

RUSSIAN FEDERATION

A Review of the Compliance of the Russian Federation with Council of Europe Commitments and Other Human Rights Obligations on the First Anniversary of its Accession to the Council of Europe

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SUMMARY

On February 28, 1996, the Russian Federation became a full member of the Council of Europe, an intergovernmental organization based in Strasbourg, France, which, among other goals, aims to protect human rights.¹ Accession to the Council of Europe heightened expectations that the Russian Federation would take concrete steps to improve its poor human rights record in the year that has followed. However, on the first anniversary of its accession to the Council of Europe, it is clear that the Russian Federation has made little progress in fulfilling its new obligations and indeed, in some cases, has flagrantly violated them. It continued to perpetrate attacks on civilians and other violations of international humanitarian law in Chechnya through August 1996, when the Khasavyurt agreement ended twenty months of war in Chechnya. It continued through August 1996 to execute prisoners condemned to death, in violation of its obligation to institute a death penalty moratorium from the day of its accession to the Council of Europe. It failed to ratify within a year of accession several significant human rights conventions and protocols² and generally failed to translate legislative reform into practice in addressing long-standing abuses such as appalling and even "torturous" prison conditions,³ police brutality, freedom of movement, deprivation of the rights of refugees, and discrimination on the basis of ethnicity and gender. Responsibility for human rights violations and for failing to uphold its commitments and obligations as a member of the Council of Europe lies squarely on the shoulders of the government of the Russian Federation. However, Human Rights Watch/Helsinki is also concerned that the Council of Europe has not used its maximum influence to secure human rights improvements in the Russian Federation, one of its newest member states,⁴ and in some cases has accepted pledges of reform in lieu of actual reform where such trust was clearly not warranted.

¹ The Council of Europe was formed on May 5, 1949, and currently consists of forty member states, including Estonia, Lithuania (1993), Latvia, Moldova, Ukraine (1995), and the Russian Federation (1996).

² The European Convention on Human Rights (signed but not ratified); its Protocols Nos. 1, 2, 4, 7, and 11 (signed but not ratified) and Protocol No. 6 (not signed); the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (signed but not ratified); the European Framework Convention for the Protection of National Minorities (signed but not ratified); European Charter on Local Self-Government (signed but not ratified); the Charter for Regional and Minority Languages (not signed).

³ The Special Rapporteur's report is contained in United Nations document E/CN.4/1995/34/Add.1, p. 19. See "Torture: Penal System" below.

⁴ The newest member is Croatia, which joined on November 6, 1996.

Accession has prompted the Russian government to take some promising steps to improve its human rights record, for which both the Russian government and the Council of Europe can rightfully take credit.⁵ Indeed, in some cases, the Russian parliament agreed to uphold some human rights obligations only when the Council of Europe insisted on them, although these same obligations were already mandated in domestic legislation. Human Rights Watch/Helsinki appreciates these efforts by the Russian government and the resources and expert attention the Council of Europe has devoted to evaluating Russia's human rights record and pushing for compliance. Among other sustained and coordinated efforts, the Council of Europe monitors and investigates abuse, condemns serious violations where they have persisted, crafts recommendations for compliance, shares human rights expertise with counterparts in Russia, supports nongovernmental organizations in the field of human rights in Russia, and engages the Russian government in implementing required improvements.

⁵ Since 1992, the Russian Federation has made progress in bringing its legislative acts and institutional capacities for addressing human rights concerns into conformity with European standards. Notable are Russia's adoption of a new constitution, criminal code, amendments to the code of criminal procedure, the law on state secrets, the law on entry into and exit from the Russian Federation, and the law on information. Russia signed the European Convention on Human Rights, including Protocol No. 6 relating to the death penalty upon accession to the Council of Europe, but as of this writing has not ratified it.

At the same time, the Council of Europe offered the Russian Federation membership before adequate guarantees for improvement on some issues were secured, and in some cases failed adequately to censure and impose sanctions against its new member as soon as flagrant non-compliance became apparent. The Council of Europe failed to condemn and take action to combat abuse it was well aware of, in some cases in contradiction to the findings of its own experts.⁶ The most obvious example of this is that no public threats of action are known to have been made by the Council of Europe even when the Russian government continued to carry out executions at least through August 2, 1996, fully six months after it had committed to instituting a *de jure* moratorium. (Russian authorities assert that a *de facto* moratorium has been in place since August 1996, but as of this writing has still not instituted one *de jure*.)

As a rule, Human Rights Watch/Helsinki is concerned by the degree to which the Council of Europe's human rights admission requirements are negotiable, rather than standardized, leaving the process vulnerable to political, security, and other considerations which can obscure human rights goals. This in turn belittles the primacy of respect for human rights. As a broader issue, we are also concerned because the Council of Europe's failure to secure and enforce adequate yardsticks of reform prior to offering membership weakens the Council of Europe's perceived commitment to its fundamental principles of democracy and respect for human rights; this, in turn, sends a message to member nations and applicant states⁷ alike that the Council of Europe is sometimes willing to turn a blind eye to abuse. Evidence of this dangerous trend is that, in violation of their accession obligations, fully one-fifth of the Council of Europe's membership have still not instituted a *de jure* death penalty moratorium.⁸ In general, we believe that the Council of Europe's influence is often squandered because it emphasizes achieving compliance *after* accession, rather than as a precondition to it.

While appreciating the difficulties faced by the Russian government in rapidly bringing its human rights practices into full compliance with European standards, we are distressed by the slowness of the reform and by serious backsliding in some areas. At the same time, we are hopeful that the Russian Federation will be able to meet its human rights obligations more rapidly through encouragement and intense pressure. We believe that much of the serious and widespread human rights abuses that persist in the Russian Federation — and in other Council of Europe member states — can and should be redressed with greater insistence from the Council of Europe.

Human Rights Watch/Helsinki takes the opportunity of the anniversary of Russia's accession to the Council of Europe to assess the Russian government's progress toward ending the most severe human rights abuses and to make specific recommendations for achieving more rapid compliance with its international human rights obligations.⁹ Human

⁶ See opinion of legal experts of October 7, 1994.

⁷ The Republics of Armenia, Georgia and Azerbaijan have submitted applications for membership and currently are under review.

⁸ As of June 26, 1996, these countries were Albania, Bulgaria, Cyprus, Estonia, Malta, Poland, Turkey, and the United Kingdom.

⁹ "Russia" or the adjective "Russian" may be used interchangeably in this report to refer to the Russian Federation or Russia.

Rights Watch/Helsinki further takes this opportunity to evaluate the Council of Europe's success at achieving its own human rights agenda and suggests steps to more effectively exert its influence with the Russian authorities to achieve measurable human rights improvements. This report therefore seeks to identify areas in which the Russian Federation is falling short of, or actively flouting, its human rights commitments as a member of the Council of Europe, as well as those enshrined in domestic Russian or international human rights and humanitarian law.

The documentation presented in this report primarily reflects the findings of investigations conducted by Human Rights Watch¹⁰ and refers to conclusions made by other human rights organizations. It is not intended to be comprehensive of all of the human rights violations currently carried out or insufficiently addressed by the Russian government. We also note that the Council of Europe is seeking Russia's compliance with military, security, law enforcement, political, ecological, and cultural issues that fall outside Human Rights Watch's mandate and which therefore will not be treated here (see Appendix A).

We recognize that the causes of some violations currently committed by the Russian government are sufficiently complex that they may require more than a single year to be fully corrected, and we welcome efforts by the Council of Europe, other intergovernmental bodies, individual governments, and nongovernmental organizations to encourage and rigorously to monitor Russia's efforts to comply with longer-term goals for improvement. However, a year is clearly enough time for Russia to take some basic steps, such as instituting a legally binding death penalty moratorium, ratifying fundamental human rights instruments on the Council of Europe's recommendations, and beginning serious efforts to prosecute crimes such as the murder of civilians by its armed forces. We urge the Council of Europe to press for these urgently needed reforms and to back its demands with credible threats of suspension of membership privileges and rights, in accordance with Parliamentary Assembly Order No. 508 (1995); Human Rights Watch/Helsinki welcomes efforts to date to do so. We hope that a documented enumeration of major areas of human rights concern will aid in this process.

RECOMMENDATIONS

Human Rights Watch/Helsinki respectfully urges the government and parliament of the Russian Federation:

- To comply with the human rights obligations required of Council of Europe member states in accordance with the timetable set out by the Council of Europe. As an urgent priority, we urge the Russian Government and the parliament to:
 - institute immediately a legally binding moratorium on the death penalty and launch a high-profile public information campaign to insure that all prison authorities and prisoners are aware of and honor its enactment;
 - ratify the European Convention on Human Rights and its Protocols, the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment; the European Framework Convention for the Protection of National Minorities and comply with their provisions;
 - repeal the remaining capital punishment provisions from the criminal code of the Russian Federation; and
 - fulfill its obligation detailed in the Council of Europe's Parliamentary Assembly Opinion No. 193 (1996), point 7 (vii): "those found responsible for human rights violations will be brought to justice—notably in relation to events in Chechnya" by reinvigorating the process of investigating and prosecuting, in full compliance with international law, those responsible for gross violations of international humanitarian law, especially indiscriminate shelling, targeting civilians, torture, and using civilians as human shields.

¹⁰The subdivisions of the organization that contributed documentation to this report were Human Rights Watch/Helsinki and Human Rights Watch/Women's Rights Project.

We also respectfully urge the Russian Federation to:

- cooperate fully with the Chechnya Procuracy in order to investigate and prosecute the 342 cases of crimes allegedly committed throughout the war by Russian soldiers compiled by the Chechnya Procuracy, as documented by Human Rights Watch/Helsinki, and include the Chechnya Procuracy in the investigation of these and other cases;
- cooperate with family members and local authorities who are seeking to locate Chechens held in custody for their alleged participation in rebel activities by, among other things, indicating on lists of Chechens in custody the exact dates of arrest, charges against them, and convictions;
- immediately cease torture and other forms of mistreatment of individuals in places of detention, and ensure that the Procuracy General rigorously prosecute and punish those responsible for these crimes, in conformity with international standards;
- immediately repeal all legislative acts that violate freedom of movement in conformity with international standards and investigate reports of such violations;
- revise any legislative acts that discriminate on the basis of ethnicity, national identity, or gender, and enforce protections against discrimination in all forms rigorously; and
- make public a detailed, country-wide report of those law enforcement officials who have been disciplined or held criminally accountable for due process violations and physical abuse of detainees. Such a report should include information about the kind of violation the law officer was found guilty of, the sanctions imposed, and the damage suffered by the victim and whether and how the victim was compensated for damages.

Human Rights Watch/Helsinki respectfully urges the Council of Europe's Parliamentary Assembly to:

- ensure that the Russian government fulfils all other obligations to the Council of Europe promptly, or immediately institute punitive proceedings in accordance with its Statute and Parliamentary Assembly resolutions.
- As a means of deterring non-compliance with Council of Europe human rights obligations, we urge it to develop and adopt as soon as possible uniform mechanisms for imposing sanctions on the violator nation *immediately*, rather than at the beginning of each part-session;
- reprimand the Russian government for failing to honor the timetable set forth for ratification of certain human rights instruments by February 28, 1997, and ensure that it honors these obligations as soon as possible;
- ensure that the Russian parliament repeal all remaining capital punishment provisions in its criminal code on a priority basis, and in the meantime cease immediately handing down death penalty sentences.
- Immediately upon ratification of the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment, the Committee to Prevent Torture (CPT) should, as a matter of priority, send a delegation to conduct a comprehensive investigation into conditions in prisons, pre-trial detention facilities and police lock-ups in the Russian Federation, and, should the Russian government fail to comply with recommendations submitted upon conclusion of the investigation, the CPT should, in accordance with its mandate, release a public report on its findings and recommendations for remedying problems there, and work with the Ministry of Internal Affairs and the government of the Russian Federation to implement these recommendations as soon as possible.

The Council of Europe should, further:

- request its *ad hoc* committee on Chechnya to conduct an investigation into acts of state-sponsored racist violence in Chechnya and, to the degree they existed, in other parts of the Russian Federation that could be perceived as an extension or result of the armed conflict, and report back publicly with its findings and recommendations; and
- set feasible deadlines for legal changes to be adopted by member states and, if those deadlines are not met, institute immediate punitive measures.

RUSSIA'S HUMAN RIGHTS OBLIGATIONS AS A MEMBER OF THE COUNCIL OF EUROPE AND MECHANISMS AND EFFORTS TO ENFORCE COMPLIANCE

Standardized human rights conditions for membership in the Council of Europe are set forth most explicitly in Article 3 of its Statute, which came into force on May 5, 1949: "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 realization of the aim of the Council of Europe as specified in Chapter I [of the Statute]." In practice, this entails an evaluation of an applicant country's willingness and ability to uphold the principles of democracy, the rule of law, and human rights. These yardsticks have yet to be formally codified, however. The standardized condition for membership which comes closest to linking specific human rights reform directly with membership was adopted in 1994: the country must institute a moratorium on state executions of the death penalty at the moment of accession¹¹ and demonstrate a "willingness" to sign and ratify Protocol 6 of the European Convention on Human Rights, which outlaws capital punishment.¹² There is also an expectation, tailored to each country with its own deadlines for compliance, that the newly admitted country will sign and ratify certain human rights conventions and protocols, such as the European Convention on Human Rights and its Protocols, within the first years of membership.

Depending on the accession opinions handed down for each applicant, additional conditions and timetables for compliance may be crafted in an ad hoc manner to address the Council of Europe's particular concerns with each applicant country's human rights record. Thus, for example, in recommending that the Committee of Ministers extend the Russian Federation full membership, the Parliamentary Assembly "note[d]" that the Russian Federation "intend[ed]" to adopt the conditions enumerated in points 7-10 of Parliamentary Assembly Opinion No. 193 (1996) on Russia's request for membership in the Council of Europe (see Appendix A).

¹¹ Point 1 of the Decision of the Committee of Ministers of 16 January 1996 asks that the Council of Europe "encourage" member states which have not abolished the death penalty "to operate *de facto* or *de jure* a moratorium on the execution of death sentences." However, it does not explicitly link such a moratorium with accession deadlines or identify it as a specific membership prerequisite. Point 4 (iii) of Parliamentary Assembly's Recommendation 1302 (1996) recommends that "the attitude of applicant states towards the death penalty" be taken into account when the Council of Europe deliberates granting admission to an applicant state as a full member. Assembly debate on June 28, 1996 (24th Sitting). See Doc. 7589, report by the Committee on Legal Affairs and Human Rights (rapporteur: Mrs Wohlgend). Text adopted by the Assembly on June 28, 1996 (24th Sitting).

¹² In Point 6 of Parliamentary Assembly Resolution 1044 (1994), the Assembly decided that the "willingness to ratify", but not the ratification itself, of the Sixth Protocol to the ECHR (which abolishes the death penalty in peace-time) was to be a prerequisite for membership in the Council of Europe. Assembly debate on October 4, 1994 (25th Sitting) (see Doc. 7154, report of the Committee on Legal Affairs and Human Rights, Rapporteur: Mr Franck). Text adopted by the Assembly on October 4, 1994 (25th Sitting).

The principal mechanism for monitoring a new member state's compliance with commitments and obligations is enshrined in Parliamentary Assembly Order No. 508 (1995). It details procedures for monitoring, reporting on, and crafting recommendations for securing improvement in the human rights situation (see Appendix B).¹³ Points 9 and 10 prescribe action that may be taken in response to non-compliance: "The Assembly may sanction persistent failure to honour commitments, and lack of co-operation in its monitoring process, by the non-ratification of the credentials of a national parliamentary delegation at the beginning of its next ordinary session, in accordance with Rule 6 of the Rules of Procedure. Should the country continue not to respect its commitments, the Assembly may address a recommendation to the Committee of Ministers requesting it to take the appropriate action provided for in Article 8 of the Statute of the Council of Europe." The Committee of Ministers also has responsibility for monitoring, but its successes are less easy to gauge since their proceedings are held in secret and findings are not known to be made publicly available. In a new development, the Parliamentary Assembly adopted a resolution on January 29, 1997, to create a new sixty-five-member commission to ensure the honoring of obligations and commitments agreed upon at the time of accession.¹⁴ The resolution provided that no new monitoring procedures would be initiated on the basis of Order No. 508 and that all monitoring procedures pending would be handed over to the new monitoring body and concluded by it. The decision, which will come into effect on April 25, 1997, raises hopes about stronger monitoring practices in the future.

In cases when the Russian Federation has shown insufficient progress, or has actively perpetrated serious abuse, the Council of Europe has responded in various ways. The Council of Europe documented abuses and expressed public condemnation of the serious and widespread human rights violations that the Russian military forces continued to commit as they waged war in Chechnya during 1996. On March 19, 1996, it created the ad hoc committee on the situation in Chechnya "to monitor the situation in Chechnya...and report back."¹⁵ The committee and other representatives of the Council of Europe have conducted field investigations and issued reports that uncovered or confirmed evidence of the scale of Russia's violations and the alarming failure of the Russian government to comply with its Council of Europe commitments. Council of Europe representatives have condemned the violations in strong terms and, among other things, demanded that "documented human rights abuses, for example in the filtration camps,¹⁶ be investigated, and the guilty punished."¹⁷ To its credit, on June 28, 1996, the Parliamentary Assembly adopted a resolution establishing a special rapporteur on the case Alexander Nikitin, a retired Russian naval captain and

¹³ Assembly debate on April 26, 1995 (12th Sitting) (see Doc. 7277, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Columberg; Doc. 7292, opinion of the Committee on Relations with European Non-Member Countries, rapporteur: Mr Seitlinger; and Doc. 7294, opinion of the Committee on Rules of Procedure, rapporteur: Lord Finsberg). Text adopted by the Assembly on April 26, 1995 (12th Sitting).

¹⁴ Parliamentary Assembly Resolution 1115 (1997) on the setting up of an Assembly committee on the honouring of obligations and commitments by member states of the Council of Europe (Monitoring Committee). Assembly debate on January 29, 1997 (5th Sitting). See Doc. 7722, report by the Committee on Rules of Procedure (rapporteur: Mrs Lentz-Cornette). Text adopted by the Assembly on January 29, 1997 (5th Sitting). According to point 5, "the Monitoring Committee shall be responsible for verifying the fulfillment of the obligations assumed by the member states under the terms of the Council of Europe Statute, the European Convention on Human Rights and all other Council of Europe conventions to which they are parties, as well as the honouring of the commitments entered into by the authorities of member states upon their accession to the Council of Europe."

¹⁵ Parliamentary Assembly Order No. 516 (1996), point 3. Assembly debate on January 25, 1996 (7th Sitting). See Doc. 7475, motion for an order (Mr Atkinson and others). Text adopted by the Assembly on January 25, 1996 (7th Sitting).

¹⁶ "Filtration" is the process by which Chechen males are detained by Russian forces in order to ascertain whether they were combatants and to gather intelligence on the Chechen forces' military activities.

¹⁷ Parliamentary Assembly Resolution 1086 (1996) on developments in the Russian Federation in relation to the situation in Chechnya, point 10. Assembly debate on April 24, 1996 (13th Sitting). See Doc. 7531, report of the Political Affairs Committee, rapporteur: Mr Muehleemann; and Doc. 7532, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bindig.

environmental researcher who was incarcerated for ten months in 1996-97 on charges of treason.¹⁸ The special rapporteur traveled to St. Petersburg on February 10, 1997, to discuss the case with the St. Petersburg deputy prosecutor and made public his critical views of the case. Human Rights Watch/Helsinki considers this a very positive example of vigorous, targeted Council of Europe human rights intervention. The Council of Europe explicitly demanded that Russia honor its commitment to implement a death penalty moratorium;¹⁹ and, most consequentially, threatened to “take all necessary steps” envisioned in Parliamentary Assembly Order No. 508 (1995) should executions continue, specifically the non-ratification of the credentials of the Russian parliamentary delegation at its next session.²⁰

On the first anniversary of its accession, the Russian Federation will miss its prescribed deadline for ratifying the conventions and protocols identified as mandatory in Point 10 of Parliamentary Assembly Opinion No. 193 (1996). The Council of Europe is not known to have issued any warnings prior to the deadline as it approached, nor to have prepared any threats of sanctions for when that deadline will have passed (February 28, 1997). Human Rights Watch/Helsinki is particularly disturbed by the Council of Europe’s own relative tolerance of missed ratification deadlines because ratification is essential to the functioning of legally binding compliance mechanisms.

¹⁸ On the basis if a resolution introduced by Mr. Behrndts (Germany), Doc. 7609.

¹⁹ See Parliamentary Assembly Resolution 1097 (1996) on the abolition of the death penalty in Europe, Point 3. Assembly debate on June 28, 1996 (24th Sitting). See Doc. 7589, report by the Committee on Legal Affairs and Human Rights (rapporteur: Mrs Wohlwend). Text adopted by the Assembly on June 28, 1996 (24th Sitting). See also Parliamentary Assembly Resolution 1111 (1997) on the honouring of the commitment entered into by Russia upon accession to the Council of Europe to put into place a moratorium on executions of the death penalty.

²⁰ Parliamentary Assembly Resolution 1111 (1997) of January 29, 1997.

Russia's record on human rights has played a large role in the process of admission to the Council of Europe, but the standards applied by the Council, and the degree to which it has pressed for compliance with commitments and obligations, have been inconsistent. Human Rights Watch/Helsinki welcomed the Parliamentary Assembly's Decision on February 2, 1995, to suspend consideration of Russia's application due to the highly abusive manner of its prosecution of the war in Chechnya.²¹ The Council of Europe decided to resume consideration on September 26, 1995,²² however, and later offered the Russian Federation full membership in January and February 1996²³ although, not long before, Russian troops had escalated hostilities in Chechnya, including serious violations of human rights and international humanitarian law, thereby displaying a flagrant disregard for its pledges to seek a peaceful resolution to the conflict. Violations in Chechnya committed by Russian forces at that time and preceding, included the deliberate targeting of civilians and civilian targets, indiscriminate and disproportionate use of force, torture and other forms of severe mistreatment of civilian and military detainees at "filtration points" in and around the conflict zone, and looting.²⁴ Choosing that moment to grant full membership sent a message that the Council of Europe was willing to allow its members to engage in these human rights atrocities. This message was made explicit in Parliamentary

²¹ Resolution 1055 (1995), point 11. Assembly debate on February 2, 1995 (7th Sitting). See Document 7230, report of the Political Affairs Committee, rapporteur: Mr Muehleemann; and Doc. 7231, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bindig.

²² Parliamentary Assembly Resolution 1065 (1995) on procedure for an opinion on Russia's request for membership of the Council of Europe. Assembly debate on September 26, 1995 (27th Sitting). See Doc. 7372, report of the Political Affairs Committee, rapporteur: Mr Muehleemann; and Doc. 7384, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bindig.

²³ Point 11 (I), Parliamentary Assembly Opinion 193 (1996) on Russia's request for membership of the Council of Europe. Assembly debate on January 25, 1996 (6th and 7th Sittings). See Doc. 7443, report of the Political Affairs Committee (Rapporteur: Mr Muehleemann), and Doc. 7463, opinion of the Committee on Legal Affairs and Human Rights (Rapporteur: Mr Bindig). Text adopted by the Assembly on January 25, 1996 (7th Sitting). Committee of Ministers Resolution (96) 2, adopted by the Committee of Ministers on February 8, 1996.

²⁴ See "State-sponsored Discrimination: Ethnic" below.

Assembly Resolution 1065, which noted that “violations may continue” but nonetheless it was recommended that the application process resume.²⁵ Parliamentary Assembly Resolution 1063 of September 27, 1996, explained that Russia’s application review “was resumed on the grounds that Russia was henceforth committed to finding a political solution and that alleged and documented human rights violations were being investigated.”²⁶ Most inexplicable, when the Russian authorities broke their pledges, the Council of Europe again failed to suspend the process, but rather proceeded to offer the Russian Federation a place in its ranks.

VIOLATIONS OF ACCESSION PRINCIPLES

Death Penalty

Article 1 of the Sixth Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms Concerning the Abolition of the Death Penalty declares: “The death penalty shall be abolished. No one shall be condemned to such penalty or executed.” In practice, this provision obliges Council of Europe member states who have not already done so to institute a moratorium on capital punishment from the moment of accession and to repeal provisions of the penal or criminal codes that carry the death penalty within three years of accession.

²⁵ Point 4.

²⁶ Parliamentary Assembly Opinion No. 193 (1996) on Russia’s request for membership of the Council of Europe, Point 3. Assembly debate on January 25, 1996 (6th and 7th Sitzings). See Doc. 7443, report of the Political Affairs Committee (Rapporteur: Mr Muehleemann), and Doc. 7463, opinion of the Committee on Legal Affairs and Human Rights (Rapporteur: Mr Bindig). Text adopted by the Assembly on January 25, 1996 (7th Sitting).

The chairman of Russia's presidential Clemency Commission, Anatolii Pristavkin, revealed on September 24, 1996 that a staggering fifty-three executions had been carried out in the Russian Federation in 1996 alone.²⁷ The great majority of these executions took place after the Russian Federation joined the Council of Europe. Amnesty International believes that the total for the year was in fact more than twice as many, or 140.²⁸ The Russian government implicitly acknowledged the likelihood that it was executing innocent men by reporting that unspecified "judicial errors" had been documented in 30 percent of death penalty cases.²⁹

From the moment of accession to the Council of Europe, the government of the Russian Federation made little pretense of adopting the requisite moratorium. On the contrary, Foreign Minister Primakov continued to argue that Russia was "not ready" to repeal capital punishment. On May 16, 1996, President Yeltsin issued a decree mandating only "stage-by-stage reduction of executions of the death penalty in connection with the accession of Russia to the Council of Europe," and pledged to pursue only "gradual" repeal of capital punishment offenses.³⁰ More alarming, over the course of the year, President Yeltsin reportedly rejected all of the forty-six clemency appeals he had received collectively from the Clemency Commission (thirty-one requests, all for commutation of sentence) and the procurator general (fifteen, all for execution) as of May 31, 1996.³¹ Not having granted clemency since January/February 1995, President Yeltsin's continued refusal to ban state-sponsored executions past February 1996 revealed that accession to the Council of Europe was functionally immaterial to his attitude toward the death penalty.³²

²⁷ In other words, in the six months since it had obliged itself to do so. Anatolii Pristavkin, press conference, Moscow, September 24, 1996. He was cited elsewhere as reporting that the number of people executed in 1996 was sixty-two. *The Moscow Times*, Moscow, February 18, 1997, p. 3, citing ITAR-TASS.

²⁸ Amnesty International, AI Index: EUR 46/43/96, October 3, 1996.

²⁹ *Ibid.*

³⁰ See, for example, *Segodnia* (Today), Moscow, March 1, 1996, p. 2.

³¹ Summary record of the meeting held in Moscow on May 31, 1996 between Mr R. Bindig, rapporteur on the honouring of obligations and commitments by the Russian Federation, and Mr A. Pristavkin, chairman of the President's Pardon Commission, Points 9 and 10.

³² *Ibid.*, Point 6.

Some positive steps have been taken, but they do not constitute full compliance. The Russian government reportedly has desisted from executions since August 2 or 4, 1996, although half a year later it still had not instituted a formal moratorium. On January 1, 1997, a new criminal code entered into force which reduced the number of crimes punishable by death from thirty-one to five.³³ However, the death penalty is retained. It is not clear how many of the estimated 700 death row inmates remain in danger of execution under the new criminal code.

On January 29, 1997, one month short of the accession anniversary, the Council of Europe's Parliamentary Assembly held an urgent debate on the issue of Russia's flagrant non-compliance with moratorium obligations. In a strongly worded statement, the assembly stated that it "must condemn Russia for having violated her commitment to put into place a moratorium on executions, and deplores the executions that have taken place. It demands that Russia immediately honour her commitments and halt any executions of the death penalty still pending. The Assembly warns the Russian authorities that it will take all necessary steps to ensure compliance with commitments entered into. In particular, should any more executions of the death penalty be carried out following the adoption of this resolution, the Assembly may consider the non-ratification of the credentials of the Russian parliamentary delegation at its next session. The Assembly may also, at its next part-session, consider what action could be envisaged by the Committee of Ministers to ensure that the moratorium on executions will be put into place with immediate effect."³⁴ Even on the heels of this firm condemnation and threat of retaliation from the Council of Europe, Prime Minister Viktor Chernomyrdin reportedly stated that "in some recent cases not to execute was out of the question," indicating that the Russian government continued to consider moratorium compliance as nonbinding.³⁵ Given this attitude, Human Rights Watch/Helsinki urges close monitoring of executions in the Russian Federation and calls on the Council of Europe to keep its promise to take retaliatory action promptly should a single further execution be carried out in Russia.

Violations of International Humanitarian Law: Chechnya

³³ The five remaining crimes which carry a punishment of death are Article 105 (murder), Article 277 (infringement on the life of a government or public figure), Article 295 (infringement on the life of an individual carrying out justice or a preliminary investigation), Article 317 (infringement on the life of a law enforcement official), and Article 357 (genocide).

³⁴ Resolution 1111 (1997) on the honouring of the commitment entered into by Russia upon accession to the Council of Europe to put into place a moratorium on executions of the death penalty.

³⁵ ITAR-TASS World Service, January 30, 1997; cited in Foreign Broadcast Information Service, FBIS-SOV-97-021, January 30, 1997.

Violations of international humanitarian law committed during the war in Chechnya (December 1994 to August 1996, with intermittent lulls) included but were not limited to indiscriminate and disproportionate attacks on civilians, pillage, hostage-taking, and the use of civilians as human shields.³⁶ Human Rights Watch/Helsinki has condemned violations by both parties to the conflict: the Russian and Chechen authorities. However, since the focus of this report is the responsibility of the Russian government for violations, we will not treat here violations by the Chechen authorities.³⁷ The Council of Europe's ad hoc committee on the situation in Chechnya has traveled repeatedly to Moscow, Chechnya, and Ingushetia, issued reports and recommendations on its findings, and condemned violations of human rights and international humanitarian law perpetrated during the war.³⁸ Points 7 (vii) and 10 (xxiv) and (xxv) of

³⁶ See, for example, *By All Available Means: The Russian Federation Ministry of Internal Affairs Operation in the Village of Samashki: April 7-8, 1995* (Moscow: Memorial Human Rights Center, 1996), and *The Seizure of Hostages and the Use of the Civilian Population by Federal Troops of Russia as a "Human Shield" During the Armed Conflict in Chechnya* (Moscow, September 1996). See also "Respect for Human Rights and the Rights of Citizens in the Russian Federation in 1994-1995: a Report of the Presidential Human Rights Commission (O Soblyudenii Prav Cheloveka i Grazhdanina v R.f.v. 1994-1995 Gg. Doklad Kommissii Po Pravam Cheloveka Pri Prezidente). Commission on Human Rights of the President of the Russian Federation, pp. 11-28. (Moscow: Yuridicheskaya Literatura, 1996).

³⁷ For examples of Human Rights Watch/Helsinki's work condemning the Chechen side in the conflict, see the following reports and letters: *Caught in the Cross-Fire: Civilians in Gudermes and Pervomayskoe*, Vol. 8, No. 3, March 1996; *Partisan War in Chechnya on the Eve of the WWII Commemoration*, Vol. 7, No. 8, May 1995; *Three Months of War in Chechnya*, Vol. 7, No. 6, February 1995; *War in Chechnya: New Report from the Field*, Vol. 7, No. 2, January 1995; *Russia's War in Chechnya: Victims Speak Out*, Vol. 7, No. 1, January 1995; Letter to President Dzhokar Dudayev, January 12, 1996, condemning raid led by Salmon Rasulev on Kyzlyar and Pervomayskoe in which hostages taken by Chechen fighters were reportedly executed and civilians and civilian structures used as shields; Letter to President Dzhokar Dudayev, January 10, 1995, expressing concern over the fate of at least eighty soldiers of the Russian Army held captive by Chechen forces, who were in danger of execution or being used as human shields; Letter to President Dzhokar Dudayev, June 28, 1995, condemning the raid and hostage-taking in Budyennovsk led by Shamil Basaev in which at least seven hostages were killed by the hostage-takers.

³⁸ See Parliamentary Assembly Report by the Political Affairs Committee on developments in the Russian Federation in

Parliamentary Assembly Opinion 193 (1996) outline Russia's obligations as a member of the Council of Europe to uphold international humanitarian law protections, and Point 10 (vii) requires the Russian Federation "to settle international as well as internal disputes by peaceful means... rejecting resolutely any forms of threat to use force against its neighbours" (see Appendix A).

The widespread nature of human rights and humanitarian law violations throughout the conflict is matched by the Russian government's systematic failure to punish the most serious forms of abuse. In 1996, the Russian military procuracy reportedly convicted twenty-seven servicemen (most of them draftees) for crimes against civilians, but mostly for non-combat-related murders and looting. Moreover, during the August 1996 peace negotiations, the Russian side reportedly balked at the notion of including accountability on the agenda, and the efforts of Russian investigatory agencies throughout 1995 and 1996 resulted in a mere handful of convictions.

relation to the situation in Chechnya, April 23, 1996, Doc. 7531; Opinion of the Committee on Legal Affairs and Human Rights on the situation in Chechnya of April 23, 1996, Doc. 7532; Addendum III to the Progress Report of the Bureau of the Assembly and the Standing Committee, Information report on the situation in Chechnya of 24 June 1996, Doc. 7560; and Addendum II to the Progress Report of the Bureau of the Assembly and the Standing Committee, Information report on Chechnya of September 18, 1996, Doc. 7633.

In June 1996, the Chechen procuracy³⁹ investigated and forwarded 342 reports of a variety of crimes allegedly committed by Russian soldiers during the war to the Military Procuracy in Grozny (which has jurisdiction over the army) and the Inter-regional Northern Caucasus Procuracy (which has jurisdiction over Ministry of Internal Affairs troops and special forces), with a request to investigate them as criminal cases. The largest number of such cases related to alleged direct attacks on civilians, such as the shootings of shepherds; torture, such as the cutting off of ears; and dropping corpses from helicopters. Russian military procuracies thus far have failed to cooperate fully with their Chechen counterparts in order to conduct further investigation of the cases.⁴⁰ Approximately half the cases were closed for lack of evidence or were not processed at all. The two Russian procuracies returned the remaining cases to the Chechen procuracy "for further investigation," although in some cases only military personnel with unfettered access to military bases and archives could realistically conduct such investigations effectively. Similarly, a June 30, 1996, letter from the Inter-regional Northern Caucasus Procuracy to the Chechen procuracy detailing the beatings of ninety-one Chechen detainees incredibly instructed the Chechen procuracy to determine who had beaten the men, ignoring the fact that the victims were blindfolded and that only a Russian military records book could reveal who had had convoy duty on the dates of the beatings.⁴¹ According to the International Helsinki Federation, of the twenty-seven convictions of conscripts and *kontraktniki*⁴² reported by the Russian Federation Military Procuracy, most involved breaches of military discipline, such as drunkenness, and only six of these twenty-seven involved crimes against the civilian population.⁴³

Human Rights Watch/Helsinki is deeply distressed that serious abuse continued even after the Russian Federation's accession to the Council of Europe. For example, our representatives took credible testimony of two incidents in the village of Samashki: on March 15 and 17, 1996, Russian forces, to protect themselves from enemy fire, forced civilians to ride through the village on armored personnel carriers;⁴⁴ and in Grozny, from August 9 - 11, 1996, approximately one hundred pinned-down Russian troops took up defensive positions in Hospital No. 9,⁴⁵ and in effect forced the hospital staff and patients to accompany the troops out of their position, to protect them from Chechen fire. This testimony supplements a wealth of similar reports systematically gathered by the Moscow-based independent "Memorial" Human Rights Center.⁴⁶ According to testimony gathered by Memorial, in Samashki, in March 1996, villagers were forced to ride on an armored personnel carrier through the village; and in Grozny, where from August 9-11 a trapped group of Russian troops took up defensive position in Hospital No. 9, refused to allow the medical staff to tend to their patients and used them as shields against Chechen fire. As of this writing, no effort is known to have been made to investigate or prosecute these crimes. In response to a November 1996 letter from Memorial requesting that the

³⁹ Since the list was compiled by the former pro-Moscow procuracy, claims of anti-Russian bias in bringing the cases are not compelling.

⁴⁰ Human Rights Watch/Helsinki interview with Khavazh Serbiyev, Grozny, October 20, 1996.

⁴¹ The letter was signed by N.T. Saprunov, procurator for the Interregional Northern Caucasus Procuracy. We are grateful to Procurator General Khavazh Serbiyev for sharing this letter, which is on file at Human Rights Watch/Helsinki.

⁴² A *kontraktnik*, as distinct from a conscript, is a soldier hired on contract by the Russian armed forces.

⁴³ See, International Helsinki Federation for Human Rights, "Report to the OSCE: The International Helsinki Federation for Human Rights Fact-Finding Mission to Chechnya"; October 1-11, 1996.

⁴⁴ Human Rights Watch/Helsinki interviews with Baudi Ilyasov and Aladdin Makuyev, Samashki, October 14, 1996.

⁴⁵ Human Rights Watch/Helsinki interviews with Sakhar Bazayeva and Movsar Khalambulatov, Hospital No. 9, Grozny, October 13, 1996.

⁴⁶ *Behind the Backs of Civilians: Russian Forces' Use of Civilians as Hostages and Human Shields During the Chechnya War*, Memorial. Passim. The report also documents another case of Russian use of human shields in Grozny's 15th micro district.

Main Military Procuracy investigate the use of human shields in Samashki and Grozny, the Main Military Procuracy stated that the report had been sent to the North Caucasus Military Procuracy merely "to attach to mass media reports" on the incidents.⁴⁷

The Council of Europe's ad hoc committee on the situation in Chechnya has done admirable work documenting similar reports of atrocities. In April 1996, it reported: "In January 1995, the [Council of Europe's Parliamentary] Assembly deemed the human rights violations in Chechnya to be reason enough to suspend the procedure on Russia's application for membership of the Council in Europe. By September 1995 the situation had improved so far that the membership procedure could be resumed, but *since Russia's accession to the Council of Europe has worsened again. In actual fact, the current situation is probably even worse than in January 1995*, since the Chechen side had not yet resorted to hostage-taking and terrorist attacks at that time (emphasis added). Regrettably, it must thus be concluded that Russia, only two months after she became a full member of the Council of Europe, is blatantly disregarding the standards and principles of the Council of Europe in respect of her conduct in Chechnya." Further, the rapporteur called for the opening of the procedure for the honoring of commitments and obligations by member states under Order No. 508 (1995) "to give the committees involved the opportunity to ensure that Russia does not continue to openly flout its commitments and obligations."⁴⁸ Human Rights Watch/Helsinki welcomes this categorical statement and recommendation of action, but notes with profound regret that the recommendation was not adopted and that generally Russia's responsibility for atrocities in Chechnya has faded from the Council of Europe's agenda.

Torture and Other Forms of Cruel, Inhuman or Degrading Treatment

As a signatory to the Minsk Agreement, which governed the break-up of the Soviet Union, the Russian Federation is obliged to comply with the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which the USSR ratified on March 3, 1987. Prohibitions on torture and other forms of mistreatment are also enshrined in the Constitution of the Russian Federation. Points 7 (xi) and 10 (iii) of Parliamentary Assembly Opinion No. 193 (1996) require the Russian Federation "to sign and ratify within a year from the time of accession the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment." The Russian Federation has failed to comply within the necessary time frame.

There has been no comprehensive study of the nature and scope of torture and other forms of mistreatment defined by law in the Russian Federation; however, on the basis of numerous individual investigations, and even largely by government admission, torture appears to be most commonly practiced by officials of the Ministry of Internal Affairs in places of detention (such as by police during detention and arrest, in police lock-ups, pre-trial detention facilities, often to extract confessions, less frequently, by officials of the Main Directorate for the Execution of Punishment, known by its Russian acronym GUIN, in prisons), and by Russian military troops during the war in Chechnya, systematized in the notorious "filtration" centers or camps, which operated for at least several months after Russia became a full member of the Council of Europe.

The Penal System

⁴⁷ Letter from A.P. Sinitsyn, Military Procurator for the Second Department of the Main Military Procuracy, December 10, 1996

⁴⁸ Parliamentary Assembly Opinion of the Committee on Legal Affairs and Human Rights on the situation in Chechnya, Doc. 7532, *op. cit.*, points 14-15.

There is consensus among both independent and governmental monitors that abuse of detainees and prisoners by prison personnel and the substandard and in some cases appalling physical conditions and lack of adequate medical care in the penal system are some of the most entrenched human rights problems in the Russian Federation. As a condition for membership, the Council of Europe demanded that “conditions of detention will be improved in line with Recommendation A (87) 3 on European prison rules, in particular the practically inhuman conditions in many pre-trial detention centres will be ameliorated without delay;” that “the responsibility for the prison administration and the execution of judgements will be transferred to the Ministry of Justice as soon as possible;” and that within one year of accession to the Council of Europe, Russia would withdraw “the right of the Federal Security Service (FSB) to possess and run pre-trial detention centres.”⁴⁹

In the year since the Russian Federation became a member of the Council of Europe, the government has taken some steps to reduce overcrowding, allocate additional funds for care of prisoners and penal employees benefits, and strengthen some legal protections for people in incarceration. However, there is also broad consensus that none of these measures has yet resulted in any significant improvements in conditions (primarily persistent, gross overcrowding and unsanitary conditions lacking in medical care) and mistreatment of suspects and inmates. Failure to secure more rapid and lasting improvement in this area, particularly on the non-derogable obligation to prevent torture, underscores that Russia’s induction into the Council of Europe was premature.

⁴⁹ Point 7 (ix), (x), and 10 (xvii), respectively, of Parliamentary Assembly Opinion No. 193 (1996). See Appendix A.

In a 1995 report based on first-hand visits from July 17 - 28, 1994 to an unspecified number of prisons and other detention facilities in the Russian Federation, the U.N. Special Rapporteur on Torture and Other Forms of Cruel, Inhuman or Degrading Punishment or Treatment concluded that conditions in some of these cells were "torturous."⁵⁰ Of conditions in two Moscow remand centers (Butyrskaya and Matrosskaya Tishina), he stated: "The Special Rapporteur would need the poetic skills of a Dante or the artistic skills of a Bosch adequately to describe the infernal conditions he found in these cells. The senses of smell, touch, taste and sight are repulsively assailed. The conditions are cruel, inhuman and degrading; they are torturous. To the extent that suspects are confined there to facilitate the investigation by breaking their wills with a view to eliciting confessions and information, they can properly be described as being subjected to torture."⁵¹ Overcrowding exacerbates the already substandard provision of food, medicine, and basic hygiene in many facilities, a chronic problem exacerbated in part by the government's failure to release first time non-violent offenders on bail or recognizance (signature) pending trial.

Data from the spring of 1996 indicate that fatalities in Moscow remand centers have actually risen since Russia's accession to the Council of Europe.⁵² Yuri Skuratov, procurator general of the Russian Federation, reported that detainees in Moscow pre-trial detention or remand centers (in Russian, *SIZo*) are given not more than one square meter.⁵³ Death row inmates are forced to share cells only two meters square.⁵⁴ Yuri Shcherbanenko, head of the Procurator General's Directorate for Supervision of the Lawfulness of Execution of Punishment, reported that in Moscow SIZo No. 1, commonly known as Matrosskaya Tishina, ninety detainees were held in a space designated for not more than thirty, and detainees were regularly forced to sleep in shifts.⁵⁵ Infectious diseases are rampant under these cramped conditions, but medicine and medical care to combat it are all but absent, resulting in widespread illness and high inmate fatalities.

Since 1994, the Russian Federation has begun to address the problems of prison conditions and torture and mistreatment in them, partly in response to its need to comply with Council of Europe commitments.⁵⁶ On June 5, 1996, the Federation Council issued Resolution No. 229, which, *inter alia*, attempts to make more funding available to the penal system to allow for "normal functioning" (point 1). More comprehensive was Government Resolution No. 760 of June 27, 1996, "On Measures for Providing Conditions for the Detention of Individuals in Investigation Isolation [Facilities] and Prisons of the Criminal-Executive System of the Ministry of Internal Affairs of the Russian Federation," which, among other points, mobilizes various government ministries to address chronic prison blights, from insufficient funding to rampant tuberculosis to helping institutionalize independent monitoring of isolation conditions.⁵⁷ The government of the Russian Federation ordered the Federation Council to examine proposals from the procurator general of Russia for legislation aimed at strengthening human rights safeguards in the penal system in preparation for

⁵⁰ The Special Rapporteur's report is contained in United Nations document E/CN.4/1995/34/Add.1. Resolutions 1995/37B, paragraph 11 and 1996/33B, paragraph 11 of the United Nations Human Rights Commission concern follow-up work.

⁵¹ E/CN.4/1995/34/Add.1, point 71.

⁵² In 1993, 76 died; in 1994, 177; in 1995, 207; and as of the end of April 1996, 58. *Izvestia* (News), Moscow, April 24, 1996, p. 1.

⁵³ *Nezavisimaya Gazeta* (Independent Newspaper), Moscow, May 22, 1996, p. 2.

⁵⁴ *Ibid.*, February 7, 1996, p. 6.

⁵⁵ *Ibid.*, March 26, 1996, p. 2.

⁵⁶ Communications of September 14 and 15, 1995, and October 13, 1995, from the government of the Russian Federation to the U.N. Special Rapporteur on the Question of Torture outline measures it has undertaken or planned to undertake pursuant to the recommendations in the Special Rapporteur's report. For a summary, see U.N. document E/CN.4/1996/35, points 144-146.

⁵⁷ See *Rossiiskaya Gazeta* (Russian Newspaper), Moscow, July 20, 1996, p. 4.

submission to the State Duma and enshrined "The Principle of Humanism" in the new criminal code that came into force on January 1, 1997.⁵⁸

⁵⁸ Article 7, paragraph 2 provides that "Neither punishment nor other measures under criminal law undertaken against a person who has committed a crime shall have as their purpose the causing of physical suffering or the degradation of human dignity."

These legal and administrative steps are encouraging. But it should be of concern to the entire international community, as well as the Russian authorities themselves, that these efforts have not yet been matched by other, more urgently needed and possibly more inexpensive measures. These include a willingness to allow independent penal observers access to places of detention.⁵⁹ Other such measures include regular institutional investigations by their own internal oversight bodies, and punishment of institutional personnel who commit torture and other forms of mistreatment of detainees and prisoners. The Russian government is moving slowly to institute new legislative safeguards for prisoners but, to our alarm, generally failed to enforce legislation that is already on the books.

Chechnya

The Russian Federation's record on torture and mistreatment deteriorated further since the outbreak of war in Chechnya. The "Memorial" Human Rights Center documented in a 1995 report that detainees in "concentration points" were often beaten and subjected to mock executions; those held in filtration camps were routinely beaten during interrogation and, during incarceration, as they were escorted to the toilet.⁶⁰ Interviews with victims taken by Human Rights Watch/Helsinki in the spring and fall of 1996 describe convincingly that Russian forces continued to torture Chechen captives after the Russian Federation had acceded to the Council of Europe's human rights obligations, let alone after it became signatory to the Geneva Conventions and Protocols and to the U.N. Convention on Torture.

According to Human Rights Watch/Helsinki testimony, torture and beatings continued against Chechen detainees at PAP-1, the one remaining official filtration camp in Grozny,⁶¹ at "unofficial" filtration points, at the Khankala military base, and in the filtration point in Piatigorsk. For example, Movsar Tembulatov, chief doctor of city hospital No. 9 in Grozny, reported that an unidentified thirty-one-year-old patient of his, whom he treated in early 1996, had been hung horizontally during detention "like a sheep" and beaten all over. Dr. Tembulatov testified that the man's groin and hips were completely black and that he had sustained broken ribs.⁶² One detainee, Ramzan Akhmedov, told

⁵⁹ For example, Human Rights Watch/Helsinki has repeatedly since 1994 requested access from the Ministry of Internal Affairs to Russian places of detention but has been refused. The primary reason given was that such a visit would interfere with the internal review a government group was planning on conducting at that time. With the exception of the U.N. Special Rapporteur on Torture and the Lausanne-based International Committee for the Dignity of Children, no other domestic or international group is known to have been granted such access since 1994.

⁶⁰ "Detention Conditions in the Zone of Armed Conflict in the Chechen Republic. Treatment of Detainees" (Usloviia soderzhaniia zaderzhannykh v zone vooruzhennogo konflikta v Chechenskoi Respublike. Obrashchenie s zaderzhannymi.) ("Memorial" Human Rights Center, 1995).

⁶¹ PAP-1 was closed in June 1996.

⁶² Human Rights Watch/Helsinki interview, Grozny, October 13, 1996.

Human Rights Watch/Helsinki that he was beaten every day of his thirteen-day detention at Khankala with a sack over his head. His captors reportedly subjected him to a mock execution and skinned his thigh with a knife.⁶³

The Russian military reportedly had closed most if not all filtration centers in and near Chechnya by the summer of 1996, leading to a marked decrease in the cases of mistreatment of detainees. However, there are indications that some detainees were moved elsewhere and have remained in detention even after the end of the war, and continue to suffer violations of their human rights and rights under the laws of war. Because so many Chechens remain in detention, and because the Russian Ministry of Internal Affairs has failed adequately to respond to allegations of torture in detention, including failing to prosecute alleged serious offenders, Human Rights Watch/Helsinki considers that the subject warrants the continued attention of the Russian government and the international community, including the Council of Europe.

Violation of Freedom of Movement

The Russian Federation has made remarkable progress since gaining independence from the Soviet Union in protecting citizens' rights to enter and leave the country. However, some restrictions linger that violate both domestic and international protections. The Russian government imposes unreasonable restrictions on entering and leaving the Russian Federation (see below). It also enforces mandatory residence registration. Violators of the residence permit regime incur penalties for infraction, such as eviction from their homes and even deportation; in practice, informal "penalties" can also include harassment, beatings, electric shock by cattle prod, and extortion.

⁶³ *Ibid.*, Starye Atagi, October 18, 1996.

As a condition for membership in the Council of Europe, the Russian Federation pledged that "effective exercise will be guaranteed of the rights enshrined in Article 27 of the Constitution and in the law on freedom of movement and choice of place of residence" and that it would "cease to restrict with immediate effect international travel of persons aware of state secrets."⁶⁴ The Russian government's staunch support for restrictions on this fundamental right as ostensible measures to keep public order and prevent housing discrimination reveals an alarming disregard for both international human rights law and Council of Europe commitments.

In violation of its own laws, as well as international laws governing freedom of movement, the government of the Russian Federation continued in 1996 to enforce residence permit (in Russian, *propiska*) requirements. Institutionalized before the Russian Revolution of 1917 as a means of deterring urbanization and enshrined in Soviet law in 1993 as a tool of state control, the *propiska* system requires that a government official grant permission (by placing a stamp in the internal passport) for a resident to move his place of residence. Such permission is formally required to secure housing or employment whether in the government or private sphere.⁶⁵

Propiska restrictions were ruled in violation of international protections in 1991 by the USSR Constitutional Supervision Committee and were formally revoked throughout the Russian Federation on July 17, 1995. Freedom of movement is also enshrined in the Russian Constitution and in the 1993 Law "On the Right of Citizens of the Russian Federation to Free Movement." In a landmark April 4, 1996 decision, the Russian Constitutional Court found unconstitutional city ordinances in Moscow, St. Petersburg, and other cities, in the Stavropol region, and elsewhere that require individuals to purchase residence permits.

However, as of November 1996, the Moscow and Stavropol governments had not complied with the court ruling and indeed continued to enforce regulations on temporary residence that caused undue hardship for refugees and migrants. Moreover, registration procedures for Moscow now no longer apply only to permanent residents of the city but to individuals — Russian citizens and citizens of foreign states alike — who stay in Moscow as little as three days, greatly broadening the scope of individuals whose rights are violated under the regulations. The Stavropol district legislature adopted Immigration Code of Stavropol Krai at the end of 1996, which lowered some of the heavy fines residence permit violations that the Constitutional Court had found unconstitutional; registration requirements, however, remain in place. According to the deputy head of Moscow's State Directorate of Internal Affairs (GUVD) Vladimir Vasil'ev, police detained approximately 4,000 homeless people in a single month in connection with President Yeltsin's 1996 anti-crime campaign. He reported that another 461 were physically deported beyond city limits. He did not indicate that any had been charged with a crime, or that any had been given access to attorneys or judges.⁶⁶ Human Rights Watch/Helsinki is also concerned that the residence requirements are invoked and enforced in a discriminatory manner and disproportionately against non-ethnic Slavs, refugees, and asylum seekers (see below).

⁶⁴ Point 7 (viii) and 10 (xv), respectively, of Parliamentary Assembly Order No. 193 (1996). See Appendix A.

⁶⁵ For a more detailed discussion of this illegal system, see *Crime or Simply Punishment?: Racist Attacks by Moscow Law Enforcement*, Vol. 7, No. 12, Human Rights Watch/Helsinki, September 1995.

⁶⁶ Yelena Pestreva, "The Police Have Begun Enforcing Presidential Decree with Confiscation of Illegal Weapons and Deportation of Homeless," ("Vypolniai' prezidentskii ukaz militsiia nachala s iz"iatiia nezakonnogo oruzhiia i vysylki brodiag"), *Segodnia* (Today), Moscow, August 9, 1996, p. 8.

As a whole, authorities in large urban areas and places seeing large in-migration have perpetuated a de facto, shadow residence permit regime that is at least as restrictive and punitive as its predecessor. In light of the illegality of the propiska system and possibly also in response to pressure from the Council of Europe, Russian legislators and local officials have refrained from using the term "residence permit" in crafting new legislation, but firmly maintain its principles under different terminology. For example, a new draft law on "compensating" Moscow residents for the arrival of "newcomers" (*priezzhie* or *inogorodnye*) enshrines its almost identical restrictions. Likewise, the propiska system was formally revoked in Moscow, where its manifestations are most byzantine and most rigorously enforced, on February 1, 1996; however, the change is purely semantic: from "residence permit" to "registration according to the address at the place one is staying or at [his] residence." The difference, a representative of the city's passport directorate explained, was "in its advisory (*uvedomitel'nyi*) nature rather than its discretionary (*razreshitel'nyi*) nature," sidestepping the issue that mandatory enforcement of the regime, and the abuse that has attended its enforcement in Russia, is illegal.⁶⁷

The Constitutional Court of the Russian Federation protested the disproportionately high cost of permits but also failed to note that they were in themselves illegal. In deference to the ruling, a new draft law foresees lowering the rates for Russian Federation residents to 300 times the minimum monthly salary from 500, but continues to skirt the fundamental need to abolish these restrictions entirely. As S. Dontsov, head of the State Legal Directorate of the Moscow mayor's office, declared in April 1996, "The ruling of the Constitutional Court is mandatory for Moscow, but the life of the city will be determined by its own rules."⁶⁸

Enforcement of the residency regulations, along with presidential decrees and local ordinances, has given a free hand to police brutality, job discrimination, and extortion, as well as to limitations on free movement. Following the violent standoff between the parliament and government administration of October 3-4, 1993, Moscow Mayor Yuri Luzhkov issued an ordinance "On the Introduction of a Special Regulations of Stays in Moscow of Citizens who Live Permanently outside of Russia." This and other ordinances have resulted in the police arbitrarily expelling individuals from Moscow. On June 14, 1994, Presidential Decree No. 1226 "On Urgent Measures for Protection of the Population from Banditry and Other Manifestations of Organized Crime" instituted additional restrictions on freedom of movement, and compounded them with excessive police prerogatives. For example, it authorized law enforcement agents to conduct searches of individuals, their relatives, and private homes without a court warrant and to detain individuals without charges but "with sufficient grounds" for up to thirty days. The latter violates both ICCPR protections against unduly lengthy detention without charges and Article 22 of the Russian constitution, which allows that a person may be held for a maximum of forty-eight hours before being given a court ruling. The rules are indeed being enforced: in the two days following the July 10 and 12, 1996, bombings of Moscow trolley buses, police detained 5,770 individuals for violating city propiska and registration requirements. This extraordinarily high number suggests that many of the detentions were arbitrary.

⁶⁷ *Izvestia* (News), Moscow, January 11, 1996, p. 1.

⁶⁸ Viktor Velikov, "Moscow Respects the Ruling of the Constitutional Court, but Will Adopt its own Law," (*Moskva uvazhaet reshenie Konstitutsionnogo suda, no zakon primet svoi*), *Izvestia* (News), Moscow, April 6, 1996, p. 2.

Some of the illegal restrictions on freedom of movement were adopted after Russia acceded to the Council of Europe. Local crime-fighting ordinances have given them a facade of legality. For example, Presidential decree 1025, issued on July 10, sought to fight crime in Moscow and Moscow region; it singled out “vagrants and beggars” and enabled the Moscow city and regional governments to prolong such individuals’ involuntary detention in “social rehabilitation centres” for up to thirty days. It also authorized the police forcibly to remove the homeless from Moscow to locations where the homeless would allegedly receive social assistance. According to the deputy head of Moscow’s State Directorate of Internal Affairs (GUVD) Vladimir Vasil’ev, police detained approximately 4,000 homeless people in a single month in connection with the decree, and deported another 461 beyond city limits. He did not indicate that any had been charged with a crime, or that any had been given access to attorneys or judges.⁶⁹ It should be noted that, as a specific precondition for membership, the Council of Europe demanded that the Russian Federation revise “without delay” Presidential Decree No. 1226.⁷⁰ However, as of this writing the decree remains in force and the pattern of abuse it has exacerbated persists. Perhaps most alarming, the government has continued to declare its dedication to these regulations.

The government’s attitude toward restrictions on entering and leaving the Russian Federation are less clear. On July 18, 1996, the legislature (*Duma*) adopted the federal law “On the System of Exiting the Russian Federation and Entering the Russian Federation.” While generally guaranteeing freedom of movement, Article 15 (1) of the law also provides for the government to prevent some citizens from leaving because they allegedly had access to state secrets. The Russian nongovernmental organization Movement Without Borders reports that it has registered one hundred “refuseniks,” but that the official figures are believed to be much higher. In 1994, for example, there were approximately 6,000 “refuseniks” by the official count.⁷¹

Violations of the Rights of Refugees, Internally Displaced Persons, and Migrants

The Russian Federation is currently facing in-migration and internal displacement on a scale not seen in that country since World War II. The overwhelming population transfers have created problems and challenges to the government that entitle it to strong international support to insure proper protection of these vulnerable groups. At the same time, the problems can in no way excuse the government’s direct responsibility for violations of the civil and political rights of these individuals. (They are a highly heterogeneous group, ranging from legal economic migrants to internally displaced from Chechnya, and therefore are entitled to varying degrees of legal protection under international law.) The most widespread and serious state-sponsored abuses of the rights of refugees, internally displaced, and migrants in the Russian Federation are targeting and murder of individuals displaced from internal armed conflicts; violations of freedom of movement, including *refoulement*; ethnic discrimination; and failure to provide a functioning asylum determination procedure. Some of these issues are treated in greater detail in other parts of this report (see Table of Contents).

In 1996, dozens of civilians reported to Human Rights Watch/Helsinki and Memorial Human Rights Center that they were shot at as they attempted to flee hostilities in Gudermes, Chechnya, and that dozens were killed and wounded. Russian helicopters opened fire on a column of buses and cars transporting civilians fleeing Grozny after the August 20 ultimatum; ten civilians were killed. In early March, Russian forces blockaded the village of Sernovodsk, home to 7,000 civilians (the majority of them displaced persons from Chechnya); they forbade civilians from leaving the village until after shelling had already begun. According to Memorial, at least forty-five civilians were killed during the hostilities. On March 15, Russian forces gave civilians a two-hour warning to leave Samashki, a village of 7,000,

⁶⁹ Yelena Pestreva, “The Police Have Begun Enforcing Presidential Decree with Confiscation of Illegal Weapons and Deportation of Homeless,” (“Vypolniai’ prezidentskii ukaz militsiia nachala s iz’iatiia nezakonnoogo oruzhiia i vysylki brodiag”), *Segodnia* (Today), Moscow, August 9, 1996, p. 8.

⁷⁰ Point 10 (xx) of Parliamentary Assembly Opinion No. 193 (1996). See Appendix A.

⁷¹ Human Rights Watch/Helsinki interview with Boris Al’tshuler, February 1997.

before shelling it. Such short notice proved fatally inadequate. Russian forces refused to allow Chechen men to flee past the Samashki checkpoint, forcing them to remain under the shelling.

The Russian government has failed grossly to offer protection and basic services for refugees, internally displaced, and asylum seekers. Fundamental to the problem is that, by failing to offer a properly functioning asylum determination process, the government deprives legitimate refugees of official status as refugees and therefore deprives them of their lawful protections as refugees. This, in turn, makes the individuals more vulnerable to eviction from their homes and deportation from their cities of residence and from the Russian Federation as a whole.

Beginning in 1993, the Russian government and local authorities in heavily transited cities and regions promulgated a series of laws, decrees, and ordinances that illegally discriminate against refugees. Particularly troubling are Council of Ministers-Government of the Russian Federation Ordinance No. 1049 of October 13, 1993 ("On Measures to Regulate Temporary Residence of Refugees in the City of Moscow"), which was a response to President Yeltsin's Decree No. 1580 of October 4, 1993 ("On Additional Measures to Enforce the State of Emergency Regime in the City of Moscow"), and Moscow City Government Ordinance No. 1122 of December 7, 1993 ("On Measures to Regulate Temporary Residence of Refugees Residing in Hotels and Government Dormitories of the City of Moscow"). Ordinance No. 1049 in part stipulates that the government of Moscow is responsible for removing individuals with refugee status from their residence in Moscow hotels and state dormitories. Ordinance No. 1122 mandates escalated enforcement of residence permit requirements in places which house transients, many of whom are refugees and dark-skinned. In some cases it mandates their expulsion and resettlement to places outside of Moscow. The FMS presided over the evictions of countless refugee families from Moscow hotels and sent them to reportedly uninhabitable quarters far from Moscow. The FMS as a whole routinely fails to offer protection when facility managers use coercive tactics, such as shutting off heat and electricity to refugees, to force them to move. Local authorities also enforce illegal restrictions on freedom of movement, such as the de facto residence permit system, and the government neither punishes such enforcement nor indeed condemns it.

Human Rights Watch/Helsinki has documented that the FMS has moved slowly and reluctantly to establish a functioning refugee status determination process in Russia. This, at best, leaves thousands of people to flounder in a bureaucratic vacuum where their claims are often simply not processed and, at worst, deliberately excludes some "undesirable" potential claimants from the existing process by refusing to give them the necessary paperwork.⁷² Lack of even temporary documentation leaves them vulnerable to harassment by the police. Since internally displaced persons and refugees often live together in small communities, such as in temporary quarters at hotels and dormitories, they are easy targets for police raids. (This phenomenon is treated more broadly here under "Ethnic Discrimination.") The abuse continued in 1996. In one such raid in July, Moscow riot police raided a hotel where ethnic Armenians who had fled armed conflict in Azerbaijan in 1989 and 1990 had been given government quarters under the Soviet regime, severely beat one Armenian man, and sexually abused three Armenian girls. Reportedly, they repeatedly groped and fondled the girls while allegedly searching for evidence.⁷³

Russia not only has refused to grant political asylum to dissidents from countries of the former Soviet Union, but has actively extradited them, some without a court hearing. At least five individuals wanted in their home countries (Azerbaijan and Georgia) on capital charges, some believed to be politically fabricated, were extradited between November 1995 and November 1996.

State-Sponsored Discrimination

Gender

⁷² See *Crime or Simply Punishment?*, Human Rights Watch/Helsinki.

⁷³ Human Rights Watch/Helsinki interview with victims, names withheld, Moscow, July 1996.

Chronic problems of gender discrimination in the Russian Federation have received more public attention in recent years thanks overwhelmingly to a burgeoning independent women's rights movement. But existing protections for Russia's female population remain almost entirely unenforced, and adequate legislation protecting them from discrimination at work and guaranteeing them equal treatment before the law in cases of domestic or sexual violence has been slow to pass. In addition, the legislation and investigatory process themselves obstruct women seeking justice for violence committed against them.

Since 1994, Human Rights Watch has actively monitored, documented, and worked to combat the Russian government's unequal treatment before the law of women victims of domestic and sexual violence and of employment discrimination on the basis of sex.⁷⁴ In 1996, its Women's Rights Project visited five Russian cities to identify barriers to justice faced by survivors of sexual and domestic violence.⁷⁵ Our research indicated that the practices are reinforced by legislation, for example, by the new criminal code, which enshrines discriminatory provisions for survivors of sexual violence, and by the code of criminal procedure, which permits invasions of the privacy of survivors.

In 1996, the Ministry of Internal Affairs estimated that 80 percent of violent crime in Russia occurred in the home.⁷⁶ According to Human Rights Watch/Women's Rights Project information, very few cases have been prosecuted. Many cases of domestic violence are not even investigated because the police often fail to pursue criminal charges, making illegal distinctions between assault by a stranger and assault by a relative or domestic partner.⁷⁷

Law enforcement's failure to apply legal protections equally to women also extends to cases of rape and sexual violence.⁷⁸ In some cases, aspects of the investigatory process, such as police refusal to accept complaints and delays by law enforcement agents in collecting medical evidence actually prevent the successful prosecution of complaints. In addition, strong disincentives, such as pervasive invasions into survivors' privacy, discourage women from filing reports or pursuing complaints, creating a chronic breakdown in the system that is meant to provide redress to crime victims.

Police, prosecutors, state forensic doctors, and the criminal law and criminal procedure codes themselves create substantial obstacles to women's complaints of violence being successfully investigated and prosecuted. The police

⁷⁴ See, for example, *Neither Jobs Nor Justice: State Discrimination Against Women in Russia* (New York: Human Rights Watch/Women's Rights Project, March 1995).

⁷⁵ Moscow, St. Petersburg, Sergiyev Posad, Murmansk, and Nizhny Tagil.

⁷⁶ *Country Reports on Human Rights Practices for 1996*, U.S. Department of State, 1997.

⁷⁷ Point 7 (v) and Point 10 (v), respectively, of Parliamentary Assembly Opinion No. 193 (1996). See Appendix A.

⁷⁸ The information contained in the next two paragraphs is based on interviews conducted in Russia from April 20 through May 12, 1996.

often reject reports of violence against women, particularly when the attacker is someone they know. In many cases of sexual violence documented by Human Rights Watch/Women's Rights Project and local independent rights groups, police officers and prosecutors suggested that the victim provoked the rape or that her report was fabricated. Women reporting crimes of sexual violence also faced difficulties in obtaining a referral by an official evidence center for a required medical examination. Such referrals, which must be authorized by police or prosecutors, are not provided unless the complaint is accepted. In some cases, investigators refused to issue or delayed the issuance of the referral. Therefore, women victims also often do not have the medical evidence necessary to support a rape conviction.

The Russian government passed legislation that weakened legal protections for women victims of sexual violence in the period since Russia's accession to the Council of Europe. New criminal law and criminal procedure codes passed in 1996 do little to remedy the structural impediments to justice faced by female victims of violence. In fact, the new criminal code, which came into force on January 1, 1997, eliminates Article 118, which dealt with rape at the workplace, thereby making it more difficult to prosecute employers for forcing employees into sexual contact in order to retain their jobs. In a positive development, Article 133 of the new criminal code does punish "coercing" into sexual contact (for example, by blackmail or threats to the individual or the individual's property) those individuals who are dependent materially or otherwise on the perpetrator. As punishment, it sets out heavy fines, corrective labor and or a one-year prison term. But women's rights activists are concerned that, considering the low rate of prosecution under Article 118, such abuse will not be punished at all absent an explicit prohibition.⁷⁹

The new code of criminal procedure retains articles that require the victim to confront her attacker in closed meetings at police headquarters. The government's white paper on improving the status of women, issued in January 1996, acknowledged many of the problems women face in the judicial system, but proffered no guidelines for improving police response and neglected to call for the adoption of a law on domestic violence. These and other barriers help explain why only an estimated 2 to 5 percent of women who were raped in Russia reported the crime.⁸⁰

The state's failure to address violence against women adequately and swiftly is compounded by its unwillingness to combat sex discrimination more generally. Human Rights Watch/Women's Rights Project has documented that the Russian government practices or condones widespread employment discrimination on the basis of sex. Russian women are fired from work in disproportionately high numbers and remain unemployed longer and receive less compensation for equal work than their male counterparts. Sexual harassment in the work place remains rampant in Russia, with some printed job advertisements soliciting women "without inhibitions" (*bez kompleksov*) or offering work for men or for women only.

Some work began in 1996 at the executive and legislative levels in Russia to address women's problems. On June 18, 1996, President Yeltsin issued Decree No. 932 "On Development of a National Plan of Action to Improve the Position of Women and Raise their Role in Society Before the Year 2000." However, as of this writing no money has been budgeted to implement the plan.⁸¹

While the Russian Federation is reforming its laws in many areas, unfortunately many of the new statutes reinforce discrimination against women. For example, the government adopted some new labor laws that were a clear

⁷⁹ Human Rights Watch/Women's Rights Project interview with Yelena Yershova, women's rights activist, September 13, 1996.

⁸⁰ Women's rights activists interviewed by Human Rights Watch/Women's Rights Project representatives in April - May 1996 based these figures on the responses of women who contacted their crisis centers. Government officials that we interviewed set their estimates at between 10 and 50 percent.

⁸¹ Human Rights Watch/Women's Rights Project telephone interview with Anastasia Posadskaya, executive director, Moscow Center for Gender Studies, February 7, 1997.

step backward for women's rights. New labor legislation, effective July 1, 1996, increased the number of occupations forbidden to women, despite an appeal by fifty-three women's organizations asking parliament to insure that the draft legislation provided equal opportunities for women.⁸² In addition, the request of women's groups that the new labor law prohibit employers from denying women jobs because of their sex was rejected. Further, action on the family violence law, which was drafted in 1995 to address domestic violence, slowed dramatically during the period that coincided with Russia's accession to the Council of Europe, and most activists do not expect it to pass in the near future. Nongovernmental activists familiar with the draft family violence legislation are also concerned about provisions that could allow undue governmental control over the ability of crisis centers to function, such as imposing unreasonable licensing requirements. Debate surrounding these efforts is a positive step in and of itself, but none of these legislative acts has yet been implemented, and their potential effectiveness in ameliorating the widespread discrimination against and abuse of women remains in question.

Ethnicity

The failure of the government of the Russian Federation to combat ethnic discrimination has persisted or has worsened during the period of its membership in the Council of Europe. First, the brutal war in Chechnya has caused a backlash of state-condoned hostility toward Chechen nationals and by extension toward other peoples from the North Caucasus region; this has included arbitrary detention, torture, beatings, harassment, and systematic job and housing discrimination. Second, ethnic minorities have increasingly become scapegoats for resentment over immigration and population displacement and for the continued economic hardship suffered by most of the population of the Russian Federation. In some cases, the Russian government has legitimized and even legalized these racist biases by enacting laws and local ordinances that indirectly punish people because of their non-Slavic or non-Russian ethnicity, overwhelmingly those with dark complexions or Asian features. As a member of the Council of Europe, the Russian Federation is obliged to adopt a new law on the protection of national minorities in accordance with Council of Europe standards, and to sign and ratify within a year of its accession the Charter for Regional and Minority Languages. It has done neither as of this writing.

⁸² Penny Morvant, "Women's Groups Appeal to the Duma," OMRI Daily Digest, March 5, 1996.

Although no comprehensive, nation-wide investigations into ethnic discrimination are known to have been conducted in Russia, it appears that police harassment of ethnic minorities is gravest in large urban areas and in border areas that are seeing significant in-migration, such as Moscow, St. Petersburg, and the Krasnodar and Stavropol regions. One of the principal mechanisms used to harass ethnic minorities is illegal and ethnically discriminatory enforcement of the mandatory residence permits (see above). Among other things, the registration of one's place of residence with local authorities allows the police to identify newcomers, whom they often associate with criminals, leading to targeted house raids regardless of evidence of criminal activity.⁸³

Rather than working to condemn and curb racially motivated violence rampant in Moscow, the local government has essentially institutionalized it. President Yeltsin's decree 1025 of July 10, 1996, "On the Fight against Crime," has strengthened police discretion to verify passports and residence permits, which it uses overwhelmingly against dark-skinned people. Decree 1025 also permits searches of homes, the seizure of property, and the detention of individuals up to thirty days without charges, all without court orders, which have also been used to mask harassment of dark-skinned people. Throughout 1996, police and special forces (OMON) illegally entered homes and dormitories and hotels where dark-skinned ethnic minorities lived, extorted money, threatened them with expulsion, beat, and sometimes detained residents. Moscow riot police even raided a tuberculosis hospital where Chechen families, displaced from the war, were being treated, and roughed up several patients on the pretext of a weapons search. These acts are not justified by any state of emergency or other situation that would allow for the derogation of fundamental human rights, and are therefore illegal. The Russian government's portrayal of these illegal acts as "law enforcement" displays an alarming lack of understanding of their abusive nature, and a reluctance to work toward compliance with discrimination protections required by Council of Europe commitments.

⁸³ See Violation of Freedom of Movement: Residence Permits (*Propiski*). For a more in-depth discussion of how the residence permit system leads to state-sponsored ethnic discrimination, see *Crime or Simply Punishment*, *op. cit.*

Since 1988, the southern provinces of Krasnodar and Stavropol *krai*⁸⁴ have been magnets for hundreds of thousands of people who fled war and inter-ethnic unrest in nearby Armenia, Azerbaijan, Georgia, and Chechnya. Official statistics from 1994 indicate that 184,125 people fled to Krasnodar krai from inter-ethnic conflicts elsewhere in the USSR. Of these, approximately 30 percent live without propiskas.⁸⁵ Most refugees, with the exception of Meskhetian Turks in Krasnodar krai, who fled to these provinces before the collapse of the USSR, received propiskas. Unofficial statistics, which refer to the number of unregistered refugees or displaced persons (those who have not registered with the Federal Migration Service) cite much higher figures: for example, a leader of the Armenian community of Krasnodar estimated there were at least 390,000 unregistered Armenian refugees in the district, but figures vary widely. Discriminatory police harassment in Stavropol district as practiced against Chechens and Armenians peaked in 1995 during the Chechnya war and in the aftermath of the Budyonnovsk hostage raid.

As in other areas of high ethnic minority populations, the most common form of state-sponsored discrimination in these provinces is police harassment through discriminatory enforcement of residence requirements: arbitrary identity checks on the street and on highways, during which victims are often forced to pay bribes; and invasive identification checks at home. Like Moscow and other Russian cities, both Stavropol and Krasnodar authorities strictly enforce registration procedures for “visitors:” these are, respectively, the law on Administrative Responsibility for Violating Rules on Visiting and Obtaining Permanent Residence in the Stavropol District (adopted on October 18, 1994) and the Law on Registration for Visitation and Residence in the Krasnodar krai (adopted June 7, 1995). Both set out bureaucratic procedures and daily fees for registering visitors (including relatives), as well as tough sanctions—in the form of fines and administrative detention—for violators. While the rules apply to all individuals who are not residents of Stavropol or Krasnodar, they are enforced overwhelmingly among ethnic minorities who are refugees from other C.I.S. countries who otherwise do not require a visa to visit or work in Russia.

In practice, police routinely approach people who look distinctly non-Russian and ask them for residence documentation. If they fail to produce it, police often beat or humiliate them, or rob them of whatever money or valuables they carry as an informal “fine” for the violation. Often, police will raid the homes of people they know to be refugees, non-Russians, or others who are likely not to be in possession of a propiska. Ethnic minorities who are also refugees now face overwhelming difficulty in obtaining propiskas. Police and ethnic Cossacks raided Chechen homes in Stavropol following the Budyonnovsk hostage crisis (in June 1995) and the homes of Meskhetian Turks in 1995, amounting to extraordinary and at times violent harassment.

Propiska requirements include having an immediate relative resident in the district, paying a fee, and gaining the approval of the local propiska commission. Anecdotal evidence suggests that the commissions (which in some localities include representatives from minority communities) routinely deny propiskas to applicants who are ethnic minorities. Without a propiska or refugee identification, access to medical care, schools, marriage and birth certificates is nearly impossible. Human Rights Watch/Helsinki is aware of several cases in Stavropol and Krasnodar in which even local ethnic minorities who had valid residence permits faced enormous difficulties gaining similar permits for their spouses who did not have them.

In both Stavropol and Krasnodar, Cossack units are authorized to accompany police on passport checks. Previously, local government ordinances granted this authority, and Cossacks made the rounds without firearms. On February 13, a Russian government decree established Cossack units in the Ministry of Internal Affairs, in the Border Forces and in Ministry of Defense troops. Hence, Cossack units may continue to accompany police on their rounds and bear firearms, but they must remain subordinate to relevant federal forces. Some Cossack units openly profess anti-

⁸⁴ A *krai* or district is an territorial-administrative unit. Hereinafter, unless otherwise noted, “Krasnodar” or “Stavropol” refers to the respective provinces and not the cities of Krasnodar and Stavropol.

⁸⁵ Statistics cited in Memorial Human Rights Center, *Violations of the Rights of Internally Displaced Persons and Ethnic Discrimination in Krasnodar Krai: The Meskhetian Turks*, (Moscow: Memorial, 1996).

minority ideologies and have, on occasion, openly called for non-resident minorities to be evicted from the region, these joint patrols may worsen discriminatory police harassment.

Human Rights Watch/Helsinki has documented isolated incidents of the local police and Cossack patrols mounting raids on Chechen homes in the rural regions of Stavropol district, both in the wake of the 1995 Budennovsk hostage crisis and months after. On June 27, Stavropol Gov. Evgenii Kuznetsov issued a decree instructing Cossacks jointly with police to conduct "passport checks," and granting those citizens "illegally residing in Stavropol" three days to leave the area. During the Budyonnovsk crisis itself, the regional Department of Interior instructed all Chechens to leave the town, allegedly for their own safety. In addition to the obvious threat to human rights posed by the decrees, some police and Cossacks used the decree as a *carte blanche* to harass local Chechens. In June 1995, for example, a police officer together with the local Cossack *ataman* (leader) in Filimonovski warned the two Chechen families in the village to gather their things and leave. The authorities reportedly invalidated their legitimate propiskas and had them fired from their jobs on the collective farm. Their propiskas were later restored, though they were not returned to their jobs as of summer 1996.

A village council decree, which was passed in July 1995 in the village of Terskoe, "legalized" the eviction of forty-one Chechen families who legally resided there. Their homes were ransacked and reportedly dismantled, and the families were given one week to leave the village; they were all forced to flee to Chechnya. At least one of these forty-one families returned to Terskoe when the Chechnya war escalated in August 1996, but neither their homes nor their residence permits were restored, nor did the village or district executive committee take any steps fully to restore the rights and property of the other evicted families.

APPENDIX A:
EXCERPTS FROM COUNCIL OF EUROPE PARLIAMENTARY ASSEMBLY OPINION NO. 193
(1996) ON RUSSIA'S REQUEST FOR MEMBERSHIP OF THE COUNCIL OF EUROPE⁸⁶

7. On the basis of these assurances and of the following considerations and commitments, the Assembly believes that Russia — in the sense of Article 4 of the Statute — is clearly willing and will be able in the near future to fulfil the provisions for membership of the Council of Europe as set forth in Article 3 (*“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...”*):
- i. Russia has been taking part in various activities of the Council of Europe since 1992 — through its participation in intergovernmental “co-operation and assistance” programmes (notably in the fields of legal reform and human rights), and through the participation of its special guest delegation in the work of the Parliamentary Assembly and its committees;
 - ii. “political dialogue” between Russia and the Committee of Ministers has been established since 7 May 1992;
 - iii. Russia has acceded to several Council of Europe conventions, including the European Cultural Convention;
 - iv. the following legislation is being prepared as a matter of priority with international consultation, on the basis of Council of Europe principles and standards; a new criminal code and a code of criminal procedure; a new civil code and a code of civil procedure; a law on the functioning and administration of the penitentiary system;
 - v. new laws in line with Council of Europe standards will be introduced: on the role, functioning and administration of the Procurator’s Office and of the Office of the Commissioner for Human Rights; for the protection of national minorities; on freedom of assembly and on freedom of religion;
 - vi. the status of the legal profession will be protected by law; a professional bar association will be established;
 - vii. those found responsible for human rights violations will be brought to justice — notably in relation to events in Chechnya;
 - viii. effective exercise will be guaranteed of the rights enshrined in Article 27 of the Constitution and in the law on freedom of movement and choice of place of residence;
 - ix. conditions of detention will be improved in line with Recommendation A (87) 3 on European prison rules, in particular the practically inhuman conditions in many pre-trial detention centres will be ameliorated without delay;
 - x. The responsibility for the prison administration and the execution of judgements will be transferred to the Ministry of Justice as soon as possible;

⁸⁶ Parliamentary Assembly Opinion No. 193 (1996) on Russia’s request for membership of the Council of Europe, *op. cit.*

xi. the state and progress of legislative reform will permit the signature and ratification, within the delays indicated, of the European conventions listed hereunder in paragraph 10;

xii. The Russian Federation will assist persons formerly deported from the occupied Baltic states or those belonging to the descendants of deportees, to return home according to special repatriation and compensation programmes which must be worked out.

8. With a view to the fulfilment of these assurances and respect for these commitments, the Assembly resolves to establish — with the close co-operation of Russia's national parliamentary delegation — its own parliamentary “advisory and control” programme under the authority of the committees responsible for the implementation of Order No. 508 (1995) on the honouring of obligations and commitments by member states of the Council of Europe. This programme will complement and not prejudice the monitoring procedure under Order No. 508 (1995).
9. As a contribution to long-term assistance and co-operation, the Assembly welcomes the European Union/Council of Europe joint programme for the strengthening of the federal structure and of human rights protection mechanisms and for legal system reform. In the context of this joint programme, particular attention should also be paid to support for and the strengthening of non-governmental organisations in the field of human rights and to the establishment of a civil society.
10. The Parliamentary Assembly notes that the Russian Federation shares fully its understanding and interpretation of commitments entered into as spelt out in paragraph 7, and intends:
 - i. to sign the European Convention on Human Rights at the moment of accession; to ratify the Convention and Protocols Nos. 1, 2, 4, 7 and 11 within a year; to recognise, pending the entry into force of Protocol No. 11, the right of individual application to the European Commission and the compulsory jurisdiction of the European Court (Articles 25 and 46 of the Convention);
 - ii. to sign within one year and ratify within three years from the time of accession Protocol No. 6 of the European Convention on Human Rights on the abolition of the death penalty in time of peace, and to put into place a moratorium on executions with effect from the day of accession;
 - iii. to sign and ratify within a year from the time of accession the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment;
 - iv. to sign and ratify within a year from the time of accession the European Framework Convention for the Protection of National Minorities; to conduct its policy toward minorities on the principles set forth in assembly Recommendation 1201 (1993), and to incorporate these principles into the legal and administrative system and practice of the country;
 - v. to sign and ratify within a year from the time of accession the European Charter on Local Self-Government and the Charter for Regional and Minority Languages; to study, with a view to ratification, the Council of Europe's Social Charter; and meanwhile to conduct its policy in accordance with the principles of these conventions;
 - vi. to sign and ratify and meanwhile to apply the basic principles of other Council of Europe conventions — notably those on extradition; on mutual assistance in criminal matters; on the transfer of sentenced persons; and on laundering, search, seizure and confiscation of proceeds from crime;

vii. to settle outstanding international as well as internal disputes by peaceful means (an obligation incumbent upon all member states of the Council of Europe), rejecting resolutely any forms of threat to use force against its neighbours;

viii. to settle outstanding international border disputes according to the principles of international law, abiding by the existing international treaties;

ix. to ratify, in a period of six months after the access of Russia to the Council of Europe, the Agreement of 21 October 1994 between the Russian and Moldovan Governments and to continue the withdrawal of the 14th Army and its equipment from the territory of Moldova, within a time limits of three years from the date of signature of the Agreement;

x. to fulfil its obligations under the Treaty on Conventional Armed Forces in Europe (CFR);

xi. to negotiate claims for the return of cultural property to other European countries on an *ad hoc* basis that differentiates between types of property (archives, works of art, buildings etc.) and of ownership (public, private or institutional);

xii. to return without delay the property of religious institutions;

xiii. to denounce as wrong the concept of two different species of foreign countries, treating some of them as a zone of special influence called “near abroad”;⁸⁷

xiv. to settle rapidly all issues related to the return of property claimed by Council of Europe member states, in particular the archives transferred to Moscow in 1945;

xv. to cease to restrict with immediate effect international travel of persons aware of state secrets, and to facilitate the consultation of archives kept in the Russian Federation, with the exception of those restrictions which are generally accepted in Council of Europe member states;

xvi. to ensure that the application of the CIS Convention on Human Rights does not in any way interfere with the procedure and guarantees of the European Convention on Human Rights;

xvii. to revise the law on federal security services in order to bring it into line with Council of Europe principles and standards within one year from the time of accession, in particular, the right of the Federal Security Service (FSB) to possess and run pre-trial detention centres should be withdrawn;

xviii. to adopt a law on alternative military service, as foreseen in Article 59 of the Constitution;

xix. to reduce, if not eliminate, incidents of ill-treatment and deaths in the armed forces outside military conflicts;

⁸⁷ The “near abroad” is a term commonly used in Russian foreign policy circles to refer to the former Soviet federal republics, all of which have been internationally recognized independent countries since 1992. It connotes a sphere of influence inherited by the Russian Federation from the Soviet period. The term contrasts with the “far abroad,” which connotes the rest of the world.

xx. to pursue legal reform with a view to bringing all legislation in line with Council of Europe principles and standards; amongst other legislation, Presidential Decree No. 1226 should be revised without delay;

xxi. to extend its international co-operation in order to prevent—and eliminate the ecological effects of—natural and technological disasters;

xxii. to sign and ratify within a year from the time of accession the General Agreement on Privileges and Immunities and its additional protocols;

xxiii. to co-operate fully in the implementation of Assembly Order No. 508 (1995) on the honouring of obligations and commitments by member states of the Council of Europe, as well as in monitoring processes established by virtue of the Committee of Ministers' Declaration of 10 November 1994 (95th session);

xxiv. to respect strictly the provisions of international humanitarian law, including in cases of armed conflict on its territory;

xxv. to co-operate in good faith with international humanitarian organisations and to enable them to carry on their activities on its territory in conformity with their mandate.

11. The Assembly recommends that the Committee of Ministers — on the basis of the commitments and understandings indicated above:

i. invite the Russian Federation to become a member of the Council of Europe;

ii. allocate eighteen seats to the Russian Federation in the Parliamentary Assembly;

iii. guarantee that the Organisation's means and capabilities, in particular those of the Assembly and of the human rights institutions, are increased to meet the consequences of these decisions, and refrain from using the Russian Federation's accession to reduce the contribution of states which are already members.

APPENDIX B:
COUNCIL OF EUROPE PARLIAMENTARY ASSEMBLY ORDER NO. 508 (1995)
ON THE HONOURING OF OBLIGATIONS AND COMMITMENTS
BY MEMBER STATES OF THE COUNCIL OF EUROPE

1. The Assembly, in Order No. 488 (1993), instructed its Political Affairs Committee and Committee on Legal Affairs and Human Rights “to monitor closely the honouring of commitments entered into by the authorities of new member states and to report to the Bureau at regular six-monthly intervals until all undertakings have been honoured”.
2. In Order No. 485 (1993) the Assembly instructed its Committee on Legal Affairs and Human Rights “to report to it when problems arise on the situation of human rights in member states, including their compliance with judgments by the European Court of Human Rights”.
3. In resolution 1031 (1994) the Assembly observed “that all member states of the Council of Europe are required to respect their obligations under the Statute, the European Convention on Human Rights and all other conventions to which they are parties. In addition to these obligations, the authorities of certain states which have become members since the adoption in May 1989 of Resolution 917 (1989) on a special guest status with the Parliamentary Assembly freely entered into specific commitments on issues related to the basic principles of the Council of Europe during the examination of their request for membership by the Assembly. The main commitments concerned are explicitly referred to in the relevant opinions adopted by the Assembly”.
4. The Assembly considered in the same resolution that “persistent failure to honour commitments freely entered into will have consequences [...]. For this purpose, the Assembly could use the relevant provisions of the Council of Europe’s Statute and of its own Rules of Procedure”.
5. Taking also into account the declaration on compliance with commitments accepted by member states of the Council of Europe, adopted by the Committee of Ministers on 10 November 1994, the Assembly seeks to strengthen its own monitoring procedure, established in 1993.
6. The Assembly therefore instructs its Committee on Legal Affairs and Human Rights (for report) and its Political Affairs Committee (for opinion) to continue monitoring closely the honouring of obligations and commitments in all member states concerned. The Committee on Relations with European Non-Member Countries will also be asked for an opinion with regard to the member states which previously enjoyed special guest status. To start the procedure, the Committee on Legal Affairs and Human Rights must take such a decision, in accordance with normal committee procedure.
7. Countries which are members should honour Recommendation 1201 (1993); candidates for full membership should, on their accession, commit themselves to do likewise. The honouring of this recommendation will also be followed as part of the monitoring process.
8. The committees should work in close co-operation. They may report direct to the Assembly. Their reports should concern one single country and include a draft resolution in which clear proposals are made for the improvement of the situation in the country under consideration.

9. The Assembly may sanction persistent failure to honour commitments, and lack of co-operation in its monitoring process, by the non-ratification of the credentials of a national parliamentary delegation at the beginning of its next ordinary session, in accordance with Rule 6 of the Rules of Procedure.
10. Should the country continue not to respect its commitments, the Assembly may address a recommendation to the Committee of Ministers requesting it to take the appropriate action provided for in Article 8 of the Statute of the Council of Europe.
11. This order supersedes Order No. 488 (1993) and Resolution 1031 (1994).

APPENDIX C:
LETTER FROM HUMAN RIGHTS WATCH/HELSINKI TO COUNCIL OF EUROPE
REGARDING RUSSIA'S NONCOMPLIANCE WITH DEATH PENALTY MORATORIUM
OBLIGATIONS

January 27, 1997

Secretary General Daniel Tarschys
Council of Europe
Palais de l'Europe
F-67075 Strasbourg
France
By fax: (333) 88 41 27 99

Dear Secretary General Tarschys,

On behalf of Human Rights Watch, I extend my respects. I write with great concern on the occasion of the urgent debate, set for January 29, of the Council of Europe's Parliamentary Assembly on the honoring of commitments by the Russian Federation and Ukraine.

As you are aware, to varying degrees both countries stand in flagrant noncompliance with several elements of their human rights obligations as both member states to the Council of Europe and signatories to international human rights instruments. Perhaps most egregious in the context of their membership in the Council of Europe is their continued execution of prisoners, in violation of their obligation from the moment of their accession (February 28, 1996 for the Russian Federation and November 9, 1995 for Ukraine), as a minimum step, to institute and abide by an immediate moratorium on the death penalty.

According to official statistics, the government of Ukraine put to death eighty-nine individuals in the first six months of 1996 alone (total figures for the full year are not known). All of these were carried out subsequent to Ukraine's accession to the Council of Europe. As of September 24, 1996, the government of the Russian Federation reported it had carried out fifty-three executions in that year alone; Amnesty International believes that the total for the year was 140. The majority of these executions were carried out after the Russian Federation joined the Council of Europe.

We have supported the Council of Europe's repeated efforts to achieve compliance on this critical issue. However, the time has clearly past when condemnation and demands for compliance are sufficient. With so many lives having been lost in the last year alone, there can be no excuse for not *enforcing* compliance with the death penalty moratorium at a minimum. We are concerned that if the Parliamentary Assembly adopts another statement of condemnation delinked from consequences for the offending nations, it will squander the opportunity to spare the lives of death row inmates, one of the Council of Europe's stated motivations for admitting Ukraine and the Russian Federation as members in the first place. It will also jeopardize the credibility of the Council of Europe's own commitment to the abolition of capital punishment among member states.

As short-term measures only, we respectfully call on you to work with parliamentarians in this urgent debate to require the governments of the Russian Federation and of Ukraine to *institute a death penalty moratorium and ratify Protocol No. 6 of the European Convention on Human Rights within one month of the adoption of the decision. The decision should include specific provisions that failure to comply with these demands will result in the immediate implementation of all punitive actions outlined in Parliamentary Assembly Order No. 508 (1995). It should also make explicit that reinstatement with full membership privileges in the Council of Europe will be contingent upon such compliance.*

Thank you for your consideration of these concerns.

Sincerely,

/s/

Holly Cartner

Executive Director

Human Rights Watch/Helsinki

cc: Chairmen of the Political Groups

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Human Rights Watch/Helsinki

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