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Law in Times of War: the Case of Chechnya

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Law in Times of War: the Case of Chechnya

Federico Sperotto

Abstract

In October 1999 “the second Chechen war” broke out. In December the Russian federal army started an operation to take control of Grozny. During the confrontation between the Federal forces and the Chechen separatists, serious human rights violations occurred. Several cases concerning violations of fundamental rights, in and around the city, have been brought before the European Court of Human Rights against Russia. The lawsuits concerned in particular physical integrity issues. This study provides some insights on the jurisprudence of the European Court on Human Rights in order to ascertain the adequacy of the mechanism of protection provided by the European Convention of 1950 in situations of armed conflict.

Introduction to the case-law

In February 2005 the European Court of Human Rights delivered its first judgements concerning violations of the European Convention occurred in Chechnya since October 1999, when “the second Chechen war” broke out. During the armed confrontation between federal units and separatist groups, both sides committed serious human rights violations. The decisions focused obviously on the behaviour of State agents and concerned mainly physical integrity issues. In particular the Court scrutinized the way in which the operations were planned and conducted, the use of air strikes and indiscriminate weapons, the harassment of the civilian population and the disappearance and presumed death of civilians in the hands of military units or security agents. Some 200 cases are currently pending before the Court.

In the cases of *Isayeva*, *Yusupova* and *Bazayeva* the applicants were fleeing from Grozny, where fighting took place, in the attempt to reach the border between Chechnya and Ingushetia. Early in the afternoon two aircraft fired the convoy, launching several non guided air-to ground missiles. The radius of damage of the missiles caused huge casualties. The Russian authorities said the aircraft attacked in response to heavy fire from insurgents hidden within the refugee convoy, but failed to produce convincing evidence. Losses included operatives of the International Committee of the Red Cross (ICRC) who were travelling on vehicles properly marked as humanitarian. The Court condemned Russia for violation of Articles 2, 3 and 13 of the Convention and of Article 1 of Protocol No.1¹.

In *Isayeva v. Russia*, the applicants were escaping from the village of Katyr-Yurt during an operation lasted for three days and consisted of a combined use of air strikes, heavy fire and commando raids². On February 4th, 2000, several thousands rebels having escaped from Grozny entered the village. The population in Katir-Yurt was between 18000 and 25000 people, including several hundreds of internally displaced persons from elsewhere in Chechnya. The

¹ European Court of Human Rights (ECtHR), *Isayeva, Yusupova and Bazayeva v. Russia*, Applications nos. 57947/00, 57948/00 and 57949/00, 24 February 2005.

² ECtHR, *Isayeva v. Russia*, Application no. 57950/00, 24 February 2005.

applicant and her relatives were attacked when trying to leave the village through what they believed a safe corridor. Concerning the planning of the operation, the Court noted that the flow of the fighters toward Katir-Yurt was not so unexpected (from the village, situated in the foothills, it is possible to reach the mountains safely) and that forward air controllers had been deployed the day before the attack. Concerning the means employed, the Court noted that the use of non guided heavy combat weapons in a populated area entails invariably unacceptable consequences in a democratic society.

Several other incidents concerning the violation of Article 2, in form of unlawful killings or presumed deaths after disappearance, occurred in and around Grozny, were addressed to the Court.³ In *Khashiyev and Akayeva v. Russia*, applicants submitted their relatives had been tortured and killed by federal servicemen. Criminal investigation files were opened before different criminal instances but failed to establish the servicemen responsible for the killings. The European Court concluded that it was undisputed that the applicants' relatives died in circumstances falling outside the exceptions set out in the second paragraph of Article 2. It established that the applicants' relatives were killed by servicemen and that their deaths should be attributed to the State, that no explanation was given from the Russian Government and that no justification with respect to the use of lethal force by its agents was provided.

Relevant Law

At the time no state of emergency or martial law was declared in Chechnya. No federal law has been enacted to restrict the rights of the population of the area. No derogation under Article 15, which permits restrictions on the rights granted in the European Convention on Human Rights, was made. Legally speaking, the situation was “ordinary”, except for the fact that a special regulation to combat terrorism was in force. Russian authorities denied an armed conflict was ongoing alleging they were conducting counter-terrorism operations aimed at preventing supplies and personnel to the rebel fighters.

On June 2003 the Duma stated an amnesty in respect of criminal acts committed by the participants to the conflict on both sides in the period between December 1993 and June 2003, except those constituting serious intentional crimes⁴.

In April 2003, reporting on the incidents of the fall 1999, the NGO Human Rights Watch (HRW) invoked the application of international humanitarian law (IHL), namely common Article 3 to

³ ECtHR *Khashiyev and Akayeva v. Russia*, Applications nos. 57942/00 and 57945/00, 24 February 2005. *Barzorkina v. Russia*, Application no. 69481/01, 27 July 2006. *Imakayeva v. Russia*, Application no. 7615/02, 9 November 2006.

⁴ Decree no. 4124-III, June 6, 2003.

the Geneva Conventions of 1949 and Additional Protocol II⁵, assuming the struggle in Chechnya was an internal armed conflict.

According to Additional Protocol II, when dissident armed forces or other organized armed groups exercise such control over a part of a State's territory as to enable them to carry out sustained and concerted military operations, the situation can be qualified as an armed conflict. Correlatively, situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, are not armed conflicts.

During the "first" war in Chechnya, in 1995, the Russian Constitutional Court affirmed that Protocol II applied, binding both federal forces and insurgents. The Constitutional Court stressed however that although the Russian Federation ratified the Geneva Conventions of 1949 on May 10th, 1954 and Additional Protocol II on September 29th, 1989, there was a *de facto* inapplicability of the Protocol as it was devoid of efficacy because not implemented⁶. Neither federal forces nor rebel fighters demonstrated the will to comply the rules above.

Intervening in a debate concerning the nature of the conflict promoted by the Crimes of War Project, several authorities, in the field of human rights and international criminal law have clarified recently that the second struggle in Chechnya was an internal armed conflict in the meaning of Protocol II to the Geneva Conventions of 1949 and common Article 3.⁷

In the view of the ICTY "An armed conflict exists whenever there is a resort to armed force between states or protracted armed violence between governmental authorities and organized armed groups or between such groups within a state" adding that "Once the existence of an armed conflict has been established, international humanitarian law [...] continues to apply beyond the cessation of hostilities."⁸

It can be held that Russia, as a High Contracting Party to the Geneva Conventions and their Additional Protocols, should be bound to apply as a minimum, common Article 3, and should have safeguarded the life of civilians in accordance with Article 13 of the Protocol II, which develops and supplements Article 3.⁹ As a member of the Council of Europe, Russia has to secure to anyone everyone within its jurisdiction, the rights and freedoms defined in the European Convention of November, the 4th, 1950, even during armed confrontations.¹⁰

⁵ "A Summary of Human Rights Watch Research on Attacks on Fleeing Civilians and Civilian Convoys during the War in Chechnya, Russia, between October 1999 and February 2000", April 2003 (prepared for the European Court of Human Rights).

⁶ P. Gaeta, *The Armed Conflict in Chechnya before the Russian Constitutional Court*, EUR. J. INT'L LAW, vol. 7 (1996) no. 4.

⁷ See at URL <http://www.crimesofwar.org/expert/chechnya.html>.

⁸ *Prosecutor v. Tadic*, Case IT-94-1-A, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 Oct 1995, par 70.

⁹ Additional Protocol II, Article 1.

¹⁰ See International Court of Justice ICJ, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 1996, § 25.

Applicability of the ECHR in Times of War

The applicability of the European Convention during armed conflicts is out of dispute. In a survey on cases examined in 2005, the Court even observed that the action of the military and security forces in responding to *domestic conflict* do not fall outside the scope of the Convention but come under the scrutiny of the Court.¹¹ Two other arguments support this conclusion. The first is obviously the literal formulation of Article 15. The second descends from the terminological and conceptual vicinity between the language used by the Court and the formulations laid down in the law of war instruments. The Court, referring to the situation in Chechnya, openly used the phrase *conflict in Chechnya* and affirmed that the situation called for exceptional measures by the State *in order to regain control over the Republic and to suppress the illegal armed insurgency*.

In its Article 15 the European Convention permits a State to establish an exceptional legal regime in case of war or emergency threatening the life of the nation. In the jurisprudence of the Court, a principle named “margin of appreciation” ascribes to the State the power to decide whether a similar emergency situation occurs. In *Lawless v. Ireland*, the Court fixed the criteria of a public emergency in the meaning of Article 15 as “a situation of exceptional and imminent danger or crisis affecting the general public, as distinct from particular groups, and constituting a threat to the organized life of the community which composes the State in question.”¹² In the Commission report issued to the Court, a separate reading from the Commission member Shüsterhenn indicated a “public emergency” as a situation “tantamount to war.”¹³

Concerning the right to life, in its 2nd paragraph Article 15 reads as follows: “No derogation from Article 2, except in respect of deaths resulting from *lawful acts of war* [...] shall be made under this provision (emphasis added)”. Everything depends on the concept of *lawful acts of war*.

The paucity of precedents on this issue obliges to recur to inferences. An act of war is lawful if it is consistent with the standards set forth in the instruments of international humanitarian law, or the law of armed conflict, namely, the Geneva Conventions of 1949 and their Additional Protocols. It follows that, even if the Russian government had issued derogation under Article 15, the massive use of indiscriminate weapons in a populated area, which stands in flagrant contrast with the provision of Article 13 of Protocol II, cannot be considered a lawful exercise of emergency powers. Note that in its 1st paragraph Article 15 provides expressly that measures derogating to European Convention cannot be inconsistent with other obligations under international law.

¹¹ ECtHR, *Short Survey of Cases Examined by the Court in 2005*, p. 5.

¹² ECtHR, *Lawless v. Ireland* – 332/57, 14 November 1960.

¹³ A comprehensive analysis in O. Gross - F. Ni Aoláin, *Law in Times of Crisis. Emergency Powers in Theory and Practice*, Cambridge Studies in International and Comparative Law, Cambridge, 2006.

Common Article 3 to the Geneva Convention entails minimum international law standards during conflicts of non-international nature. Its provisions are considered as declarative of customary law binding all nations. One of those provisions prescribes that with respect to persons not taking active part in the hostilities –including those who have laid down their arms– violence to life or person, torture and extra judicial killing remain prohibited at any time. Accordingly, those standards cannot be compressed using derogation powers.

It is worth to notice that since the first case was discussed, the Court remarked that Article 2 is one of the most fundamental provisions in the Convention, from which no derogation is permitted, *in peacetime*.¹⁴ Thus, in principle, derogation to the right to life is inconsistent with a state of peace, as Russia claimed the situation in Chechnya was.

Contextual Application of Human Rights and International Humanitarian Law Instruments

The common approach is the one issued by the International Court of Justice (ICJ) in its advice on the use of nuclear weapons of July 8th, 1996. Referring to the International Covenant of Civil and Political Rights, the Court stated that “Whether a particular loss of life, through the use of a certain weapon in warfare, is to be considered an arbitrary deprivation of life contrary to Article 6 of the Covenant, can only be decided by reference to the law applicable in armed conflict and not deduced from the terms of the Covenant itself.”¹⁵ Thus international humanitarian law is *lex specialis* to human rights law.

In the opinion of the International Criminal Tribunal for the Former Yugoslavia (ICTY) international humanitarian law and human rights are truly interdependent. Because of their resemblance, in terms of goals, values and terminology, the recourse to human rights law is a welcome and needed assistance to determine the content of customary international law in the field of humanitarian law.¹⁶

According to the Inter-American Commission on Human Rights, during situations of internal armed conflict these two branches of international law most converge and reinforce each other. Standards and relevant rules of humanitarian law are sources of authoritative guidance in claims alleging violations of the American Convention in combat situations.¹⁷

The European Court does not have a clear orientation on the matter. The Court approach to large-scale armed struggle is to adopt implicitly a view quite similar to the view adopted by the Human Rights Committee. But while the Committee hazarded some considerations on the

¹⁴ ECtHR, *McCann and Others v. the United Kingdom*, - Application no. 18984/9, 27 September 1995.

¹⁵ International Court of Justice (ICJ), *Legitimacy of the Threat or Use of Nuclear Weapons*, Advisory Opinion, July 8, 1996, § 25.

¹⁶ International Criminal Tribunal for the Former Yugoslavia (ICTY), *The Prosecutor v. Kunarac et al.* IT-96-23 and IT-96-23/1 "Foca", Trial Chamber, Feb. 22, 2001, § 141.

¹⁷ Inter-American Commission on Human Rights (IACHR) Case 11.137, *Juan Carlos Abella v. Argentina* [1]/ November 18, 1997, § 160-161.

contextual application of human rights and the law of war, assuming that it is its proper function to review the conduct of a State party *under other treaties*,¹⁸ the Court, in its judgements on Chechen cases, indeed originated by a full-scale armed conflict, does not deserve any room to the rules of international humanitarian law. A cursory reading of the Court's jurisprudence reveals that the Court has never applied or explicitly used international humanitarian law, even as an interpreting tool. It could be argued that the Court considers the system of the Convention as *self-contained regime*, i.e. an autonomous system decoupled from international law, a regionally-limited auto-referential system with its primary and secondary specific rules¹⁹. Or, more simply, that the Court wants to avoid any criticism for applying a set of rules it does not properly master or to avoid criticism for operating an arbitrary interpolation of rules from different regimes.

The Court adopted a “business as usual” criterion. It did not seek the issue of the nature of the conflict and did not apply the law of armed conflict. Nevertheless, the use of principles resulting from that body of law is indubitable, particularly in the case of the bombing on Katyr-Yurt.

The law of *international* armed conflict explains that an indiscriminate attack is among others “an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians” or “An attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”²⁰ Both the meanings are clearly referable to the situation in Katir-Yurt.

The Trial Chamber of the ICTY in the case of *Prosecutor v. Stanislav Galic*, concerning the siege of Sarajevo, sustained indiscriminate attacks as “Attacks which strike civilians or civilian objects and military objectives without distinction, may qualify as direct attacks against civilians.”²¹ The ICTY held furthermore that since the adoption of the Additional Protocols, the overwhelming majority of States regarded the principles enunciated in Articles 51 and 52 of Additional Protocol I and in Article 13 of Additional Protocol II *as general humanitarian principles*²². Article 13 (2) of Additional Protocol II (concerning internal armed conflicts) prohibits to make the civilian population, as well as individual civilians, the object of attacks.

Concerning attacks against the civilian population, it worth to spend few more words on the dichotomy between the law of international and internal armed conflict. In a decision concerning the landmark case *Tadic*, the ICTY affirmed that “What is inhumane, and consequently

¹⁸ General Comment no. 29.

¹⁹ B. Simma – D. Pulkowski, *Of Planets and the Universe: Self-contained Regimes in International Law*, EUR. J. INT’L LAW, vol. 17 (2006) no. 3.

²⁰ 1977 Additional Protocol I to the Geneva Conventions, Article 51.5.b.

²¹ *Prosecutor v. Galic*, Case No. IT-98-29-T, Judgement, 5 Dec. 2003, § 57.

²² *Prosecutor v. Pavle Strugar et al.* - Case No. IT-01-42-PT, Decision on Defence Preliminary Motion Challenging Jurisdiction, Trial Chamber, 7 June 2002.

proscribed, in international wars, cannot but be inhumane and inadmissible in civil strife.”²³ The jurisprudence of the Tribunal established also that the principle of protection of civilians has evolved into a principle of customary international law applicable to all armed conflicts²⁴. Refer always to the shelling of the village of Katyr-Yurt. Should the rules of the law of international armed conflict apply to internal conflicts, the follows should be the relevant outcomes. Article 48 of Protocol I entails the principle of distinction, which is “The kernel of LOAIC (the law of international armed conflict) as it currently stands”²⁵. Simplifying the contents, deliberate attacks against civilians are forbidden. As a corollary, Article 51 states that employing a method or means of combat the effects of which cannot be limited (namely, indiscriminate) is prohibited. Article 57 obliges to choose means or method with a view to avoid or minimize incidental injury of civilians. According to the complaint, federal forces used in Katir-Yurt free-falling high explosive ammunition with a radius of damage of 1000 meters in an area densely populated where the sole available options were surgical, *risky*, operations.

Concluding, in the fall of 1999 exceptional measures in order to regain control over the Chechen Republic and to suppress the illegal armed insurgency could presumably require the use of military aviation equipped with heavy combat weapons. The Court was prepared to accept that use of fighter jets, if directed to tackle insurgents attack, fell within paragraph 2 of Article 2: in defence of any person from unlawful violence (as alleged by Russian authorities) or to counter a riot or insurrection. The European Court stressed that, even in the struggle against a very large group of armed fighters, *the primary aim of the operation should be to protect lives from unlawful violence*. The massive use of indiscriminate weapons stands in flagrant contrast with this aim and cannot be “considered compatible with the standard of care prerequisite to an operation of this kind involving the use of lethal force by State agents”. The Court concluded that the use of that kind of [indiscriminate] weapons in a populated area, outside wartime and without prior evacuation of the civilians, is impossible to reconcile with the degree of caution expected from a law-enforcement body in a democratic society²⁶.

Forced Disappearances

A further gloomy aspect of the massive deployment of military units in the area between 1999 and 2000 concerns persons who disappeared while in custody of federal forces. Disappearances entail the breach of both the substantive and procedural aspect of Article 2 of the European Convention. In the view of the Court, Article 2, which safeguards the right to life, imposes obligations of procedural and protective nature, requiring a prompt and effective investigation.

²³ *Tadic*, Decision on the defence motion for interlocutory appeal on jurisdiction, 2 October 1995, § 119.

²⁴ *Tadic* Jurisdiction Decision, § 127; *Kupreskic* Trial Judgement, § 521.

²⁵ Y. Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict*, Cambridge, 2004, p. 115.

²⁶ *Isayeva v. Russia*, § 190-192.

The essential purpose of such investigation is to secure the effective implementation of the domestic laws which protect the right to life and, in those cases involving State agents or bodies, to ensure their accountability for deaths occurring under their responsibility²⁷. This implies the criminal prosecution of perpetrators.

In *Baysayeva v. Russia* the Court agreed with the applicant that in the context of the conflict in Chechnya, when a person is detained by unidentified servicemen without any subsequent acknowledgement of detention, this can be regarded as life-threatening²⁸. During the investigation on the case a videotape showing Mr. Baysayev while apprehended by federal servicemen was given to Russian authorities. In its judgement the Court found it astonishing that in February 2006 the persons depicted in it were still unidentified. On this point, in 1999 the Supreme Court of Chile declared disappearances to be a *continuing crime* until death is proved. Similarly, Russia was under obligation to prevent effects of a life-threatening continuing criminal conduct and its failure in protecting the life of individuals in the hands of State agents in the form of carrying out an effective criminal investigation on their disappearance and presumed death led to a condemn of the State for violation of Article 2.

In *Imakayeva v. Russia* the Court used the same arguments and considered that the husband and the son of the applicant were presumed dead following unacknowledged detention and that the presumed deaths, attributable to unknown military or security personnel, entailed the respondent Government's responsibility. Moreover, the victims were held in unacknowledged detention in the complete absence of the safeguards contained in Article 5 of the European Convention. The Court stressed also that while in previous applications it held a hearing and obtained from the Government copies of the documents from the criminal investigation, in the case of *Imakayeva*, the authorities, facing very serious allegations collected by the applicant, denied patently co-operation.²⁹ In the view of the Court, any lack of co-operation by the Government without a satisfactory explanation leads to the conclusion that the complaint is well-founded.³⁰

Remedies

The Court addressed also the issue of the effectiveness of remedies. In almost all of the cases submitted to the Court cited in this work, the Russian government requested the Court to declare the applications inadmissible on the ground that the applicants had failed to exhaust the domestic remedies. The Court remarked the importance of a realistic approach to the matter, sustaining basically that the exhaustion of remedies should be considered in respect of all the circumstances of the case. The Court pointed out also that a positive outcome in the form of a financial award is

²⁷ ECtHR, *Hugh Jordan v. the United Kingdom* - Application no. 24746/94, 4 May 2001, § 105-109.

²⁸ ECtHR, *Baysayeva v. Russia* – Application no. 74237/01, 5 April 2007, §119.

²⁹ *Imakayeva v. Russia*, § 118-119.

³⁰ ECtHR, *Taniş and Others v. Turkey*, application no. 65899/01, 2 Aug. 2005, § 160

not enough. In the Court's view, the State condemnation to pay compensation, which represents the core task of the European human rights system, does not represent a point of arrival.

The Court recognizes the subsidiary role of civil remedies also in respect of its own pronounces, stressing that the responsibility of a State under the European Convention, arising for the acts of its organs, agents and servants, is not to be confused with the domestic legal issues of individual criminal responsibility under examination in the national criminal courts. In affirming that a successful proceeding in recovery civil damages from a State body would not still resolve the issue of effective remedies, and that a civil court is incapable of making any meaningful findings without the benefit of a criminal investigation, the Court retains an effective prosecution leading to the punishment of those responsible for fatal assault mandatory. It can be argued that in absence of such a prosecution, the State stands in a continuing violation of its obligations under the Convention. In *Bazorkina v. Russia* the Court pointed out that "the obligations of the State under Article 2 cannot be satisfied merely by awarding damages. The investigations required under Article 2 of the Convention must be able to lead to the identification and punishment of those responsible."³¹

Thus the human rights courts ascribe to criminal prosecution a crucial importance, considering it as a major tool in the protection of fundamental rights. This leading role is also recognized by humanitarian law. The Geneva Conventions of 1949 provide a mandatory mechanism to prosecute grave violations of the law of war. That mechanism obliges States to enact any legislation necessary to provide effective penal sanctions for persons who committed, or have ordered to commit grave breaches, to search for those persons and bring them before its own criminal courts even if the crime was committed outside their jurisdiction. This mechanism, known as universal jurisdiction, which permits a domestic criminal court to prosecute individuals regardless of where the crime was committed and the nationality of the accused and the victim, does not regard internal armed conflicts. Humanitarian law instruments regulating internal armed conflict contain neither a mechanism for prosecution of those responsible of grave breaches nor an individual complaint regime.

Common Article 3 and Protocol II prescribe to both the State and the rebels the same peremptory obligations. States argue that because common Article 3 or Protocol II does not contain provisions on criminal responsibility, their application in substitution of domestic law would grant impunity to abusers. As a result, either in international conflicts, in which specific regime must be implemented, or in internal conflict, in which no regime is foreseen, the repression of conducts representing grave violations of the law of war depends on States willingness to bring those responsible before domestic criminal courts for prosecution.

Exceptional national laws, such as the Suppression of Terrorism Act of 1998 in force in Chechnya between 1999 and 2000, while conferring huge powers to security forces, do not set a

³¹ ECtHR, *Bazorkina v. Russia*, Application no. 69481/01, 27 July 2006, § 117.

clear limit on the extent to which fundamental rights can be restricted and do not provide remedies for the victims of violations.³²

External remedies against violations of human rights are not substitutes for internal ones. On this issue, in 2003 the Parliamentary Assembly of the Council of Europe (PACE) has recommended to the States members the introduction of legislation on universal jurisdiction. Affirming that the European Convention is also applicable in the event of civil war, it stressed that in such a situation the implementation of fundamental rights faces obstacles sometimes insurmountable. In its opinion, it is first responsibility of the State to bring proceedings against perpetrators of grave violations –which could be resulted in international crimes – the responsibility of third States to act exercising universal jurisdiction wherever a State failed to do so.³³

Concluding Remarks

In this panorama, the recourse to the European Court on Human Rights seems effectively the sole viable option the victims are allowed to pursue in order to defend elementary human being prerogatives against States harsh misconducts. The effort of the Court in adapting the 1950 Convention to the new scenarios is relevant and gives a direct contribute in implementing fundamental rights in highly problematic situations. In 2003 the Parliamentary Assembly of the Council of Europe referred to those involved in armed conflicts to identify “Areas where the European Convention on Human Rights cannot be implemented”. The judgements the Court issued since 2005 on Chechen cases are the result of an accurate and authoritative work. Calling the State to pay compensation, focusing on the importance of an investigation aimed at bringing abusers before criminal tribunals and insisting on the principle that a prompt response in investigating the use of lethal force may be regarded as essential in preventing any appearance of collusion in or tolerance of unlawful acts the Court have significantly reduced the width of those lawless areas.

³² In its Section 21 (Exemption from liability for damage) the Suppression of Terrorism Act (Федеральный закон от 25 июля 1998 г. № 130-ФЗ «О борьбе с терроризмом») provides as follows: “In accordance with the legislation and within the limits established by it, damage may be caused to the life, health and property of terrorists, as well as to other legally-protected interests, in the course of conducting an anti-terrorist operation. However, servicemen, experts and other persons engaged in the suppression of terrorism shall be exempted from liability for such damage, in accordance with the legislation of the Russian Federation.”

³³ Council of Europe, Parliamentary Assembly, Recommendation 1606 (2003), Doc. 9730, 23 June 2003.