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AS/Jur (2015) PV 04 (Human Rights in the North Caucasus only)

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Committee on Legal Affairs and Human Rights

Declassified Minutes of the hearing on “Human Rights in the North Caucasus: what follow-up to Resolution 1738 (2010)?”

**held in Yerevan, Armenia
on 20 May 2015 at 10 am**

Hearing started at 10 am:

Human Rights in the North Caucasus: what follow-up to Resolution 1738 (2010)?

Rapporteur: Mr Michael McNamara, Ireland, SOC

[AS/Jur (2014) 38]

Hearing with the participation of:

Mr Kirill Koroteev, Legal Director, Human Rights, Centre “Memorial”, Moscow, Russian Federation
Ms Vanessa Kogan, Stichting Russian Justice Initiative, Moscow, Russian Federation

The **rapporteur** thanked the experts for agreeing to come to Yerevan at short notice – they were invited only after he knew for sure that the two representatives of the official authorities he had originally invited – the Ombudsman of the Chechen Republic, Mr Nurdi Nukhadjiev, and the Vice-Minister of Interior of Dagestan in charge of security and reconciliation, Mr Ramazan Djafarov – were definitely not coming. As he was particularly keen on hearing the official point of view, as a matter of balance, he regretted the boycott by the Russian delegation to discuss a topic which was so important from a human rights perspective.

Mr Koroteev recalled that the Assembly’s previous resolution on this subject had called for the respect of the rule of law in conducting anti-terrorist operations. Following inter alia his visit to the region in February 2015, he noted that anti-terrorism operations were still being unlawfully conducted and that they had led to the killing of civilians. Mr Koroteev pointed out the general failure of criminal justice in the region, despite numerous cases already decided or pending before the ECtHR, which had frequently found “procedural violations” of Articles 2 and 3 of the Convention by failure to investigate killings and torture. Defendants could be taken into custody without legal grounds, without a hearing and by simple decisions of President Kadyrov, even after they had been acquitted by a court. Even after the ECtHR had found violations of the Convention, domestic courts rarely ruled in favour of the applicants and there was an overall climate of impunity. Although it was clear who should be prosecuted (i.e. military officers), the authorities simply did not intend to open investigations. Victims of gender based violence were particularly vulnerable and they were more even more victimised and harassed, if and when investigations were conducted. In December 2014, the office of the Joint Mobile Group of the Nizjniy Novgorod Committee against Torture, a group of NGOs providing assistance to victims of human rights abuses in the region, was burned down after one of its leaders, Igor Kalyapin, had commented on a statement by President Kadyrov. Human rights defenders were constantly facing this type of danger and the Assembly should react to the climate of impunity.

Ms Kogan focused on the implementation of ECtHR judgments and the rights of women in the region. She stressed that nearly 250 judgments concerning human rights violations were pending execution before the Committee of Ministers (CM). Two thirds of those judgments concerned cases of torture and extra-judicial killings. The main issues at stake concerned legal remedies for applicants who wished to continue to pursue justice after winning their cases before the ECtHR and the humanitarian aspects (the continuing suffering of those whose relatives had disappeared). Ms Kogan focused on the update concerning the issue of legal remedies: on access to case files, judicial remedies and the intimidation of the applicant in the *Tangiyev* case (in which the applicant was serving a prison sentence following a conviction based on evidence obtained through torture), and on the *Aslakhanova* judgment, in which the Court had recommended the creation of a high authority empowered to investigate disappearances. Moreover, she focused on issues affecting women and girls and stressed that the aggressive promotion of religious norms (sharia and customary law) had led to an increase in violence against women and to massive violations of the right to respect for family life, especially in cases of honour killings and issues concerning custody of children. (The full text of her speech is in file with the Secretariat).

A discussion ensued with the participation of **Mr Nicolaidis** (who agreed with the speakers about the general lack of the Russian authorities' willingness to comply with Assembly's recommendations and the judgments of the ECtHR and wondered what kind of pressure could be used to change this attitude), **Ms Anagnostopoulou** (who wondered about the role of social assistance structures, feminist movements, political parties and public opinion in defending women's rights), **Lord Tomlinson** (who stressed that 'honour killings' had no relationship with honour at all, as these were simple murders, and called for a change of the language), **Messrs Vlasenko** (who stated that dialogue was not a sufficient instrument and called for instruments in order to help applicants, who had to wait many years before winning judgments of the ECtHR), **Szczerski** (who agreed with Mr Vlasenko, wondered whether it was at all possible to obtain justice in the current system in the Russian Federation and stressed that the Assembly should think about other procedures), **Ms Beselia** (who said that the Assembly should use its tools, wondered whether any sanction had been decided by the Committee of Ministers as yet and called for more support for civil society), **Ms Taktakishvili** (who thought the despotic regime in Chechnia should not be tolerated within the Council of Europe; she wanted to know to which extent applicants were safe after ECtHR judgments and whether they needed support and wondered how the experts' organisations were supported by international organisations and donors on the ground, especially in the view of the existence of the "foreign agents law"), **Mr Cilevičs** (who stressed that local and regional authorities in North Caucasus had a high level of autonomy and were allowed to ignore Russia's national legislation and its international obligations and wondered about strategies for the Council of Europe, such as enhancing communication with regional authorities) and the **rappporteur** (who wondered about adaptation measures for former combatants; noted that there was an increasing tendency to have forced (religious) marriages and wondered about the fate of the three lawyers who had testified before the Committee in June 2013 and had faced some difficulties after the hearing; he recalled that he had written a letter to the authorities together with Ms Reps inquiring about their situation).

To Mr Nicolaidis, **Mr Koroteev** replied that there were some differences in the approaches of the Assembly and the Committee of Ministers on this issue and that the Assembly was focusing more on the question of impunity and the most urgent obligations. He called for an initiative to consider ways to establish a special criminal tribunal for Chechnya. **Ms Kogan** added that it was difficult to discuss with the Russian authorities, who were pretending that Russia was not the only country with the problem of impunity (other examples included the problems of actions of Turkish security forces against Kurds and UK actions in Northern Ireland). She was in favour of a thematic approach and a dialogue with the Russian authorities. She stressed that despite the *Aslakhanova* pilot judgment on disappearances, no investigative body had been established so far. To Ms Anagnostopoulou, she replied that despite the existence of an active civil society focusing on women issues and psychological and social help, it was difficult for women to go to court. Public opinion supported the current state of affairs. **Mr Koroteev** added that the situation in Chechnia differed from that in Dagestan, where there were no NGOs advocating women's rights. Forced marriages were recently criticised in Chechnia, which was giving some hope. As regards the comment by Lord Tomlinson, **Ms Kogan** added that the term "honour killing" was supported by President Kadyrov. To Mr Vlasenko, **Mr Koroteev** replied that the Committee of Ministers had not yet tried the sanctions procedure provided for in Article 46 paragraph 4 of the Convention and that the Assembly could call upon the Committee of Ministers to use it. The supervision of the implementation of judgments in the cases at stake had lasted for over 10 years and perhaps it was time to amend the Convention and establish a special body composed of independent experts to monitor implementation of ECtHR judgments. To the question of Mr Szczerski, he replied that it was often not possible to obtain justice in Russia, despite the existing procedures. He also added that the CM had adopted two interim resolutions on a group of Chechen cases; whilst the language of the first one was quite strong, the second one, adopted in March 2015, was rather mild. Applicants were generally safe, but if they asked for reopening domestic proceedings after winning their case in Strasbourg, they could face torture and their

relatives could be arrested. He underlined that, besides the adoption of the “foreign agents law” targeting Russian organisations receiving assistance from abroad, the Russian State Duma had just passed another law on “undesirable organisations” which targeted foreign-based organisations. The Memorial Human Rights Centre was already on the list of “foreign agents”. He noted that although more presence of international organisations was needed in the region, even those present now were forced to withdraw from there. **Ms Kogan** added that it was not possible to achieve accountability under President Kadyrov’s rule. The humanitarian issue (of identifying missing persons for the sake of closure) still offered a window of opportunity. The Chechen Ombudsman supported the ECtHR decision to set up an investigative body. Concerning sanctions by the CM, which was a political body, its decisions were softly worded and there had been no progress on accountability, despite intensive NGO lobbying with the CM. The CM was now shifting its focus on the humanitarian issue (identification of bodies without search for the killers), which in her view was not acceptable, as the issue of impunity should not be dropped. She also noted that lawyers working on the implementation of ECtHR were often intimidated. To Mr Cilevičs, she replied that President Kadyrov had gone too far and that many within the Russian law enforcement bodies disliked his regime, as it was undermining their authority. **Mr Koroteev** added that the Congress of Regional and Local Authorities could be in a position to interact with the Chechen authorities and that the Commissioner for Human Rights should be able to travel to the region. To the questions of the rapporteur, he replied that there had been no more dialogue with the authorities on the reintegration of combatants in the last months. As regards the lawyers who took part in the hearing in June 2013, he knew that as of 2014 Sapiyat Magomedova had been in Dagestan. In Dagestan, a lawyer from Memorial, Murat Magamedov, had been seriously beaten. As regards the Joint Mobile Group (Nizjniy Novgorod Committee against Torture), after the December 2014 events, they were in constant fear of further acts of intimidation. **Ms Kogan** added that Rustam Matsev had been forced to leave in 2014, having received threats after the assassination of a blogger whose case he had investigated; that Sapiyat Magomedova was no longer in Dagestan, and Batyr Akhilgov was still in the North Caucasus; after his work on the *Tangiyev* case, he had had several problems, but the situation had calmed down in the meantime. With regard to women’s rights, she concluded by noting there was a general tendency to conclude informal marriages.

The **rapporteur** thanked the experts for their contributions and paid tribute to their work.