



Russia is Violating International Humanitarian Law in Chechnya Should Allow OSCE to Assist in Finding a Political Solution, Observe Council of Europe Principles

Moscow and Vienna, 25 January 2000. The Russian government's military action in Chechnya violates its commitments and political agreements undertaken as a member of the United Nations, the Council of Europe and the Organization for Cooperation and Security in Europe (OSCE), according to the International Helsinki Federation for Human Rights (IHF), which represents human rights monitoring organizations in 37 countries, and its Russian affiliate, the Moscow Helsinki Group (MHG). The groups commented during a roundtable meeting on "Human Rights and Humanitarian Law Violations in Chechnya" they organized in Moscow on 25 January.

"No one can accept these crimes against humanity including the shooting and bombing of civilians, rape, plunder, and displacement of populations, and no one can accept the Russian government's obstinance regarding searching for a peaceful solution," stated IHF Executive Director Aaron Rhodes.

"Not only civilians and soldiers are suffering from Russia's violations of international law. Russia as a society is suffering from this flagrant rejection of the norms and principles that can be the foundation for human rights, security, and international cooperation," he said.

"Russia needs the help of the international community, and that community needs Russia-to help build security based on human rights. But the war in Chechnya is threatening to destabilize an entire region. It is no 'internal matter,'" according to Ludmilla Alexeyeva, who is President of the International Helsinki Federation and Chief of the Moscow Helsinki Group.

The International Helsinki Federation for Human Rights and the Moscow Helsinki Group are urging Russian authorities to accept offers by the OSCE to play a mediating role and to establish monitoring operations in the area.

We appeal to the Russian authorities to respond positively to the Council of Europe's Parliamentary Assembly President Lord Russel-Johnston's call for negotiations, free movement of refugees and access for humanitarian aid.

A Précis of the International Humanitarian Standards Violated in Chechnya

I. Obligation to solve the conflict by non-military means

As a member of the United Nations, the OSCE and the Council of Europe, Russia obliged itself to find peaceful solutions to both internal and international conflicts.

A. As a member of the OSCE

Most recently, during the OSCE Istanbul Summit of November 1999, OSCE member States, among which the Russian Federation, addressed the question of the situation in the North Caucasus. But the Russian government has since then shown then very little openness to any concrete involvement of the international community in finding a solution to the conflict. The relevant part of the Istanbul Summit Declaration agreed to by Russia is as follows:

Article 23: "(.)We agree that a political solution is essential, and that the assistance of the OSCE would contribute to achieving that goal. We welcome the willingness of the OSCE to assist in

the renewal of a political dialogue. We welcome the agreement of the Russian federation to a visit by the Chairman-in-Office to the region. We reaffirm the existing mandate of the OSCE Assistance Group in Chechnya. We welcome the willingness of the Russian Federation to facilitate these steps, which will contribute to creating the conditions for stability, security and economic prosperity in the region". (Istanbul Summit Declaration, 1999)

Likewise, OSCE states developed earlier the OSCE Code of Conduct on Politico-Military Aspects of Security adopted in Budapest in 1994, including specific standards to be applied in situations of conflict:

VI (19) "In the event of armed conflict (the participating States) will seek to facilitate the effective cessation of hostilities and seek to create conditions favourable to the political solution of the conflict". (Budapest Document, 1994)

VIII (36) "Each participating state will ensure that any decision to assign its armed forces to internal security missions is arrived at in conformity with constitutional procedures. Such decisions will prescribe the armed forces missions, ensuring that they will be performed under the effective control of constitutionally established authorities and subject to the rule of law. If recourse to force can not be avoided in performing internal security mission, each participating state will ensure that its use must be commensurate with the needs of enforcement. The armed forces will take due care of avoiding injury to civilians or their property." (Budapest Document, 1994)

B. As a member of the Council of Europe

Upon admission to the Council of Europe in 1996, Russia undertook specific commitments with regard to Chechnya and any other potential conflict. In Opinion No. 193 (1996) of the Parliamentary Assembly of the Council of Europe, it is stated, among other commitments, that Russia must undertake:

10 vii. To settle 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 threats of force against its neighbours; and 10 xxiv. To respect strictly the provisions of international humanitarian law, including in cases of armed conflict on its territory;

II. Russia's Obligation to Abide by International Humanitarian Law

A. OSCE and Council of Europe

Both the OSCE and the Council of Europe refer to international humanitarian law standards and stress the obligation by member states to abide by these norms.

Article 2 of the European Convention on Human Rights also specifically states that "Everyone's right to life shall be protected by law. (.)". While article 15 of the Convention provides for the possibility to derogate from the Convention's provisions "in time of war or other public emergency threatening the life of the nation" (art. 15(1)), article 15(2) specifies that "No derogation from article 2, except of death resulting from lawful acts of war (.), shall be made under this provision".

B. United Nations

General principles

Article 3 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War provides for standards to be applied, as a minimum, during conflicts of a non international character.

Article 3 (1) of the Geneva Convention states that "Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those who have been put hors de combat by sickness, wounds, detention, or any other cause, shall in all cases be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria."

Moreover, UN Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of non-international Armed Conflicts (Protocol II), develops further the minimum requirements set in article 3 above. This is the major legally-binding document providing for compulsory norms to be applied with regard to the protection of civilians in situations of internal conflict.

The general idea of the Protocol is that the civilian population shall be preserved against the dangers arising from military operations. It is a clearly established and recognized principle of international law that no attack shall be aimed at the civilian population. More specifically, "acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited"(article 13(2), Protocol II).

According to Protocol II, Article 4 (1), "all persons who do not take part or have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honour and convictions and religious practices (.)

Specific violations

The way the war is being conducted in Chechnya raises questions as to the violation of internationally-recognized standards, by which Russia claims to be rigorously abiding (see letter of Russian Foreign Minister Igor Ivanov of 10 January 2000 to the Council of Europe Secretary General). Evidence collected by human rights groups show the existence of blatant violations of, among others, the following norms:

Article 4 (2) of Protocol II lists prohibited acts, which include, among others:

- "violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment"(a);
- collective punishments (b);
- outrages against personal dignity, such as degrading treatment or rape (c);
- pillage (g), etc. Armed forces shall refrain from resorting to "starvation of civilians as a method of combat" (Article 14).

Forced movement of civilians is prohibited. According to article 17, "The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand(.)". Article 17 further stresses that "Civilians shall not be compelled to leave their own territory for reasons connected with the conflict".

Article 3 specifies that "all appropriate steps shall be taken to facilitate the reunion of families temporarily separated", and that children under the age of fifteen years shall get special protection, despite of their possible involvement in the hostilities.

Access to Humanitarian aid

In cases where displacements were ordered and where civilians had to flee a region affected by hostilities, article 17 of Protocol II to the Geneva Convention states that "all possible measures shall

be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition".

In Istanbul in November 1999, OSCE States stressed that "in light of the humanitarian situation in the region it is important to alleviate the hardships of the civilian population, including by creating appropriate conditions for international organizations to provide humanitarian aid" (article 23, Istanbul Summit Declaration).

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