

## **SUBMISSIONS IN REPLY TO THE CALL FOR INPUTS ON THE NOTION OF SHORT-TERM ENFORCED DISAPPEARANCE**

### **“Short-term enforced disappearances in Russia”**

#### **Authors**

This submission is prepared by Memorial Human Rights Defence Centre and Stichting Justice Initiative in relation to the call for inputs of the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances.

*Memorial Human Rights Defence Centre (Memorial)* is a non-governmental organization founded in June 2022 by supporters of Memorial Human Rights Centre (dissolved on 29 December 2021) to continue the work of the latter NGO. It was founded in 1993 in Moscow and became one of the first human rights NGOs in modern Russia. It worked with grave human rights violations in (post-)conflict areas, civil and political rights and vulnerable groups. It represented hundreds of victims both domestically and before the European Court of Human Rights.

*Stichting Justice Initiative (SJI)*, established in 2001, has been offering legal aid to individuals who have experienced human rights infringements in the former Soviet Union. The organization's principal focus centers on advocating for the rights of survivors of gender-based violence in Russia. Its core mission is to ensure the accessibility of effective remedies at both national and international tiers for victims. SJI undertakes research concerning women's and children's rights in Russia, disseminates findings, and undertakes awareness-raising initiatives to counteract gender-based and domestic violence.

#### **Introduction**

As a result of the Chechen wars in Russia, civilians disappeared on a large scale. Instead of tackling the problem, the Russian state eventually spread the practices of abduction, arbitrary arrest and detention to other parts of the country. In this input, we will cover short-term enforced disappearances characteristic of the North Caucasus region (I) and the whole country (II), as well as short-term disappearances in the context of the armed conflict in Ukraine (III).

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### **I. Enforced disappearances in the North Caucasus**

1. *Firstly*, Russian state agents abduct the victims in order to threaten them, obtain statements or punish them. Persons suspected of offences related to terrorism and participation in illegal armed groups, LGBTIQ+ persons and those critical of the government or their relatives are at a particularly high risk.<sup>1</sup> In most cases, law-enforcement authorities abduct the victims, keep them incommunicado in the premises of the governmental buildings and subject them to torture and other forms of ill-treatment.<sup>2</sup> When the bruises and other signs of violence heal, the authorities “legalize” the disappeared: they get arrested on fabricated criminal charges.<sup>3</sup>

2. For example, Mr. Lom-Ali Elbiev<sup>4</sup> was abducted and tortured as a result of a conflict with a former mayor of Grozny, Chechen Republic. In 2017, Mr. Elbiev, director of a state-owned enterprise at the time, was summoned to the mayor's office. According to Mr. Elbiev, at around 8 p.m., the mayor's personal guards took him to the building's basement, tortured him and demanded a large sum of money. He was freed at dawn the next day, only after he promised to pay the mayor 28 million rubles, and the guards recorded his confession.<sup>5</sup>

3. On 31 October 2019, Mr. Islam Nukhanov<sup>6</sup> published a video on YouTube depicting a luxury district of Grozny, where many high-ranking government officials and relatives of Mr. Ramzan Kadyrov (the head of the Chechen Republic) lived.<sup>7</sup> The next day, police

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<sup>1</sup> See European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Public statement on the Russian Federation concerning the Chechen Republic and other republics of the North Caucasian region, 11 March 2019, URL: <https://rm.coe.int/16809371ee> (CPT Public statement on the Russian Federation concerning the Chechen Republic and other republics of the North Caucasian region); ECtHR, *Orlov and others v. Russia*, no. 5632/10, judgment of 14 March 2017; Kavkaz.Reality, “‘Being gay is already a crime.’ Chechen man detained in Moscow was handed to Kadyrov’s men”, 16 February 2023, URL: <https://www.kavkazr.com/a/bytj-geem-dlya-nih-uzhe-prestuplenie-zaderzhannogo-v-moskve-urozhentsa-chechni-peredali-kadyrovtsam/32274445.html>.

<sup>2</sup> See CPT Public statement on the Russian Federation concerning the Chechen Republic and other republics of the North Caucasian region.

<sup>3</sup> See detailed description of illegal detention practices at Ibid, pp. 6-9, §§ 14-23.

<sup>4</sup> Memorial represents Mr. Lom-Ali Elbiev before the ECtHR (application no. 26806/22).

<sup>5</sup> Memorial HRC, “Chechen court upheld a refusal to investigate the allegations of torture in the mayor’s office”, URL:

[https://memohrc.org/ru/news\\_old/sud-v-chechne-schvol-zakonnyy-otkaz-rassledovat-zayavlenie-o-pytkah-v-memorii-groznogo](https://memohrc.org/ru/news_old/sud-v-chechne-schvol-zakonnyy-otkaz-rassledovat-zayavlenie-o-pytkah-v-memorii-groznogo); Mediazona, “Chechen official said that he had been tortured in the Grozny mayor’s office”, 17 July 2017, URL: <https://zona.media/news/2017/07/17/teplosnabzhenie>.

<sup>6</sup> Memorial represents Mr. Islam Nukhanov before the ECtHR (application no. 25735/22).

<sup>7</sup> URL: <https://www.youtube.com/watch?v=areb4p9cTNo>.

abducted him and placed in the basement of the Grozny Interior Department. He was tortured and questioned as to why he had published the video. The Grozny Interior Department guards told his relatives that he was not officially detained while agreeing to pass him food. Mr. Nukhanov's wife accounted:<sup>8</sup>

*You cannot imagine how many Chechen women were there [in front of the Grozny Interior Department]. A lot of mothers. All of them had bags full of food. Standing at the gate and begging: show me my son. One [of them] approached me crying: it's been 10 days since her son had been abducted.*

4. On 26 November 2019, Mr. Nukhanov was officially arrested for assaulting a police officer and gun possession (all allegedly committed while he had been in the basement). According to the authorities, he was not deprived of liberty before that day. One year later, Mr. Nukhanov was kidnapped again. On 1 October 2020, Mr. Nukhanov's pre-trial detention was replaced with house arrest. 30 minutes after he entered his home, police took him away without explanation. On the next day, he was tried without prior notice and sentenced to 4 years imprisonment.<sup>9</sup>

5. *Secondly*, information from lawyers and SJI personnel operating in the North Caucasus region points to the emergence of a concerning pattern involving the intimidation of women who advocate for their familial and civil rights. These women face detention and imprisonment, lacking adequate documentation or legal basis for their incarceration. The underlying intent behind these unauthorized detentions is to compel the women into relinquishing their rights or serving the agendas of those accountable for their illegal confinement. SJI possesses insights into these detentions.

6. In three separate incidents that occurred in 2023 and are presently under investigation by the SJI, women were apprehended without formal charges.

7. Ms. Kh. endured a 9-month detention period, during which she lacked access to legal counsel or communication with her relatives. Only upon complying with requests from her ex-husband's family, relinquishing custody of her court-awarded children, was she eventually released. Similarly, Ms. Yu. was confined and placed in a basement, coerced into surrendering custody of her son, despite a court ruling in her favor. Ms. L., a psychologist engaged with human rights organizations and aiding victims of domestic abuse in Chechnya, was also confined in a basement for several days, prompted by demands to cease her

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<sup>8</sup> Novaya Gazeta, "Lena and Kadyrovtsi. Her husband recorded a video about Chechen Ryubevka. When he was apprehended, she went to Grozny to rescue him", 9 December 2019, URL: <https://novayagazeta.ru/articles/2019/12/09/83054-lena-i-kadyrovtsy>.

<sup>9</sup> Novaya Gazeta, "Sentence in 11 hours. Author of the video about Chechen Ryubevka and Novaya Gazeta's hero tried in one day" 2 October 2020, URL: <https://novayagazeta.ru/articles/2020/10/02/87348-prigovor-za-11-chasov>; see more on the case at Novaya Gazeta, "Lena and Kadyrovtsi. Her husband recorded a video about Chechen Ryubevka. When he was apprehended, she went to Grozny to rescue him", 9 December 2019, URL: <https://novayagazeta.ru/articles/2019/12/09/83054-lena-i-kadyrovtsy>; Novaya Gazeta, "Two worlds, two Islams. In Chechnya, those who torture with electricity do not get arrested. Those who get tortured do", 7 December 2019, URL: <https://novayagazeta.ru/articles/2019/12/17/83192-dva-mira-dva-islama>.

professional activities. Under duress, Ms. L. yielded to the demands, ultimately departing Chechnya. Each case unfolded within the Chechen Republic, involving detentions by representatives of the Chechen Ministry of Internal Affairs and incarceration within temporary detention cells or investigative isolators.

## II. Abductions accompanied by administrative arrests

8. Law-enforcement authorities abduct the victims for short periods of time – often less than 24 hours – and fabricate administrative charges. While the person is serving administrative detention, criminal charges are brought against them. The victims are usually ill-treated or threatened before they are officially arrested.<sup>10</sup> By 2023, such practice became widespread all over Russia. Persons suspected of sympathizing with Ukraine are at particular risk of getting abducted and detained under fabricated administrative and, subsequently, criminal charges.<sup>11</sup>

9. Islombek Kamalov<sup>12</sup> was kidnapped from the airport upon returning from Turkey on 12 December 2018. Police officers interrogated him at the border, put him in a car, beat him and forced him to swallow a bottle of vodka. Two days later, police drew up an administrative offense report stating that, that day, Mr. Kamalov was arrested for disorderly conduct in public. Since then, he has been abducted two more times. Each time, the authorities falsified new administrative charges. One of the abductions was filmed.<sup>13</sup> 30 days after Mr. Kamalov's initial disappearance, he was officially charged with membership in a criminal organization.<sup>14</sup>

10. Mr. Timofey Rudenko served 8 administrative arrests before he was charged with inciting/justifying terrorism based on his online statements condemning Russia's aggression in Ukraine. In May 2022, law-enforcement officers tortured him in a police station. After that, Mr. Rudenko served three consecutive administrative arrests. A year later, Mr. Rudenko was kidnapped by masked men at the airport entrance. This time, he got arrested on administrative charges five times in a row. Each time, he would disappear instead of exiting the detention facility only to reappear in a couple of days serving a new sentence in another detention facility.<sup>15</sup>

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<sup>10</sup> See in more detail at CPT Public statement on the Russian Federation concerning the Chechen Republic and other republics of the North Caucasian region.

<sup>11</sup> See, for example, Perviy otdel, 11 August 2023, URL: <https://t.me/deptone/6735>; Perviy otdel, 23 June 2023, URL: <https://t.me/deptone/6246>; Perviy otdel, 20 June 2023, URL: <https://t.me/deptone/6208>; Mediazona, "They will kill me. What do we know about the death of a man opposing the war and being subjected to torture in Rostov-on-Don", 15 June 2023, URL: <https://zona.media/article/2023/06/15/berezikov>.

<sup>12</sup> Memorial represents Mr. Islombek Kamalov before the ECtHR (application no. 33267/19).

<sup>13</sup> Memorial HRC, "*Islombek Kamolov is being kidnapped right in front of his mother and attorney*," 19 June 2019, URL: [https://www.youtube.com/watch?v=06jruaMhmuc&t=286s&ab\\_channel=%D0%A6%D0%B5%D0%BD%D1%82%D1%80%D0%9C%D0%B5%D0%BC%D0%BE%D1%80%D0%B8%D0%B0%D0%BB](https://www.youtube.com/watch?v=06jruaMhmuc&t=286s&ab_channel=%D0%A6%D0%B5%D0%BD%D1%82%D1%80%D0%9C%D0%B5%D0%BC%D0%BE%D1%80%D0%B8%D0%B0%D0%BB).

<sup>14</sup> "Memorial' complained to the European Court of Human Rights on behalf of Islombek Kamal who was prosecuted three times for things he did not do", URL: <https://incubatorold.memohrc.org/en/node/9926>.

<sup>15</sup> Memorial, "Timofey Rudenko is charged with justifying terrorism", 20 July 2023, URL: <https://memorialcenter.org/news/protiv-timofeya-rudenko-vozbudili-ugolovnoe-delo-ob-opravedanii-terrorizma>; and Memorial, "They tortured and offered to redeem the guilt" 23 June 2023, URL: <https://memorialcenter.org/news/pytali-i-predlagaly-iskupit-vinu>.

### III. Enforced disappearances of Ukrainian citizens on occupied territories

11. Russia practices mass disappearances and detentions of Ukrainian civilians in the occupied territories of Ukraine. Article 42 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) allows civilian internment when “security of the Detaining Power makes it absolutely necessary”. However, the practice of the Russian Federation does not meet any of requirements set out in the Fourth Geneva Convention, goes against even the Russian national regulatory framework and is in fact an institutionalised system of abductions, arbitrary detentions and torture of people deemed disloyal.

12. According to the Centre for Civil Liberties, the Russian military and special services kidnapped and imprisoned at least 2,000 Ukrainian non-combatants. In the T4P database, this number exceeds 4,700.<sup>16</sup> The Ombudsman of Ukraine claims more than 20,000. In its latest report, the Office of the UN High Commissioner for Human Rights reported documenting more than 800 such cases.<sup>17</sup>

13. Russia refers to such individuals as “detained for opposing a special military operation”. This ground for detention is not provided for by Russian law. The array of information collected allows us to conclude that this status is assigned to both civilians and prisoners of war and mirrors detainment in conditions prescribed by the Third Geneva Convention on the prisoners of war. However, the authorities refuse to disclose information about the place of detention and deprive the internees of direct communication with relatives. The detainees are not provided access to lawyers. There is no judicial review of detention. Apparently, persons are considered to be detained indefinitely, until the Ministry of Defense or the Federal Security Service decides to release them or transfer the collected materials for initiating a criminal case to the Investigative Committee. If the detainees are charged with a crime, they enter the official system of deprivation of liberty..

14. At the same time, it is known that such detainees are distributed among various pre-trial detention centers and correctional colonies of the Russian Federation, many of which are specially emptied for these purposes. However, due to the fact that this status is not provided for by law, formally the presence of these persons in these institutions is illegal, and therefore the institutions refuse to confirm the fact of keeping such persons on their territory.

15. Numerous testimonies of the released victims also make it possible to unequivocally conclude that detention in such places implies daily exposure to torture, cruel and inhuman treatment, hunger, complete isolation from the outside world, and the most severe psychological violence in the form of deprivation of leisure – even printed materials for

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<sup>16</sup> “T4P database war crime statistics”, 7 July 2023, T4P. URL: <https://t4pua.org/ru/stats>.

<sup>17</sup> “Detention of civilians in the context of the armed attack by the Russian Federation against Ukraine”, 27 June 2023, the UN High Commissioner for Human Rights. URL: <https://www.ohchr.org/sites/default/files/2023-06/2023-06-27-Ukraine-thematic-report-detention-ENG.pdf>.

reading are not allowed.

16. Until now, not a single criminal case has been initiated in the Russian Federation on the fact of such an extra-legal and torturous type of detention of Ukrainian citizens. At the same time Russian authorities demonstrate blatant negligence in keeping records of detainees that result in the inability of their relatives to get any information on their status.

17. For example, Andriy Brinevskiy disappeared in the city of Mariupol, Ukraine, on 11 March 2022. According to the testimonies of witnesses, during a heavy battle for the control over the city, he was evacuated by representatives of the military forces of the so-called Donetsk People's Republic from the basement, where he was hiding, to the city of Novoazovsk. During security on the so-called "filtration" he disappeared without a trace. For 7 months various government agencies and officials could not provide any information on his whereabouts, claiming that they did not arrest or detain such a person. Only on 6 October 2022 the Ministry of Defence finally acknowledged that this person was "detained for opposing a special military operation" (a month prior they claimed that he was not in the list).

18. Similarly, Ivan Honchar disappeared on 9 April 2022 during "filtration" after evacuation from Mariupol to Novoazovk. On 31 December 2022 the Ministry of Defence on request of his brother confirmed that he was "detained for opposing a special military operation" but already in a letter of 28 January 2023 the Ministry stated that they have no knowledge of him and that they are conducting an investigation on his whereabouts.

19. Akulova Yanina Petrovna, a Ukrainian citizen, was forcibly disappeared by Russian authorities and detained for more than a month, after which a criminal case was officially opened against her. On 11 October 2022, she was driving in a car with two of her acquaintances when they were stopped by the Russian Federal Security Service and the military officers in Melitopol, city of Zaporizhzhia Oblast occupied by Russia. The authorities allegedly found explosives in the car and detained them. Ms. Akulova was taken to an unknown basement where she was interrogated and tortured. They beat her in the face, made her kneel, poured water over her when she lost consciousness, and shocked her through the index fingers of both hands. Then Ms. Akulova was taken to the basement of the military commissariat building, where she heard how other people, presumably PoWs, were being tortured with electric shocks. On 12 October 2022, under torture, she testified against herself, which is recorded in the interrogation protocol from that date.

20. On 22 November 2022, Ms. Akulova was delivered to Moscow, where she was officially detained. From 11 October to 22 November, she was not able to contact her family. Moreover, her detention was not legally registered, she was not charged or given any legal status. On 23 November 2022, the Lefortovsky District Court of Moscow, in a closed court session, ruled that Akulova Yanina Petrovna, who is suspected of committing a terrorist act and illegally acquiring weapons as part of an organized group, be taken into custody until 23 January 2023, as a preventive measure. The court extended this preventive measure several

times. Currently, Ms. Akulova is in custody until 23 October 2023.

21. In this context, disappearances and detentions of Ukrainian civilians for several months or days without granting them legal status in accordance with the Russian law, followed by opening of a criminal case or release can be considered as ‘short-term enforced disappearances’.

22. Analysis of dozens of such cases allows us to conclude that the Russian authorities, as a rule, on their own volition do not inform anyone about arrests and detainments “for opposing a special military operation”. It also demonstrates unwillingness to provide such information even on requests of the closest relatives and their legal representatives. Since January-February 2022 the Ministry of Defence has nearly stopped providing any substantial answers on such requests, limiting itself only to general statements on fulfillment of its obligations under international humanitarian law.

23. Thus, the Russian authorities regularly commit enforced disappearances. Initially, this practice appeared in the North Caucasus, but subsequently, due to the atmosphere of impunity,<sup>18</sup> it spread to the entire territory of the Russian Federation and the occupied territories. Some people are disappeared for years but others for months or days. Regardless of the period of disappearance, such people are held incommunicado, lacking their legal status for the detention and are often subjected to torture and humiliation by the authorities. Therefore, we argue there is no duration requirement for an enforced disappearance to occur.

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<sup>18</sup> Read the report of the Memorial Human Rights Defence Centre “A chain of wars, a chain of crimes, a chain of impunity”. URL: <https://ruswars.org/en>