

September 7<sup>th</sup>, 2007

Sr. Don Miguel Ángel Moratinos Cuyaubé,  
Chairman of the Organization for Security and Cooperation in Europe  
Minister of Foreign Affairs of Spain  
Plaza de la Provincia 1. E - 28071 MADRID

Honored Minister and Chairman,

We appeal to you, both as the chairman of the OSCE and as the minister of foreign affairs for Spain, a country that, not long ago, suffered the monstrous tragedy of a terror act that ended the lives of hundreds of innocent citizens. on behalf of the many families that lost loved ones in the well-known hostage crisis in Moscow in October of 2002, We beg you to initiate the inquiry to determine whether Russia violated its obligations under European Convention on Human Rights and the Chemical Weapons Convention (CWC), as well as, to launch an independent investigation of this operation to determine the responsibility of the Russian authorities for the death the hostages.

During this crisis, the Russian authorities attempted to end the standoff by storming the theater after first using a chemical substance intended to incapacitate the terrorists. Because of the extreme potency of this agent, more effective than chemical weapons used in WWI (lethality of 15-20%) , 125 of the "rescued" hostages died, and more than 700 were hospitalized for "severe toxic poisoning."

Independent experts in the United States, who examined autopsies reports, are convinced that the hostages' deaths were due solely to an overdose by an opiate such as Fentanyl derivatives. Many of the survivors were severely affected by their exposure to this "gas" and have been disabled due to severe, debilitating diseases. Some children born to former hostages have health and developmental problems.

We believe that the use of the still unidentified chemical substance was a violation of the hostages' human rights. A complaint has been accepted by the European Court of Human Rights and awaits judgment at this time. However, an analysis of the autopsy reports and the medical records of the survivors shows that the use of the "gas" was not merely a case of citizens' rights being violated, but, in our opinion, a violation of the CWC and the International human rights law (IHRL).

Russia claims that the chemical was used for law enforcement, a purpose not prohibited by the CWC (Article 2 part.9), but the CWC cautions that such use is allowed «as long as types and quantities are consistent with such purposes» (Article 2, part 1a). This claim rings hollow, since the assault was conducted by the security services without regard to safety and, thus, in a manner not consistent with the declared purpose: to free the hostages. The type of the chemical used didn't fulfill a purpose of rapid neutralization of the terrorists. The quantity of the "gas" could not be measured for safety: many hostages received the dose high enough to cause death.

Though the IHRL does not prohibit the use of potentially lethal force in operations in extreme situations, but it requires that such force be "absolutely necessary"

and that all precautions be taken to minimize the loss of civilian. However, the "absolute necessity" for the assault has never been proven in the court. Since the Russian authorities refused to negotiate and did not provide adequate medical assistance to rescued hostages, it has been demonstrated that the Russian government did not take steps to minimize the results of the "gas attack". In this circumstances, the IHRL doesn't support the use of potentially lethal «gas». Technically and legally, the "gas" used falls, therefore, under the CWC definition of a chemical weapon and its use, then, constitutes a violation of the CWC (Article 1, part 1b). The Russian authorities are unwilling to admit that they used chemical weapon, and continue to state that links between the action of the "gas" and the deaths of the hostages are coincidental.

. The use of the Fentanyl derivative in an uncontrolled dosage, without monitoring the conditions of those exposed to it, and the absence of the medical assistance is a violation of the CWC, which obliges signatory governments "to exclude completely the possibility of the use of chemical weapons» (from the CWC preamble).

The International Committee of the Red Cross has also determined that the use of the chemical substance in the Moscow theater was "absolutely illegal" (from the CWC review in The Hague in May of 2003).

The new law in Russia titled «Countering Terrorism» declares that the Russians will «target terrorists anywhere in the world». In conjunction with Vice Premier S. Ivanov's statement that he would use "anything effective other than nuclear weapons," this turns other nations into potential hostages of the Russian government's policies, while the citizens of those nations are the potential victims in future "gas attack". Poisoning of British citizen A. Litvinenko with Polonium 210 demonstrates that even the exception, "other than nuclear weapons", can be ignored as well.

The international community's tacit acceptance of the Russian Federation's use of such weapons will have unpredictable consequences. It will give license to other nations to use such chemicals and establishes a dangerous precedent in legitimizing the future use of deadly substances against civilians by various countries' security services for law enforcement.. and as a way of solving future conflicts arising in the course of combating "international terrorism"

As Dr. Wheelis, well-known expert on Chemical and biological weapons, from University of California at Davis stated in his interview on Australian radio, that the use of a fentanyl type agent by Russians.. "provides that virtually definitive evidence that the Russian Federation did develop, produce, stockpile and train troops and use this chemical agent as a weapon in this situation. The precedent that one country has actually engaged in developing such a weapon is worrisome because it is likely to stimulate others to do this".

The tragedy in the Moscow, left uninvestigated and unchallenged as it stands now, would be seen as a harbinger of a much more dangerous events with a seriously eroded chemical weapons prohibition regime: "the door is now open" .. The legitimacy of the incapacitants raises many ethical question regarding human

rights. There are concerns about manipulation of a human brain and behavior without permission of the people whose brain and behavior is being manipulated.

Professor Matthew Meselson of Harvard, a well-known expert on physiology, warns about the consequences of this use: "During the century ahead ...we will be able not only to destroy life but will become able to manipulate it. Therein could lay unprecedented opportunities for violence, coercion, repression or subjugation."

Five years have passed, but this blatant violation of human rights has not become the subject of international debate or independent investigation. The Russian government ignored the demand of Human Rights Watch and the UN Human Rights Committee to conduct independent investigation to determine whether the use of this gas was permitted under the CWC and to investigate the circumstances of all deaths in relation to this incident. Russian authorities refuse to allow the topic to be examined by its court system, and has concluded that the government does not consider itself responsible for the actions of its representatives, which led to the loss of innocent civilians.

The modern holocaust in the center of Moscow, the testing of a new weapon on innocent citizens, a chemical "neutron bomb" that kills people and leaves buildings standing, may have shocked the world, but it did not serve as a warning. Ignoring this and other events in Russia, the leaders of the Western nations are legitimizing future "gas chambers" against their own citizens. We cannot overemphasize the urgency of this problem: Russia's usage of toxic chemicals in violation of the European Convention on Human Rights and the CWC is likely to become a dangerous tradition. The "Nord-Ost" is one of the model cases infringing on the interests of victims to terror attacks who found themselves unprotected from inadequate and arbitrary acts of the authorities, as the latter pursued a primarily goal of killing terrorists, rescue of hostages being a secondary task.

We, the victims of this tragedy, appeal to you, the OSCE President, and to all the heads of the participating states in the Council of Europe to create an international commission that conducts an independent investigation of the justification, legality, and consequences of the use of the lethal chemicals in October of 2002, and determine the Russian Federation's responsibility for the violation of the rights to life of 125 innocent citizens.

This is our "SOS" to the world community.

We thank you in advance for your kind attention to this serious matter, and remain,

[www.nordostjustice.org](http://www.nordostjustice.org)

NGO "Nordost Justice"  
1745 South Bentley Avenue, Apt. 2  
Los Angeles, CA 90025  
Telephone: (310) 445-8902