



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE
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**List of issues to be considered during the examination of the fourth periodic
report of the RUSSIAN FEDERATION (CAT/C/55/Add.11)**

Article 1

1. Please elaborate on the Federal Act No. 162 of 8 December 2003, amending and supplementing the Criminal Code in which the definition of torture (article 117) is said to have been brought into line with the definition in the Convention against Torture, in particular, on how each of the elements of the definition of torture are covered. Please clarify whether acts involving “consent or acquiescence of a public official or other person acting in an official capacity” are included in the definition of torture as defined by law or are otherwise criminalized by the State party. Have there been any cases of direct application, by the courts, of the definition of torture contained in article 1 of the Convention?

Article 2

2. In the framework of the entry into force of the new Code of Criminal Procedure on 1 July 2002, please indicate what specific preventive legislative measures have been taken with regard to the following:

(a) The right of a detained person to contact at his/her request a doctor of his/her choice, in particular with regards to IVSs (temporary police detention), as the law only provides for a doctor’s access after a prisoner is transferred to the pretrial detention centre (SIZO).

(b) Please also elaborate on the right of a detained person or individual deprived of his/her liberty to contact members of his/her family and inform them of his/her situation and whereabouts. Article 96 of the Code of Criminal Procedure states that relatives must be informed within 12 hours of detention, but the provision does not explicitly state that the relatives must be informed of the whereabouts of the detainee, and the article allows the prosecutor to make an exception in the interests of the secrecy of investigation.

(c) Please inform the Committee on the measures taken, if any, to ensure that suspects and witnesses are informed of their rights from the moment of being taken into custody or arrest.

(d) Please elaborate on the safeguards provided to ensure that suspects are able to obtain prompt access to independent counsel. What justification was provided for removal from their cases of three defence lawyers hired by families of young men detained following the raid by armed gunmen on the city of Nalchik in October 2005 (attorneys: Irina Komissarova, Larisa Dorogova, and Inna Golitsyna)? Please elaborate on the situations provided for in the Code of Criminal Procedure in which limitations on the frequency and duration of meetings between the defence counsel and the accused person may be imposed.

(e) Does the State party's law specifically provide that no exceptional circumstances whatsoever may be invoked as a justification of torture? Is there an explicit legal provision which clearly stipulates that an order from a superior officer or a public authority may not be invoked as a justification of torture? Please provide examples of its application by Russian courts.

3. Please comment on the information that according to the Federal Law No. 18-FZ of 22 April 2004, amending article 99 of the Code of Criminal Procedure, suspects of "terrorism" may be arrested for up to 30 days without being indicted. Please elaborate on the meaning of "exceptional circumstances" and suspects of "terrorism". Which authority is responsible for decisions in this context and based on what information and criteria? Please provide statistical data on the number of persons held as suspects of "terrorism". Please elaborate on the new Federal law "On counteracting terrorism" signed on 6 March 2006. What safeguards does the law contain to ensure the obligations under the Convention are met in the context of any counter-terrorism operation?

4. Please provide information on measures taken, if any, to ensure timely and proper registration of criminal suspects from the time of being taken into custody. Please also provide information on the reported practice of detention on administrative charges of criminal suspects, under which detainees are deprived of procedural guarantees.

5. The State party report in paragraphs 136 and 140 refers to a decrease in the number of persons held in pretrial detention facilities. Please provide detailed statistics with a regional breakdown on the number of detainees in pretrial custody for each year of the reporting period, to date.

6. What measures have been taken to implement a recommendation made in the review of the third periodic report to establish a programme of unannounced inspections of pretrial detention centres and other places of confinement, by credible impartial investigators, whose findings should be made public? Please comment on the effectiveness of investigations of torture in the State party's territory. Please provide information on the progress regarding the draft Federal Law No. 11807-3 "On public control over the rights of detainees in places of forced detention and on the assistance of non-governmental associations in the operation of penitentiary authorities and detention facilities" which was adopted in the first reading in the State Duma on 16 September 2003.

7. Please elaborate on the measures taken, if any, to prevent ill-treatment of women in places of detention or confinement. Does the State party monitor sexual violence in the prisons or other places of detention or confinement, and if so, with what results? Please provide statistical data on the number of complaints received and investigated and the measures taken to discipline or prosecute offenders.

8. Please provide updated information on the State party's intention to adopt legislation to prevent domestic violence against women and on any other measures taken to prevent domestic violence and to investigate reported cases. Please also provide information on measures taken to ensure effective implementation of anti-trafficking legislation and on the progress made concerning the adoption of the proposed legislative amendments and of the draft act "On Counteracting the Trafficking of People" which aim at providing more effective protection for victims and ensuring prosecution of traffickers.

9. Please provide information on the measures taken, if any, to prevent hazing (*dedovshchina*) in the military, as well as torture and other cruel, inhuman or degrading treatment or punishment in the armed forces, conducted by or with the consent, acquiescence or approval of officers, resulting in severe physical and mental harm to the victims. Has a "hotline" for victims been put in place? How is the procedure for initial inquiries, whereby commanders of the units in which the alleged abuses took place conduct the initial inquiry, consistent with the obligation under article 12 of the Convention to ensure "prompt and impartial" investigation of all complaints of torture and cruel, inhuman, or degrading treatment or punishment? What is the number of officers who have been held accountable, through disciplinary or criminal proceedings, for failing to stop abuses in units subordinate to them?

Article 3

10. Please provide information on measures taken, if any, by the working group within the Ministry of Internal Affairs to bring national legislation into conformity with international refugee law. Please also elaborate on which department of the Government is responsible for making decisions on matters of extradition, expulsion and return in accordance with article 3 of the Convention. What are the procedures, if any, to challenge such decisions and how is this done in law and in practice? Please provide examples of decisions taken on cases relevant to article 3 of the Convention, including of cases, if any, where a person was not returned.

11. Please elaborate on the Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases signed with Countries of the Commonwealth of Independent States (CIS) in 1994, under which a person claimed for extradition is to immediately be placed under provisional arrest with no possibility to seek asylum. How does the State party ensure compliance with the Convention in extradition matters?

12. According to paragraph 69 of the State party report, when dealing with extradition cases involving offences which are not capital crimes under Russian law but which fall into this category under the law of the requesting State, the Government seeks assurances from the latter that the person facing extradition will not subsequently be put to death. Please provide further information on the procedure for seeking such assurances. Have there been any cases where such assurances were not considered adequate and therefore the person was not extradited? Please provide examples, if any. What monitoring mechanisms are in place to assess if the assurances have been honoured? Please provide statistical data on the number of assurances

sought with a breakdown by country. Are there other circumstances, such as the risk of torture facing a person being returned, where diplomatic assurances are sought? If so, please provide further information on the number of cases, the countries involved, and any monitoring or other measures taken to ensure compliance with the Convention.

13. Please explain what legal criteria are used in deciding whether or not to apply administrative expulsion under article c18.8 of the Code of Administrative Offences in such cases. Is the situation, including the human rights situation in a country to which a person is expelled, taken into account in making such a decision?

Article 4

14. Please provide detailed information on the criminal provisions concerning offences such as attempted acts of torture, the commission of torture or the order to commit torture by a person in authority and the exact penalties imposed for these offences, including disciplinary measures. In particular, please clarify the relationship of articles 110 (“driving to suicide”), 111-3 (“intentional infliction of serious harm to health under aggravating circumstances”), 117 (“infliction of torture”), 286 (“exceeding authority” “by state officials” (part 2) or with the use or threat of use of violence and/or serious consequences” (part 3)) and 302 (“coercion to testifying”) of the Criminal Code, and which specific articles of the Criminal Code are applied to prosecute and punish public officials directly involved in, or endorsing, the use of torture. Please provide statistical data concerning the application of articles 117 and 302 of the Criminal Code, as well as any other articles applicable to acts of torture (complaints, prosecutions, convictions).

15. Paragraph 34 of the report provides judicial statistics on the number of people convicted under part 3 of article 286 of the Criminal Code “for abuse of power involving the use or threat of violence, the use of weapons or special devices, with serious consequences”. Please explain how many of these persons were specifically prosecuted for having committed an act of torture.

Article 5

16. Please elaborate on whether acts of torture are considered universal crimes under national law wherever they occur and whatever the nationality of the perpetrator or the victim.

Articles 6, 7, 8 and 9

17. Please provide examples, if any, of the application of the European Convention on Extradition in matters involving acts of torture. In relation to the possibility of non-extradition referred to in paragraph 66 of the report, please elaborate on the applicable procedures set out in article 1 of the new Code of Criminal Procedure for the conduct of pretrial investigations and preliminary inquiries in matters involving acts of torture.

Article 10

18. What specific measures, if any, have been taken to ensure that all persons enumerated in article 10 of the Convention are informed about the prohibition of torture, including their obligation not to implement an order asking them to commit torture? Please provide detailed information about the training of law-enforcement personnel on their obligations under the Convention against Torture. Please indicate when and how regularly such training is provided, and also indicate whether training is implemented for: (a) law-enforcement personnel and judges to initiate prompt and impartial investigations; (b) military personnel to be aware of the prohibition of torture and that an order from a superior officer may not be invoked as a justification of torture; and/or (c) law-enforcement, military and medical personnel to recognize the sequellae of torture.

19. Please provide information on the training of forensic doctors and medical personnel dealing with persons in detention or under arrest, or with asylum-seekers and refugees, to detect physical and psychological marks of torture.

Article 11

20. Please elaborate on the rules and practice concerning the inspection of prisons and other places of confinement, in particular SIZOs and IVSs facilities as well as prison colonies.

21. Please describe the functions with regard to the inspection of penitentiary facilities of the Public Board set up under the auspices of the Ministry of Justice. What are the powers of the Board, which are the detention facilities that can be inspected by the Board, and do such inspections require the agreement of any State body or prior notification? Does the Board have the possibility of conducting private interviews with detainees? What are the obligations of the penitentiary facility administration or other State bodies should the Board inspectors find the facts of torture, cruel or degrading treatment in the facility?

22. Please elaborate on cases of rejection of applications for pretrial detention by courts based on the fact that law-enforcement bodies violated legal procedures relating to custody. Please provide examples of such cases.

23. Please inform the Committee of any specific measures taken to ensure that torture and ill-treatment do not occur during interrogations. Is there a systematic surveillance of interrogation methods and how is this done in practice?

24. Please provide detailed statistical data on the number of cases initiated under article 126 of the Criminal Code (abduction) between September 1999 and today, with a regional breakdown. How many of those cases have been within the jurisdiction of the military prosecutor's office and how many within the jurisdiction of the territorial (civil) prosecutor's office? Please provide details on the number of cases closed or suspended and on which grounds, on the type of charges brought against military servicemen and enforcement-agency officials, on the type of court where the case was tried, and on the number of convictions and length of sentences.

25. Please inform the Committee on measures taken, if any, to explicitly prohibit by law all forms of ill-treatment (including corporal punishment) in alternative-care settings and places of confinement, in particular places of confinement for juveniles, the aged, and individuals needing psychiatric or psychological care.

Article 12

26. Please provide information on which authority is competent to receive complaints, as well as on the procedures for dealing with complaints, under article 42 of the Code of Criminal Procedure. Please provide information on the number and the content of complaints from prisoners received by the competent authorities, and on any follow-up given to them. Have there been any complaints alleging torture, ill-treatment or inhuman or degrading punishment?

27. Please provide information on any measures taken to ensure prompt and impartial investigations into alleged violence of law-enforcement personnel against ethnic, racial and religious minorities. Please provide information on the results of these measures.

28. In the light of the reported high percentage of acquittals by jury courts, please provide information on investigations, if any, into cases of violations of procedural legislation in the course of evidence collecting by inquiry bodies and investigators. Please comment on the absence of “double jeopardy” to seeking review of acquittals by jury trials.

Article 13

29. Please provide information on the number of complaints filed with prosecutors about unlawful methods of investigation, on physical or psychological pressure against convicts serving their prison terms, on the number of investigations into such complaints and on the number of convictions of penitentiary officers for such offences under various articles of the Criminal Code. Please provide statistical data on investigations into cases of police abuse, on the number of complaints about unlawful methods of investigation and on the number of complaints found justified by the prosecutor. Please provide examples, if any.

30. Please provide information on the measures in place to guarantee the confidentiality of complaints and to protect complainants from possible reprisals. What safeguards are in place to protect applicants to the European Court of Human Rights as well as authors of communications under article 22 of the Convention against Torture? Please elaborate on any witness-protection programme for victims of torture, ill-treatment and related violations. What mechanisms are in place to protect witnesses of abuse in the armed forces, given fear of repercussions from those under whom they serve? Have any witnesses been offered such protection, and have any servicemen been transferred to different units?

31. In the light of the Committee’s concluding observations, in which it expressed concern at the insufficient level of independence and effectiveness of the Procuracy, due, as recognized by the State party, to problems posed by the dual responsibility and oversight of the proper conduct of investigations, please elaborate on the relations of the Procuracy with other State powers and its general oversight functions, as well as on its role with regards to the protection of human rights and in criminal proceedings. What measures have been taken, if any, to ensure the

independence of the Procuracy and to improve the effectiveness of investigations of torture or ill-treatment in the State party's territory? Please also inform the Committee of the intention, if any, of the State party to modify the law-enforcement promotion system. Please provide information on the system of selection and nomination of judges as well as jurors. What safeguards are in place to ensure their independence?

Article 14

32. Please provide further information on cases in which compensation was ordered by the courts, and actually provided to victims of torture or cruel, inhuman or degrading treatment or punishment. What services exist for the treatment of trauma and other forms of rehabilitation of torture victims and what financial allocations have been made for this purpose?

33. Please explain the meaning of the ruling of the Constitutional Court that found the current procedure of collecting due compensations unconstitutional and invalid starting 1 January 2006 and its implication for the right to compensation of victims of torture.

Article 15

34. Please inform the Committee of the concrete measures taken to ensure in practice respect for the principle of inadmissibility of evidence obtained by torture and review of cases of convictions based solely on confessions. Please provide examples of any cases that have been dismissed due to the introduction of such evidence or testimony in any proceeding.

Article 16

35. What measures have been taken to improve the conditions of pretrial detention in IVSS and SIZOs facilities and in prison colonies in which prisoners serving life sentences are detained. Please provide statistical information on the numbers of prisoners serving life sentences.

36. Please comment on the reported persisting problem of overcrowding in places of detention, in particular in pretrial detention facilities, and the failure of the new Criminal Code to impose mandatory limits on pretrial detention during judicial proceedings. Please also provide information on the reported practice of solitary confinement ("isolation boxes") for non-compliance with prison rules.

37. Please provide statistical data on the number of deaths in custody, with a breakdown of the causes. Please indicate what measures have been taken to ensure, in practice, compliance with international standards regarding treatment of detained persons.

38. Please elaborate on the measures taken to ensure that juvenile justice standards are in compliance with international obligations. Please provide information on alternative sentencing for persons under the age of 18 in conflict with the law. Please also provide statistical information on the number of juveniles in detention and the degree of penalty for each year of the reporting period, to date. Please provide information on the progress, if any, to introduce specialized juvenile courts.

CHECHNYA

39. Please clarify the jurisdiction over the events in Chechnya, which currently have an uncertain status, as there is no state of exception and there is also a non-international armed conflict in progress. What steps are being taken to address the concerns expressed by the Committee at the third periodic report review that it was impossible for the civil prosecutor to question military personnel and carry out investigations at military sites in order to collect the evidence required to oblige the military prosecutor's office to take up the case? Also, as the nature of law-enforcement operations has changed in Chechnya and many of the arbitrary arrests and violations in detention are attributed by human rights groups to Chechen security forces, in particular those under the control of Prime Minister Ramzan Kadyrov, what measures are being implemented to oversee local security forces to prevent torture?

40. In the light of the information submitted by non-governmental organizations, please comment on the existence of unofficial places of detention in the North Caucasus and on the reported instances of torture and ill-treatment in these places. What is the current status of investigation into the mop-up operation in the village of Borozdinovskaya (Shelkovskoi district of Chechnya), which reportedly included torture of civilians, an extrajudicial execution and the abduction and disappearance of 11 civilians perpetrated by servicemen of the armed battalion "Vostok" headed by Sulim Yamadaev and subjugated to the Ministry of Defence of the Russian Federation on 4 June 2005?

41. What measures have been taken by competent authorities to ensure protection of claimants and witnesses on torture and disappearances in Chechnya? Please provide statistical data on the number of persons to whom such protection has been accorded.

42. In the light of the information available alleging that in the North Caucasus the safeguards provided by the new Code of Criminal Procedure are not effective, what measures have been taken to ensure that the requirement to bring a detainee before the court within 48 hours is not sidestepped through practices such as: arbitrary detention by law-enforcement officials who fail to identify themselves; who are masked and drive in vehicles with covered identification plates; failure or falsification to properly register detentions; and detaining persons in unofficial places of detention?

43. Which measures, if any, have been taken to implement the judgements of the European Court on Human Rights on the Chechen cases regarding the bombing of refugees on the federal road between Rostov and Baku in October 1999 and the bombing of the village of Katyr-Yurt in Achkhoy-Martan district of Chechnya on 12 February 2000, where the Court found violations of international humanitarian law and urged the Russian Federation to initiate criminal cases against the responsible military commanders?

44. Please inform the Committee on the measures taken, if any, by government authorities to investigate the cases of mass killings and torture or ill-treatment of civilians in Chechnya, in particular those occurring in Alkhan-Yurt, Urus-Martan district, in 1999, in Staropromyslovsky district of Grozny and the village of Novye Aldy, Zavodskoi district, in 2000 as well as in the village of Mesker-Yurt in Shali district in 2002.
