



The Observatory
for the Protection
of Human Rights Defenders

**RAMZAN KADYROV V. OLEG ORLOV
AND THE HUMAN RIGHTS CENTRE «MEMORIAL»**

Judicial Observation Mission Report

RUSSIAN FEDERATION

CIVIL COURT OF MOSCOW TVERSKOJ DISTRICT

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“Statements like Orlov’s are perfectly legitimate in a democracy and should be subject neither to civil-law nor to criminal-law sanctioning”

Miklos Haraszti, OSCE Representative on Freedom of the Media, October 29, 2009.

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Introduction

Ms. Souhayr Belhassen, FIDH President, and Ms. Ioulia Shukan, *chargée de mission*, were mandated by the Observatory for the Protection of Human Rights Defenders, a joint programme of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), to carry out a judicial observation mission during the first public hearing in the lawsuit “*Ramzan Kadyrov, President of the Republic of Chechnya v. Human Rights Centre [HRC] “Memorial” and the President of its executive board Oleg Orlov*”, which was held on September 25, 2009 before the Civil Court of Moscow Tverskoj district, under the presidency of Judge Tatyana Fedosova.

A further public hearing was held on October 6, 2009, during which the Observatory mandated Mr. Ales Bialatski, President of the Human Rights Centre “Viasna” in Belarus, and Mr. Vladimir Labkovitch, legal advisor to the Human Rights Centre “Viasna”, as observers. The judgment was handed down on October 6.

Background

On August 13, 2009, the President of the Republic of Chechnya, Mr. Ramzan Kadyrov, lodged a complaint against Mr. **Oleg Orlov**, Chairman of the “Memorial” Human Rights Centre, for violation of his honour, his dignity and his professional reputation. Mr. Kadyrov claimed 10 million roubles in damages for “moral prejudice” (five million from the Human Rights Centre “Memorial” and five million from Mr. Oleg Orlov personally).

The complaint was lodged pursuant to a statement by Mr. Oleg Orlov that was posted on July 15, 2009 on “Memorial” website, following the assassination of Ms. Natalia Estemirova, a member of the Grozny office of the “Memorial” Centre who for several years had been working for the defence of human rights in Chechnya¹.

Mr. Oleg Orlov declared in particular: “*I know with certainty who is guilty² for the assassination of Natalia Estemirova, we all know that person. His name is Ramzan Kadyrov, he is the President of the Republic of Chechnya. Ramzan had already threatened Natalia, he had insulted her and considered her to be his personal enemy. We do not know if he gave the order himself or if one his faithful lieutenants did so to please his chief. As for President Medvedev, he seems to be at ease with the presence of an assassin as leader of one of the subjects of the Federation.*”

Mr. Kadyrov considered that this statement had tarnished his honour, his dignity and his reputation.

In addition to claiming compensation, Mr. Kadyrov requested that the above statement by Mr. Oleg Orlov be declared to be contrary to the facts, along with the three other sentences of his statement:

“When Natalia had taken the liberty of criticising the rule that young girls had to wear an Islamic scarf in public places, she had a conversation with Kadyrov. She then reported that

1. See Observatory Press Release, July 15, 2009.

2. The word “*vinoven*” (literally “guilty”) bears a double meaning in Russian. The word can indeed be used in a legal manner, but also in a way that is close to the idea of “responsibility”. Mr. Orlov argues that he used the word “*vinoven*” in the sense of a “political guilt”, not a legal one.

Kadyrov had insulted her, and had stated, literally: ‘My hands are covered in blood up to my elbows. And I feel no shame for that. I have killed many bad people, and I shall continue to do so. We are fighting the enemies of the Republic’”.

“We know that Natalia’s latest reports on new abductions, on extrajudicial executions and on a public execution in the middle of a Chechen village caused considerable anger in top government circles”.

“Ramzan Kadyrov has made the task of human rights defenders in Chechnya impossible”.

The transcription of the hearings is available in Russian on the following weblinks:

- transcription of the first part of the hearing, up to the interventions of the witnesses: <http://www.hro.org/node/6405>
- transcription of Mr. Oleg Orlov’s statement, in response to the complaint: <http://www.hro.org/node/6402>
- transcription of the testimony of Mr. Alexander Mnatzakanian, researcher, presented by the defendant: <http://www.hro.org/node/6469>
- transcription of testimony of Ms. Tatiana Lokshina, Deputy Director of the Moscow office of Human Rights Watch, presented by the defendant: <http://www.hro.org/node/6468>
- transcription of the testimony of Ms. Ekaterina Sokirianskaia member of the HRC “Memorial”, presented by the defendant: <http://www.hro.org/node/6467>
- transcription of the testimonies of Ms. Aminat Malsagova, Ms. Tamara Kagirova, Mr. Olkhazar DzubairaeV, and Mr. Umar Dzhumaliev, presented by the plaintiff: <http://www.hro.org/node/6535>

I. The hearing of September 25, 2009

The first public hearing was held on September 25, 2009, at 10 a.m. before the Civil Court of Moscow Tverskoj district, under the presidency of Judge Tatyana Fedosova.

Were present at the hearing:

- Mr. Andrei Krasnenkov, lawyer, appearing for the plaintiff;
- Ms. Anna Karetnikova and Mr. Serguei Davidis, lawyers belonging to the “Memorial” Human Rights Centre;
- Ms. Anna Stavitskaia, lawyer, appearing for Mr. Oleg Orlov, and
- Mr. Oleg Orlov himself.

In addition, about thirty people were present at the public hearing: members of “Memorial”, journalists, representatives of the embassies of Sweden and Spain and of the European Commission’s Delegation in Moscow, as well as observers sent by national and international NGOs.

The plaintiff, Mr. Ramzan Kadyrov, was not present.

The hearing was in two parts, first the statements of the parties to the case (Mr. Krasnenkov, appearing for the plaintiff, followed by Mr. Oleg Orlov), and then the statements by the witnesses for the defence.

Statement of the case for the plaintiff, Mr. Ramzan Kadyrov, by his counsel

Mr. Andrei Krasnenkov first referred to Ruling n°3 of February 24, 2005, by the Presidium of the Supreme Court of the Russian Federation on “*judicial practice in cases relating to the defence of the honour and dignity of citizens, and to the professional reputation of citizens and legal entities*”. According to him, the complaint lodged by his client corresponded perfectly to the four criteria applicable to such cases as defined by the Supreme Court:

- Spreading statements relating to the plaintiff,
- Statements liable to harm his reputation,
- Statements in the form of factual assertions,
- Statements that do not correspond to the reality of the facts.

Mr. Krasnenkov therefore submitted that the application could be fully granted.

At the request of Judge Fedosova, Mr. Krasnenkov showed in what way, according to his client, Mr. Oleg Orlov’s remarks violated his honour and dignity, and attempted to justify the amount of the compensation claimed. He insisted on the fact that Mr. Oleg Orlov’s statements had been taken up by the press and posted on various websites, and that Mr. Orlov continued to assert that what he had said was true, whereas that was not the case according to his client. Mr. Krasnenkov also made the point that the statements had been abundantly commented on in the press, which had had the effect of causing moral suffering for his client and his family.

Regarding the statements attributed to Mr. Ramzan Kadyrov by Mr. Oleg Orlov (“*My hands are covered in blood up to my elbows. And I feel no shame for that. I have killed many bad people, and I shall continue to do so. We are fighting the enemies of the Republic*”), Mr.

Andrei Krasnenkov pointed out that his client did not express himself in such a fashion, that his elocution was more fluid and less abrupt, including when speaking to journalists and human rights defenders.

Regarding the assassination of Ms. Natalia Estemirova, Mr. Andrei Krasnenkov rejected the accusations against his client to the effect that he failed to perform adequately his duties as head of the Chechen government and was incapable of preventing assassinations. He emphasised the organised nature of the assassination, and the fact that certain elements led him to believe that “*the killers did not know Estemirova, and perhaps had not even the intention of killing her*”. He also argued that in the case of commissioned assassinations, it was impossible to station a policeman every metre of every district to prevent them.

Lastly, Mr. Krasnenkov quoted the opinion of two experts who considered that a limit should be put on the impunity enjoyed by human rights defenders regarding their acts and statements, in particular groundless accusations levelled at members of the executive. In Mr. Krasnenkov’s view, the complaint lodged by Mr. Ramzan Kadyrov could in that respect create a precedent.

Statement of his case by Mr. Oleg Orlov

Mr. Oleg Orlov, for his part, stated that the claim lodged by Mr. Ramzan Kadyrov contained unjustified demands, and should be rejected.

The plaintiff had stated that Mr. Oleg Orlov had concluded that Mr. Kadyrov was involved (in Russian “*prichasten*”) in the assassination of Ms. Natalia Estemirova, whereas Mr. Orlov insisted on the fact that he had mentioned Mr. Kadyrov’s *guilt* (“*vinoven*”)³. Mr. Orlov stated in that respect that he had not used the term *guilty* in its meaning in criminal law, but in the social and political sense. Mr. Orlov contended that he had not stated a fact, but expressed his opinion and conviction and his analysis of Mr. Kadyrov’s action based on the work of the HRC “Memorial” and on two meetings between representatives of the HRC “Memorial” and Mr. Kadyrov (see below). Mr. Orlov then presented the various points of information that enabled him to speak of Mr. Kadyrov’s political guilt:

- provisions of the Constitution of the Republic of Chechnya,
- official statements by Mr. Ramzan Kadyrov according to which the latter bore responsibility for all that happened on the territory of the Republic.

He stressed the fact that Mr. Ramzan Kadyrov personally controlled and commanded the security forces in Chechnya, and that he therefore also bore the responsibility for the massive human rights abuses and violations they perpetrated.

Mr. Orlov also presented documents in support of those two assertions (official press releases, statements by Mr. Ramzan Kadyrov, reports by international NGOs), and at his request those documents were added to the case file (see Annex 1).

Lastly he described the conditions facing human rights defenders in Chechnya, asserting that it had become impossible for them to carry out their activities, especially as the top Chechen officials considered them to be “enemies of the Republic”. With regard to that situation, Mr. Orlov submitted that he had every reason to speak of the political guilt of Mr.

3. See above.

Ramzan Kadyrov in the assassination of Ms. Natalia Estemirova, and that his declarations contained no information contrary to the facts.

Mr Orlov also referred to his sentence: “*Ramzan had already threatened Natalia, he had insulted her and considered her to be his personal enemy*”, asserting that he was referring to the last meeting between Ms. Estemirova and Mr. Kadyrov, which took place on March 31, 2008 in the Palace of Youth in the city of Grozny. He had the details of the meeting from Ms. Estemirova herself. According to her, Mr. Kadyrov lost his temper at her, insulted her and reproached her violently for her public declarations on the rule that Chechen women had to wear the Islamic veil. Mr. Orlov also drew attention to the fact that the first meeting between Ms. Estemirova and Mr. Kadyrov, which had taken place in July 2004 - when Ms. Estemirova accompanied the journalist Anna Politkovskaia - went off in a similar fashion. He therefore concluded that the plaintiff was very hostile to Ms. Estemirova and considering her to be his personal enemy.

Finally, according to Mr. Orlov, the investigations carried out by Ms. Estemirova a few months before her assassination - bearing on further abductions, extrajudicial executions and a public execution in a Chechen village - the results of which were published on the information website *Caucasian Knot*⁴, made Mr. Kadyrov very angry. Following such a reaction, the person in charge of human rights in Chechnya even warned one of the “Memorial” representatives in Grozny, expressing concern for the life of the employees of the organisation; this was a few days before Ms. Estemirova was assassinated.

Statements by witnesses for the defence

The HRC “Memorial” presented four witnesses:

- Ms. Ekaterina Sokirianskaia (member of the HRC “Memorial”)
- Ms. Tatyana Lokshina (Deputy Director of the Human Rights Watch office in Russia)
- Mr. Alexander Mnatsakanyan (former employee of the Journalists’ Defence Committee)
- Ms. Svetlana Gannushkina (member of the HRC “Memorial”).

The four witnesses emphasised the following points:

First, during her two encounters with Mr. Kadyrov (July 2004 and March 2008), Ms. Estemirova received threats and insults from Mr. Kadyrov. The violent nature of the meetings and the fear they caused Ms. Estemirova even led her to leave the country and spend some time abroad. The circumstances of the meetings therefore lead to the conclusion that Mr. Kadyrov really considered Ms. Estemirova as his personal enemy.

Secondly, during the weeks preceding her assassination, Ms. Estemirova had been investigating acts of violence committed by Chechen law enforcement agencies, in particular deliberately setting fire to houses belonging to families of fighters or to persons suspected of supporting the fighters; and also the case of a public execution in the Chechen village of Akhintchu-Borzoj, which Mr. Orlov had just mentioned in his statement to the court. She was also investigating the abduction of a certain Mr. Zainalov, who was found later in hospital in a serious physical condition, before disappearing. Ms. Estemirova communicated

4. See <http://www.eng.kavkaz-uzel.ru>.

this information during an interview, which caused the wrath of the Chechen officials, and of Mr. Kadyrov personally. The four witnesses also stressed the fact that Ms. Estemirova was fearful of investigating these cases, and feared for her life, especially after the warning received from the person in charge of human rights in Chechnya.

Thirdly, working conditions for human rights NGOs in Chechnya have considerably deteriorated. Victims of human rights violations and the families of abducted persons are afraid of giving evidence. There are subjects tolerated by the Chechen authorities (abuses by the Russian military, victims of the first Chechen war), but there also subjects that are taboo, which “Memorial” is still the only organisation to investigate (serious human rights violations by the security forces in particular).

Lastly, Ms. Ekaterina Sokirianskaia, Mr. Alexander Mnatsakanyan and Ms. Svetlana Gannushkina returned to the terms of their meeting in February 2008 with Mr. Kadyrov. According to them, Mr. Kadyrov showed that he had no understanding at all of the aims of an independent NGO. He apparently proposed that they should inform him personally of cases of human rights violations and refrain from informing the media.

Following the four statements, the “Memorial” representatives asked that two other persons be heard, Mr. Alexander Cherkasov, a HRC “Memorial” researcher on the respect of human rights in areas of armed conflicts, and Mr. Gregory Shvedov, Editor-in-Chief of *Caucasian Knot*.

The court decided to have a further hearing on October 6, 2009.

Observations

It should be noted that the conditions of a fair trial were duly respected during the first day.

Speaking time was allotted to the representative of the plaintiff, to the defence and to all the witnesses. There were no interruptions during the statements.

Judge Tatiana Fedosova accepted that a large part of the documents presented by “Memorial” be included in the case file: NGO reports, certain public declarations by Mr. Ramzan Kadyrov.

II. The hearing on October 6, 2009

The second and last public hearing took place on October 6, 2009 before the same court.

Statements of the last witnesses

Two witnesses of the defendant were heard at that hearing:

- Mr. Gregory Shvedov, Editor-in-Chief of *Caucasian Knot*
- Mr. Alexandre Cherkasov, a HRC “Memorial” researcher on the respect of human rights in areas of armed conflicts.

The plaintiff, Mr. Ramzan Kadyrov, asked on his part that four witnesses be heard:

- Ms. Aminat Maisagova, President of the “Centre for the Pacification of the North Caucasus”
- Ms. Tamara Kagiroya, Head of the NGO “Search of the Disappeared”
- Mr. Olkhar Dzubairayev, Head of the Department of Analysis of the Cabinet of the Special Envoy for Human Rights in Chechnya
- Mr. Umar Dzhumaliev, Head of the Cabinet of the Special Envoy for Human Rights in Chechnya.

Through confusing and sometimes contradictory statements, the four witnesses asserted in almost similar terms that what was most important for Ms. Estemirova was getting “results” and “figures”, through the fast communication of unverified information⁵. Mr. Dzhumaliev put forward the fact that Ms. Estemirova and the HRC «Memorial» had a completely different conception of human rights from his, since they were «more preoccupied with public relations than with the defence of human rights». Messrs. Dzubairayev and Dzhumaliev also argued that the HRC «Memorial» was «always» seeking «confrontation» and «did not want to discuss in a positive manner». To support his testimony, Mr. Dzhumaliev quoted an article published on an online newspaper dated September 25, 2009, without being able to provide the weblink where the text could be found. Ms. Maisagova added that Ms. Estemirova «did not want anything positive».

However, even though the plaintiff and the testimonies he presented repeated on several occasions that «Memorial» (including Ms. Natalia Estemirova) would have sent out false or unverified information, no concrete example was brought in order to back this allegation. No information could for instance be obtained as to the content of the «results» to which the witnesses referred to. In addition, Ms. Maisagova and Ms. Kagiroya argued that Mr. Kadyrov and Ms. Estemirova had never met, on the mere ground that they did «not hear about that».

When the «Memorial» representative asked him straight to provide a concrete example, Mr. Dzhumaliev was unable to answer, arguing that he had «never analysed the facts addressed by «Memorial»». The witness was not able either to quote one single case of press releases issued by his organisation contesting the information disseminated by the Human Rights Centre «Memorial».

It even turned out that some assertions were totally erroneous. Ms. Kagiroya brought for

5. The transcription of the testimonies of Mr. Kadyrov's witnesses is available on the weblinks quoted in page 4.

instance the fact that Ms. Estemirova's daughter was living with her in the Caucasus as a proof that she was not threatened.

On the very question of the working conditions in Chechnya, Ms. Aminat Maisagova stated that one of the last cases that Ms. Natalia Estemirova had to deal with concerned a helicopter and policemen burnt alive. Ms. Estemirova had suggested they should investigate the matter together; Ms. Maisagova replied that she had no intention of taking part in an independent enquiry on that kind of issue, which represented a mortal danger. In addition Ms. Maisagova said, literally, that "she didn't want her children to become tramps", which unquestionably confirmed the fact that defending human rights in Chechnya was very dangerous for one's physical integrity. This reinforces the statements made by Mr. Orlov on "Memorial" website, and which are at the origin of the proceedings instituted by Mr. Ramzan Kadyrov.

Furthermore, videotapes of the news bulletins of the Chechen television channel *Grozny*, which were screened during the trial, showed certain declarations by the plaintiff, Mr. Kadyrov, and by other senior officials of the Chechen Republic, in which they insulted the human rights defenders and called for the extrajudicial execution of the members of Chechen "illegal armed gangs", threatening to take punitive action against their friends and families. This is in direct violation of the international treaties on the protection of human rights, including the European Convention on Human Rights and the International Covenant on Civil and Political Rights, of the Constitution and other legislative instruments in force on the territories of the Russian Federation. It should be noted that the said declarations have elicited no reaction on the part of the Public prosecutor or other institutional bodies in the Russian Federation.

Mr. Shvedov, witness presented by the HRC "Memorial", concluded that Ms. Estemirova was one of the last persons who were testifying openly on what was happening in Chechnya, and that although he continued to receive dozens of stories from Chechnya everyday, their authors refused to sign them by now.

The verdict and conclusions

The court ruled partly in favour of the plaintiff, ruling that Mr. Orlov's declarations had harmed Mr. Kadyrov and did not correspond to the reality, and condemning "Memorial" Human Rights Centre to publish on its website a denial of the statements made by its Chairman, Mr. Oleg Orlov, which allegedly violated the honour, the dignity and the professional reputation of the plaintiff, causing him moral suffering⁶.

In compensation for the moral damage inflicted, the court sentenced the "Memorial" Human Rights Centre and Mr. Oleg Orlov to pay the plaintiff respectively 50,000 and 20,000 roubles (approximately 1,150 and 460 Euros).

Even though the court recognised that the reputation of the plaintiff had indeed been harmed, the amount it sentenced the defendants to pay is less than 1% of the sum claimed by the plaintiff (10 million roubles).

6. The ruling of the Court is available in Russian on the following weblink: <http://www.hro.org/node/6604>.

It is regrettable, however, that the court, even if it reduced to a bare minimum the sum claimed by the plaintiff, should have nevertheless ruled in favour of the plaintiff, finding that the incriminated statements did not correspond to reality and constituted a violation of the honour, dignity and professional reputation of Mr. Ramzan Kadyrov.

It is to be noted that on October 29, 2009, the Representative for the Organisation for Security and Cooperation in Europe (OSCE) on Freedom of the Media Mr. Milkos Haraszti pointed out that “statements like Orlov’s are perfectly legitimate in a democracy and should be subject neither to civil-law nor to criminal-law sanctioning”⁷.

The appeal

On October 14, 2009, the Human Rights Centre “Memorial” appealed the decision before the Court of the City of Moscow, challenging the substance of the decision of the Court of First Instance, and calling on the Court of Appeal to reverse the ruling of the lower court.

Mr. Ramzan Kadyrov’s lawyer lodged an appeal on October 15, declaring that the sum Mr. Oleg Orlov was sentenced to pay was “ridiculous”.

As of November 26, 2009, no date had been fixed for the appeal to be heard.

However, on October 20, 2009, a criminal complaint was registered by the Moscow Central Directorate of Internal Affairs (GUVD), on the basis of sections 2 and 3 of Article 129 of the Criminal Code (“defamation”), which provides fines and prison sentences. The Prosecutor had initially refused to register this complaint on September 3, but Mr. Kadyrov had appealed this refusal on September 8.

As of November 26, 2009, no criminal charge had been brought against Mr. Orlov.

All the documents related to the civil and criminal cases are available on the website of the HRC “Memorial”:

In Russian: <http://www.memo.ru/2009/09/10/sud.htm>
In English: <http://www.memo.ru/2009/11/03/sudeng.html>

7. See Report of the OSCE Representative on Freedom of the Media before the Permanent Council, October 29, 2009.

Recommendations

In the light of the above, the Observatory recommends:

1. To the competent authorities of the Russian Federation:

- To conform in all circumstances with Russia's international and regional obligations regarding the protection of human rights and fundamental freedoms, and in particular with the article on the freedom of expression and the right to a fair trial contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) and the International Covenant on Civil and Political Rights;
- To conform in all circumstances with the provisions of the Declaration on Human Rights Defenders adopted by the United Nations General Assembly on December 9, 1998, and in particular with its Article 1, which specifies that "Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels", and with Article 12.2, which specifies that "The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration";
- To conform in all circumstances with the provisions of the Declaration of the Committee of Ministers of the Council of Europe on the protection of human rights defenders and the promotion of their activities, and in particular:
 - With Article 2.i), in which the Committee calls on member States to "create an environment conducive to the work of human rights defenders, enabling individuals, groups and associations to freely carry out activities, on a legal basis, consistent with international standards, to promote and strive for the protection of human rights and fundamental freedoms without any restrictions other than those authorised by the European Convention on Human Rights;
 - With Article 2.vi), in which the Committee calls on member States to "ensure that their legislation, in particular on freedom of association, peaceful assembly and expression, is in conformity with internationally recognised human rights standards and, where appropriate, seek advice from the Council of Europe in this respect";

2. To the Delegation of the European Commission in Moscow and to the embassies of the member States of the European Union in Moscow (on the basis of the European Union Guidelines on Human Rights Defenders), to the embassies and parliamentarians of member States of the Council of Europe (on the basis of the Declaration of the Committee of Ministers and Resolution 1660 of the Parliamentary Assembly of the Council of Europe respectively), and to the Organisation for Security and Cooperation in Europe (on the basis of the 1990 Copenhagen document):

- To observe the hearings of the appeal before the civil and - if need be - criminal jurisdictions,
- To draw up a public report, if possible jointly, on possible violations and matters for concern noted during the appeal hearings;

- To communicate such matters for concern to the Russian authorities;
- To ensure the follow up of the situation in the framework of their respective activities.

3. To the Council of Europe Commissioner for Human Rights:

- To intervene on the basis of this information, so that Mr. Orlov can be assured of a fair trial when the appeal is heard;
- To continue to meet with and support members of Memorial, and to draw up a public report on the situation, if security conditions allow;
- To approach the competent authorities in the manner he deems appropriate, in order to help them to find solutions, in accordance with their obligations, to the judicial harassment to which Mr. Oleg Orlov is subjected;
- To continue to work on the issue of human rights defenders in close cooperation with the other international institutions and organisations, in particular the OSCE-ODIHR Focal Point for Human Rights Defenders, the European Union and the Special Rapporteur of the United Nations on Human Rights Defenders, and with other existing mechanisms.

Annexes

Annex n°1

MEMORIAL HUMAN RIGHTS CENTER
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(Unofficial translation. Russian version available at <http://www.memo.ru/2009/09/25/2509091.pdf>)

The legal proceedings instituted by Kadyrov have begun Statement by the defendant Orlov to the Judge

Today, September 25, 2009, in the Court of Moscow Tverskoi district, was held the first hearing in the case of Ramzan Kadyrov v. the Human Rights Centre (HRC) Memorial and Oleg Orlov, accused by the President of the Republic of Chechnya of having violated his honour and his dignity, and from whom he claims damages for “moral damage”.

The representatives of the plaintiff and the defendant spoke at 2 p.m. The defendant submitted applications concerning questions to the witnesses and the inclusion in the case file of numerous pieces of evidence. These applications were partially satisfied. Two witnesses for the defence were also heard: an employee of HRC Memorial, Ekaterina Sokirianskaya and the Deputy Head of the Human Rights Watch office in Moscow, Tatiana Lokshina.

We put before you the text of the statement by the defendant, the Chairman of the Board of HRC Memorial, Oleg Orlov.

Statement by the defendant

Statement by Oleg Petrovitch Orlov, against whom a complaint has been lodged by Ramzan Akhmadovitch Kadyrov for violation of his honour, his dignity and his professional reputation, and of whom the plaintiff claims compensation for moral damage, during the hearing held in the Court of Moscow Tverskoj district on September 25, 2009.

Your honour,

The complaint lodged against me by the President of the Republic of Chechnya for violation of his honour, his dignity and his professional reputation, with in addition a claim for compensation for moral damage, contains demands that are not justified, and should not be satisfied.

The very text of the statement is composed of items of information and opinions that are in no way linked to the Plaintiff's demands, and contains assertions that do not correspond to reality. That is particularly true of the presentation of the meetings between the Plaintiff and Natalia Estemirova.

I shall not however address all such issues. I prefer to go straight to the content of the

complaint. I do not dispute that the words quoted in the complaint and for which the Plaintiff demands a denial, do effectively appear in the declaration published by HRC Memorial on our website. I spoke those words in public.

I had every reason to say what I said.

Let us analyse what I said.

“I know with certainty who is guilty [“vinoven”] of the assassination of Natalia Estemirova. We all know this person. His name is Ramzan Kadyrov, he is the President of the Republic of Chechnya”.

The plaintiff asserts that I had declared that he was implicated in the assassination of Natacha Estemirova. I did not however speak of implication. I spoke of guilt (“vinoven”). They are two different things.

I used the word “vinoven”, not in its meaning in criminal law, but in its social and political sense. The political guilt of Ramzan Kadyrov in this assassination is obvious. To affirm such political guilt is not a statement of fact, but an opinion, my opinion. It is my judgment of Kadyrov’s actions, and has been for several years.

Your honour, allow me to present the evidence on which I base such an opinion.

It is not merely the fact that, under the terms of the constitution of the Republic of Chechnya (RC), officials must defend human and citizens’ rights and freedoms (Article 14 of the RC Constitution). The President is the top-ranking official of the Republic of Chechnya (Article 63 of the RC Constitution) and is responsible for all that happens on the territory of Chechnya.

R. Kadyrov, however, is responsible for all that happens on the territory of Chechnya, not only formally, but also in practice.

The Plaintiff proclaims this himself on his website “Ramzankadyrov” (http://www.ramzankadyrov.ru/press.php?releases&press_id=1044&month=07&year=2007): ***“I take personal responsibility for all that happens on the territory of the Republic”.***

Numerous facts and media reports prove that R. Kadyrov really does control and direct not only the activities of the civilian executive authority of the Republic, but also the activities of the security forces of the Republic of Chechnya.

Now both the agents of the civilian administration and those of the security forces commit blatant human rights violations, often claiming to be acting under specific orders from the President of the Republic of Chechnya, Ramzan Kadyrov.

An atmosphere of impunity prevails on the territory of Chechnya for the security forces, which leads them to break the law.

Naturally, the representatives of human rights organisations can but protest against such human rights violations. Natalia Estemirova, as a member and employee of our organisation, had gathered and spread information on human rights violations. She often made public statements on the matter.

Instead of examining the violations revealed by human rights defenders, many of the officials of the Republic strive publicly to portray those working for independent human rights organisations as enemies of the Republic, individuals who, in the context of the fight against terrorism, prevent Chechnya from finding peace and stability once more. We have reached such a point where human rights defenders are accused on television of complicity with the terrorists - before adding that the accomplices of the terrorists, including those who “support them in their thoughts” must be eliminated.

The situation in the Republic of Chechnya has reached a point where it is dangerous to present oneself as a “human rights defender”.

It seems to me obvious that if the picture I have drawn corresponds to reality, than I had every reason to speak of Ramzan Kadyrov’s political guilt in the assassination of Natalia Estemirova.

What proof do I have of the truth of this picture?

The evidence showing that R. Kadyrov controls and directs at all times not only the instances of the executive authority, but also those of the security forces, and that he is therefore responsible for their actions and inaction, is as follows:

- The press releases of the President and the government of the Republic of Chechnya, published on the official website of the President and the government of the Republic of Chechnya (<http://www.chechnya.gov.ru>), on the fact that R. Kadyrov regularly has meetings, several times a month, with Rousian Alkhanov, the Minister for the Interior of the Republic of Chechnya, and with his deputies and the heads of the various departments of the ministry.

He listens to their reports, assigns their objectives to them and gives them instructions. It should be noted that these objectives and instructions are not of a general nature, but are very concrete: to increase the number of special operations in such and such an area, to arrest or even eliminate such and such an individual connected with the activity of illegal armed groups, etc.

I have here several press releases of this kind, printed from the website. Between the middle of May and the beginning of September, *i.e.* only three and a half months, there were 14 meetings of this type, which means they were held on average about once a week.

On September 4 a press release was published on the same website (<http://www.chechnya.gov.ru/page.php?r=126&id=5956>) that contained the following passage. I quote: “*The special operation aimed at arresting the authors of suicide attacks was directed personally by the President of the Republic of Chechnya Ramzan Kadyrov*”. These were special operations carried out by agents of the Chali commissariat (under the Ministry of the Interior of the Republic of Chechnya) jointly with the “loug” (South) battalion. Thus Kadyrov directs operations in which troops of the armed forces of the Interior are involved.

I shall ask that this piece of evidence be added to the case file.

- The same thing is corroborated by reports broadcast on the television channels of the Republic of Chechnya recorded in Grozny by an employee of HRC Memorial, which are on this disc, with the transcript of the texts of the reports.

For example, on July 1, on the *Grozny* television channel, the “Novosti” programme (news bulletin) at 10 p.m. included a meeting between the President and the Minister of the Interior of the Republic of Chechnya. R. Kadyrov tells the Minister to reinforce his activity on the territory of Dagestan and Ingushetia, specifying exactly what part of Ingushetia. The Minister of the Interior, Alkhanov, replies: “*Your instructions will be carried out*”, in other words he considers that what R. Kadyrov says are orders emanating from a superior whom he must absolutely obey.

Another example, again from the *Grozny* television channel: On May 24 of this year, in the “Spetsialnyi Reportai (Special report), at 10.40 p.m., a feature was shown that included a declaration by the police chief of the Sounjensk district, Aslan Makhmatkhadjiev, who, in connexion with the operations in his district, said: “We are following the instructions of the President of the Republic of Chechnya”. And so not only the Minister of the Interior of the Republic of Chechnya, but also his subordinates consider R. Kadyrov to be their boss, whose orders and instructions must be obeyed.

I shall ask that these recordings be added to the case file.

- The same thing is corroborated by the information passed on by the press agencies and the media, indicating that R. Kadyrov is personally directing such and such an operation.

For example, this dispatch by INTERFAX on September 4: (http://www.interfax-russia.ru/r/B/eventday/415.html?id_issue=12302399) :

“The operation aimed at capturing the potential authors of suicide attacks was conducted, including in the preparatory stages, in the utmost secrecy and under the direct command of the President of Chechnya Ramzan Kadyrov”. I draw your attention to the words “including in the preparatory stages”; it was therefore a long-term command structure.

Neither R. Kadyrov nor any other official has issued a denial of these remarks. On the contrary, R. Kadyrov himself, in an interview with the *Komsomolskaïa Pravda*, declares: “*I personally led the operation during which they were arrested.*” (<http://www.kp.ru/daily/24360/546250>).

I shall also ask that this dispatch and the interview be added to the case file.

It therefore appears clearly that R. Kadyrov commands directly and permanently the law enforcement forces of the Republic of Chechnya.

The evidence proving that R. Kadyrov bears the responsibility for the blatant human rights violations committed by the agents of the civilian administration and the security forces under his control is as follows:

- Public declarations by R. Kadyrov himself

On this CD we have a recording of his declaration during the “Itogui” (assessment) programme on the *Grozny* television channel on May 23 at 8 p.m.:

R. Kadyrov said the following: “*Vallakhi (I swear by Allah), the Wahhabis and those who emit if only an ounce of the odour of Wahhabism will be eliminated. I swear by Allah, if they do not bring their children back home, I shall not allow them to live on this land. They must either call back home their garbage-children and put them in prison, or kill them. I*

swear by Allah! We are not even going to arrest them; we shall shoot them on the spot. And afterwards we shall prohibit their names even to be uttered”.

Extrajudicial executions are unjustifiable, even of terrorists. Under Russian legislation, individuals suspected of having committed a crime must be arrested and proved guilty, and only then can a court sentence them. And yet Kadyrov proclaims publicly that individuals who follow a certain vision of Islam - and even those under the slightest suspicion of doing so (odour of Wahhabism) - will be executed. He threatens the families of those who have joined the insurgents. And all this is proclaimed publicly by a man bound under the Constitution of the Republic of Chechnya to “defend human and citizens’ rights and freedoms”!

That declaration alone is enough to show that Ramzan Kadyrov contributes actively to the creation in Chechnya of a climate of illegality, as his pronouncements are taken as instructions.

The next day, May 24 of this year, the *Grozny* channel broadcast in its programme “Spetsialnyi Reportai” at 10.40 p.m. a feature in which the chief of police of the Sounjensk district, Aslan Makhmatkhadjiev, expressed demands that were clearly illegal in speaking to families of persons suspected of belonging to illegal armed groups (the recording is on this CD): *“I officially declared, regarding people who sent their children to the mountains to join the moronic shaitans (the insurgents), that in future they will not be able to say they did not know. If you do not want to be responsible for your children, go to the mosque and disown them”.*

It is clear that a police officer has no right to demand that citizens perform such or such an act in a place of religion, threatening to hold them responsible for the actions of their children.

Declarations of this kind are not due to chance, nor are they isolated occurrences.

On July 16 of this year, the *Grozny* channel in its “Novosti” programme, at 10.07 p.m. broadcast a feature on the meeting between the head of the administration of the city of Grozny, Mouslim Khoutchiev, and the parents of members of illegal armed groups.

This how the programme host described the meeting:

“Khoutchiev made a strongly-worded statement, indicating that henceforth each time there is a terrorist attack or action by the rebels, the family and friends of the members of banned groups will be held responsible”.

I shall now quote the public declaration of the head of the administration of Grozny: *“Yesterday, the President told us, and we are now telling you, that from the 16th onwards, that responsibility will be in force. From now on, you will all be responsible for the stability of your districts, whether it is Staropromyslovski or Leninski. If something happens, anything, whatever the shaitans have done, then it is the father, the brother and the sister of the member of the illegal armed group living in the district who will be held responsible”.*

Thus, on the territory of the Republic of Chechnya, by order of Ramzan Karydov, the authorities engage in hostage-taking practices that are banned by several international conventions and covenants to which Russia is a signatory.

On July 1st, the *Grozny* channel, in its programme “Noyosti”, at 10.30 p.m., featured a declaration by the deputy of the Republic of Chechnya to the State Duma of the Russian Federation, Adam Delimkhanov. The recording of the declaration is on this CD, and the transcript is published at: <http://www.hro.org/node/6340>.

I shall also ask that this declaration be added to the case file.

Among other things, Adam Delimkhanov said this:

“Those who are at war with us, who bear arms; those who sympathise with them; those who support the shaitan even in thought...we will eliminate them all.”

End of quote. By the word “shaitan”, the deputy is referring to the insurgents.

In other words the Deputy is saying that people will be executed, not even because they are under suspicion, but for having committed a crime in thought. The modern day Republic of Chechnya is thus enacting Orwell’s 1984 anti-utopia, where people were prosecuted precisely for the “crime of thought”. All this is flagrantly contrary to Russian law and international human rights standards.

To appreciate the full importance of this declaration, it should be recalled that before becoming a deputy Adam Delimkhanov was the Deputy Head of Government of the Republic of Chechnya (he was therefore R. Kadyrov’s Deputy), and that he supervised the law enforcement agencies. This year the President of the Republic of Chechnya made the following official statement: *“I deem it essential to emphasise that Adam Delimkhanov is my close companion, my friend, my brother, more: my right hand. And I consider all criticism levelled at him to be aimed at me personally.”* This declaration was read on April 6 on the *Grozny* channel, in the “Novosti” programme at 9.30 p.m., and was picked up subsequently by numerous media. And in an interview published recently in the *Zavtra* newspaper (n°39, 2009), R. Kadyrov presented A. Delimkhanov as his successor.

The case is not limited to these threats.

The evidence gathered by the human rights organisations is proof of this.

- Here is proof, gathered by the Human Rights Centre “Memorial”, that agents of the Republican forces regularly set fire to the houses of families of whom certain members are suspected of belonging to illegal armed groups:

<http://www.memo.ru/hr/hotpoints/caucas1/msg/2009/03/m162902.htm>
<http://www.memo.ru/2009/06/26/2606091.html>

Natalia Estemirova contributed to drafting this material. I shall ask that it be added to the case file.

- Here is the report of another famous human rights organisation, Human Rights Watch, entitled “What your children do will touch upon you. Punitive house-burning in Chechnya”.

- Here is the report of another famous human rights organisation, Amnesty International, which denounces the systematic human rights violations in the Republic of Chechnya.

I shall ask that they both be added to the case file.

- I think that to demonstrate that the picture I am painting is accurate, it is important to quote the opinion of the Commissioner for Human Rights of the Council of Europe, Thomas Hammaberg. During his stay in North Caucasus this month, he raised the question of the practice of setting fire to the houses of families of whom certain members have joined the insurrection. *“This kind of arbitrary settling of scores is unacceptable”*, he declared. The Commissioner announced during his press conference in Moscow on September 10, 2009, that Kadyrov had admitted that it was indispensable to put an end to such crimes (http://www.dw-world.de/dw/article/0,,4676473,00.html?maca=rus-rss_rus_yandex_new_comments_2-4163-xml). Which means that Ramzan Kadyrov did not deny that the practice existed.

Your honour, allow me to continue the presentation of evidence that proves that the situation that has developed in the Republic of Chechnya, where serious crimes and flagrant human rights violations can occur systematically and with impunity, gave me every reason to express an opinion concerning the unquestionable political guilt of Ramzan Karydov for the assassination of Natalia Estemirova.

- My opinion regarding the political guilt of Ramzan Karydov is based on the long years of work of our organisation in the Republic of Chechnya. The results of our work can be found, in particular, in our correspondence with the Prosecutor’s office. We have collected here our requests and the answers of the Prosecutor’s office for only the most flagrant crimes, such as the public execution of a man suspected of having helped the insurgents, the death of a man who had been seriously injured while detained in the illegal prison in the village where R. Kadyrov was born, Tsentoroi, abductions, cases of torture, disappearances. In all these crimes, the implication of agents of the law enforcement forces seems undisputable. In each of these cases, the Prosecutor’s office recognised that a crime had been committed and initiated criminal proceedings. But the guilty are never found.

- Further evidence: the many complaints sent to the European Court of Human Rights for abductions perpetrated shortly before the abduction and execution of N. Estemirova. It was Natalia Estemirova who was collecting information on all these cases.

The documents relating to these complaints clearly show that only representatives of the State could have committed these crimes, in a context of total impunity.

When I speak of the political guilt of Ramzan Karydov, I base myself in particular on the report by the International Federation for Human Rights (FIDH) and the Human Rights Centre Memorial entitled *“Torture in Chechnya: ‘Normalisation of nightmare’”* (<http://www.memo.ru/hr/hotpoints/N-Caucas/doc11/index.htm>). The report describes numerous cases of the use of torture in the Republic of Chechnya in 2004-2006, and the refusal of the authorities to take steps to change the situation. During that period Ramzan Karydov was successively first Vice-Prime Minister of the Republic of Chechnya, head of law enforcement agencies, acting president of the government, then President of the government of the Republic of Chechnya.

As the elements I have presented clearly show, the human rights organisations protest against human rights violations in the Republic of Chechnya and attempt to bring the guilty to justice. In most cases, however, they meet not with indifference, but with overt hostility on the part of the authorities.

The leaders of the Republic publicly present those who work for independent human rights organisations as enemies of the Republic, accomplices of the terrorists. Here is proof of what I am saying:

- On June 24 of the present year, during a press conference, the President of the Republic of Chechnya, in answer to a question on the lifting of the “Anti-Terrorist Operation (KTO)” regime on the territory of Chechnya said the following:

*“I repeat once again: certain political pundits and **experts**, are usually “acting for someone”. (...) A lot of people do not like to see the Republic of Chechnya moving towards stability and establishing its economic system. They are the people who commission the experts to write such texts. All that is nothing but invention and lies! (...) It is nothing but propaganda. I consider their activity to be identical to that of bandits, terrorists, criminals.”* (<http://www.ej.ru/?a=note&id=9287>)

The recording of this statement is on the CD. There is also on the disc an article quoting it. I shall ask that this evidence be added to the case file.

It is undeniable that Ramzan Kadyrov’s statement, assimilating independent experts to “bandits, terrorists and criminals”, creates a threat for the experts, among them HRC Memorial representatives. It is precisely as an **expert** that Natalia Estemirova was invited to speak on the radio channel “Echo of Moscow”, after the end of the KTO, on April 19. The picture she gave of the situation in the Republic of Chechnya after the end of the KTO was very different from that drawn by R. Kadyrov in his press conference.

After the end of the KTO I was interviewed as an **expert** on several occasions by various media. I commented on the lifting of the KTO in the Republic of Chechnya and informed the public of the many serious human rights violations that took place on the territory of the Republic of Chechnya.

On July 3, 2009, three weeks before Kadyrov’s press conference, HRC Memorial published a note (<http://www.memo.ru/2009/07/03/0307091.htm>). This note precisely concerned the situation in the Republic of Chechnya after the lifting of the KTO and indicated that “*the losses of “siloviki” in Chechnya increased after the lifting of the KTO*”, and that it was too early to talk about stability.

The employees of HRC Memorial had every reason to consider that the judgements expressed in their note and in their statements to the press had displeased R. Kadyrov, and he had referred to these during his press conference when he assimilated experts to terrorists.

One week after R.Kadyrov’s press conference, his “right hand”, Adam Delimkhanov, appeared on the *Grozny* channel (the “Novosti” programme at 10 pm). He repeated the argument of R. Kadyrov and expanded and reinforced it.

“There are people who call themselves Human Rights Defenders, who help these shaitans, these villains. They virtually add to their activities and their goals are the same. They spread rumours and make statements about the police and on other subjects. (...) They do as much evil as the people in the forests. (...) Whether they are Chechen or Ingush, or from anywhere else, they must know that they will be held responsible for what they say. We will not let those who have taken the road to evil go unpunished.”

It is important to emphasise that A. Delimkhanov ended this statement as follows:

“Those who have made war on us carrying weapons; those who have sympathized with them; those who support the shaitans even in their thoughts ... we will eliminate all of them.”

(<http://www.hro.org/node/6340>)

To start with, A. Delimkhanov announces that human rights defenders are virtually accomplices of the terrorists (the “shaitans”) and then ends by saying that all those who support the “shaitans” “even in their thoughts” must be eliminated.

Such public statements by a highly placed official contribute to the creation of a situation in the Republic of Chechnya, where to present oneself as a “human rights defender” becomes extremely dangerous.

I have thus shown that in the Republic of Chechnya, officials under the direction of the President of the Republic of Chechnya, Ramzan Kadyrov, blatantly violate human rights. They publicly assert that they are ready to carry out his illegal instructions. And in this context, Kadyrov himself, as well as his “right hand”, Delimkhanov, publicly assimilates those who criticise their actions (experts and human rights defenders) to terrorists. And they declare publicly that all those who arouse the slightest suspicion of complicity with terrorists must be eliminated. I insist: they must not be tried but eliminated.

Therefore, I myself and the other members of Memorial had every reason, after the abduction and assassination of Natalia Estemirova, to consider and even to consider with certainty, that the President of the Republic of Chechnya R. Kadyrov is guilty for the assassination of N. Estemirova, given that the issue is that of his political guilt as head of the Republic – a status that signifies that he is responsible for what occurs there.

When I said that *“Ramzan had already threatened Natalia, he had insulted her and considered her to be his personal enemy”*, that corresponded to reality.

The words that I pronounced can be explained and clarified by another of my statements: *“When Natalia had taken the liberty of criticising the fact that young girls are virtually obliged to wear an Islamic scarf in public places, she had a conversation with Kadyrov. She then reported that Kadyrov had insulted her, and had stated, literally: “My hands are covered in blood up to my elbows. And I feel no shame for that. I have killed many bad people, and I shall continue to do so. We are fighting the enemies of the Republic”.*

When I spoke of insults and threats, I was referring to the last meeting between Natalia Estemirova and Ramzan Kadyrov, which took place on March 31, 2008 in Grozny, at the Palace of Youth. It was not a public meeting. Apart from Kadyrov, the Mayor of Grozny, Mouslim Houtchiev, was also present. After the meeting ended, on the same day, N. Estemirova told me on the telephone what had happened. Shortly afterwards, at the beginning of April, during a stay in Moscow, she described this meeting in greater detail to several friends and colleagues.

Ramzan Kadyrov violently attacked Estemirova, frequently screaming. What infuriated him most was Estemirova’s public criticism of the attempts by the administration to impose

wearing the Islamic veil in public places on the women of the Republic of Chechnya. But the President of the Republic of Chechnya did not stop there. He also said that HRC Memorial was spreading information with nothing to back it up in order to slander the leaders of the Republic, and that he himself could see nothing positive resulting from the interaction between his services and the human rights organisations. Kadyrov demanded that Estemirova stop visiting the ministries and the offices under the control of the President of the Republic of Chechnya. Similarly, he declared with force that she would never again deal with human rights in Chechnya.

The words *“My hands are covered in blood up to my elbows. And I feel no shame for that. I have killed many bad people, and I shall continue to do so. We are fighting the enemies of the Republic”* were pronounced after Kadyrov violently declared that he would remove Estemirova from her position as Chair of the Grozny Public Council for Human and Citizens’ Rights and Liberties. Estemirova herself clearly interpreted these words as a threat.

According to N. Estemirova, all of this conversation was a form of insult towards her. In addition, R. Kadyrov permitted himself to remark that “respectable Chechen women” do not go out into the street with their head uncovered (N. Estemirova had come to the Palace of Youth precisely without a veil over her head). He asked her whether, when she behaved in this way, she was not afraid for her daughter.

We did not, and still do not have any reason for not believing what N. Estemirova said. In May 2008, thanks to the assistance of Amnesty International and for reasons of safety, our organisation sent N. Estemirova on a course in Great Britain for a few months. Natalia took her daughter with her.

I think it is important to emphasise that the insults and extreme hostility of the Plaintiff with regard to Natalia Estemirova are confirmed by his own words: R. Kadyrov could not stop himself from insulting her even after the assassination of the human rights activist.

Thus, in an interview on the radio station “Radio Svoboda” (Radio Liberty): (<http://www.svobodanews.ru/content/article/1795518.html>) after the assassination of Estemirova, R. Kadyrov said this: *“Why should Kadyrov kill a woman whom nobody needs? She had never had any honour, dignity and conscience, but still I’d appointed her to chair the Council”*.

From this insulting tirade it emerged that R. Kadyrov was hostile to N. Estemirova even before appointing her as Chair of the Council at the beginning of 2008. He already knew her and had formed a clear and resolutely negative opinion concerning her.

I can imagine that this negative opinion grew from their first meeting. In his complaint, the Plaintiff writes, *“I met Estemirova a little over two years ago, during a meeting with human rights defenders”*. This does not correspond to reality.

The first encounter between Ramzan Kadyrov and Natalia Estemirova occurred over five years ago, in July 2004. On that day, Natalia accompanied the journalist from *Novaya Gazeta* Anna Politkovskaia on a visit to the residence of Kadyrov at Tsentoroy. Politkovskaia carried out an interview with Kadyrov that was published in *Novaya Gazeta* on June 21, 2004: (<http://politkovskaya.novayagazeta.ru/pub/2004/2004-051.shtml>). Estemirova was present during the conversation between Politkovskaia and Kadyrov. According to Estemirova’s account of this day spent at Kadyrov’s residence, the latter’s hostility towards her may date from then.

On February 21, 2008, at Grozny airport, Timur Aliev, Advisor to the President of the Republic of Chechnya, who was then preparing a meeting between representatives of HRC Memorial and R. Kadyrov, confirmed during a conversation with me and Svetlana Gannushkina that R. Kadyrov felt extremely hostile to N. Estemirova.

As for my words “*We do not know who gave the order or whether the order was given by one of his close followers to please their chief*”, they are not the assertion of facts and events. I say that we do not know who gave the order.

These words even show that I never asserted that Ramzan Kadyrov was directly implicated in organising the abduction and assassination of Natalia Estemirova. We do not know who gave the order. At the same time, I think that the hypothesis (I insist: the hypothesis!) of such direct implication must be examined, even if this hypothesis appears to be unpleasant or even unacceptable to the authorities.

Whatever the case, given what I know of Natalia Estemirova, of her work and the conditions in which she carried out her work, given everything I have just said, I am profoundly convinced that her assassination is directly linked to her human rights activities. It seems obvious to me that her killers were motivated by the wish to silence the human rights activist. Now the statements made on television by Ramzan Kadyrov and by his “right hand” A. Delimkhanov undeniably indicated to representatives of the state apparatus of the Republic of Chechnya, including to agents of the security forces, that human rights defenders who publicly denounce violations of human rights in Chechnya irritate the leadership of the Republic and, even worse, are *de facto* accomplices of terrorists.

My words “*As for President Medvedev, he seems to be at ease with the presence of an assassin as leader of one of the subjects of the Federation*” are based on numerous statements by the Plaintiff, issued in various media and never denied by the Plaintiff. In addition, he had personally confirmed that he had been involved in the assassinations of various individuals and was proud of this. I have no reason not to believe the President of the Republic of Chechnya on this matter.

Thus, in an interview in the newspaper *Novaya Gazeta* (<http://politkovskaya.novayagazeta.ru/pub/2004/2004-051.shtml>) published on June 21, 2004, the Plaintiff recognised having given the order to call people. I quote:

“— **Did you give orders to have people killed?**

— **Yes.**

— *Does that not frighten you?*

— *It is not me, it's Allah. The prophet said: all the Wahhabis must be exterminated*”.

Thus the Plaintiff recognises that he has participated in numerous assassinations, either by taking part in their organisation or by inciting them to be committed.

Furthermore, in October 2005, in an interview with the men's magazine *GQ*, R. Kadyrov stated:

“I have already killed the person I had to kill. And those who were behind him, I will kill all of them, to the very last one, until I am killed or put in prison. For as long as I live, I will kill”. (<http://www.newsru.com/russia/05oct2005/kadyrov.html>).

In January 2008, in an interview with the “Moscow Echo” (<http://www.echo.msk.ru/programs/beseda/492292-echo/>), Kadyrov recognised having taken part in the assassination of several persons he considered to be implicated in the assassination of his father.

I shall ask for these publications to be added to the case file.

In addition, I have already quote the words spoken by Kadyrov in a statement broadcast on the *Grozny* channel on May 23:

“The Wahhabis and those who emit if only an ounce of the odour of Wahhabism will be eliminated. (...) We are not even going to arrest them; we shall shoot them on the spot”

In these quotations, the Plaintiff recognises, directly and with self-assurance, the assassinations he has committed, his participation in the organisation of assassinations and his intention to carry on committing assassinations in the future, describing his intentions as positive.

So my words were a natural deduction from the statements made by R. Kadyrov himself.

The words used in the Memorial press release, ***“We know that the latest communications prepared by Natalia on new kidnappings, extra-judicial killings, a public execution in the middle of a village in Chechnya, provoked extreme annoyance in the high levels of power in Chechnya”*** correspond to the reality.

On July 10, 2009, four days before the assassination of Natalia Estemirova, Nourdi Noukhajiev, in charge of human rights in the Republic of Chechnya, invited Chakhman Akboulatov, the Head of the Grozny office of HRC Memorial, to his office. According to Akboulatov, N. Noukhajiev on that day told him that he had received a telephone call from Ramzan Kadyrov, who had virulently demanded an explanation regarding the latest Memorial texts published on the *Kavkazskii Uzel* website. These texts had precisely been written by Natalia Estemirova.

Nourdi Noukhajiev advised his listener to be very careful and flexible in his work. I will now quote an extract from the account of Akboulatov, published on the “Human Rights in Russia” website (<http://www.hro.org/node/6341>): *“Times are troubled, he said to me. He was worried that something might happen. He also referred to Anna Politkovskaia who, according to him, could have gone on living and doing useful work for the cause if she had taken care and known how to be flexible.”* I have this account, which bears the signature of Akboulatov, witnessed by a solicitor. I shall ask for this piece of evidence to be added to the case file.

It is important to stress that, whilst speaking with a member of Memorial staff, rather than discussing the best way to verify effectively the content of the texts concerned, the Human Rights Representative in the Republic of Chechnya clearly spoke of his concern for the lives of Memorial employees.

On the same day, and also on the day of the assassination of Natalia Estemirova, the Human Rights Representative in the Republic of Chechnya issued press releases in which he violently criticised human rights organisations, including Memorial, for their denunciation of the human rights situation in Chechnya. He particularly referred to reports concerning abductions and house-burnings, in other words exactly the subjects on which Estemirova was working. I bring to your attention the fact that these releases were published on the

official website of the President and the government of the Republic of Chechnya, which means that they express the position of the Republic's authorities.

<http://www.chechnya.gov.ru/page.php?r=179&id=225>

<http://www.chechnya.gov.ru/page.php?r=179&id=227>

I shall ask for these pieces of evidence to be added to the case file.
Thus the words quoted above correspond to the reality.

The words “*Ramzan has made the task of human rights defenders in Chechnya impossible*” do not include **information contrary to the reality**. It is an opinion, the analysis of an expert regarding the current situation in the Republic of Chechnya under the leadership of its current President.

I and my colleagues from the Human Rights Centre “Memorial” do not maintain that Ramzan Kadyrov made it literally impossible for all those who term themselves human rights defenders to work. It is undeniable that the work of the official “human rights” organisations, which are not independent civil structures, continues.

I met Ramzan Kadyrov on two occasions. On both occasions, he ended our meetings by asserting that he did not understand the use of independent civil organisations. He proposed that we change our way of working and not publicize the facts we uncovered, but report everything to him personally so that he could sort out the problems himself one way or another. In other words he proposed that we should integrate the vertical structure that he had created and become, *de facto*, a component in the state machine.

Human rights defenders are often threatened and are never supported by the authorities in power.

We can take as an example the events that occurred on June 17, 2008, when four HRC Memorial employees (Chakhman Akboulatov, Zarema Moukoucheva, Milana Bikhaeva and Iagari Gairbekov) were illegally arrested by officers from the police station (OVD) in the Ourous-Martan district. The Memorial employees were planning to film a building belonging to the “Solnetchnyi” *goskhoze* (a state farm). Many sources indicated that people who had been kidnapped or arrested illegally had been held in this building in the past. Some of them had then disappeared. This building was empty at present.

Armed men wearing plain clothes confiscated their documents and camera from the HRC Memorial representatives and took them to the Ourous-Martan police station. The police destroyed the recordings that had been made and behaved in an extremely abusive manner, threatening to shoot the Memorial employees (<http://www.memo.ru/hr/hotpoints/caucas1/index.htm>). No protocol for their arrest and the confiscation of their goods was drawn up. It was only when information about this arrest became known in Moscow and the media started to talk about it that the four people were released.

A complaint was addressed to the Prosecutor's office requesting that legal proceedings should be opened against the police.

Over a year has passed. During this time several rulings rejecting the opening of legal proceedings have been issued and annulled. Additional verifications have been made. Up until now, nobody has had to answer for what happened on that day.

Should we be surprised that human rights defenders are killed now?

Non-governmental human rights defence organisations continue to work in the Republic of Chechnya. These are colleagues for whom I have the greatest respect. But they work in impossible conditions. They are constantly obliged to censure themselves. And they wish to say things that risk provoking the dissatisfaction of the authorities, so when they report information to the media they ask that their names and the name of their organisation should not be mentioned, since they fear for their safety. The members of these organisations do not dare to examine cases of serious human rights violations by agents of the security forces.

When I say that it is impossible for human rights defenders to work, I mean that it is impossible to work in a really efficient manner.

During the 1920's to 1930's in URSS, in parallel with countless so-called independent organisations, which were *de facto* completely subjugated by the government, an organisation called the "Political Red Cross" existed for a while. It was a humanitarian, human rights organisation.

It worked in impossible conditions but still managed to provide real help to a great many people. But it could not express itself openly on the nature of the totalitarian regime, nor put an end to mass repression, nor oppose the elimination of other public organisations. This is why its sole existence is in no way sufficient to invalidate the following verdict: "*Stalin and his system have made the task of public organisations impossible in URSS*".

Therefore I consider that the demands contained in the complaint by Ramzan Kadyrov to be unjustified and should not be met.

Oleg Petrovitch Orlov

Defendant in the complaint lodged by Ramzan Akhmadovitch Kadyrov for violation of his honour, his dignity and his professional reputation, with a claim for compensation for moral damage.

25.09.2009

Annex n°2: Declaration by Mr. Oleg Orlov following his sentencing, October 9, 2009

Conclusion of the Kadyrov proceedings on first hearing (unofficial translation)
(<http://www.memo.ru/2009/10/09/091009.html>):

On October 6, 2009 the Civil Court of the Tverskoj district of Moscow ruled partly in favour of Kadyrov's complaint against me and the Human Rights Centre "Memorial".

Neither myself nor my colleagues agree with the decision of the court.

We intend to lodge an appeal before a higher court. In the event of the appeal being rejected by the Moscow Civil Court we shall turn to the European Court of Human Rights.

At the same time we feel it necessary to point out that during the hearings in the lower court, the defence succeeded in carrying out a serious and thorough examination of a certain number of important issues, such as:

- The political guilt of R. Kadyrov in the assassination of Natalia Estemirova.
- The responsibility of R. Kadyrov for the present dramatic situation of independent human rights organisations in Chechnya.

In support of their position, the defence and several witnesses presented numerous documents, media reports, public declarations by officials of the Republic of Chechnya, including M. Ramzan Karydov, recordings of *Grozny* television channel programmes, excerpts from the correspondence with the Prosecutor's office, and reports by human rights organisations.

Several witnesses recorded facts that supported our position. Even the witnesses produced by the plaintiff made statements – probably unwittingly – that objectively went to prove what the plaintiff was trying to refute.

In order to appreciate the degree to which the positions of the plaintiff and the defendant were based on fact and the rule of law, the audio transcription of the judicial proceedings, along with the documents presented to the Court, [...] can be found, and continue to be available on the Memorial Website: <http://www.memo.ru/2009/09/10/sud.htm> [...]. To any impartial person the conclusion will be obvious.

Despite the numerous declarations by the representatives of the plaintiff to the effect that Memorial (including Natalia Estemirova) would have propagated false and unverified information, no specific example was given. When the representative of "Memorial" asked him directly to give a concrete example, the head of the official human rights mechanism in Chechnya, a witness produced by Mr. Ramzan Kadyrov, was unable to answer. Nor was the witness able to quote a single case of the body he directed sending to "Memorial" or to anyone else a communiqué denying information put out by the Human Rights Centre "Memorial".

In view of all this, I would like to express my satisfaction regarding those elements of the proceedings, despite the unfair decision of the Court.

Oleg Petrovitch Orlov

Keep your eyes open

Establishing the facts – Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

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Created in 1986, the World Organisation Against Torture (OMCT) is today the main coalition of international non-governmental organisations (NGO) fighting against torture, summary executions, enforced disappearances and all other cruel, inhuman or degrading treatment. With 297 affiliated organisations in its SOS-Torture Network and many tens of thousands correspondents in every country, OMCT is the most important network of non-governmental organisations working for the protection and the promotion of human rights in the world.

Based in Geneva, OMCT's International Secretariat provides personalised medical, legal and/or social assistance to hundreds of torture victims and ensures the daily dissemination of urgent appeals across the world, in order to protect individuals and to fight against impunity. Specific programmes allow it to provide support to specific categories of vulnerable people, such as women, children and human rights defenders. In the framework of its activities, OMCT also submits individual communications and alternative reports to the special mechanisms of the United Nations, and actively collaborates in the development of international norms for the protection of human rights.

OMCT enjoys a consultative status with the following institutions: ECOSOC (United Nations), the International Labour Organization, the African Commission on Human and Peoples' Rights, the *Organisation Internationale de la Francophonie*, and the Council of Europe.

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a joint programme



fidh

The Observatory
for the Protection
of Human Rights Defenders

Activities of the Observatory

The Observatory is an action programme based on the belief that strengthened co-operation and solidarity among defenders and their organisations will contribute to break the isolation they are faced with. It is also based on the absolute necessity to establish a systematic response from NGOs and the international community to the repression against defenders.

With this aim, the Observatory seeks:

- a) a mechanism of systematic alert of the international community on cases of harassment and repression against defenders of human rights and fundamental freedoms, particularly when they require an urgent intervention;
- b) the observation of judicial proceedings, and whenever necessary, direct legal assistance;
- c) international missions of investigation and solidarity;
- d) a personalised assistance as concrete as possible, including material support, with the aim of ensuring the security of the defenders victims of serious violations;
- e) the preparation, publication and world-wide diffusion of reports on violations of the rights and freedoms of individuals or organisations working for human rights around the world;
- f) sustained action with the United Nations (UN) and more particularly the Special Representative of the Secretary General on Human Rights Defenders, and when necessary with geographic and thematic Special Rapporteurs and Working Groups;
- g) sustained lobbying with various regional and international intergovernmental institutions, especially the African Union (AU), the Organisation of American States (OAS), the European Union (EU), the Organisation for Security and Co-operation in Europe (OSCE), the Council of Europe, the International Organisation of the Francophonie (OIF), the Commonwealth, the League of Arab States and the International Labour Organisation (ILO).

The Observatory's activities are based on the consultation and the cooperation with national, regional, and international non-governmental organisations.

With efficiency as its primary objective, the Observatory has adopted flexible criteria to examine the admissibility of cases that are communicated to it, based on the "operational definition" of human rights defenders adopted by OMCT and FIDH: "Each person victim or at risk of being the victim of reprisals, harassment or violations, due to his compromise exercised individually or in association with others, in conformity with international instruments of protection of human rights, in favour of the promotion and realisation of the rights recognised by the Universal Declaration of Human Rights and guaranteed by several international instruments".

To ensure its activities of alert and mobilisation, the Observatory has established a system of communication devoted to defenders in danger.

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