by Citizens of the Russian Federation'.

In accordance with Article 15 of the above mentioned Federal Law, persons who violate the rights of citizens to apply to state and local government bodies are held liable in the way provided for in the legislation of the Russian Federation (for example by way of constitutional-legal, municipal, administrative, disciplinary and criminal liability).

Article 5.39 of the Code on Administrative Violations provides that the unlawful refusal to supply documents and materials collected by established procedure and which directly concern a citizen's rights and freedoms, or delay in producing these documents and materials, or the failure to produce other kinds of information where this is required by law, or the supply to citizens of incomplete information or information that is known to be unreliable, is punishable by an administrative fine imposed on officials in the sum of five to ten times the monthly minimum wage.

Articles 285 and 286 of the Criminal Code of the Russian Federation provide for liability (in the form of either a fine, loss of entitlement to certain positions, arrest or imprisonment) for abusing or acting in excess of official powers.

In accordance with Article 40 of the Law of the Russian Federation of 18 April 1991 No 1026-1 'On the Police', police officers are liable for unlawful acts or failure to act in the manner established by law.

Instructions on applying the Statute on Service in the Internal Affairs Agencies of the Russian Federation, which were approved by a decree of the Minister of Internal Affairs of Russia of 14 December 1999 No 1038, set out special rules for taking disciplinary action against police officers.

*How does the Criminal Procedure Code of the Russian Federation and other legislation currently in force provide for the proper investigation of criminal cases?*

Under Article 7 of the Criminal Procedure Code of the Russian Federation (The Rule of Law in the Conduct of Criminal Cases), the court, prosecutor, investigator, the initial investigation agencies and the initial investigator are not permitted to apply a federal law in violation of the Criminal Procedure Code of the Russian Federation. A

breach of the requirements of the Criminal Procedure Code of the Russian Federation by either the court, the prosecutor, an investigator, the agency of initial investigation or the initial investigator during the course of criminal judicial proceedings results in the inadmissibility of the evidence obtained thereby. The determinations made by the court, the decisions of the judge, prosecutor, investigator and initial investigator must be lawful, well-founded and sound. Decisions by the court, the prosecutor, the investigator and the initial investigator must be lawful, well-founded and reasoned.

The number of officials entitled to access the materials in a criminal case is limited. Under the Criminal Procedure Code of the Russian Federation, control of the quality and the completeness of an investigation in a criminal case and of the observation of legality in the conduct of a criminal case in the Russian Federation is entrusted to the following persons:

- the prosecutor (Article 37 of the Criminal Procedure Code of the Russian Federation), who is entitled to demand from the initial investigation agencies and investigation agencies that they remedy breaches of federal legislation which occurred during the initial or preliminary investigation;
- the head of the investigative body (Article 39 Criminal Procedure Code of the Russian Federation), who is entitled to check the materials concerning a criminal case and to set aside unlawful or ill-founded findings of the investigator;
- the head of the initial investigation subdivision (Article 40.1 of the Criminal Procedure Code of the Russian Federation), who is entitled to set aside ill-founded decisions by the initial investigator to discontinue the initial investigation into a criminal case, to give the initial investigator instructions as to the direction of the investigation and the conduct of individual investigative measures, the selection of restrictive measures against a suspect and on the classification of the offence and the extent of the charge.

During the pre-judicial phase of proceedings, the court is entitled to consider complaints about the acts (or failure to act) and the decisions of the prosecutor, the investigator and the initial investigator in the circumstances and in the manner provided for by the Criminal Procedure Code of the Russian Federation.

Under the Federal Constitutional Law of 26 February 1997 No 1 'On the Human Rights Plenipotentiary in the Russian Federation', when investigating a complaint, the Human Rights Plenipotentiary is entitled to examine criminal and civil cases and cases concerning administrative breaches in regard to which a decision (verdict) has been promulgated, as well as cases where proceedings were discontinued, and the documents and materials on the basis of which there has been a refusal to instigate criminal proceedings.

*What rights does the victim have during the course of an investigation, in particular, does she or he have a full or partial access to the materials relating to a criminal case and at what stage of the investigation?*

The rights of the victim during the course of a criminal investigation are guaranteed by Article 42 of Criminal Procedure Code of the Russian Federation. Under these

provisions the victim has a right to know about the charges made against the suspect; the right to testify; the right to refuse to testify against him-or herself and his spouse (her spouse) or other close relatives; the right to submit evidence; the right to submit petitions and objections; the right to give evidence in his/her native language or in a language which he speaks and understands; to use an interpreter free of charge; to have a representative; to take part, with the permission of the investigator or initial investigator, in investigative measures undertaken on his request or the request of his representative; to see the records on the commissioning and the conclusions of expert reports; at the conclusion of the initial investigation, to see all the materials of the criminal case; to take notes from the materials of the criminal case of any information and in any amount; to take copies of the materials of the criminal case, including those taken by means of technical resources; to receive copies of the decision on the institution of criminal proceedings, of his or her recognition as a victim or the refusal to so recognize him and of the decision to discontinue the criminal case or to suspend the conduct of the criminal case.

Taking into account the provisions of the abovementioned Article, the victim has full access to the materials relating to a criminal case at the end of the initial investigation. During the initial investigation, he may have view of the decision regarding the institution of criminal proceedings, the recognition as a victim, the materials of procedural steps taken with his participation and on his request, or the decision regarding the commissioning of an expert report and its conclusions.

*How is the effectiveness of an investigation controlled by the court or other independent bodies? What means and remedies of lawful protection are available to the victim under domestic legislation in relation to a decision by the prosecutor not to institute criminal proceedings?*

The effectiveness of criminal investigations is controlled by specially authorised persons who are listed in the Criminal Procedure Code of the Russian Federation.

The court may, as part of its powers during the preliminary investigation stage, make decisions on the following: on the selection of restrictive measures against a suspect, such as imprisonment, house arrest or bail; on the extension of detention; on the admission of a suspect or defendant who is not in detention to a medical or psychiatric infirmary with a view of obtaining judicial-medical or judicial-psychiatric expert evidence; on the search of a private home without consent by its inhabitants; on the search for and/or seizure of items in a private home; on the conduct of personal searches; on the seizure of objects and documents containing state or other secrets protected by federal law as well as objects and documents containing information regarding the deposits and accounts of individuals in banks and other credit organizations; on the freezing of correspondence, permissions for correspondence to be examined and its seizure while held by communications agencies; on the placing of a freezing order on property, including monetary resources of individual and legal persons which are kept in accounts or deposits or for safe-keeping at banks and other credit organizations; on the temporary suspension of the suspect or the defendant from his post under Article 114 of the current Criminal Procedure Code of the Russian Federation; on the surveillance and recording of telephone and other conversations.

Moreover, during the pre-judicial stage of proceedings, the court has the power to consider complaints regarding the acts (or failure to act) and decisions of the prosecutor, investigator, the initial investigation agency and the initial investigator (Article 123 of the Criminal Procedure Code of the Russian Federation).

It should also be noted that, if, after the conclusion of an initial investigation, during the judicial investigation of a criminal matter a judge finds that there were circumstances facilitating the commission of an offence, the violation of rights and freedoms of citizens or other breaches of the law committed during the preliminary investigation, the judge has the power to make a specific determination or order drawing the attention of the appropriate agencies and officials to the circumstances and facts constituting a breach of the law and demanding that the necessary measures be taken.

The prosecutor has no power to issue a decision refusing the institution of criminal proceedings. Under the Federal Law of 5 June 2007 No 87 'On Changes to the Russian Federation Criminal Procedure Code and the Federal Law "On the Prosecution Service of the Russian Federation"', the prosecutor has no such right.

*11. The interrelationship of the special compensation schemes under the Federal Law 'On the Fight against Terrorism' of 25.07.1998 No 130-FZ and the Federal Law 'On Counteracting Terrorism' of 06.03.2006 No 35-FZ. Which scheme is used today in resolving the issue of compensating damage suffered during the operation of the Federal Law 'On the Fight against Terrorism'.*

*12 .On the system of payment of compensation to be established by the government (See Article 18 of the Federal Law 'On Counteracting Terrorism' of 6.03.2006 No 35-FZ)*

During the operation of the Federal Law of 25 July 1998 No 130-FZ 'On the Fight Against Terrorism', there was no uniform system of recording and organising compensation payments to the victims of terrorist acts. There was a practice of taking government decisions on specific individual cases.

Under Article 18 of the Federal Law of 6 March 2006 No 35 'On Counteracting Terrorism', which came into force on 1 January 2007, compensation payments to natural and legal persons that have suffered damage as a result of a terrorist act, as well as compensation for damage caused in the course of suppressing a terrorist act, are to be administered according to a system to be determined by the Government of the Russian Federation.

The draft of a corresponding Russian Government Directive entitled 'On the System of Allocation of Sums from the Russian Federation Reserve Fund for the Prevention and Elimination of Emergencies and the Consequences of Natural Disasters' defining the amounts and the rules for the allocation of compensation payments has been drawn up by the Ministry for Emergency Situations of Russia with the participation of the Ministry of Finance of Russia, the Ministry of Economic Development of Russia, the Ministry of Justice of Russia, the Ministry of Regions of Russia, the Ministry of Internal Affairs of Russia and the Federal Security Service of Russia.

At present, the draft has been approved by all abovementioned participating ministries except the Ministry for Economic Development. The final agreement on the draft (or the formulation of any differences of opinion) with the Ministry For Economic Development will be overseen by the Ministry of Emergency Situations of Russia, with a view of submitting the agreed draft to the Government of the Russian Federation (the deadline for submission being 15 November 2007).

The project provides for material assistance to be given to:

- the families of citizens who were killed (or died) as a result of a terrorist act or the carrying out of a counterterrorist operation, in the sum of 300 000 roubles for each person who was killed (or died), as well as for the funeral costs of those who were killed (or died) in the sum of the cost of services provided in accordance with the guaranteed list of funeral services in accordance with legislation in force;
- victims who suffered injuries of high or medium severity, in the sum of 100 000 roubles for each victim, for those who suffered light injuries 50 000 per victim;
- citizens held hostage but who were not injured, in the sum of 30 000 roubles for each citizen;
- citizens who suffered loss and are registered at the residential address they are occupying, as compensation for partially destroyed property – up to 20 000 roubles per family, and for wholly destroyed property – up to 50,000 roubles per family;
- legal persons as compensation for partially destroyed property – up to 100 000 roubles, and for wholly destroyed property up to 200 000 roubles .

#### INFORMATION PRESENTED BY THE RF SUPREME COURT

1. The judgments of the European Court of Human Rights (hereafter ECHR) are reported and discussed at seminars held regularly by the judicial boards of the Supreme Court of the Russian Federation. They are sent to High, Regional, District and Moscow and Saint Petersburg City Courts for their information.

The First Deputy Head of the Chechen Republic Supreme Court advises that the judgments of the ECHR are communicated to the judges of the Chechen Republic in a similar manner.

The judgments and decisions of the ECHR are also communicated to judges by means of their subscription to the Russian edition of the monthly ‘Bulletin of the European Court of Human Rights’ and by distribution of issues of the anthology ‘The European Court of Human Rights and the Russian Federation. Judgments and decisions.’

2. In relation to programmes and courses on issues of human rights protection, including those in the Chechen Republic, the Supreme Court sent information to the Assistant of the President of the Russian Federation and Head of the Government

Legal Department on 08.02.2007, reference No 145-1/obshch., enclosing letters and training outlines for judges from the Russian Academy of Justice (attached).

Moreover, according to the Department of European Humanitarian Law, in 2007 leading scholars of the above institution will be presenting papers to judges on 'Topical Issues regarding the Application of the Legal Positions of the European Court of Human Rights by Judges in Russia', 'The Consideration of Judicial Proceedings against the Russian Federation by the European Court of Human Rights', 'Topical Issues Regarding the Application of the European Convention on Human Rights within the Framework of the Russian Legal System'.

3. With regard to the coming into force of the Criminal Procedure Code as regards the rights of victims during preliminary investigations I advise of the following:

In accordance with Article 6 Para 1 of Part 1 of the Criminal Procedure Code of the Russian Federation, criminal legal proceedings are designed to protect the rights and lawful interests of individuals and organizations that were victims of crime.

Article 42 of the Criminal Procedure Code of the Russian Federation sets out the main rights of victims of crime. Under this provision, a victim is either a natural person who has suffered physical, proprietary or moral injury as the result of a criminal offence or a legal person that has suffered damage to its property or business reputation as the result of a criminal offence.

A victim of crime has the right to: **(issues which are relevant to victims during a preliminary investigation are set out in bold below):**

**1. know about the charges against him;**

**2. testify;**

3. refuse to testify against himself, his spouse or other close relatives as defined in Article 5, Para 4 of the Criminal Procedure Code of the Russian Federation. Where he agrees to testify, he must be informed that his testimony may be used as evidence in criminal proceedings, including where he subsequently repudiates this testimony;

**4. to submit evidence;**

**5. to submit a petition or mount a legal challenge;**

6. to testify in his native language or in a language which he can speak and understand;

7. to have free access to an interpreter;

8. to have a representative;

**9. to take part, with the permission of an investigator or initial investigator, in investigative measures launched either at his or his representative's request;**

**10. to examine the protocols kept of investigations carried out with his participation, and to make comments on them.**