**RUSSIAN FEDERATION**

NGO contribution in view of the adoption of the List of Issues (CCPR/C/RUS/7)

* **Youth Human Rights Movement**
* **“SOVA” Center for Information and Analysis**
* **Committee against Torture**

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**Introduction**

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## This report was prepared by the Youth Human Rights Movement, “SOVA” Center for Information and Analysis and the Committee against Torture in view of the adoption of the List of Issues concerning the seventh periodic report of the Russian Federation to the United Nations Human Rights Committee.

## The report contains two main sections. The first one provides information on the implementation of certain provisions of the International Covenant on Civil and Political Rights (ICCPR) in the Russian Federation, namely:

* Prohibition of torture, cruel, inhuman or degrading treatment or punishment (art. 7)
* Treatment of persons deprived of their liberty (art. 10)
* Freedom of thought, conscience, religion and belief (art. 18)
* Freedom of opinion, expression and information (art. 19)
* The right to peaceful assembly (art. 21)
* The right to freedom of association (art. 22)

## Under each of these topics, the authors of this report suggest questions to be included in the List of Issues to be adopted by the Human Rights Committee.

## The second section of the report provides an assessment of the implementation of some of the previous Concluding Observations issued by the Human Rights Committee to the State (CCPR/C/RUS/CO/6) in October 2009. We hope that both sections of the report contribute to the drafting of the List of Issues on the Russian Federation.

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# Section 1:

# NGO contribution in view of the adoption of the List of Issues

1. **Prohibition of torture, cruel, inhuman or degrading treatment or punishment (art. 7)**

Torture and ill-treatment remain widespread in Russia. Officials who torture or are complicit or acquiescent in torture remain largely unpunished. Widespread impunity is exacerbated by the inability or unwillingness of the Russian authorities to effectively investigate and prosecute cases of torture and ill-treatment.

There is still the difference between the definition of torture in domestic law (Article 117 of the RF Criminal Code) and the UN Convention Against Torture (Article 1) as well as the very limited use of this domestic provision to prosecute officials suspected of torture. There is no information on any legislative proposals or judicial decisions to bring the RF Criminal Code in line with the Convention and the Committee’s views.

The announcement in April 2012 of the creation of a Special Subdivision within the Investigative Committee to investigate crimes committed by law enforcement officials raised expectations of prompt, impartial and effective investigations into allegations of torture and ill-treatment by law enforcement officials. Unfortunately, almost two years later, the success of the Special Subdivision remains limited. The limited success of the Special Subdivision has at least 3 causes. The Special Subdivision has insufficient personnel as there are only 84 investigators for more than 60 000 complaints. The distribution of competence between the Special Subdivision and the regular (territorial) divisions of the Investigative Committee is unclear because there are rules governing the transfer of cases to the Special Subdivision. There is no possibility for torture victims to apply directly to the Special Subdivision.

**Recommended questions:**

1) Is the State party willing to recognize that torture remains a systematic and widespread problem as described by the Committee? Which measures did the State adopt (or plans to adopt) to combat this problem? What have been the specific results of each of these measures?

2) Could the State party highlight what has been done to bring its domestic law in line with the Convention? Have the Committee’s views and recommendation been disseminated to the competent domestic authorities? What action did they take? Did the relevant authorities hold any consultations with representatives from civil society?

3) Are all the complaints concerning torture and ill-treatment by law enforcement officials investigated by the Special Subdivision? If not, why? If a complaint concerning torture and ill-treatment by law enforcement officials is not investigated by the Special Subdivision, which body is responsible for the investigation? What are the criteria for a case to be investigated by the Special Subdivision? Which legal document sets out these criteria?

4) Is the Special Subdivision only charged with investigating allegations of torture and ill-treatment by law enforcement officials? If not, what other crimes does the Special Subdivision investigate? What is the percentage of each type of crime? What is the average duration of the investigation for each type of crime? What is the outcome of the investigation for each type of crime? How many officials were indicted and brought to court for each type of crime? How many were convicted and what was the average penalty?

5) Does the outcome of investigations by the Special Subdivision differ from the outcome of investigations by regular divisions of the Investigative Committee, in particular do more cases end in prosecution/conviction of the officials involved in torture and ill-treatment?

6) Do the powers of the Special Subdivision extend to all law enforcement officials independent of their affiliation (Interior Ministry, Defense Ministry, FSB, etc.) and rank? If not, why and who is then responsible for investigating those officials? How many investigators are there in the Special Subdivision? On average, how many cases are investigated by an investigator per year? Can torture victims (or their representatives) complain directly to the Special Subdivision? How? If not, why?

7) Could the State provide statistical information on the number of cases in which confessions were deemed inadmissible on the grounds that they were coerced through torture, as well as information on the number of officials prosecuted and punished for extracting such confessions? Has the State party taken precautions for persons freely willing to confess, for example by requiring that confession statements cannot be recorded by a police officer or an investigator but should be made in front of a judge? Has the State taken measures to diminish the use/value of confession statements in its criminal procedure law?

1. **Treatment of persons deprived of their liberty (art. 10)**

It must be criticized that not all persons deprived of their liberty are guaranteed *by law and in practice*, from the very outset of their deprivation of liberty, the right of access to a lawyer and to a doctor and the right to have the fact of one’s detention notified to a relative or another third party of one’s choice. The State party has only partially implemented the detailed recommendations in this regard.

Concerning the legal codification of the above safeguards, persons suspected of committing a criminal offence still have no right to notify a relative of their detention. Article 96(1) of the RF Code of Criminal Procedure stipulates that notification is done by the investigator in charge of the criminal case against the suspect within 12 hours after the suspect’s official arrest (which itself can be several hours after the moment the suspect was *de facto* deprived of his liberty). Although persons suspected of committing an administrative offence now have the right to notify a relative themselves, Article 14(7) of the RF Federal Law on the Police allows delays up to 3 hours.

Free legal aid is unavailable in proceedings on administrative offences, despite a maximum penalty of 15 days imprisonment. There is no prompt and independent medical examination of persons deprived of their liberty until they are placed in the temporary detention facility (IVS) or administrative detention facility (KAZ), which in practical terms means that they are sometimes examined up to 24 hours or more after their apprehension or never examined at all, if they are released prior to placement in the IVS or KAZ.

**Recommended question:**

1) What kind of measures are taken by the State party to ensure access to medical and juridical aid and to right to get the relatives notified for all persons deprived of their liberty including those suspected of committing a criminal offence in proper time according to the international standards in this field?

1. **Freedom of thought, conscience, religion and belief (art. 18)**

Misuse of anti-extremist legislation has continued over the last years. It was more obvious with regard to a number of religious groups. For instance, prohibitions of Jehovah's Witnesses’ publications took place only because of the fact that “superiority of their faith has been determined in them”.

Prosecutions for participation in wrongfully prohibited religious organizations have continued. They were connected both with real organizations such as Jehovah's Witnesses, and imagined ones such as Nurdzhular (Sufi Said Nursi followers were classified as members of it). All the allegations against them are regarded as the superiority of Islam propaganda and similar peaceful and unrepugnant law religious theses included in Nursi works. Analogous prosecutions are put into effect to Tablighi Jamaat movement.

In addition to the well-known case of Pussy Riot group convicted in 2012 without proper reasons for “hooliganism motivated by religious hatred”, but in reality – for the criticism of the Russian Orthodox Church leadership, a few less famous criminal proceedings initiated for the same criticism could be named.

**Recommended questions:**

1) What legislative, policy and practical steps are being taken by the State party to guarantee freedom of thought, conscience, religion and belief for everyone and to ensure the equality of all religious groups and confessions before law?

2) In which way do the norms of the anti-extremist legislation, which provide for the prohibition of religious groups and texts not calling for violence, correspond with the international standards on freedom of religion and belief?

1. **Freedom of opinion, expression and information (art. 19)**

The laws restricting freedom of expression have been adopted or are currently at the stage of adoption. All the laws include extremely vague wordings. For example, the new part 1 of Art. 148 of the Criminal Code (insulting religious feelings), the so-called Lugovoy-Yarovaya bill giving the General Prosecutor's Office the powers to block access to web-sites without court decision (just with the suspicion that it contains terrorist or extremist calls and even calls for participation in public assemblies not authorized by the authorities). Practice shows that the General Prosecutor's Office did not even notify the owners of the blocked sites explaining which content had caused the blocking.

Practice of blocking access to Internet materials prohibited by courts, which started at the end of 2012, also leads to mass violations of the right to freedom of opinion and expression. On the one hand, the decisions about blocking often aren’t based on the legislation (for example, access to the web-site is blocked because it is associated with a previously prohibited organization, as it was with Jehovah's Witnesses), and on the other hand, blocking is made not on target, but the whole web-site or even the group of web-sites using the same IP address are blocked because of one material.

Article of the Criminal Code on the incitement of racial and similar hate (Art. 282) is occasionally used against the people whose statements can be considered neither inciting hatred, nor provoking unlawful actions.

**Recommended questions:**

1) What legislative, policy and practical steps are being taken by the State party to guarantee freedom of opinion and expression for everyone?

2) In which way do the recent legislative amendments, providing for blocking of Internet resources without court decision, correspond with the international standards on freedom of opinion and expression? Which legitimate goal for imposing restrictions on the exercise of the right to freedom of expression (out of those provided for by Art. 19 of the Covenant) did the State party pursue by adopting these provisions?

1. **Right to peaceful assembly (art. 21)**

In June 2012 the State party introduced significant changes to the Assemblies Act, which further restricted the freedom of assembly.

The Assemblies Act has been amended by the Federal Law No. 65-FZ of 8 June 2012. Before this, the provisions of the Assemblies Act were subject to serious criticism by the international human rights bodies as not complying with the international standards on freedom of peaceful assembly. However, the June 2012 amendments not only failed to address any previous recommendations of the international human rights bodies, but made the situation even worse. Those amendments were subject of examination by the Russian Constitutional Court, which gave its judgment on 14 February 2013, but which did not result in fact in major improvements of these norms.

The most important changes brought by the June 2012 amendments to the Assemblies Act are:

1. Prohibition of acting as organizers of assemblies by persons who were previously convicted for administrative offences related to violations of the rules on organization of assemblies (Art. 5.2.1.1 of the Assemblies Act).

2. Administrative liability of the organizer for the situation where the actual number of participants of the assembly exceeded the one indicated in the submitted official notification and where it may constitute a threat to public order.

3. Prohibition to wear masks during assemblies.

4. Extension of a ban on organization of assemblies during the night.

5. Prohibition to promote the assembly organized before obtaining the official agreement with the responsible authority as regards the place and time of the assembly.

6. Increase in the financial penalties for non-compliance with the rules on organization of assemblies. The new penalties are extra-orbitant and fail to meet human rights standards. The maximum penalties for citizens for violation of different rules concerning assemblies were increased from 5.000 RUB to 300.000 RUB (approx. 6.000 EUR), for organisations – from 50.000 RUB to 600.000 RUB (approx. 12.000 EUR). The law originally provided for minimum sanctions. However, this provision was quashed by the Russian Constitutional Court. Still, the sanctions are extremely high and may produce chilling effect on freedom of assembly. Furthermore, the amendments introduced a new type of sanction, which is community work. It may be ordained up to certain amount of hours or even days of unpaid work. Finally, the new offence was created, which is “organisation of a mass simultaneous presence and/or movement of citizens in public places resulting in a breach of public order”. This provision might be especially applicable with respect to any spontaneous assemblies or simply protests without prior authorization. It will give a safe excuse for authorities to intervene and to penalize participants of such events.

All the new amendments resulted in further deterioration of the existing law-enforcement practice and in particularly in large number of people, being detained during the peaceful street actions and then fined according to the new law.

**Recommended questions:**

1) What kind of measures are taken to guarantee the compliance of the June 2012 amendments to the international standards on freedom of peaceful assembly and to ensure the possibility for everyone to express their views by assembling peacefully?

1. **Right to freedom of association (art. 22)**

In 2009, immediately after the previous review cycle, the State party made moderate positive steps toward changing the NGO legislation, somewhat improving their position, including a reduction in the number of regular audits, simplified reporting requirements, and shortening of the list of grounds on which NGOs can be refused registration or banned. However, not all changes proposed by NGOs were implemented. Instead of the proposed self-regulation, NGOs are subjected to strict State control. Multiple grounds for arbitrary and discriminatory application of the law remain at all stages of NGO creation and functioning, including registration, audits, reporting, suspension, and liquidation. During audits, the authorities can demand an unlimited number of documents, which is not governed by any laws.

After the limited “thaw” of 2009-2011, repressive amendments to the NGOs legislation were adopted in 2012 that bear a serious threat for freedom of association. These amendments impose stringent restrictions on activities of NGOs that receive funding from foreign and international donors. These changes require NGOs financed from abroad and engaged in “political activities” to apply for inclusion in the special list of “foreign agents.” This law defines “political activity” extremely broadly as “actions aimed at influencing government policies or shaping public opinion” which is a natural mode of operation for most NGOs. Such organizations must label any published material, speech, presentation, event, or consultation as originating from a “foreign agent.” Failing to follow this requirement will lead to suspension and ban of the NGO activities without a court decision, huge fines leading to bankruptcy, and, finally, criminal charges against its leaders that may result in up to two years in prison.

Provisions of the law are so broad that it is impossible to understand whether a person is breaking them or not. This creates a fertile ground for selective and arbitrary application of the law based on political bias rather than legal grounds. Aside from that, those NGOs that receive foreign funding are subject to excessive reporting and audits. Arguments of those who claim that this law is modeled on the legislation on freedom of association in the developed democracies are unsound. The law contradicts the Russian Constitution and international legal standards.

Moreover, the law misleads the public and incites it against civic organizations. It forces NGOs to label themselves as “foreign agents” which is not what they are. In the Russian language this term has a clearly negative, derogatory connotation and is synonymous with the terms “enemy” and “spy.”

Apart from this, additional oversight over all money disbursements to NGOs from foreign sources was introduced in 2012. It is carried out by the federal agency in charge of control of money laundering and funding of terrorist activity. Thus, the authorities effectively equate foreign funding of NGOs with money laundering and terrorism.

**Recommended questions:**

1) What legislative, policy and practical steps are being taken by the State party to guarantee freedom of association and ensure the ability of all NGOs to function effectively without hindrance, intimidation and harassment?

2) In which way do the amendments to the NGO legislation adopted in 2012, namely “the foreign agents” provisions, correspond with the international standards on freedom of association? Which legitimate goal for imposing restrictions on the exercise of the right to freedom of association (out of those provided for by Art. 22 of the Covenant) did the State party pursue by adopting these provisions?

# Section 2:

# Assessment of the implementation of previous Concluding Observations

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| **Committee recommendations**  **(CCPR/C/RUS/CO/6)** | **Grade[[1]](#footnote-1)** | **Action taken by the State**  **(CCPR/C/RUS/7)** | **Further actions needed according to NGOs** |
| 11. The State party should make a sustained effort to improve the application of laws punishing racially motivated crimes and ensure adequate investigation and prosecution of all cases of racial violence and incitement to racially motivated violence. Adequate **reparation**, including compensation, should be provided to the victims of hate crimes. The State party is also encouraged to pursue public education campaigns to sensitize the population to the criminal nature of such acts, and to promote a culture of tolerance. Furthermore, the State party should intensify its sensitization efforts among law enforcement officials, and ensure that mechanisms to receive complaints of racially motivated police misconduct are readily available and accessible. | B3 | 35. Under article 63 of the Criminal Code, offences driven by political, ideological, racial, ethnic or religious hatred or enmity, or by hatred or enmity towards any social group, are treated as aggravated offences.  36. All the constituent entities of the Russian Federation conduct awareness-raising campaigns against terrorism and extremism under regional and municipal programmes to combat terrorism and extremism.  37. A mandatory course on the foundations of religious cultures and secular ethics covering Orthodox, Islamic, Buddhist, Jewish and world religious cultures and secular ethics will be introduced for the 2012/13 academic year in all institutions providing general education in order to foster spiritual development, moral self-improvement and tolerance and to familiarize students with the basics of secular ethics and with Russia’s traditional religions and the role that they play in the culture, history and modern life of Russia. | The State party should:  1. Introduce a separate category for reporting hate crimes (apart from hate speech and other forms of extremist and terrorist activities) in law enforcement bodies.  2. Introduce a mark of a suspected hate motive in the form of initial registration of the crime.  3. Introduce a qualifying attribute of a motive of ethnic and other hate in the articles of police and government authorities abuse.  4. Introduce disciplinary liability for acts of intolerant attitude from officials to public service legislation. |
| 14. The State party is urged to implement fully the right to life and physical integrity of all persons on its territory and should:   1. Take stringent measures to put an end to enforced disappearances, extrajudicial killings, torture, and other forms of ill-treatment and abuse committed or instigated by law enforcement officials in Chechnya and other parts of the North Caucasus; 2. Ensure prompt and impartial investigation by an independent body of all human rights violations allegedly committed or instigated by State agents and suspend or reassign the agents concerned during the process of investigation; 3. Prosecute perpetrators and ensure that they are punished in a manner proportionate to the gravity of the crimes committed, and grant effective remedies, including redress, to the victims; 4. Take effective measures, in law and in practice, to protect victims and their families, as well as their lawyers and judges, whose lives are under threat due to their professional activities; 5. Provide information on investigations launched, convictions and penalties including those by military courts in relation to human rights violations committed by State agents against the civilian population in Chechnya and other parts of the North Caucasus, disaggregated by type of crime. | B2 | 43. The Russian Federation is fulfilling its commitment to prevent and punish trafficking in persons in accordance with the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, signed on 15 December 2000; it is making every effort to bring its national legislation into line with the fundamental conventions in the area.  44. Trafficking in persons regarded as a multifaceted social and legal phenomenon that covers a wide range of criminal activities. It includes offences involving the forced removal of human organs or tissues for transplant, the use of slave labour, recruitment into or organization of prostitution, unlawful distribution of pornographic material, including depictions of minors, and the organization of illegal migration.  45. The operational capacity of all law enforcement agencies, together with the investigative authorities, is brought into play to prevent and suppress trafficking in persons. In addition to the internal affairs authorities that have special units to combat trafficking in persons and offences against morality, field agents of the Federal Customs Service, Federal Drug Trafficking Control Service and Federal Security Service are called on to expose such offences.  46. An important role in addressing the issue of trafficking in persons is played by social protection and health authorities, job placement services, guardianship authorities, family support services and social services institutions for families and children, among others, all of which help to rehabilitate and integrate victims into society. The social service system for families and children offers necessary assistance to victims of violence and ill-treatment who are living in difficult situations, including social welfare, medical, psychological, educational and legal services and social integration and rehabilitation.  47. Steps being taken to prevent minors from falling victim to trafficking include measures to address child neglect and juvenile crime, to ensure the highest possible enrolment in basic general education, to provide for training and employment, in particular part-time work, and to organize leisure and recreational activities for children and adolescents. Non-governmental organizations are providing assistance, particularly social and psychological assistance, to victims of trafficking.  48. Shelters for victims of trafficking in persons have been set up with the assistance of the social protection authorities in a number of entities of the Russian Federation (Rostov-on-Don, Astrakhan and Vladivostok) under a project of the International Organization for Migration (IOM). Information and counselling centres have opened in Astrakhan and Petrozavodsk (Republic of Karelia). A shelter (inaugurated with assistance from IOM and the European Union) was in operation for a number of years in Moscow, but it closed in 2010 for lack of funding. The Russian Federation is working in cooperation with IOM to provide specialist training on trafficking in persons to Russian law enforcement authorities, lawyers, procurators and law students, under an IOM office project to prevent and suppress trafficking in persons. Study visits for the exchange of experience have been organized in the United Kingdom, the United States, Italy, Belarus, Azerbaijan and other countries.  49. In November 2011, the Ministry of Health and Social Development and the United States Embassy held the first Russian-American Trafficking in Persons Forum, at which participants explored in detail prevention and victim assistance issues. A working subgroup on trafficking in persons was formed under the working group on civil society of the U.S.-Russia Bilateral Presidential Commission.  50. Exchanges are taking place with the Moscow regional non-governmental association Sisters, which carries out various projects on trafficking in persons, including women and children. Examples of such projects are the provision of assistance by the Ministry of Internal Affairs in organizing preventive work with the public and building the capacity of grass-roots non-commercial organizations (2008–2009); the rehabilitation of child victims of sexual exploitation.  59. Respect for the rights of citizens in criminal proceedings by the procuratorial authorities of the constituent entities of the Russian Federation that make up the North Caucasus Federal Area is given special attention. Every fact or allegation of a violation of the rights of suspects or persons charged with an offence or the use of unlawful methods of inquiry or investigation against them is duly followed up.  60. Every allegation of ill-treatment or use of unlawful methods of inquiry or investigation is recorded in a register of reported offences and is verified by an investigative body without delay, in accordance with articles 144 and 145 of the Code of Criminal Procedure; criminal proceedings are instituted if there is evidence tending to show that an official has committed an offence. The issue of whether physical force or unlawful methods of investigation were used in the course of the investigation is raised in the presence of lawyers. Medical staff checks for signs of bodily harm caused to pretrial detainees whenever they are held in temporary holding facilities. Thus, the rights of suspects and accused persons are protected under criminal procedural law.  61. A review of the findings of investigations into complaints filed by persons subject to criminal prosecution shows that the majority of such complaints are similar in content and usually involve allegations of physical and moral coercion on the part of investigators against the suspects or accused persons for the purpose of extracting a confession. The extent to which the complainants’ descriptions of the place and methods of use of force overlap and the rather similar hackneyed language in which the complaints are couched are striking; moreover, the complainants generally do not cite objective facts that could corroborate their allegations, in particular information about the investigators purported to have used force, including their first or last names or a physical description, even though the substance of the complaints suggests that such information would be known to them. Therefore, it stands to reason that many complaints lodged by suspects or persons charged with an offence are nothing more than an attempt to avoid punishment for their acts. All of this shows that the complainants opt for similar methods in mounting a defence in criminal cases and make these allegations with the intention of challenging the lawfulness of the investigations.  62. The authorities of the Investigation Department of the Russian Federation for the Republic of North Ossetia-Alana received 56 communications concerning the use of physical force in 2010 and 33 in the first half of 2011. In 2010, criminal proceedings under article 286, paragraph 3 (a), of the Criminal Code, were instituted in two cases involving the use of physical force by police officers against detainees which were referred to the court for consideration on the merits. The court subsequently handed down suspended sentences of deprivation of liberty for various periods to four officers and stripped them of the right to serve in the internal affairs system.  63. In the first half of 2011, criminal proceedings under article 286, article 3 (a), of the Criminal Code were instituted in cases involving the use of unlawful methods of investigation, with one referred to the court and two still under investigation. All other such criminal cases have been thrown out.  64. The difficult situation in the Republic of the North Caucasus is among the causes for the violation of the rights of citizens by officers of the law enforcement agencies in the North Caucasus region. These challenges need to be seen against the backdrop of the overall criminal situation in the region caused by the spread of radical notions of Islam, which has led to a surge in religious extremism to which the authorities immediately reacted pursuant to their primary responsibility of maintaining law and order.  65. Investigations and searches in cases of disappearance and efforts to uncover, prevent and solve cases of intentional homicide are under constant review; the heads of the internal affairs authorities supervising the search efforts or in charge of the police work for this category of offence are invited to participate in consolidating investigative practice regarding such criminal offences.  66. A single record of abducted or missing persons, unidentified bodies and persons detained by law enforcement authorities is kept in accordance with paragraph 6 of the Comprehensive Programme to Prevent Abduction and Trace Missing Persons for 2011–2014, adopted by the law enforcement agencies of the North Caucasus Federal Area.  67. The potential of civil society institutions (including human rights organizations) is fully exploited and information is exchanged on a regular basis in known cases of abduction in order to ensure that the necessary investigations are carried out.  68. In a number of cases, there is evidence that young persons were abducted by members of armed criminal groups dressed up as law enforcement officers, wearing camouflage and carrying firearms.  69. Social rehabilitation measures are taken towards victims of terrorism in accordance with article 19 of Federal Act No. 35-FZ of 6 March 2006 on Counteraction of Terrorism.  70. The procedural rights of victims are set out in the Code of Criminal Procedure.  71. In its Decision No. 17 of 29 November 2011, on the application by the courts of Chapter 18 of the Code of Criminal Procedure of the Russian Federation governing rehabilitation in criminal legal proceedings, the Plenum of the Supreme Court highlighted the constitutional right of everyone who has been harmed by unlawful action (or failure to act) on the part of government authorities or officials, or subjected to unlawful arrest, detention or conviction of a crime, to compensation by the Government for such treatment, in accordance with the Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966 and the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 and Protocol No. 7 thereto.  72. Some 339 criminal cases involving offences committed by military personnel against the civilian population have been investigated by the military procuratorial system since the start of counter-terrorism operations and by the investigative agencies of the military investigation department of the Investigation Committee, a unit reporting to the Procurator’s Office of the Russian Federation (now the Investigative Committee of the Russian Federation), since 7 September 2007. To date, investigations have been completed in 212 criminal cases, 112 of which have been referred to military courts for consideration, including 23 cases of murder (Criminal Code, art. 105), 1 case of physical injury through negligence (art. 118), 29 cases of theft (arts. 158–162), 12 cases of violations of regulations governing the use of military vehicles (art. 350), 9 cases of violations of firearms regulations (art. 349), 8 cases of criminal mischief (art. 213), 2 cases of rape (art. 131) and 28 cases involving other offences. The military courts have considered criminal cases against 131 members of the armed forces who have committed offences against the civilian population, including 34 officers, 9 warrant officers, 42 enlisted soldiers and sergeants and 46 conscripted soldiers and sergeants.  **Responses to recommendation 14, paragraph 1 (d)**  73. Interference in the work of a lawyer conducted in accordance with the law or obstruction of this work in any way is prohibited under article 18 of Federal Act No. 63-FZ of 31 May 2002 on the work of lawyers and the legal profession.  74. Lawyers may not be held liable in any way (including after their status as a lawyer is suspended or terminated) for expressing views while exercising their profession, unless a sentence that has just taken effect implicates them in a criminal act (or failure to act). These restrictions do not extend to the civil liability of lawyers in respect of their clients under Federal Act No. 63-FZ. No demands for information may be made of lawyers or members of law societies, bar associations or the Federal Bar Association in connection with the legal assistance provided in specific cases.  75. Lawyers constantly come into contact with members of the criminal world and, as such, are part of a professional group of persons at high risk. They and their family members are therefore provided with supplementary safeguards of their life, health and property under article 18, paragraph 4, of Federal Act No. 63-FZ. The State generally provides such safeguards. However, the provision also states expressly that the internal affairs agencies are under the obligation to take the steps necessary to ensure the safety of lawyers and their family members and to protect their property. The article is so worded as to convey the fact that the internal affairs agencies may take such action on their own initiative, at the request of the lawyers or by order of investigative bodies, the procuratorial system or the courts.  76. The criminal prosecution of lawyers is carried out in conformity with the safeguards provided for lawyers under the criminal procedural law (Code of Criminal Procedure, art. 448, para. 10). | 1. The State party should recognize that torture remains a systematic and widespread problem and report on measures adopted by the State (or plans to adopt) to combat this problem.  2. The State party should legally guarantee right to access to legal and medical aid to all persons deprived of their liberty, what should also include guaranteed and assured right to notify relatives.  3. The State party should provide statistical information on the number of cases in which confessions were deemed inadmissible on the grounds that they were coerced through torture, as well as information on the number of officials prosecuted and punished for extracting such confessions and guarantee effective investigation of those cases.  It must be legally fixed that taken precautions for persons freely willing to confess, for example by requiring that confession statements cannot be recorded by a police officer or an investigator but should be made in front of a judge. |
| 15. The State party should:   1. Consider amending the Criminal Code in order to criminalize torture as such; 2. Take all necessary measures for a fully functioning independent human rights monitoring body 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 to initiate criminal and disciplinary proceedings against those found responsible; 3. Ensure that all alleged cases of torture, ill-treatment and disproportionate use of force by law enforcement officials are fully and promptly investigated by an authority independent of ordinary prosecutorial and police organs, that those found guilty are punished under laws that ensure that sentences are commensurate with the gravity of the offence, and that compensation is provided to the victims or their families. | B3 | 96. Under Act No. 5473-I of 21 June 1993 on institutions and agencies for the enforcement of criminal sentences through deprivation of liberty (hereinafter the Act), such institutions must uphold the rule of law and ensure the safety of those serving sentences and of the staff, officials and individuals on the premises. In a number of situations closely circumscribed by the Act, prison officers may use physical force in the performance of their duties. Prison officers are instructed in procedures for the use of force and the administration of first aid to those in need during all the training courses that they take before and during their service and in their physical training exercises. Prior to using physical force, the officer must warn a convicted person of the intent to use force, allowing sufficient time for the applicable requirements to be observed. All instances of the use of force must be reported in a special log and these reports must be checked. In the event the procedures for the use of force are not followed, a report is transmitted to the procurator’s office in order to arrange for a legal review of the officer’s actions. The application of the procedures for the use of force and restraining devices is monitored by officials at the headquarters of the Russian Federal Penitentiary Service. These matters are considered at follow-up meetings in the regional offices of the Service. In addition, there are quarterly educational gatherings of prison officers during which the use of force and restraining devices is discussed. Recommendations on the use by prison officers of physical force and restraints and on the administration of first aid to persons subject to such coercive measures have been developed to ensure strict adherence to the relevant requirements under the law. In 2009, to ensure that prison officers comply with the legislation on criminal sentence enforcement, the regional offices of the Service were sent instructions on how to organize courses, followed up by final examinations, on the procedures for the use of physical force and restraining devices against convicted persons; they were also instructed to include, in the in-service training curricula, courses on the protection of the rights, liberties and lawful interests of convicted persons and persons in custody and on the role of prison officers in making conditions of detention conform to the rules of international law, the provisions of human rights agreements and the legislation of the Russian Federation.  97. Over the past three years, thanks to the steps taken by the Russian Federal Penitentiary Service, the number of instances of the use of physical force and restraining devices against persons in detention has decreased significantly.  98. The Service has issued instructions aimed at preventing the unjustified use of physical force and restraints and at ensuring that the heads of penitentiary institutions transmit expeditiously to procurators and investigators reports by medical staff on bodily injuries that detainees claim were sustained as a result of the unlawful actions of fellow detainees, prison officers or law enforcement agents. According to these instructions:  • The heads of the Service’s regional offices are personally responsible for ensuring conformity with the above-mentioned Act in all cases when physical force or restraining devices are used against suspects, accused persons and convicts;  • Reports on the use of physical force and restraints are promptly submitted and thorough medical examinations carried out of individuals subjected to their use and the results duly recorded; each instance is carefully checked by units of the Service’s regional offices;  • The duty stations of places of detention now have procedures for rapid reporting of injuries to detainees to investigative and procuratorial authorities;  • The implementation of the following provisions is being monitored: paragraph 28 of Ministry of Health and Social Development Order No. 640 and Ministry of Justice Order No. 190 of 17 October 2005 and Order No. 640/190 on procedures for the provision of medical care to persons sentenced to deprivation of liberty or being held in custody. Under these provisions, the assistant duty officer must file an incident report if an individual arrives at a place of detention with bodily injuries, if a complaint is lodged by that individual or if such an injury is revealed during a medical examination. The report is drawn up in duplicate, with one copy filed in the outpatient’s medical record and the other handed to the detainee on his or her signature of the original. The prison director and the procurator supervising the work of the institution are notified in writing that a medical examination has been carried out. The inclusion of the report in the outpatient’s medical record must, without fail, be noted in the list specifying the examinations carried out;  • Prison officers may not take part in investigations of the use of physical force or restraining devices against detainees if they might have been involved in such use.  99. Under Federal Act No. 76-FZ of 10 June 2008 on civilian monitoring of respect for human rights and assistance to persons in places of detention, the functioning of such institutions is systematically reviewed by some of the 714 members of the civilian oversight commissions that operate in 79 constituent entities of the Russian Federation. From 2011 to 2012, members of these commissions visited over 2,400 places of detention and held private interviews with more than 8,900 detainees, from whom more than 1,600 statements were taken. Any complaints about the functioning of the detention institutions were officially investigated, with members of the civilian oversight commissions and, if necessary, staff of the procurator’s offices taking part. The oversight commissions drew up and transmitted to the regional offices of the Russian Federal Penitentiary Service over 300 findings (reports) based on their visits to penitentiaries and detention centres. The Service acted to put an end to existing violations. Members of the oversight commissions took part on 1,059 occasions, in 62 regional offices of the Service, in the work of units dealing with detention conditions; commutation to lighter sentences of unserved portions of sentences; and parole. Members of the oversight commissions took part on 264 occasions, in 49 regional offices of the Service, in group activities involving both detainees and staff of the penitentiary institutions. In 2011, members of civilian oversight commissions were drawn from over 100 voluntary associations working to support detainees in penitentiary institutions.  100. In the interest of closer monitoring of respect for human rights in places of detention, a joint directive (No. 49-r/19) was signed on 14 March 2011 on the formation of a working group to coordinate the efforts of the Russian Federal Penitentiary Service and the Commissioner for Human Rights (Ombudsman) of the Russian Federation in the area of respect for the human rights and lawful interests of convicted persons and persons in custody.  101. To promote concerted action on defence of the human rights of convicted young offenders, representatives of the Russian Federal Penitentiary Service serve on the expert committee of the Presidential Commissioner for Children’s Rights. Members of the civilian oversight commissions, the Ombudsman and the Presidential Commissioner visit places of detention on a regular basis, freely and independently. The Russian Federal Penitentiary Service makes every effort to involve civil society in oversight of the work of the penitentiary system; this is one of the strategic focuses in the work of the Service and has been included in the Framework for the Development of the Penitentiary System up to 2020. | 1. The State party should highlight what has been done to bring its domestic legislation in line with the international standards on the prohibition of torture and ill-treatment, including the UN Convention Against Torture.  2. The State party should guarantee that UN bodies’ views and recommendation in this field are disseminated to the competent domestic authorities.  3. The State party should guarantee that the relevant authorities establish systematic habit of consultations with representatives from civil society on the issue.  4. All complaints concerning torture and ill-treatment by law enforcement officials should be investigated by the Special Subdivision within the Investigative Committee. The Special Subdivision should receive all necessary materials, sources and the number of investigators should correspond with the number of complaints. |
| 16. The State party is urged to:     1. Take immediate action to provide effective protection to journalists and human rights defenders whose lives and security are under threat due to their professional activities;      1. Ensure the prompt, effective, thorough, independent, and impartial investigation of threats, violent assaults and murders of journalists and human rights defenders and, when appropriate, prosecute and institute proceedings against the perpetrators of such acts.      1. Provide the Committee with detailed information on developments in all cases of criminal prosecutions relating to threats, violent assaults and murders of journalists and human rights defenders in the State party covering the period between 2003 and 2009. | B3 | 115. The Office of the Procurator closely monitors criminal investigations of offences against journalists and human rights defenders.  116. Article 144 of the Criminal Code sets out punishment for individuals who use their official position to obstruct the lawful professional activity of journalists by compelling them to give out or to refuse to give out information.  117. Article 1281 of the Criminal Code sets out punishment for defamation in a public speech or publicly performed work and through the mass media. However, there are neither administrative nor criminal penalties for the publication of true facts.  118. Civil court proceedings may be instituted in order to protect an individual’s honour, dignity and business reputation when information infringing rights or interests protected under the law is disseminated by the mass media (article 152 of the Civil Code).  119. Mass Media Act No. 2124-1 of 27 December 1997 provides a regulatory framework for the exercise by journalists of their profession. Journalists have the right to visit government agencies and organizations, enterprises and institutions and community organizations, or their public relations departments; to be received by officials for the purpose of gathering information; to gain access to documentation and texts, excepting those portions that contain information constituting a State secret, confidential business information or other classified material specially protected by law; to visit cordoned off sites of natural disasters and accidents, civil disturbances and mass gatherings, as well as sites that are declared emergency zones; to attend meetings and demonstrations; to express their personal opinions and make assessments in reports and other news material intended for dissemination under their bylines; to refuse to prepare signed reports or material that contradict their convictions; and to disseminate the reports and material drafted by them under their bylines, under a pseudonym or without a signature. In addition, it is prohibited for journalists to take advantage of their rights in order to conceal or falsify information of public significance, disseminate rumours in the guise of reliable information or collect information for the benefit of a third party or a body that is not part of the media. It is also prohibited for journalists to use their right to disseminate information with the aim of defaming a person or a category of person solely on the grounds of gender, age, race, ethnicity, language, attitude to religion, occupation, place of residence or work or political conviction. In other words, journalists themselves must not violate journalistic ethics, the Mass Media Act or the criminal legislation. Over the past several years, members of the media accused of defamation or insult have been convicted for the publication of extremist materials, including racist and xenophobic materials. From the above it is clear that the question of journalistic activity and the safety of journalists is to be viewed in the context of a whole range of issues relating to their profession. | Since 2009 the situation with security of human rights defenders in the State party, despite of the official acknowledgement of the necessity of protecting them, has hardly improved. The state demonstrates a failure, and sometimes obvious reluctance to systematically and effectively respond to threats for security of human rights defenders.  Investigation on resonant cases of murders of human rights defenders committed in previous years arouses numerous questions. 2011 saw convictions in two landmark cases of murders of Stanislav Markelov in 2009 and Nikolay Girenko in 2004. But in cases on murders of human rights defenders working in the North Caucasus (including Anna Politkovskaya in 2006 and Natalia Estemirova in 2009) colleagues and relatives of the victims, as well as the society at large, are not convinced that those who are now identified by the investigation as suspects and/or indicted are the actual perpetrators.  In order to ensure effective investigation of these and other cases of murders and violent assaults of human rights defenders and raise its credibility additional efforts should be made by the State party to make the process of investigation and court proceedings on these cases more open to the public and ensure free access to information on them for representatives of the media and human rights NGOs.  Since 2009 at least one new case of murder of a human rights advocate was documented in the North Caucasus (that of Omar Sagidmagomedov in Dagestan in the beginning of 2012), as well as several cases of physical attacks against human rights defenders committed both by representatives of the state and by non-state actors. Against this background new threats to human rights defenders, including death threats, are still not treated seriously by the law enforcement agencies, which are reluctant to investigate them. At the moment the law-enforcement bodies prefer not to record such threats as a separate category to specifically control the investigation of such cases. In some regions they even try to avoid the investigation of these cases as such. At the same time, some cases of murders of human rights defenders (including those of Nikolay Girenko, Stanislav Markelov and others) were preceded by threats to them which were not effectively investigated. A change in the attitude of the law enforcement to investigation of such threats could potentially prevent violent assaults and murders of human rights defenders in the future.  As a general measure, the State party should acknowledge and establish in law the special status of human rights defenders as a group which should enjoy particular attention, support and protection due to their high vulnerability and large public impact of their activities, as it is enshrined in UN documents. Instrumentally this could be done, for instance, through expanding the scope of Article 227 of the Criminal Code of the Russian Federation, which currently provides for special protection guarantees to government officials and persons engaged in “other political activity”, by complementing it with the words “political, human rights, journalist and other public activity aimed at defending public interests”.  Besides, the State party should consider creating a national mechanism for the protection of human rights defenders, involving representatives of state law enforcement agencies, national human rights institutions (Federal Commissioner for Human Rights and regional ombudspersons, Presidential Council for Civil Society Development and Human Rights) and human rights NGOs, which would ensure a rapid, ccoordinated and effective response in cases of violence and threats against human rights defenders and to prevent such incidents in future.  Finally, despite the fact that in 2012 the State party officially satisfied repeated requests for a country visit by the UN Special Rapporteur on the situation of human rights defenders, up to this moment this visit has not been organised due to unclear reasons. Organising this visit and granting the mandate holder an opportunity to meet human rights defenders in the regions where they are most at risk could represent an important step in solving the above-mentioned problems of the protection of human rights defenders in the country. |
| 24 (sic) The Committee reiterates its previous recommendation (CCPR/CO/79/RUS, paragraph 20) that the State party should revise the Federal Law on Combating Extremist Activity with a view to making the definition of "extremist activity" more precise so as to exclude any possibility of arbitrary application, and consider repealing the 2006 amendment. Moreover, in determining whether written material constitutes “extremist literature”, the State party should take all measures to ensure the independence of experts upon whose opinion court decisions are based and guarantee the right of the defendant to counter-expertise by an alternative expert. The State party should also define the concept of “social groups” as stipulated in section 148 of the Criminal Code in a manner that does not include organs of the State or public officials. | B3 | N/a | The State party should:  1. Clarify the definition of extremist activity in the Federal Law on Combating Extremist Activity so that it would include only the actions related to violence or intended to commit violent acts.  2. Accordingly, change the articles of the Criminal Code which refer to inciting hatred, extremist propaganda, etc.  3. Abandon the existing mechanism of prohibition of "extremist materials" as completely ineffective. Use the evidence obtained in the completed proceedings for the investigations instead.  4. Remove the concept of "social group" from the legislation or give its comprehensive definition in order to avoid legal uncertainty. |
| 26. The State party should ensure that any restriction on the activities of non-governmental organizations under the 2006 Non-Profit Organizations Act is compatible with the provisions of the Covenant by amending the law as necessary. The State party should **refrain** from adopting any policy measures that directly or indirectly restrict or hamper the ability of non-governmental organizations to operate freely and effectively. | C | N/a | Please, see above Section 1.F |

1. **Grade A: Implementation satisfactory:**

   A1: Response fully satisfactory

   A2: Response largely satisfactory

   **Grade B: Implementation partially satisfactory:**

   B1: Implementation partially satisfactory: progress made, but need for additional information

   B2: Implementation partially satisfactory: progress made, but additional action required

   B3: Implementation partially satisfactory: initial action taken - implementation still pending

   **Grade C: Response not satisfactory:**

   C: No action taken by the State Party to implement the recommendation [↑](#footnote-ref-1)