

**ASSOCIATION  
INTERNATIONALE  
PAX ET DROITS DE L'HOMME**



**INTERNATIONAL  
ASSOCIATION FOR  
PEACE AND HUMAN RIGHTS**

---

tel/fax: [00 33 \(0\) 3 88 36 21 99](tel:00330388362199)

e-mail: [miriprava@hotmail.com](mailto:miriprava@hotmail.com)

**OPEN LETTER to the General Secretary of the Council of Europe Terry Davis**

**(copy to the Secretariat staff, members of PACE and the media)**

Mr General Secretary,

Permit me to remind you that in 2007 I sent you the draft for Resolution No, 1, with a request to submit it for consideration at a session of the PACE. At my request you agreed to meet with me, and on 7 February 2002 during our meeting we discussed the 14 points of this draft. Since then I have been waiting for a response from you as to whether you consider the 14 points proposed in this draft either partly or wholly acceptable for consideration at a session of the PACE, or whether they are not acceptable for consideration by the PACE for whatever juridically founded reasons. I very much hope to receive an answer.

With great regret, I wish to express my opinion -- founded on numerous facts -- that with regard to the Chechen question the Council of Europe has not met its international obligations, as set out in its Statute. In particular, one of the many examples that will confirm this is article 8, which states:

Any member of the Council of Europe which has seriously violated Article 3 may be suspended from its rights of representation and requested by the Committee of Ministers to withdraw under Article 7. If such member does not comply with this request, the Committee may decide that it has ceased to be a member of the Council as from such date as the Committee may determine. The application to Russia of article 8 of the Statute should have followed from its severe violation of article 3 of the Council of Europe's Statute, which states:

Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council as specified in Chapter I.

The Russian Federation has not fulfilled a series of obligations imposed upon it by Resolution No. 193 of 28 February 1996, signed by Russia on its entry into the Council of Europe.

Mr General Secretary, I think you do not need to be reminded that impunity for those who commit crimes brings with it new crimes, which was graphically demonstrated by the events in

Georgia of 8 August 2008. The Council of Europe has practically ceased to concern itself with the Chechen question, proceeding from the notion that the destroyed towns and cities of Chechenia are being rebuilt and that a process of stabilization is taking place. I would be overjoyed if a genuine stabilization of the situation in Chechenia were to set in. But unfortunately this is far from being the case, and in order to be sure of this, one needs to be up to date with the actual situation, as opposed to with one-sided disinformation. For it is clear that without justice there can be no stabilization.

Is it really just to claim that the reconstruction of houses -- on the bones of those killed and buried alive -- represents a resolution of the Chechen question? Where are the guarantees that everything that has taken place so far will not be repeated? Can the war really end without a peace agreement? Or does the Council of Europe, following Russia's lead, affirm that this was not a war but an 'anti-terrorist operation'? Can it be said that everything the Russian military and political forces did to the Chechen people corresponds to the rules and norms of international law, is inscribed within the term 'anti-terrorist operation' and should go free of punishment? In that case, you should confirm this with legal proofs. Or is our people not worthy of this? Is it possible that one can spill as much Chechen blood as one wishes, and yet the shield of the 'anti-terrorist operation' will justify the Council of Europe's refusal to give due consideration to the Chechen question?

Mr General Secretary, I write to you on the day of Human Rights and hope that you will not ignore my right to receive answers to the aforementioned questions -- above all to the question of whether the draft Resolution No. 1 will be submitted for consideration by the PACE.

In the coming weeks materials will be presented to the Council of Europe which confirm the violation by the Russian Federation of a large number of rules and norms of international law, which not only were not prevented in time, but were not even officially recognised as violations. This in turn led to unpunished crimes committed by the Russian military and political authorities against the Chechen people.

Respectfully yours,

Said-Emin Ibragimov  
President of the International Association "Peace and Human Rights"  
10.12. 2008  
Strasbourg.



### **Resolution No 1**

1. The Peace and Human Rights International Association, referring to the following documents adopted by the Parliamentary Assembly of the Council of Europe (PACE):

Resolutions Nos 1201, 1221, 1227 (the year 2000), 1240, 1241 (2001), 1270, 1277 (2002), 1315, 1323 (2003), 1402, 1403, 1404 (2004), 1455 (2005), 1479 (2006); and

Recommendations Nos 1444, 1456, 1478 (2000), 1498 (2001), 1548 (2002), 1600 (2003), 1678, 1679 (2004), 1710 (2005), 1733 (2006),

draws particular attention to the fact that throughout the period indicated Russia has done nothing of substance to settle the Chechen issue and has not met the demands made by the Assembly.

As noted in PACE Resolution No 1221, the Russian president has not met the obligation, which he undertook personally on 13 April 2000, to investigate all instances of violations of human rights in the North Caucasus region.

2. The Russian Federation has not fulfilled the following demands: Articles 14 and 17 of Recommendation No 1444 (2000), Articles 10, 11, 15 and 16 of Resolution No 1227 (2000), Article 3, Points 2 and 6, Articles 5, 14, 15, 16, 17, 18, 20, 24 and 25 of Recommendation No 1456 (2000). Russia has also ignored the concern of the Parliamentary Assembly of the Council of Europe at the lack of investigation by the courts into the mass killings in Alkhan-Yurt (December 1999), in Groznyy's Staropromyslovskiy District (January 2000) and in the village of Aldy (February 2000). There was also no legal investigation of the mass killings of civilians in the villages of Komsomolskoye, Samashki, Bamut and many others, nor has anyone been brought to trial. Not only were those guilty of these crimes not punished, some have even been elevated to the rank of "heroes", which promotes totally new crimes.
3. The Russian Federation, continuing its deliberate policy of ignoring the resolutions and recommendations of PACE which are founded on the international responsibilities and obligations invested in it, has not met the demands of Articles 17, 18, 21 and 22 of Recommendation No 1240 (2001) and Recommendation No 1498 (2001).

Since Resolution No 1241 was adopted at the opening of the PACE session on 22 January 2001, ratifying the credentials of the new Russian delegation, no real changes for the better have been observed. On 23 January 2002 Resolution No 1270 "On the Conflict in the Chechen Republic" was adopted, which had as its main aims:

1. the search for a peace settlement
2. a halt to human rights violations
3. bringing to justice those guilty of crimes committed in the Chechen Republic
4. improvement of the conditions in which victims of the conflict are living

All four points have remained unfulfilled. Articles 4, 5 and 8 of Recommendation No 1548 of 23 January 2002 have also not been fulfilled. All 17 points of Article 8, mentioned in Resolution No 1277 of 23 April 2002, on the Russian Federation honouring its obligations have not been fulfilled.

4. Despite the fact that PACE Resolution No 1315 (2003) noted that the organisation's authority would be undermined if the difficult situation continued in the Chechen Republic, no practical steps were taken. "The Assessment of Prospects for a Political Resolution of the Conflict in the Chechen Republic" and the call to the Russian Federation authorities made in Articles 6-11 were ignored.
5. Article 3 of Resolution No 1323 (2003) records the fact that people in the Chechen Republic are living in constant fear, their towns and villages have been reduced to rubble, their fields are mined, their friends and relatives killed, illegally arrested, disappear without trace, are kidnapped, raped, tortured and robbed. On the basis of these facts Article 4 says that the people of the Chechen Republic have the right to protection from the Council of Europe, but it does not say what form that protection should take. In Article 7 of the resolution the Assembly expresses regret that not one member state of the Council of Europe has found the courage to bring an interstate court action against Russia. In Article 10 the Assembly called on member states to pursue all avenues of accountability with regard to the Russian Federation without further delay, including interstate complaints before the European Court of Human Rights and the exercise of universal jurisdiction for the most serious crimes committed in the Chechen Republic.

Point 3 of this article says that the possibility of establishing a special international court on war crimes and crimes against humanity in the Chechen Republic should be considered but this possibility has not been used.

6. Resolutions Nos 1402, 1403 and 1404 and Recommendations Nos 1678 and 1679 (2004) say that real changes to improve the situation in the Chechen Republic have not occurred. Specifically:

Article 16 of Resolution No 1402 says that the election of a president of the Chechen Republic on 29 August 2004 did not meet the main requirements for democratic elections and this is confirmed in Article 7 of Resolution 1403, which records that the conduct of the constitutional referendum in March 2003 and the elections of a president of Chechnya gave birth to new types of violation of the European Convention on Human Rights concerning the right to free elections (Article 3 of Protocol No 1 to the ECHR). In Articles 6-13 of Resolution No 1403, the Assembly notes that Resolution No 1323 and Recommendation No 1600 were not fulfilled. Unfounded detentions, which are often followed by “disappearances”, torture, severe beating of the arrested and the theft or destruction of the property of citizens, are continuing. A new phenomenon was the kidnap of relatives of people suspected of terrorist activity with the aim of forcing the latter to give themselves up under the threat of torture or liquidation of their relatives. The Assembly is concerned at the serious, and still unsolved, crimes against people who have submitted complaints to the European Court of Human Rights and their relatives.

7. In Resolution 1479 (2006) the Parliamentary Assembly stresses that the defence of human rights is a central objective of all bodies of the Council of Europe, and referring to the earlier Resolutions 1323 (2003) and 1403 (2004) and Recommendations 1600 (2003) and 1679 (2004) “On the State of Human Rights in the Chechen Republic”, expresses its deep concern that a significant number of governments, member states and the Committee of Ministers do not hold regular, serious and active discussions of the continuing serious violation of human rights in the Chechen Republic. It notes that the violations are on a massive scale and in an atmosphere of impunity are spreading to neighbouring regions. In Article 13 the Assembly calls on the government of Russia to carry out in full all the recommendations of the bodies and mechanisms of the Council of Europe and the UN too. It is also noted that the Assembly is not at all satisfied by the responses of the Committee of Ministers to its recommendations and regrets that:

monitoring of the state of human rights in the Chechen Republic, initiated by the secretary-general of the Council of Europe, has been suspended. Despite an official appeal, made by the Assembly in Resolution 1600 (2003), the Committee of Ministers did not take any specific steps to meet the Declaration “On Honouring Obligations of 10 November 1994”. In this regard the Assembly noted that such inaction is unacceptable, especially taking into account the fact that the Assembly was using for the first time the mechanism confirmed for this purpose by the Committee of Ministers.

According to Article 15, the final article in Resolution 1479 (2006) of the Parliamentary Assembly, the absence of an effective reaction from the Council of Europe’s directive body to resolve one of the most serious human rights problems on the territory of any Council of Europe member state could seriously undermine the organisation’s authority. This could give other countries a reason to ignore the main principles of the Statute of the Council of Europe and has major, negative consequences for all countries and peoples of Europe.

8. The Peace and Human Rights International Association, referring to the earlier resolutions and recommendations of PACE which confirm the mass violation of human rights and freedoms, war crimes and crimes against humanity committed by Russia in Chechnya, stresses:
  - a) that the Russian Federation is not observing the obligations undertaken by member states of the Council of Europe, is not observing the provisions of international humanitarian law, including the provision that it must be observed in instances of armed conflict on one's own territory;
  - b) the Russian Federation is not observing the common obligations under the Statute of the Council of Europe and the obligations listed in Conclusion No 193 of 25 February 1996, specifically:

the main obligation of a political resolution to the Chechen question, based on negotiation and European democratic values;

has not ratified Protocol No 6 to the European Convention on Human Rights and Basic Freedoms, which concerns the abolition of capital punishment, the term for which was set by mutual agreement of the sides as three years from the day Russia joined the Council of Europe. Most of more than 200 conventions adopted by the Council of Europe after Russia joined have also not been ratified by Russia. In particular, Russia is refusing to ratify the 14<sup>th</sup> Protocol to the European Convention, and has created obstacles to reforming and speeding up the work of the European Court for Human Rights, which receives the most complaints from the Russian Federation and Chechnya.
  - c) The Russian Federation, which had planned in advance to violate the main articles of its own constitution and the generally recognised norms of international law, began an aggressive war against the Chechen people in 1994 and 1999, as a result of which the crime of genocide has been committed and is still being committed.
9. The Russian Federation, in the conditions of the complete occupation of the territory of Chechnya, "conducted" there illegal elections for president and parliament, which did not meet either national or international standards, and were held according to the principle of the loyalty of participants to the Russian leadership, which lays at the very foundation of these "authorities" the potential lack of the rule of law. Moreover, the right of people to free elections, set out in the ECHR, Protocol No 1, Article 3, was violated, which creates disagreements of principle and conflicts between the authorities and the people and internal national disagreements and provokes civil war on a massive scale.
10. In many cases the Russian Federation does not conduct, and in some cases hinders, an effective investigation into acts of terrorism on the territory of Russia and Chechnya which gives grounds to assume that these grave crimes were committed to order.

On the basis of the documents referred to in Resolution No 1 and in the name of supportive individuals and juridical entities, the Peace and Human Rights International Association

### **RECOMMENDS**

1. that the Council of Europe's monitoring committee intensify supervision of the honouring in full by the Russian Federation of its obligations and commitments under the Council of Europe Statute and the specific obligations listed in Conclusion No 193 (1996), including on the Chechen question;
2. that the Russian Federation be required to explain the reasons why it has not fulfilled all the resolutions and recommendations of PACE concerning the settlement of the Chechen question, that the period for fulfilment be set strictly and kept under special supervision;

3. that a competent committee of the Council of Europe be created for the objective and unbiased review of complaints from prisoners in Russian prisons, held on charges of participation or complicity in fighting in Chechnya, and review them in the light of the possible application of the norms of international humanitarian law;
4. that the abolition by Russia be attained of Point 1, Article 14 of the federal law "On burials and funerals" as contradictory to Article 10 of the Russian Federation Constitution and Article 18, Part 1 of the International Pact on Civil and Political Rights; that the return be demanded of the body of former Chechen President Aslan Maskhadov, killed by the Russian military, and of others to their relatives for burial;
5. that the urgent ratification by Russia be achieved of Protocols No 6 and 14 to the European Convention on Human Rights and Basic Freedoms;
6. that Chechen refugees be recognised as refugees from war and their extradition to the Russian Federation be forbidden;
7. that the question of Russia's observance of the European Convention on Preventing Torture and Degrading or Inhumane Treatment or Punishment, which it ratified on 5 May 1998, be placed under the constant supervision of the Committee to Prevent Torture; that persons on all sides in the armed conflict who have committed torture, extrajudicial punishment or other crimes in Chechnya be held to account;
8. that the Council of Europe's Commission for Legal Issues and Human Rights, since the UN, EU and Council of Europe have yet to clarify whether crimes of aggression, genocide, war crimes and crimes against humanity committed by military and political forces of the Russian Federation fall under Article 5 of the Statute of Rome on the International Criminal Court, give a clear, legal definition to the events that have happened since the invasion of Chechen territory by Russian troops on 11 December 1994 to the present; that on the basis of clear-cut juridical argumentation they answer whether the armed invasion of Chechnya by Russian troops is an act of aggression according to the definition of similar events made by the UN General Assembly's 29<sup>th</sup> session, or is legally commensurate with the anti-terrorist operation, which Russia claims without legal foundation;
9. that, on the basis of proofs at the disposal of the Council of Europe and set out in the recommendations and resolutions of the Parliamentary Assembly, the commission propose to the Prosecutor's Office of the Russian Federation that they instigate criminal cases against Russia's political and military leadership, under Article 257 of the criminal code, on suspicion of committing genocide against the Chechen people; under Article 356 on suspicion of using forbidden methods of warfare in Chechnya and under Article 353 on suspicion of planning, preparing, initiating and conducting an aggressive war against Chechnya;
10. that the question be considered of the urgent fulfilment of recommendations of the Council of Europe Parliamentary Assembly, in particular Nos 1221 (2000) Articles 16, 17 and 18; 1227 (2000) Articles 24 and 25; 1478 (2000), Articles 1 and 2; 1498 (2001) Articles 1-3; 1548 (2002) Articles 1-8; 1600 (2003) Articles 1-4; 1678 (2004) Article 2; 1679 (2004) Article 4; 1710 (2005) Article 3; 1733 (2006) Articles 2, 3, 5.1-5.5;
11. that the necessary legal procedure be followed for the urgent adoption of measures to ensure an official, legally consolidated, end to the war in Chechnya in accordance with the rules followed worldwide;
12. that in the near future a plan of action be drawn up to restore human rights and the opportunities for the Chechen people to live a life of dignity;
13. that all necessary conditions be created for the rapid fulfilment of Article 2 of PACE Resolution No 1323 (2003), which says that there can be no peace in the Chechen Republic without justice and calls on member states of the Council of Europe under Point 2, Article 10 as a matter of urgency to pursue all avenues of accountability with regard to

the Russian Federation, including interstate complaints before the European Court for Human Rights;

14. suspend the membership of the Russian delegation in the Council of Europe until the Russian Federation honours fully and comprehensively the resolutions and recommendations of the Parliamentary Assembly in accordance with the obligations listed in Conclusion No 193 (1996), undertaken by the Russian Federation when it joined the Council of Europe.

President of the Peace and Human Rights International Association  
Former communications minister of Chechnya,  
Said-Emin Ibragimov.