



Union of non-governmental organizations
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Russian Federation

NGO Report on the implementation of ICCPR

Replies to the list of issues

The following members of the Russian Research Centre for Human Rights (RRCHR) have given contribution to this report:

Union of Soldiers' Mothers Committees of Russia

Moscow Center for Prison Reform

Independent Psychiatric Association of Russia

Civic Initiative Right to Life and Human Dignity Society / DOSH

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Question 3 (part 1)

Please provide information about the following: (a) procedures in place to ensure that recommendations of the Federal Commissioner for Human Rights (Ombudsman) and the regional ombudsmen are considered and implemented;

Comments of Federal Ombudsman and RRCHR:

Consideration and implementation of the Ombudsman's recommendations are regulated by Federal Constitutional law "On Federal Ombudsman of Russian Federation", passed by the State Duma on 25 December 1996 and approved by Soviet of the Federation on 12 February 1997.

Nevertheless, the recommendations of Federal Ombudsman are not always duly implemented, therefore this mechanism needs to be improved and amended.

For the last few years Federal Ombudsman appealed to the President of the Russian Federation and the Russian government with detailed suggestions on improvement of the situation of human rights in the Russian Federation. Annual reports of the Federal Ombudsman also include recommendations on the notifications of human rights violations, addressed to different public bodies. Nowadays, the government prepared a detailed report on implementation of the Federal Ombudsman's recommendations, but no information is given on which recommendations were implemented and which were not.

RRCHR recommends that information concerning this should be accessible and public and the government should prepare such reports on a regular basis.

Question 3 (part 2)

Please also indicate whether there are plans to strengthen the mandate of the Federal Commissioner for Human Rights with a view to achieving full compliance with the Paris Principles (General Assembly resolution 48/134, annex).

RRCHR:

Some experts consider that Federal Ombudsman should have power to initiate laws. Federal law should be amended to grant more opportunities to the Federal Ombudsman to control public bodies and state officials. Russia urgently needs mechanism of the kind because violations of human rights by state bodies occur very frequently. Current mechanisms of protection are not effective.

Question 4

In the absence of a provision making clear the obligation of the authorities to respect and protect human rights in the context of a counter-terrorist operation, please explain how the State party ensures that the 2006 Federal Law "On counteracting terrorism" is compatible with the rights guaranteed by the Covenant. Please also provide information about the following: (a) the draft legislation that was introduced in the State Duma in December 2008 which would broaden the definitions of treason and espionage in the Russian Criminal Code; and (b) the Federal Law "On amending certain laws of the Russian Federation concerning counteraction to terrorism" of 30 December 2008. Does the State party foresee establishing an independent review mechanism to review and report on laws related to terrorism?

RRCHR:

Draft law "On amending the Criminal Code of RF and the article 151 of the Criminal Procedure Code of RF" institutes criminal penalty in the form of 8 years imprisonment for illegal obtaining of national defence information. The document broadens the definition of "high treason" and could be used by state officials seek to gain another instrument to put pressure on opposition.

Question 6

Please provide detailed information on all charges of extremism and terrorism brought against individuals and organizations by the State party in the last three years. Please cite the relevant legislation invoked in each case and the result of investigations and prosecutions, if any.

Please comment on the allegation that the extremism laws are used to target organizations and individuals critical of the Government. Does the State party keep a list of individuals suspected of extremism and/or terrorism, and if so, what are the legal grounds for its compilation and use?

RRCHR:

Law “On counteraction to extremism” aims mainly not to stabilize the situation but impairment of the rights and freedoms of citizens. Actually, the law has ideological nature. It allows stopping any organization’s activity before the court’s decision on its liquidation, in case the organization “exercises extremism activity”. So the Article may be used to close any unwanted organization or political party.

For example, in December 2008 in Saint-Petersburg the Investigative Committee at the Prosecutor’s Office of Russian Federation initiated search in the premises of the Research center “Memorial”. It was announced that the organization has been searched in accordance with the Article 282 of the Criminal Code of RF in connection with the publication “The real candidate” in *New Petersburg* newspaper. In the process of the search hard disks of the organization’s computers were confiscated.

Later, in October 2008 the municipal court of S-Petersburg did not find any extremism in this publication. In February 2009 the decision of Dzerzhinsky district court on adjudication of the search illegal was cancelled by municipal court of S-Petersburg.

Improper anti-extremism pressure is progressing in two directions – against freedom of conscience and freedom of expression. In 2008 the State Duma passed the law, disabling trial juries to examine cases on some articles dealing with terrorism or extremism. The procedures on this law are judged behind closed doors. Anti extremism legislation is also often used as an instrument of resolution of religious conflicts.

Question 10

Further to para. 50 of the report and in response to the previous concluding observations of the Committee (para. 11), has the State party initiated necessary legal measures to abolish the death penalty de jure? What concrete steps are envisaged by the State party in this regard?

Regional Civic Initiative -- Right to life and human dignity:

Presently the State Duma is going to review an item on death penalty in relation of termination of moratorium on penal punishment. The moratorium on the death sentences in the Russian Federation is legally a result of the Statement of the Constitutional Court of 1999, which postpones any possibility of the death sentences until the moment when the jury mechanism will be implemented on all the territory of the Russian Federation. This will be according to the Federal Law since the 1 January 2010. However, no signs are observed of any preparation of implementation of the jury system in the Chechen Republic. A probability exists that it will be postponed through an additional law with an official declaration at the last moment that will automatically prolong the all-Russian moratorium on the death sentences.

Executions in the Russian Federation are under another moratorium imposed by the President Boris Yeltsin in his Decree of 1996. The political decision to abandon the death penalty was declared by President Vladimir Putin, when he underlined that Russia will never return to the death penalty. However, nor Vladimir Putin, neither his successor Dmitry Medvedev did submit to the Russian Parliament the Protocol 6 to the European Convention on Human Rights. They followed the strong public opinion opposing the abolition of death penalty.

Question 11

Please provide detailed information on the outcome of criminal investigations and prosecutions, including sentences imposed, for large-scale abuses and killings of civilians in: (a) the Chechen Republic, during the counter-terrorism operations between 1999 and 2005 and during missile attacks on refugee convoys in August 1999 and in February 2004; (b) Ali-Yurt in the Ingush Republic, during the “sweeping” operation in July 2007; and (c) in Georgia, during the bombing operations by Russian forces in August 2008. Specifically, please indicate whether, in the view of the State party, the charges and sentences handed down, if any, are commensurate with the gravity of the acts.

DOSH:

Neither during “the restore of the constitutional order” – the first war 1994-1997, no during “counter-terrorist operation”, the second war, no investigation of any one crime of Russian militaries against Chechen citizens were conducted.

Cases of Budanov, Ulman and three other servicemen, Lapin (Cadet) are the exceptions. Colonel Budanov, was sentenced to 10 years of imprisonment for the killing of Kheda Kungaeva, but was released after eight years in prison. Sergie Lapin got 11 years Captain Eduard Ulman, Aleksander Kalaganskii, Vladimir Voevodin and Major Aleksei Perlevskii were convicted of murder and of “exceeding official authority” by the North Caucasus district military court in Rostov-on-Don in June 2007. They were sentenced to imprisonment in strict regime prison colonies for terms of 9 to 14 years. The four men had twice been found not responsible in law for killing the six civilians in previous court hearings at the same court, despite having admitted to killing the civilians. Two separate juries had accepted the defence argument of all four servicemen, that they had been following orders.¹

In March 2005 Lieutenant Sergei Lapin was sentenced to 11 years’ imprisonment for the torture of Zelimkhan Murdalov, but the sentence was reduced to 10 years after an appeal.² The attitude of the Russian judicial, political and administrative authorities to these crimes may be called not only soft, but give an impression of impunity of those committing those crimes. Politics and mass media called mass killings of Chechen citizens during artillery shooting, bombardments and mop-up operations by militaries “extermination of terrorists’ bases”.

Question 12

Does the State party intend to amend its legislation with a view to ensuring that all officials, including members of the police, army and security forces can be prosecuted for acts of torture and ill-treatment under articles 302 and 117 of the Criminal Code?

Union of Soldiers’ Mothers Committees (part of the issue relative to militaries):

Legislation does exist willing to ensure that the military officials could be prosecuted for acts of torture and ill treatment. The Union of Soldiers’ Mothers Committee considers that the legislation does not need to be changed completely, as it could function successfully, however it does need to be fully applied by military authorities.

Independent Psychiatric Association of Russia:

For prevention of acts of tortures and ill treatment in psychiatric facilities, a special Rights Protection Service should be established (in accordance with the Article 38 of the Law “On psychiatric aid”). Such Service still does not exist.

¹ <http://www.amnesty.org/en/library/info/EUR46/025/2007/en>

² <http://www.amnesty.org/en/library/asset/EUR46/019/2007/en/9605a13d-d392-11dd-a329-2f46302a8cc6/eur460192007en.html>

Question 13

In view of the particularly numerous, ongoing and consistent allegations of acts of torture and other cruel, inhuman or degrading treatment or punishment committed by law enforcement personnel, including while in police custody (CCPR/CO/79/RUS, para. 12), please inform the Committee whether the State party envisages setting up a national system to review all places of detention and cases of alleged abuses of persons while in custody, ensuring regular, independent, unannounced and unrestricted visits to all places of detention, and if so, what the timeline is for the establishment of such a system.

Moscow Center for Prison Reform:

Last year the Law “On public control over the places of forced imprisonment” was passed (no. 76-AP). In accordance with this law in more than half of the regions of the Russian Federation Public Supervising Committees were established. The Committees are empowered to visit places of forced imprisonment informing their administration about the planned visit in advance.

The Law was passed in on 10 June 2008 and published in September 2008, the first Committees were organized in the regions in November 2008, and in January-February 2009, 364 representatives of human rights organizations from 50 federal subjects³, received mandates of sealed pattern, signed by the Chief of Public Chamber of Russian Federation. But practically the procedure of obtaining access to the establishments/institutions was slowed down because of delays of official orders (Federal Penitentiary Service, Ministry of the Interior, Ministry of Science, Ministry of Defence, Border Service of Russian Federation) on visiting rules.

The Committees consist of volunteers from human rights organizations. Each Committee consists of minimum 5 to maximum 20 persons. Each federal subject (83 in all) is authorized to organize a Supervising Committee. The Committees elect the leadership themselves, the Chief and the Deputy, secretaries, work up regulations, and may start functioning immediately after the official orders are issued. The Committees do still not exist in all the regions. In the majority of cases they cannot work properly because of lack of funds and experience.

The reasons are lack of finance (the state does not finance their work at all and taking into account the size of the country, distance and number of law enforcement establishments, scarcity of Committees, the members are only volunteers,) and the on a lack of expertise, since the majority of inspectors have never been in closed establishments/institutions at all.

As a result, the realization of the law, the adoption of which required so much time and energy, is at risk now. Representatives of penal establishments turned out to be not ready to realize the law, they do not see the meaning and aim of the public control, and do not know the rights of public inspectors, and see them as another obstacle in their work, This leads to tense atmosphere during the visits and does not contribute to the process of improving conditions in detention places.

Governmental agencies have taken some steps to solve the problem of realization of the law. From February 2009, the Public Chamber of RF in cooperation with involved agencies organized travelling seminars in federal districts under the title “Territory of partnership-2009”. Within the educational process the representatives of state agencies inform members of the Committees about regulations and current legislative instruments of public control. After that the authorities plan in cooperation with the trainees to analyze and generalized the best practices and to work out standard regulations for Committees.

³ Supervising Committees exist in 60 regions now.

As a result they will issue of a guidance manual for the members of the Supervising Committees⁴.

They have already started holding seminars and are planning to cover all 7 territory-districts: North-western, South, Ural, Siberia, Far Eastern, Privolzhsky and Central. No doubt, these seminars are useful. But their disadvantage is that the seminars are focused on informing of the inspectors about regulations, issued by controlled agencies, but not on how to monitor, inform them about ways of torture etc.

Furthermore, these places are under the supervision of the prosecutor's office.

Question 15

In reference to paragraph. 13 of the previous concluding observations of the Committee, and notwithstanding the position of the Chechen Republic Procurator's Office that "there is no credible evidence to indicate that any official or individual acting in an official capacity has been involved in, incited, colluded in or consented to any kidnapping or enforced disappearance in the Chechen Republic, including during counter-terrorism operations", in view of numerous reports and successive judgments of the European Court of Human Rights that point to ineffective investigations into cases where there is substantiated evidence of torture, arbitrary killing and enforced disappearance in Chechnya involving members of the security forces, does the State party envisage establishing an independent body to investigate such reports of serious human rights violations in Chechnya and other parts of the North Caucasus committed by State agents? Also, please inform the Committee how victims, their families and their lawyers are protected, in law and in practice, from possible harassment, threats and reprisals.

DOSH:

No independent institutions for investigation of the involvement of security forces in human rights violation in the North Caucasus exist at present time. Military and state powers, administration in the regions obstruct objective investigation of the violations (including kidnapping and killings of citizens and human rights activists, working in the Northern Caucasus region) and demonstrate resistance to attempts of some human rights organizations seeking to initiate the investigation of the kind. Contrary, human rights defenders, lawyers and journalists who have documented human rights abuses and defended the rights of civilians have been killed the last years, including Anna Politikovskaya (7 October 2006) Stanislav Markelov (19 January 2009), Natalia Estemirova (15 July 2009), Sarema Saidulaeva and Alik Dzabrailov (11 August 2009). The judgement 6 October of the Moscow Court, which awarded the Chechen president Ramzan Kadyrov compensation in the lawsuit he filed against the human rights organization Memorial and its chairperson Oleg Orlov for accusing the Chechen president for personally being responsible for the death of Estemirova⁵, is in line with the statement of the Chechen Procurator's Office.

As for protection of victims, their relatives and advocates – they are the most vulnerable group, always at risk. Some complainants to Strasbourg Court were killed later. The case of Zura Bitieva is an example.

In 1 June 2007 judgment on the complaint of "Bitieva and X against Russia" was passed. Zura Bitieva is an activist of the anti war movement. She organized anti war meetings during the first and the second wars. In January 2000, she was brought to Chernokozovo. Without filing accusation she was kept there for more then three months. She was tortured and then sent to hospital. Having been released from prison she appealed to Strasbourg

⁴ As of the 1st of June, 2009 there were 890,4 thousands people in establishments of correctional system, including in 755 penal colonies – 735,8 thousands people, in 225 pre-trial detention centres, 7 prisons and 164 centres, functioning as pre-trial detention centres – 147,1 people, in 62 juvenile correctional facilities -, 5 thousand people. There are 69,9 thousands condemned woman, 12 child care centres by female colonies, where 823 children live (see: <http://www.fsin.su/main.phtml?cid=6> & <http://www.oprf.ru/762/767/1029/>)

⁵ <http://humanrightshouse.org/Articles/11972.html>

Court. On 21 May 2003 she was killed in her own house. Armed men in camouflage killed her husband, a son and a brother. Her daughter moved to Europe with her small children, unable to bear psychological pressure from representatives of Russian law enforcement bodies, who pressured her and her mother to take the complaint back.

The complaint of Zura Bitieva was supported by one of her relatives. European Court adjudged the applicant party 85'000 Euro and obliged Russia to investigate the case thoroughly. Criminal proceedings on Zura Bitieva case are being suspended now. The killers are still not found.

Question 18

Further to the information provided in paras. 82 to 86 of the report on counter-trafficking measures taken by the State party in response to paragraph 10 of the previous concluding observations of the Committee, please provide information on measures taken to rehabilitate victims of trafficking in human beings and to provide them with medical, psychological, social and legal assistance.

RRCHR:

The government does not assist victims and does not support human rights organizations, assisting them. In some regions, regional administration in cooperation with the local non-governmental organizations supports victims of slavery.

In some regions special rehabilitation centres exist, but as a rule, foreign donors support their activity. For example, in November 2008, a project on creation of a rehabilitation centre for slavery victims was launched in Primorsk Territory. It is the first rehabilitation centre of the kind in the Far East. The project is being realized by a local organization Far Eastern Center for Civil Initiatives and Social Partnership Development. International Organization on Migration in Moscow and Bureau of State Department of USA on International Struggle against Drugs and Law Enforcement Activity financed the project.

Question 19

Further to the information provided in the State party's report (para. 93) in response to the previous concluding observations of the Committee (para. 15), please update the Committee on the progress achieved with regard to conditions of detention of persons deprived of their liberty under the federal special-purpose programme for the development of the penal correction system for 2007-2016 mentioned in para. 93 of the report, in particular, vis-a-vis overcrowding, standards of hygiene, access to health care and violence by prison guards. Please provide information on the existing confidential complaint mechanism available to persons deprived of liberty.

Moscow Center for Prison Reform:

We do not know about any progress since official reports on situation in penal system are no accessible for the community. The last report, presented to the public, is dated by the end of the last year. We suppose, that the realization of the program was slowed down in connection with economic crisis and the conditions of detention have no been changed substantially.

The mechanism exists, but it does not work, and it means it does not exist. The appeal from violations comes from prisons illegally by mobiles. Human rights organizations pass these complaints to federal Ombudsman or General Prosecutor's Office, who send them to the local Procurator's Office. The local Prosecutor's Offices are, as a rule, in close relations with the regional Penal Correction Department. So, the typical response is "the complaint was not confirmed".

Quotation from the federal Ombudsman's report from 2008⁶:

The Ombudsman receives a lot of complains on violations of prisoners' rights. There are special rules, regulating correspondence of the prisoners with the controlling bodies, including Federal Ombudsman. In accordance with these rules appeals to the Ombudsman cannot be read and must be sent to addressee within 24 hours. This rule is being violated very often.

In December 2007 Federal Ombudsman received a complaint from M., serving a sentence in penal colony IK-18 in Novosibirsk region, taking an appeal from circumstances of his prison transfer. The complaint was annexed with a copy of protocol № 32 of the Commission of colony's administration on consideration of appeals, complaints and suggestions from the prisoners and their relatives. The protocol confirmed that on 16 November 2007, this Commission, have been inspecting two "Closed" complaints from M. to the Ombudsman and took a decision to send them to the Ombudsman. This is an excellent example of the violation of the law.

Question 22

Notwithstanding the State party's response to paragraph 14 of the previous concluding observations of the Committee contained in paragraphs 70 to 79 of the report, please provide further information as to whether there has been an independent and impartial assessment of the circumstances of the rescue operation in the Dubrovka theatre in Moscow on 26 October 2002, including with regard to medical care provided to the hostages after their liberation and the killing of the hostage-takers. Similarly, please inform the Committee on the outcomes of the investigations relating to the storming of School No.1 at Beslan in September 2004, including the conclusions of various parliamentary commissions.

There has not been any independent and impartial assessment of the circumstances of the rescue operation in the Dubrovka theatre. Independent experts prepared some reports but they were not taken into account. On 15 January 2008, the Prosecutor's office of Ingushetia longed a suit against the organization Voice of Beslan, for extremist activities. The case was linked with the statement of Voice of Beslan accusing the President Putin for refusing to launch an independent investigation on the Belsan tragedy. In an attempt to have Alexander Solzhenitsyn replaced.⁷ The chair of the investigation team

Question 24

Paragraphs 155 to 169 of the report extensively outline the measures taken by the State party "to deal with breaches of the law relating to the media" (para. 167). In this connection, please provide information on the number of journalists arrested, prosecuted, charged with, or sentenced to fines and/or prison terms in relation to their professional activities, indicating in particular the legal basis for such actions. Furthermore, please provide information on measures under Russian law that regulate the profession of "journalist".

RRCHR:

The Public Chamber (in which some NGOs participate) is working on development of a suggestion for State Duma on amendments to current Criminal Code of RF. The changes will touch upon status of journalists, since the degree of their protection is extremely weak now. The changes were initiated by human rights defenders in connection with an attack on the editor of *Chimki Pravda* Michail Beketov.

It should be noted, that nowadays-enhanced responsibility, providing imprisonment of 12 to 20 years exists for citizens making attempts on life of judges, policemen, state and pub-

⁶ <http://www.ombudsman.gov.ru/doc/documents.shtml>

⁷ www.fidh.org/judicial-harassment-against-the

lic officials. The journalists are not included in the list. Human rights defenders think it is unjustified and improvidently.

Question 27

What mechanisms are in place to ensure that restrictions on the registration and operation of associations, non-governmental organizations and political parties under the 2006 law governing the activities of non-commercial organizations do not exceed limitations permitted under article 22 of the Covenant? Please provide information on the non-governmental organizations that were closed down by the authorities in the last three years, including statistical data, indicating the legal grounds for their closure.

RRCHR:

Federal Registration Service, interfering NGOs' activity, was abolished on 1 October 2008 and a part of its functions were passed to the Ministry of Justice, but registration still is permissive and not simply informative. In spite of the fact that a number of statute-permitted inspections were reduced, public organizations often suffer frivolous searches and other interventions (especially religious organizations). Too broad definition of extremism, inclusion of "arouse of national or religious enmity or discord" in it, allows interpreting it as prohibition on criticism of any religious or antireligious views. Often anti extremism legislation is used for resolution of religious conflicts within Islam.