



STICHTING

RUSSIAN JUSTICE INITIATIVE

Правовая инициатива | Астрейя

MEMORANDUM TO THE COMMITTEE OF MINISTERS REGARDING IMPLEMENTATION OF THE JUDGEMENT IN THE CASE *Tangiyev v. Russia* (27610/05)

SUBMITTED BY THE RUSSIAN JUSTICE INITIATIVE (the Netherlands) and LEGAL
ASSISTANCE ORGANIZATION “ASTREYA”, 16 APRIL 2014

1. This submission concerns the execution by the Russian Federation of the judgment in the case of *Tangiyev v Russia*, which was delivered by the European Court of Human Rights on 11 December 2012 and became final on 29 April 2013. The judgment is part of the *Mikheyev* group concerning ill treatment in police custody, but the facts of this case are unique because they concern a finding by the Court of violations of Articles 3 and 6 ECHR in the context of the applicant’s criminal conviction for alleged terrorism crimes in North Caucasus, which was found to be based in significant part on statements made by the applicant under torture. The applicant’s sentence, as well as the investigation into the applicant’s case as a whole, was recognized by the Court as unfair because of the proven use of torture against the applicant. The applicant has served 10 years out of a total 22 year prison sentence.

2. On 13 March 2014 the applicant’s representatives made a submission to the Committee reporting on the decision of the Russian Supreme Court of 25 December 2013 to quash the applicant’s conviction and send his case back for re-examination by the Supreme Court of Chechnya. The applicant’s representatives also reported on documented incidents of intimidation against the applicant leading up to and immediately following the Supreme Court hearing of 25 December 2013, when the applicant was still being held at the prison colony FBU IK-6 in Vladimir region, and expressed concerns regarding the implications of this intimidation on the viability and judicial independence of his impending re-trial.

3. The applicant’s re-trial before the Supreme Court of Chechnya has been on-going since early April 2014. **This submission details new facts of intimidation against the applicant, who is currently being held in the pre-trial detention centre (SIZO) No. 1 in Grozny.**

4. On 9 April 2014, while in his cell (no. 76) of the SIZO, the applicant was visited by a man who presented himself as *Mr A.I.*, the Deputy Head of the Department of the Federal Correctional System for the Chechen Republic. *Mr A.I.* told the applicant that he was among those who had tortured the applicant back in 2003, when the applicant was detained in the police department of the Staropromislovsky district of Grozny.

5. *Mr A.I.* told the applicant that he should “forget dreaming” about being released as a result of the re-trial. *Mr A.I.* further said that he knew that the applicant is in fact guilty of the crimes he was accused of.
6. *Mr A.I.* said that he and his colleagues had already spoken with the presiding judge in the case and explained to her that the applicant should not be released, but remain to serve the rest of his sentence. *Mr A.I.* said to the applicant: “you are my personal enemy and I will kill you someday.” When leaving the applicant’s cell, *Mr A.I.* said to the applicant: “you can live for now.”
7. Right after this visit, the applicant wrote a complaint to the Prosecutor’s office complaining about death threats made against him. However, his complaint was not forwarded to the Prosecutor’s office by the prison administration. Instead the applicant was visited by *Mr B.*, who appeared to be a member of the prison’s administration, who told the applicant that he would try to sort out the incident himself.
8. On 10 April 2014 the applicant was visited by *Mr L.R.M.*, who threatened the applicant to bring new charges against him for “provision of knowingly false information” (Article 306 of the Russian Criminal Code), and told the applicant that he had witnesses who could confirm the applicant’s guilt under Article 222 of the Russian Criminal Code (unlawful possession of a firearm), and that these witnesses could testify that they saw the applicant in possession of a Kalashnikov rifle and a Makarov-model firearm back in 1999.
9. *Mr L.R.M.* further told the applicant that after lunch on 11 April 2014 the applicant would be taken to the facilities of the detention centre formerly known as “ORB-2,” where the applicant was subjected to the most severe torture during his arrest in 2003. *Mr L.R.M.* said that the applicant’s “old friends” would like to speak to him to make sure he did not take back his previous confessional statements.
10. Right after the visit of *Mr L.R.M.*, the applicant was informed that on 11 April 2014 he was to be taken out of the SIZO together with his belongings.
11. Being unable to bear the thought of returning to ORB-2 and of possible torture, the applicant inflicted 16 cuts on his left arm and 10 cuts on his right arm with a razor blade.
12. The applicant was delivered to the medical unit of SIZO No. 1 where he was provided with first aid. Subsequently, he was taken to the prison administration, who announced to the applicant that he was to spend 15 days in solitary confinement.
13. On 11 April 2014, while in solitary confinement, the applicant was visited by the Head of SIZO No. 1, *Mr A.R.Kh.* The applicant told *Mr A.R.Kh.* that he had received death threats. *Mr A.R.Kh.* responded that he was not able to offer any assistance.
14. On 12 April 2014 the applicant was visited by **the deputy** of *Mr A.R.Kh.* who insulted and threatened the applicant. In particular the deputy insulted the applicant’s defense lawyers and said that they would never get the applicant released. He also spoke angrily about the decision of the European Court in the applicant’s case, using emotional and insulting language, and said Russia would not implement the decision of the Court.
15. On 14 April 2014 *Mr. A.R.Kh.* again visited the applicant. The applicant told him about the deputy’s visit, but *Mr A.R.Kh.* said that he was not able to help.

16. The applicant is afraid that he will be poisoned while in solitary confinement and therefore declared a hunger strike starting on 11 April 2014. The applicant has also expressed the fear that he could be hanged while kept in solitary confinement.

17. The applicant also reports that he is being forced to give up the services of the lawyers who, by the applicant's own choice, are currently representing him: *Mr Grigor Avetisyan, Mr Valery Shukhardin, Mr Ruslan Bekov, Mr Batyr Akhilgov*.

18. On 15 April 2014 a hearing was held concerning the measures of restraint taken against the applicant in the form of preliminary detention, at which the applicant was present. During the hearing the applicant made a written submission to the presiding judge, stating that in detention he had been threatened with torture and had received death threats, and asked the court to undertake measures to secure his safety.

19. As the applicant's representatives we are gravely concerned regarding these developments. Given the history of torture inflicted against the applicant in 2003 (documented by the European Court in its judgment in *Tangiyev v. Russia*), we believe that the applicant's life and health is in immediate danger. This can be inferred from the fact that the state agents who tortured the applicant work in the penitentiary system of the Republic and appear to have unrestricted access to the applicant in his current place of detention, and also apparently have the capacity to remove the applicant from his current detention facility to another facility (former ORB-2), where they threatened the applicant with torture.

20. We are also concerned about the attitude of the prison administration to the applicant's lawyers, and to the reports by the applicant that he is under pressure to refuse the services of his chosen defence lawyers.

21. We are also concerned that the applicant's re-trial before the Supreme Court of Chechnya cannot be considered to comply with the requirement of judicial independence. We draw the Committee's attention to the statement made by the Deputy Head of the Department of the Federal Correctional System for the Chechen Republic *Mr A.I.* that members of the law enforcement authorities had approached the presiding judge in the applicant's case and advocated for the applicant's guilt.

22. We also draw the Committee's attention to the pattern of intimidation against the applicant and the threats and prospects of actual ill-treatment against the applicant, which is particularly grave given the Court's findings of a violation of Art. 3 ECHR in its judgment in *Tangiyev v. Russia*.

Attachment: Applicant's written statements of 15 April 2014.