

## RUSSIAN FEDERATION

### Follow-up - State Reporting

#### i) Action by Treaty Bodies, Including Reports on Missions

CCPR A/59/40 vol. I (2004)

### CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

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260. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table. Of the 27 States parties (detailed below) that have been before the Committee under the follow-up procedure over the last year, only one (Republic of Moldova) has failed to provide information at the latest after dispatch of a reminder. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

261. The table below details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided to take no further action prior to the period covered by this report.

<u>State party</u>	<u>Date information due</u>	<u>Date reply received</u>	<u>Further action</u>
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*Seventy-ninth session (October 2003)*

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Russian Federation	7 November 2004	-	-
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CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

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233. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the comprehensive table presented below. Since 18 June 2004, 15 States parties (Egypt, Germany, Kenya, Latvia, Lithuania, Morocco, the Netherlands, the Philippines, Portugal, the Russian Federation, Serbia and Montenegro, Slovakia, Sweden, Togo and Venezuela) have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, only six States parties (Colombia, Israel, Mali, Republic of Moldova, Sri Lanka and Suriname) have failed to supply follow-up information that had fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

224. The table below details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided to take no further action prior to the period covered by this report.

<u>State Party</u>	<u>Date Information Due</u>	<u>Date Reply Received</u>	<u>Further Action</u>
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<i>Seventy-ninth session (October 2003)</i>			
Russian Federation	7 November 2004	2 February 2005	At its eighty-fourth session, the Committee decided to take no further action.

**Follow-up - State Reporting**

**ii) Action by State Party**

**CCPR CCPR/CO/79/RUS/Add.1 (2005)**

Comments by the Government of the Russian Federation to the Concluding Observations of the Human Rights Committee

[13 January 2005]

**Information from the Russian Federation concerning paragraphs 11 and 13 of the concluding observations of the Human Rights Committee in connection with its consideration of the fifth periodic report of the Russian Federation on implementation of the International Covenant on Civil and Political Rights**

**Paragraph 11**

Article 20 of the Constitution of the Russian Federation, proclaims that everyone shall have the right to life and provides that, until its abolition, the death penalty may be established by federal law as an exceptional measure of punishment for particularly serious crimes against life, and that the accused shall have the right to have his or her case heard in a trial by jury.

Pursuant to the Russian Federation's accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms, and its signing of Protocol No. 6 to that Convention, the death penalty is not applied as a measure of criminal punishment.

On 2 February 1999, the Constitutional Court of the Russian Federation, in paragraph 5 of the operative part of its Decision No. 3-II, stated the following.

Until the implementation of a federal act guaranteeing, throughout the territory of the Russian Federation, every person accused of an offence for which federal law establishes the death penalty as an exceptional measure of punishment, the right to have his or her case heard in a trial by jury; the death penalty shall not be chosen as a form of punishment regardless of whether the case is tried by jury, a panel of three professional judges or a court consisting of a judge and two people's assessors. The relevant act was the Federal Act of 18 December 2001 on the implementation of the Code of Criminal Procedure of the Russian Federation, according to which the consideration of cases with the participation of jurors in the Chechen Republic would be introduced as of 1 January 2007.

Thus, until 1 January 2007, the imposition of punishment in the form of the death penalty is excluded.

The legislative abolition of the death penalty is one of the goals of the judicial and legal reforms currently under way in the Russian Federation. Russian leaders, and the President of the Russian Federation himself, Mr. Vladimir Putin, have consistently spoken out against a

return to the death penalty. The Russian media have conducted an extensive campaign in favour of abolishing this form of punishment.

Moreover, government departments are currently engaged in intensive preparations for the State Duma's ratification of Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms and the introduction of the relevant amendments and additions to the Criminal Code, Code of Criminal Procedure and the Penal Enforcement Code of the Russian Federation.

### **Paragraph 13**

The observance of human and civil rights in the Chechen Republic is a priority concern of the Government and law enforcement bodies of the Russian Federation. This issue is the subject of systematic and constant study, and comprehensive measures based on the results of the study are being developed to eliminate any violations of laws that come to light; the activities of all law enforcement bodies in this area are being coordinated, and adequate measures to deal with such violations are being taken.

Monitoring of the implementation of laws by military administrative bodies and military officials, and the pre-trial investigation of criminal cases involving offences committed by members of the armed forces in the course of counter-terrorist operations in the Chechen Republic, are being carried out by a team of procuratorial investigators from five garrison procurator's offices.

In September 2002, the military procurator's office of the Unified Group of Forces (UGF) was established to conduct counter-terrorist operations in the North Caucasus region of the Russian Federation and was provided with the necessary staff.

Military procurators exercise their authority in close cooperation with representatives of federal government and administrative bodies, territorial law enforcement bodies, command headquarters and the local administration. When it is necessary to investigate the involvement of members of the armed forces in the commission of offences, joint investigative groups are established.

The military procuratorial bodies verify all information concerning the commission of offences by members of the armed forces; such information may come from citizens, human rights organizations and non-governmental organizations or the media.

The inhabitants of the Chechen Republic have the opportunity to apply independently to garrison procurators' offices in their vicinity. Moreover, the staff of the military procurator's office in Grozny have arranged for the regular reception of local inhabitants in the procurator's office. Citizens' communications are considered in strict compliance with established procedure.

Procuratorial bodies take particular care to ensure that officials comply with the law when they prepare and carry out special operations. Measures are being taken to prevent

damage to citizens' health and personal property, unlawful detention and deprivation of liberty, and the violation of other constitutional rights and freedoms.

When such violations are established, criminal proceedings are instituted; the pre-trial investigation, as well as other stages of the legal proceedings, are conducted in strict compliance with the law in force and in accordance with the principles of openness and the equality of citizens before the law, and without any restrictions on the rights and freedoms of the parties to the proceedings, motivated by the conduct of counter-terrorist measures.

At the request of the President of the Russian Federation, Mr. Vladimir Putin, one special operation to establish the whereabouts and to arrest members of illegal military groups is not conducted without the participation of a procurator.

Pursuant to this provision, in July 2001 the Procurator-General of the Russian Federation issued Order No. 46 on strengthening supervision of respect for citizens' rights when checking registration at residential or temporary addresses in the Chechen Republic, which requires procurators to ensure the necessary supervision of every special operation.

On 23 April 2003, the military procurator's office of the Unified Group of Forces, the procurator's office of the Chechen Republic and UGF headquarters issued a joint directive on the implementation of the Instruction on cooperation among officials and other military personnel of the Unified Group of Forces with military procuratorial bodies during the conduct of special operations in the Chechen Republic, in the detention of citizens and the consideration of reports that offences have been committed.

Effective monitoring of the strict implementation of these documents by procuratorial bodies and headquarters made it possible for procurators to participate in practically all the special operations (more than 100) conducted by the federal forces in 2003-2004. Thanks to these measures, there were no reports of serious violations of legislation by units and subdivisions of the federal forces.

Bearing in mind the heightened need to protect the public at large during the conduct of counter-terrorist operations, one priority area is the investigation of offences committed against inhabitants of the Chechen Republic. There have been no instances of refusal on the part of investigators of military procurators' offices to verify reports of violations of the rights of the local population, or to institute criminal proceedings in connection with such incidents.

Since the beginning of counter-terrorist operations, military procuratorial bodies have investigated 225 criminal cases involving offences of this type.

At present, investigations have been completed in 137 criminal cases, 83 of which, involving 107 individuals, have been referred to military courts for consideration, and 54 of which were halted on various grounds.

This practice demonstrates that, in most cases, the investigation of offences in the Chechen Republic, particularly offences committed against the local population, is hampered by

the difficult operational situation in the region, national customs and religious traditions (burial of the deceased shortly after death, refusal to allow the forensic examination of corpses, movement of victims and witnesses to other parts of the country, and so on).

In quite a few cases, criminals have pretended to be members of the militia or representatives of other security agencies in order to mislead law enforcement agencies and discredit the authorities in the eyes of the local population. For objective reasons, such circumstances become known only after the criminals have been arrested and investigations into the criminal case are conducted.

Military procuratorial bodies have referred 46 cases to the appropriate investigative jurisdiction, including to territorial law enforcement agencies, following the determination that members of the armed forces were not involved in the commission of offences. The investigation of 26 criminal cases is continuing.

Cooperation between the Military Division of the Supreme Court of the Russian Federation and the North Caucasus district military court has had positive results in terms of ensuring the prompt consideration of criminal cases involving offences committed by members of the armed forces in the course of counter-terrorist operations.

Military courts have considered criminal proceedings against 94 members of the armed forces who committed offences against inhabitants of the Chechen Republic. Eighty-one individuals, including officers, non-commissioned officers, conscripts, and contracted soldiers and sergeants, were convicted for offences against the local population.

The Human Rights Committee's concern about the provision of the Federal Act on combating terrorism, which exempts all law enforcement and military personnel taking part in special operations from liability for harm caused as a result of their unlawful acts, is groundless.

Article 21 of Federal Act No. 130-FZ on combating terrorism of 25 July 1998 provides that "during the conduct of a counter-terrorist operation on the basis and within the limits laid down by law, unavoidable damage may be caused to terrorists' lives, health and property, and also to other legally protected interests. Servicemen, specialists and other persons participating in measures to combat terrorism are exempted from liability for harm caused in the conduct of a counter-terrorist operation, in accordance with the law of the Russian Federation". This legal provision, which is based on general legal principles, does in fact make it possible to exonerate persons acting in necessary defence or in extreme necessity. At the same time, any legal evaluation of the acts of law enforcement and military personnel is made with reference to the provisions of criminal legislation on the lawful limits of necessary defence and conduct in situations of extreme necessity.

In all aspects of monitoring activity by military procuratorial bodies, close cooperation with territorial procurators, other law enforcement agencies, State legislative and executive bodies and local self-government bodies, and voluntary and human rights organizations has been established and is being maintained.

Owing to the dedication and diligence of the staff of federal government bodies, military procuratorial bodies, the territorial law enforcement agencies of the Chechen Republic, and also the military command of the Unified Group of Forces, it has been possible to restore the confidence of Chechen citizens and many voluntary organizations in the aforementioned bodies, to encourage them to apply to these law enforcement agencies, courts and representatives of federal government bodies with a view to defending the rights of citizens whose rights and legitimate interests have been violated. This has also been reflected by the substantial increase in recent years (in 2003-2004, an almost 1.5-fold increase) in the number of citizens' applications to military procuratorial bodies (which considered some 1,500 applications over this period).

As a result of the measures taken by the military procuratorial bodies together with the command of the Unified Group of Forces, there has been a steady decline in the number of violations and offences committed by servicemen of the Unified Group of Forces against inhabitants of the Chechen Republic in the conduct of counter-terrorist operations in the North Caucasus region of the Russian Federation.

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**CCPR, CCPR/C/RUS/CO/6/Add.1 (2010)**

**Comments by the Russian Federation to the concluding observations of the Human Rights Committee (CCPR/C/RUS/CO/6)**

[19 February 2010]

**Comments from the Russian Federation concerning the concluding observations issued by the Human Rights Committee (CCPR/C/RUS/CO/6) after consideration of the country's sixth periodic report on implementation of the International Covenant on Civil and Political Rights**

1. In accordance with article 40, paragraph 5, of the International Covenant on Civil and Political Rights, the Russian Federation considers it necessary to make the following comments regarding the concluding observations issued by the Human Rights Committee following its consideration of the country's sixth periodic report on implementation of the Covenant.
2. The Russian Federation expresses its concern faced with the Committee's persistent attempts, reflected in paragraph 13 of the concluding observations, to place responsibility for the events that took place in South Ossetia in August 2008 on the Russian Federation, and with the Committee's neglect of the explanations concerning the circumstances around those events, as presented by the Russian delegation when it presented its report.
3. In this connection, the Russian Federation considers it necessary once again to draw the Committee's attention to the fact that our country bears no responsibility for the actions of any armed groups other than the Russian military. Criminal prosecution of such persons for possible criminal acts committed during the August conflict falls under the jurisdiction of the Republic of South Ossetia.
4. The State bodies of the Republic of South Ossetia independently exercise full State control over the republic's territory and independently deal with such tasks as ensuring public security, controlling the borders and the observance of human rights, including those of displaced people. The actions of the South Ossetian authorities and those of persons located in the republic's territory are fully under the jurisdiction of the Republic of South Ossetia.
5. The Russian Federation has never exercised effective control (nor has it exercised "de facto control", a concept unknown under international law) over the territory of South Ossetia. The legal basis for the introduction in August 2008 of Russian troops into South Ossetia and later into Georgia itself was the right to self-defence established in particular under article 51 of the Charter of the United Nations. The Russian Federation's exercise of the right to self-defence was justified by the large-scale attack by Georgia on its armed forces' peacekeeping contingents legally stationed in South Ossetia with the consent of Georgia. In accordance with article 51 of the Charter, the Security Council was informed by the Russian Federation about its exercise of the right to self-defence. The Russian military operation was aimed at achieving just one goal: to end the Georgian attack and prevent its recurrence. It was organized and carried out in such a

way that it was strictly proportional to the threat posed by Georgia. Once the military conflict was over, the Russian contingents were withdrawn from Georgian territory in accordance with the agreements reached. The Russian armed forces never replaced the legal authorities in either Georgia or South Ossetia. They never issued any legal enactments binding on the local population.

6. The Russian military is now in South Ossetia at the invitation of the host State, as established in the Treaty on Friendship, Cooperation and Mutual Assistance between the Russian Federation and the Republic of South Ossetia, of 17 August 2008, and also, in respect of the border troops, as set out in the Agreement on Joint Efforts to Protect the State Border of the Republic of South Ossetia, of 30 April 2009. The terms of reference for Russian troops are strictly limited to defending the Republic of South Ossetia against external threats, and their number — under 3,000 — is not consistent with generally recognized situations where such a force would exert effective control.

7. In this connection there is no reason to assert that during, before or after the August conflict, the Russian party had de facto or effective control over the territory (or population) and/or the authorities of South Ossetia and Georgia. What is more, the report of the International Fact-Finding Mission on the Conflict in Georgia noted that a large number of violations of international humanitarian law and of human rights law took place and “were due to the action of irregular armed groups on the South Ossetian side that would not or could not be adequately controlled by regular Russian forces”.

8. In the light of the foregoing, we consider that the Committee’s assertions regarding control of South Ossetia by the Russian Federation and its responsibility for crimes supposedly committed in South Ossetia by armed groups under the “control” of Russian forces are unjustified, and that the corresponding comments and recommendations of the Human Rights Committee do not apply to the Russian Federation. At the same time, the International Court of Justice and the European Court of Human Rights have had proceedings initiated by Georgia against the Russian Federation, in which one of the main issues is likely to be the question of effective control. We consider that the Committee’s inclusion, in its concluding observations issued following consideration of our country’s sixth periodic report, of assertions regarding effective control is an attempt to interfere in the activities of the international judicial bodies considering this matter and to bring pressure to bear on them.

9. In this connection the Russian Federation cannot accept the Committee’s recommendations contained in paragraphs 13 and 30 (for the part pertaining to the provision within a year of information on the implementation of the Committee’s recommendations relating to South Ossetia) of the concluding observations, and insists that they be deleted from the document in question.

**CCPR, CCPR/C/RUS/CO/6/Add.2 (2010)**

**Information received from the Russian Federation on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/RUS/CO/6)**

[22 October 2010]

**Information from the Russian Federation on measures taken to implement the recommendations contained in paragraphs 14, 16 and 17 of the concluding observations of the Human Rights Committee (CCPR/C/RUS/CO/6) following its consideration of the country's sixth periodic report on implementation of the Covenant**

Paragraph 14

1. As at early 2010, the military procuratorial authorities (and since 7 September 2007 the military investigation services of the Investigative Committee attached to the Office of the Procurator of the Russian Federation) had, since the start of counter-terrorist operations, investigated 287 criminal cases involving offences against residents of the Chechen Republic and Republic of Ingushetia. In 2009, 41 criminal cases involving military personnel suspected of committing offences were registered. The investigation of 202 criminal cases was completed. The military courts considered criminal cases against 131 military personnel.
2. In 2009, the military investigative authorities received 11 communications from citizens of the Chechen Republic, law enforcement agencies and human rights organizations alleging involvement by members of the security forces and law enforcement agencies in the abduction of civilians. All the communications received concerned offences of past years. The investigations did not implicate any military personnel.
3. In 2009, 320 complaints were received relating to the use by law enforcement officials of unlawful methods to bring pressure to bear on participants in criminal and administrative proceedings. Not one of the complaints was corroborated on examination.
4. The investigative authorities focus their attention on investigating abduction-related offences. No complaints of abduction by military personnel were received in 2009. The Investigative Committee, during the investigation of criminal cases involving abduction or disappearance, seeks to establish the whereabouts of the abducted persons. The suspension of a preliminary investigation into such cases does not mean that the investigation is completed. Since the outset of the counter-terrorist campaign in the Chechen Republic, investigators from the procurator's office (and investigators from the Investigative Committee as from 7 September 2007) have initiated 2,096 criminal investigations into the abduction of 2,909 persons (544 of whom were either found or returned home on their own), including 58 cases (involving 71 persons abducted) in 2008 and 35 (involving 22 persons abducted) in the first 11 months of 2009. The highest number of abductions occurred in 2002 (involving 848 persons, with 611 criminal cases initiated) and in 2003 (involving 567 persons, in 428 cases).

5. Between 2000 and 2009, 471 criminal cases were initiated involving the disappearance of 544 persons, including 10 cases involving 10 missing persons in 2008 and 70 cases involving 74 persons in the first 11 months of 2009 (including 38 cases involving 41 persons reported missing in past years). In a number of cases, preliminary inquiries established that the “missing persons” had left home voluntarily to join illegal armed groups or to escape criminal justice for offences they had committed.
6. The majority of reports by individuals and non-governmental human rights organizations of alleged burning of homes in the Chechen Republic were not substantiated upon investigation. Evidence of arson was found, however, in the cases of the Gakaev, Estamirov and Ospanov families and Mr. B.K.-M. Sediev. Criminal proceedings were instituted in these cases.
7. Inquiries were carried out in 2009 into allegations that members of the investigative units of the Investigative Committee and of law enforcement agencies of the Chechen Republic were responsible for the possible mass burial of citizens. An inspection of the purported burial sites was conducted in the vicinity of the Rossiya cinema on Kirov Avenue in Grozny and the Grozny cold storage facility. As no human remains were found, it was decided not to institute criminal proceedings.
8. The lifting of the counter-terrorist regime did not bring about a decrease in the activities of the illegal armed groups. In the first 11 months of 2009 alone, there were 147 attempts on the life of law enforcement officers, military servicemen and public authorities in the Chechen Republic. Efforts to expose the offences committed by investigative bodies in past years are conducted in accordance with a special order issued by the First Deputy Procurator-General of the Russian Federation, the Chairperson of the Investigative Committee. Under this order, exposing offences committed in past years is one of the main areas of investigative activity.
9. Furthermore, under the order, forensic teams composed of experienced officials have been set up and are working on a full-time basis to expose offences of past years. In accordance with the order, the Investigative Committee has followed similar situations in which offences of the past have been investigated, including an investigation by a British historical research group into deaths connected with the activities of the Irish Republican Army between 1990 and 1998. Efforts are now being made to explore the possibility of setting up a similar group specialized in investigating that category of cases and providing it with an adequate staff and funding.
10. A working group has been established in the Investigative Committee to draft provisions for the operation of a new unit, including proposals relating to its structure, composition, financing, location and areas of work with victims, cooperation with other organizations, the form and content of documents issued to victims and other organizational issues.
11. The Investigative Committee attached to the Procurator’s Office of the Russian Federation for the Chechen Republic now has Department No. 2 for the investigation of especially important cases; it was established on 26 February 2009.

## **Paragraph 16**

12. The Russian Federation considers that the category of persons defined as “human rights defenders” is not legally founded in international law and cannot be distinguished as any type of separate population group with a special legal regime. This category of people enjoys the same rights as Russian citizens, on an equal basis. Crimes committed against them are investigated fully in accordance with national law.

13. In accordance with the federal Criminal Code and Code of Criminal Procedure and other laws, in the event of any act of homicide or attack, including those committed against members of the press or media and human rights defenders, Russian law enforcement agencies are obliged to initiate a criminal case and carry out a police investigation to determine who is guilty and to institute the legally sanctioned proceedings against them.

14. Efforts are made to ensure that information is freely circulated on the investigations under way. In all cases relating to acts committed against journalists and human rights defenders, the agencies responsible for preliminary investigations have considered the possibility that the offences were related to the work done by the victims. However, in most cases no link has been found.

15. In 2008 and 2009 the following criminal cases relating to offences involving threats, violent attacks or killings committed against journalists and human rights defenders were handled by investigative agencies:

(a) On 27 May 2008, the investigative office of the internal affairs administration for the Zabaikal territory discontinued criminal proceedings against the former chairman of the Chitinsk Human Rights Centre, a non-governmental organization, Mr. V.V. Cherkasov, under article 330, part 1, of the federal Criminal Code. The proceedings had been initiated in response to a complaint brought by the Centre’s chairman, Mr. E.B. Anisimov, of malversation of the organization’s funds and expropriation of its property. During the investigation it was ascertained that Mr. Anisimov and Mr. S.Y. Leonov on the one hand and Mr. Cherkasov on the other had caused each other bodily harm. In accordance with the provisions of article 20 of the federal Code of Criminal Procedure, a criminal case was not initiated, as the persons in question did not file any statements;

(b) In Makhachkala, Republic of Dagestan, on 2 September 2008, an unidentified person shot a firearm at a car driven by the host of the Mir Vashemu Domu [Peace to Your House] television programme, Mr. T.S. Alishaev. He was taken to the Republic Hospital, where he died from his wounds the next day. The investigation ascertained that the perpetrator was Mr. V.L. Butdaev, who was wanted in connection with a series of serious crimes. He was killed on 17 November 2008 in Makhachkala, in a special operation by law enforcement agencies. The criminal case was discontinued on 18 March 2009, as the accused was deceased;

(c) On 18 November 2008 an explosive device was set off in Makhachkala by an unidentified person as a car passed with Mr. G.R. Rurakhmaev driving and the adviser to the Mufti of the Spiritual Board of the Republic of Dagestan and chief editor of Makhachkala TV, Mr. S.N. Sultanmagomedov, also on board. The investigation ascertained that the perpetrator was Mr. M.G. Magomedov, who was wanted in connection with a series of serious crimes. He was killed

on 21 February 2009 in Makhachkala in a special operation by law enforcement agencies. The criminal case was discontinued on 18 May 2009, as the accused was deceased;

(d) In Moscow, on 19 January 2009, an unidentified person shot a firearm at Mr. S.Y. Markelov, a lawyer and the president of the Institute for the Rule of Law, and Ms. A.E. Baburova, a freelance employee of the newspaper *Novaya Gazeta*, who died of their wounds. The investigation identified the killers as Mr. N. Tikhonov and Mr. E. Khasis, members of a nationalist group. Mr. Tikhonov confessed to the crime. The case is now before the Basmanny court in Moscow;

(e) In Saratov, on 5 March 2009, the director-general of the Media-Mir limited liability company, Mr. V.V. Rogozhina, sustained serious injuries. Three people are accused in this case: Mr. A. Bagdasaryan, Mr. V. Pavlov and Mr. D. Shirokov. They have been accused of perpetrating a crime covered by article 111, part 3 (a) of the federal Criminal Code (Intentionally inflicting serious bodily injury). The article in question calls for a penalty of deprivation of liberty for up to 12 years. The case is now before the Kirovsky district court in Saratov;

(f) On 31 October 2009, in Grozny, Chechen Republic, unidentified persons in camouflage fatigues abducted Ms. Z.I. Gaisanova and took her to an unknown destination. On 16 November 2009 the Leninsky interdistrict investigation agency, a unit of the investigation department for Grozny under the Investigative Committee attached to the Office of the Procurator of the Russian Federation for the Chechen Republic, instituted criminal proceedings on the basis of evidence of an offence covered by article 126, part 2 (a) of the federal Criminal Code, (Abduction carried out by a group in conspiracy, with premeditation). Ms. Gaisanova's whereabouts are still unknown. A number of people have been interrogated as witnesses in the investigation and a series of investigative and police operations have been carried out to establish fully and objectively the facts of the case. The investigator has sent requests to various organizations and given instructions to the appropriate departments and services with a view to establishing the identities of those who took part in the crime or those who may have information on how it was committed. The investigation is continuing under the supervision of the Chechen Republic investigation department working under the Investigative Committee attached to the federal Procurator's Office;

(g) In Grozny, on 15 July 2009, unidentified persons in camouflage fatigues abducted Mr. N.K. Estemirov, an employee of the Memorial human rights centre, who was found shot to death the same day on the federal Kavkaz highway near the village of Gazi-Yurt, in the Nazran district of the Republic of Ingushetia. The investigation identified those who were suspected of the crime. One of the suspects, Mr. A. Bashaev, a soldier, was killed on 13 November 2009 during special operations conducted by law enforcement agencies. Another suspect is currently on the run, and an international warrant has been issued for his arrest. In the interests of the investigation, his identity has not been made public. The investigation is continuing. Efforts are under way to determine who ordered this crime;

(h) In the Republic of Karelia, on 27 July 2009, criminal proceedings were instituted on the basis of an offence covered by article 105 of the federal Criminal Code, after the body of Mr. A.G. Kulagin, a department director of the Spravedlivost [justice] interregional organization, was

found in one of the water reservoirs serving Petrozavodsk. The body of the victim, who had a criminal record, showed no visible signs of violent death. He had left his home on 15 May 2009, and had never returned. It was established that on the night of 15 May 2009 Mr. Kulagin had left the Chetyre Iks bar by taxi and had gone to the Klyuchevaya district of Petrozavodsk, where the reservoir in question is located. The forensic medical report concluded that the deceased's internal organs and bone marrow contained plankton diatoms matching the plankton in the reservoir, which is clear evidence of death by drowning. The corpse showed no signs of bodily injury. The theory according to which Mr. Kulagin was killed in connection with his activities in the voluntary association was fully investigated during questioning of the staff of both Spravedlivost and other voluntary organizations operating in the Republic of Karelia and of the relatives and acquaintances of the deceased, but was not borne out. It was established that Mr. Kulagin worked only sporadically in Spravedlivost. His job consisted in setting up public consultation spots in Petrozavodsk to provide free legal advice to the needy and in doing benevolent work at the correctional institutions and remand centres of the Republic. There is no information on any threats made against Mr. Kulagin in connection with this work. An investigation into another criminal case, involving the killing of Mr. O.V. Shoki and Mr. A.V. Fedorenko and the attempted murder of Mr. Y.A. Yudin, produced information to the effect that Mr. Kulagin's death might have been the result of a crime related to his activities in one of the criminal groups active in the Republic of Karelia between 2002 and 2005. That version is still being checked, as is a scenario according to which Mr. Kulagin might have committed suicide. According to the agencies responsible for the pretrial investigation, the motives for suicide might have included fear of facing criminal indictment for killing Mr. V.S. Sudakov in 2002, or possibly serious problems in his personal life and business activities. This version is supported by the testimony of Mr. V.V. Voronov, a witness who spoke with Mr. Kulagin shortly before his disappearance. A large amount of investigation work has been done, forensic and criminal reports have been drawn up and more than 40 witnesses have been questioned in connection with the criminal case. The investigation of the criminal case is continuing;

(i) On 10 August 2009, the head of a voluntary organization called Let's Save the Generation, Ms. Z.A. Sadulaeva, and her husband, Mr. A.L. Dzhabrailov, were abducted from the office of the United Nations Children's Fund (UNICEF) by armed individuals in camouflage fatigues. Their bodies were found with gunshot wounds in Grozny the next day, 11 August 2009, in the trunk of a car parked near the Chechen Republic rehabilitation centre. The investigation established that Mr. Dzhabrailov had previously been in an illegal armed group, and in 2006 had been sentenced to 4 years' deprivation of liberty for taking part in illegal armed gangs and for illegally holding firearms; he had benefited from an early release on 8 February 2008. Taking into account the identities of the victims and the circumstances of the crime, the investigation is working on various scenarios. The version according to which Mr. Dzhabrailov and Ms. Sadulaeva were killed in connection with their most recent professional activities is considered unlikely, as the organization headed by Ms. Sadulaeva was a charitable organization working in accordance with its charter; political issues did not enter into its work. The most likely scenario is the one involving Mr. Dzhabrailov's past (i.e., that the crime was committed by unknown persons, out of revenge);

(j) On 13 August 2009 the Khimki municipal investigating agency of the investigation department for Moscow province working under the Investigative Committee attached to the

Office of the Procurator of the Russian Federation instituted criminal proceedings on the basis of evidence of attempted murder against Mr. I.N. Koldaev, who on 25 July 2009, in the course of a domestic dispute, fired shots from an automatic weapon near the face of the director of the Khimki branch of the Protiv Korruptsii [Counter Corruption] interregional movement, Mr. A.O. Pchelintsev. On 22 October 2009, as a result of the investigation, a criminal indictment was sent to the procurator, and on 30 October 2009, in accordance with article 222 of the federal Code of Criminal Procedure, it was sent on for substantive consideration to a court. On 21 January 2010 Mr. Koldaev was found guilty by the Khimki municipal court and sentenced to 6 years and 6 months of deprivation of liberty, to be served at a strict-regime correctional colony. Additionally, the Investigative Committee attached to the Office of the Procurator of the Russian Federation has studied the report of the Commissioner for Human Rights of the Council of Europe, Mr. Thomas Hammarberg, on his visit in November 2009 to the Russian Federation (Chechen Republic and Republic of Ingushetia). During meetings between the Commissioner and representatives of the Investigative Committee held in December 2009 and January 2010, the Commissioner was thoroughly informed about the criminal cases of interest to him. Mr. Hammarberg was also fully informed about the establishment of a specialized investigative unit and a department for procedural monitoring within the investigation department for Chechnya, for the investigation of offences committed by the parties during the counter-terrorist operation in the northern Caucasus. Documentary proof was given refuting publicized reports of over 60 unknown burial grounds in Chechnya, with which Mr. Hammarberg concurred. After these meetings, Mr. Hammarberg positively assessed the work of the investigators in the northern Caucasus region, noting their professionalism and their efforts to ensure quality and impartial investigations and to increase the number of cases solved.

### **Paragraph 17**

16. The statement by the Human Rights Committee regarding the extradition and informal transfer by the Russian Federation of foreign nationals to countries practising torture is unfounded. The rights of persons who are the subject of extradition requests are set out in Russian law in chapter 54 of the federal Code of Criminal Procedure (Transfer of persons for criminal prosecution or serving of sentences). Under article 463 of the federal Code of Criminal Procedure (Appeal against decision to extradite a person and judicial review of its lawfulness and validity), any decisions by the federal Procurator-General or his deputy to hand over a person may be appealed before the supreme court of the republic or the federal court responsible for the territory, province or city in question, or the court of the autonomous province or autonomous area of residence of the person concerned, within 10 days of when that person receives notification of the decision.

17. According to court statistics, in the first half of 2009 courts of general jurisdiction considered 120 appeals under article 463 of the Code of Criminal Procedure concerning decisions to transfer (or extradite) people, including 37 which were upheld (the figures for 2008 were respectively 228 appeals, 121 of which were upheld).

18. In 2009 the federal Supreme Court's judicial chamber heard 2,335 cassation cases involving 3,054 persons appealing against rulings issued during legal proceedings, as judicial review either of the proceedings themselves or of the execution of a sentence. Of these, decisions

relating to extradition were considered in respect of 134 persons, including 11 whose complaints were upheld (in 2008, the complaints of 10 persons were upheld).

19. On 12 October 2009 the federal Ministry of Internal Affairs and the Federal Migration Service issued Order No. 758/240 addressing the organization of the work of those bodies and their local agencies responsible for the extradition and administrative deportation from the Russian Federation of foreign nationals and stateless persons. The Order stipulates that when local agencies of the Federal Migration Service prepare submissions for deportation, they must check the databases of the main centre for information and analysis of the federal Ministry of Internal Affairs and also the databases of the information centres of the corresponding ministries of internal affairs, main internal affairs departments and internal affairs authorities of the constituent entities of the Russian Federation.

20. In accordance with article 33 of the Convention relating to the Status of Refugees, the Russian authorities strictly adhere to the principle of non-refoulement of asylum-seekers and those who have obtained refugee status in the Russian Federation, without regard to their citizenship.

21. Article 10 of federal Act No. 4528-1 of 19 February 1993 on refugees stipulates that asylum-seekers, refugees and those who lose or are stripped of their refugee status may not be returned against their will to their country of citizenship (or place of previous habitual residence) if the circumstances described in article 1, paragraph 1.1, of the federal Act still prevail in that country.

22. Since 2005, 324 people from Uzbekistan have sought asylum in the Russian Federation. Refugee status was given to 10 persons in that category (in 2008), and 57 were given temporary asylum. As at 1 December 2009, the registries of the local agencies of the Federal Migration Service included 11 citizens of Uzbekistan who were refugees and 50 who had received temporary asylum in the Russian Federation.

23. The Committee's mistaken conclusions concerning the violation of the corresponding provisions of the Covenant are based on the judgement of the European Court of Human Rights of 24 April 2008 in the case of *Ismoilov and Others v. the Russian Federation* (Application No. 2947/06). In July and August 2006, the federal Procurator-General did indeed issue orders to expel to Uzbekistan the following people, accused of having committed extremist and terrorist activities in Andijon, Uzbekistan, and held in Ivanovskaya province: M.K. Tashtemirov, I.G. Ismoilov, O.Z. Makhmudov, I.M. Usmanov, S.K. Ulugkhodzhaev, A.A. Mukhamadsobirov, I.A. Mukhemetsobirov, K.A. Kasimkhudzhaev, U.S. Alimov, S.K. Sabirov, R.Y. Naimov, K.K. Khamzaev and M.R. Rustamkhodzhaev.

24. According to the case file, the decisions to expel the asylum-seekers to Uzbekistan were taken in connection with accusations of murder with aggravating circumstances, of terrorism, of the organization of and participation in illegal organizations, or of illegal possession of weapons and participation in mass disturbances.

25. In taking the decision about the extradition to Uzbekistan, the Russian party did not have

sufficient information about violations in that country of article 3 of the European Convention on Human Rights and Fundamental Freedoms.

26. The decision to extradite these people to Uzbekistan was taken in July 2006, while the report of the United Nations Secretary-General, *Situation of human rights in Uzbekistan* (A/61/526), which expressed concern about the fate of those handed over to Uzbekistan after the events in Andijon, was published in October 2006.

27. Furthermore, the transfer of these people to the law enforcement agencies of Uzbekistan never took place. The European Court of Human Rights on 24 April 2008 handed down a judgement in response to Application No. 2947/06, thus barring the expulsion to Uzbekistan of citizens of that country undergoing extradition procedures. They were thus given temporary asylum in the Russian Federation.

28. In observance of the principle of family reunification, the family members of this category were also given temporary asylum in the Russian Federation. In addition, the European Court of Human Rights applied Rule 39 temporarily prohibiting a return to Uzbekistan for a number of people undergoing extradition proceedings.

29. Guarantees of the safety of persons who are handed over issued by the competent bodies of the requesting country are not considered by the federal Procurator-General to be an unreliable and ineffective means of protection against torture. Article 462 of the Code of Criminal Procedure addresses relations between States on questions of extradition, both in accordance with international treaties and, in their absence, on the basis of the principle of reciprocity, in accordance with assurances offered by the foreign State regarding the extradition request.

30. The federal Procurator-General takes the following factors into account when considering extradition requests from other States:

- Is the requesting State a party to the Convention on Judicial Assistance and Legal Relations in Civil, Family and Criminal Cases of 22 January 1993 of the Commonwealth of Independent States, and also to the European Convention on Extradition of 13 December 1957?
- Is the legislation of the requesting State based on generally accepted standards of international law and on the democratic principles of the rule of law, equality of citizens before the law, humanity and justice?
- Does the legislation of the requesting State prohibit torture, violence and other cruel or degrading treatment?
- Is there a moratorium on capital punishment, or has capital punishment been rescinded as a criminal penalty in domestic law?

31. Additionally, the competent authorities of requesting States are obliged to submit with the extradition request appropriate guarantees, as provided by international treaties and the criminal

procedure law of the Russian Federation. They must guarantee that the extradited person will not, without the consent of the Russian Federation, be exiled, transferred or extradited to a third State and will not be held criminally liable and will not be subjected to penalties for offences committed prior to the extradition that are not covered by the extradition request. They must also guarantee that once the judicial proceedings have ended and the sentence has been served, the person will be able to leave the requesting State that has entered into this agreement.

32. If necessary, the State requesting the extradition is asked for additional guarantees demonstrating that the extradition request is not aimed at persecution for political, ethnic or religious reasons and that the extradited person will not be subjected to torture, cruel, inhuman or degrading treatment or to the death penalty. In the first half of 2010 nine such requests were issued, and additional guarantees were received.

33. In order to ensure more thorough and objective verification of the prosecution of the person in the requesting State, appropriate inquiries are made with the competent bodies of the Russian Federation. When a decision is taken to extradite, all information is considered as a whole, including reports from ministries, departments and services as to whether there is or is not information that would prevent the person's extradition, and also information on the domestic political situation in the requesting State, its socio-political and socio-economic situation, the status of the person's compatriots in that State and the rights of those subject to criminal prosecution or sentenced to a deprivation of liberty, in accordance with the law in force in the State requesting the extradition.

34. Furthermore, the federal Procurator-General has begun working with the Ministry of Foreign Affairs of the Russian Federation on the practicality of having Russian diplomatic bodies verify additional guarantees that may be required by the Russian party as a condition for extradition for criminal prosecution or for the execution of a sentence. Such guarantees have been secured on a trial basis for Mr. A.A. Gaforov, who has been extradited at the request of the law enforcement agencies of Tajikistan for criminal prosecution of offences of an extremist nature.