

**Recommendations to the Human Rights Committee from Russian NGOs
on the List of Issues on the Sixth Periodic Report of the Russian Federation
to Be Sent to the Russian Government**

These recommendations to the Human Rights Committee in preparation of review of the Sixth Periodic Report of the Russian Federation were put together in January 2009 by a coalition of Russian NGOs coordinated by the Center for the Development of Democracy and Human Rights, SOVA Center for Information and Analysis and Public Verdict Foundation.

The following NGOs contributed to this document:

- *Center for the Development of Democracy and Human Rights,*
- *SOVA Center for Information and Analysis,*
- *Public Verdict Foundation,*
- *Memorial Human Rights Center,*
- *Center for International Protection,*
- *Lawyers for Constitutional Rights and Freedoms/ JURIX,*
- *“Civic Assistance” Committee,*
- *Inter-Regional Human Rights Group,*
- *Demos Center,*
- *Human Rights Institute,*
- *National Center for Prevention of Violence “Anna”,*
- *Glasnost Defense Foundation,*
- *“Right of the Child”,*
- *“Golos“ Association for Defense of Voters’ Rights,*
- *“Social Partnership” Foundation.*

**January, 2009
Moscow, Russia**

Article 1 (self-determination of nations)

To Paragraph 3:

1. Does the legislation of the Russian Federation guarantee participation of the constituent regions of the Russian Federation (represented by their legislative bodies, possessing the right of the legislative initiative, according to the Article 104 of the Constitution) in the federal legislative process, including legislation concerning those issues which are referred by the Constitution of the Russian Federation to the joint competence of the Federation and its constituent regions? As there are reasons to believe that the existing conditions do not ensure participation of the regions in enactment of the federal legislation, why it has been the case that during a number of years proposals of the constituent regions of the RF for increasing the term of presentation by their authorities of their reviews of the draft federal legislation were rejected (namely proposals of the Vologda region, the Sakha (Yakutia) Republic, the Krasnodar territory) were rejected?

To Paragraph 5:

2. The process of consolidation of the constituent territories of the Russian Federation is implemented by absorption of national autonomous areas, due to which the indigenous peoples of Russia, including the “numerically small peoples”, are deprived of their

statehood (among the liquidated regions are Komi–Permyatskiy, Taymyrskiy, Evenkiyskiy, Koryakskiy, Ust'-Ordynskiy Buryat, and Aginskiy Buryat areas).

Does this amount to a limitation of political rights of the indigenous numerically small people and deterioration of their situation? Was the opinion of the title nations taken into consideration while holding the referendums in the mentioned constituent territories of the Federation especially taking into consideration that they do not constitute majority of the population in the liquidated regions?

3. Does the liquidation of the autonomous regions comply with the foundations of the constitutional system of the Russian Federation as in Article 5 of the Constitution it is stipulated that the Russian Federation consists of equal constituent territories – republics, territories, regions, federal cities, autonomous region and autonomous areas? Out of 10 autonomous areas only 4 remain now. If three more autonomous areas are liquidated could this result in a discrepancy between the federative system of the Russian Federation and Article 5 of the Constitution of the Russian Federation?

Article 2 (equality before the law and effective means of legal protection)

To para. 5 (guarantees to ethnic minorities)

4. “National-cultural autonomies” may be established only on behalf of an ethnic group which is a “national minority on the respective territory”, while the law fails to determine neither what a “minority” is nor the indicators of that “situation”. What are the reasons for the usage of the term “national minorities” in the federal legislation for the restriction of the right to association this way?
5. Why was the Federal law “On Guarantees of Rights of Numerically Small Indigenous Peoples” No.82-FZ from 30 April 1999 amended in 2004 in a way that the provision of its Article 4, according to which governmental bodies and local self-governments secured the rights of small indigenous peoples “to their own original socio-economic and cultural development and to protection of their traditional habitat, traditional way of life and economic activities” were lifted as well as the guarantees of social welfare and medical aid benefits to indigenous peoples and quotas of their representation in regional and local representative bodies?
6. By what mechanisms can the indigenous peoples keep control over industrial exploitation of their traditional territories?
7. How does the Russian legislation on indigenous peoples correspond with the Forestry and Land Codes of the Russian Federation?
8. How can the indigenous rights to land and usage of natural resources within the territories of traditional habitat be secured? One shall take into account that the Federal law “On Guarantees of Rights of Numerically Small Indigenous Peoples” No.82-FZ from 30 April 1999 established the institution of free-of charge and perpetual use of land as the fundament of the protective mechanism; meanwhile, this institute is not envisaged by the RF Land Code which has a prevailing legal force.

To para. 6. (enjoyment of rights without discrimination)

9. Are there any forms of responsibility for discrimination other criminal liability, namely, administrative, civil or disciplinary responsibility of officials?
10. What are the reasons for the lack of special antidiscriminatory bodies in the Russian Federation?

To para.7 (ban on violation of equality and on discrimination)

11. How many lawsuits and complaints concerning discrimination in employment and labour were commenced within the reporting period before the Russian courts?
12. Why can discrimination in the sphere of employment and labour be contested in a court only?
13. Why did the Federal Law No. 90-FZ from 30 June 2006 terminate the competence of the Labour Inspectorates concerning consideration of complaints concerning discrimination?

To Paragraph 8:

14. In Paragraph 8 of the Report it is indicated that “the number of the judiciary has substantially increased”. Could you communicate what is the previous professional background of these judges by the sphere of work in percentage and what are their previous work places apart from the police and prosecutor’s office?

To Paragraphs 8-13:

15. Administration of justice by independent members of the judicial community serves as the main guarantee for exercise of the right for fair trial. Dismissal of Olga Kudeshkina, judge of the Moscow City Court caused by her public statements regarding absence of independent judiciary (a positive ruling on admissibility of her case has been already made by the European Court for Human Rights) exposes mechanisms for putting pressure to judges and forms of coercing them to deliver certain verdicts. In the meantime after her public statement on this Ms. Kudeshkina was deprived of the status of a Federal Judge. And she is not the only example of such practices.

Taking into consideration this experience, how can be real independence of judges ensured in view of such pressure being put on them?

To Paragraph 10:

16. Federal law of December 22, 2008 #262-FZ “On providing access to information on activities of courts in the Russian Federation” provides for prohibition of uploading to the Internet of texts of judicial decision “made in cases dealing with state security”. What law defines the scope of cases dealing with state security? Could this regulation serve as the basis for limiting access to information to cases of public importance?

To Paragraph 12:

17. In Paragraph 12 of the Report it is indicated that “for the purposes for up-to-date organization of court activities and taking into account international experience, for ensuring reception of citizens, it is proposed to create in courts of general jurisdiction specially dedicated subdivisions (reception offices) equipped with professionally

educated lawyers ensuring filing of citizens' complaints and appeals". Please provide information on how many days a week citizens' complaints and appeals are accepted in these reception offices, and during which hours? How long is the waiting time for citizens in the lines in order to file the documents?

To Paragraph 15:

18. Jury trials have in the Russian Federation a "limited jurisdiction: jurisdiction of this type of court has jurisdiction over only a small part of criminal cases examinable by courts of the constituent territories of the Russian Federation (less than 0.5 per cent of all criminal cases). In civil litigation and in the overwhelming majority of criminal cases citizens do not take part in administration of justice (contradicting the guarantees of Article 32 of the Constitution of the Russian Federation). Please explain in this context, what were the reasons for rejection of the peoples' assessors institution, which took place soon after the Federal Law of January 2, 2000 was enacted which provides for a democratic procedure for compiling lists of assessors?

To Paragraph 16:

19. Please communicate what is the percentage of cases considered by jury trials out of total number of criminal cases?

20. In connection with the recent modification of jury trials legislation what will be the percentage of cases considered by juries?

21. What is the percentage of overturned convictions in case of acquittals made by juries?

To Paragraph 18:

22. Separation of investigation and oversight over it, of investigation and state prosecution which occurred after split-off of Investigating Committee in the system of the General Prosecutor's Office deserves support. However, most of the criminal cases are investigated by the bodies of the Ministry of the Interior. In this way the operational investigation activities and crime registration are united with investigation in the same single agency and unified local police subdivisions. Will the law enforcement agencies reform be continued, namely, is it planned to invest the Investigating Committee of the Ministry of Interior, investigative bodies of other agencies (drug control, Federal Security Service) with procedural independence? Is there a possibility of creating a unified Investigating Committee?

To para. 10-18

23. Par. 10 of the report lists measures aimed at improving transparency of the judiciary. Please illustrate by giving examples of practical implementation of such measures, i.e. whether databases or databanks of judgments have been produced, how is public access to such databases ensured, what are the findings of public monitoring looking into judicial performance since 2007?

24. Par. 14 of the Periodic Report stated that length of court proceedings had been reduced. What measures have been taken to secure rights of case parties for proper presentation of their case in the frame of shortened trials and to guarantee thorough examination of each case? What mechanisms are in place to assess thoroughness and quality of judicial proceedings and what are the results of such assessment, if it has taken place?

25. As it follows from number of the judgments of the European Court of Human Rights, excessive length of forensic expertise was one of the problems leading to excessive length of judicial proceedings. This problem was related to lack and a poor state of institutions providing expertise to investigatory and judicial bodies. What measures have been taken to stimulate appearance of non-state expert institutions and to develop state bureaus of forensic expertise?
26. Par. 15 of the report says that the establishment of jury courts in the country has been completed. The Federal Law dated 30 December 2008 N 321-FZ “On amending certain laws of the Russian Federation concerning counteraction to terrorism” amends the Russian Code of Criminal Procedures by ending jury trials for certain charges, namely charges under articles 205 (terrorist attack), 206 parts 2-4 (hostage taking), 208 part 1 (organization of an illegal armed formation), 212 part 1 (organization of riots), 275 (high treason), 276 (espionage), 278 (forceful seizure of power or forceful retention of power), 279 (armed mutiny), and 281 (subversion). Please, explain the motives behind this decision.
27. Par. 18 of the report mentions reforms of the Prosecutor's Office and the establishment of the Investigation Committee affiliated with the Prosecutor's Office, as provided by the Federal Law No 87-FZ “On amending the Russian Code of Criminal Procedure and the Federal Law on the Prosecutor’s Office of the Russian Federation.” Please, provide details of specific steps taken to explain to the Russian citizens how the functions of the Prosecutor's Office have changed, what is the role of the newly formed Investigation Committee, and whether any changes have been made in the procedure and grounds for filing complaints to the Prosecutor’s Office and the Investigation Committee.

To Paragraph 19:

28. Russian Government’s response to the comment of the Committee to the Fifth periodic report on the Gridin case seems unsatisfactory. Based on the Committee’s conclusion contained in the decision (statement) of July 20, 2000 “the State Party is **obligated** to provide Mr. Gridin with an effective means of legal protection, entailing compensation and his **immediate release.**” This demand has not been fulfilled. Since 1989 Gridin remains imprisoned, currently in the high security penal facility, even though the Committee’s conclusion ruled that a judicial error was made.
29. Does the Russian Federation intend to enforce the decision of the Committee and file the case of Mr. Gridin for reconsideration due to the discovery of new facts, which is necessary for correct procedural implementation of the already made decision on the international level which has priority over internal judicial acts?
30. Concerns of the Committee indicated in the Concluding Observation and Recommendation # 8 of the Committee on results of consideration of the 5th Periodic Report of the Russian Federation in 2004, with regard to non-implementation by the Russian Federation of decisions of the Committee concerning the cases of *Gridin vs. the Russian Federation* and *Lanzov vs. the Russian Federation*, made by the Committee in the framework of the Optional Protocol to the Convention, have been added up with the concerns of the Committee regarding other decisions of the Committee on individual complaints unfulfilled by the Russian Federation since then, such as the ones concerning the cases of *Telitsyna vs. Russia*, *Vedeneev vs. Russia* and others. Please provide

information concerning the cases in relation to which the decisions of the Committee have been implemented by the Russian Federation.

Observance of human rights in the course of conducting counter-terrorist operation in the North Caucasus

Article 2, part 3 (right for effective remedy) and Article 6 (right to life)

31. How can you explain the still unfinished investigations initiated by the prosecution agencies concerning the following cases:

- mass criminal acts and murder of civilians in the territory of the Chechen Republic in the course of the counter-terrorist operations during “sweeping” of the village of Noviye Aldy (February 5, 2000), village of Alkhan-Yurt (December, 1999), village of Mesker-Yurt (May 21 –June 11, 2002), village of Tsotsin-Yurt (December 30 2001 – January 3, 2002), village of Stariye Atagi (in 2000 -2001), village of Borozdinovskaya (June 4, 2005), village of Zymsoy (January 14-15, 2005), Staropromoskovskiy district of the city of Grozny (January – February, 2000);

- disclosure of mass graves of people previously detained by the military servicepersons and officers of the Ministry of Internal Affairs (February 21, 2001 in the vicinity of the Russian military base in the settlement of Khankala, in the summer housing area “Zdorovye”, March 13, 2001 in the territory of the base in Khankala; September 7, 2002 in the tree belt area near the blockhouse of the federal military forces near the village of Goragorsk).

32. How can you explain that up to now none of the officials or military servicepersons responsible for large-scale civilian deaths in the Chechen Republic due to the missile air attack on the refugee convoy near the village of Shaami-Yurt on August 29, 1999 and shelling of the village of Katyr-Yurt on February 4, 2004 have been held accountable?

Based on the complaints of the victims of the shelling of the refugee convoy (the cases of *Isaeva, Yusupova and Bazayeva vs. Russia*) and based upon the victim from air strike on the village of Katyr-Yurt (*Isaeva vs. Russia*) the European Court of Human Rights made final rulings on February 2005 that Russia is guilty of violation of Art 2 (right to life) and Art. 13 (right to effective protection) of the European Convention on Protection of Human Rights and Fundamental Freedoms. The prosecution agencies of the Russian Federation initiated criminal cases, specific officials were determined responsible for preparation and implementation of the given combat operations; however, no one was held liable.

33. Why up to this moment none is made accountable out of the law enforcement officers or military servicepersons who implemented “sweeping” operation on July 28, 2007 in the village of Ali-Yurt in the Ingush Republic, in the course of which dozens of local inhabitants were brutally beaten and injured? The prosecutor’s office initiated a criminal case concerning this event.

34. Why up to this moment none of the criminal cases initiated regarding the crimes committed against the civilian population in the course of the counter-terrorist operations

in the North Caucasus, which became judicial matter in the European Court of Human rights, have been investigated in Russia?

Article 2, part 3 (right for effective remedy), Article 6 (right to life) and Article 7 (prohibition of torture)

35. How many criminal cases have been initiated in the course of the counter-terrorist operation in the North Caucasus (1999-2007) concerning abductions and disappearance of people (Art. 126 Criminal Code of the Russian Federation)? How many of those have been investigated?

How can the extremely low solving rate of such crimes be explained? According to the information provided by the prosecutor office of the Chechen Republic, by the year 2007 during the whole counter-terrorist operation period 1952 criminal cases were initiated about abduction of 2734 persons. During the same period only 87 cases were investigated and forwarded to the court and 31 cases were terminated. The rest of the cases remain uninvestigated. The information of the human rights organizations allows stating that the number of the abducted is higher – between three and five thousand persons. In many cases the facts pointed to involvement of representatives of state authorities in committing these crimes. In the report of Mr. Nukhazhiev, the human rights commissioner in the Chechen Republic, entitled “Problems of disappearance of people in the Chechen Republic and determination of a mechanism for establishing their whereabouts of persons forcibly taken away and detained” (2006) it is stated that “in 187 cases dates, time of detention, numbers of blockhouses, numbers of military vehicles, surnames, names, patronymics and radio calls of the servicepersons who participated in the detention, titles of military unites implementing special activities, etc. are known...” What hinders investigation of such cases?

36. Why up to now no one is held criminally liable for cases of deaths of people detained under suspicion for having committed crime and brought to premises of the Ministry of Internal Affairs:
- death of Bashir Velkhiev in the premises of the Directorate for Combating Organized Crime of the Ministry of Internal Affairs of the Ingush Republic in room # 17 during the night of July 20 to 21, 2004. A criminal case #04560079 based on Art. 286 was initiated (abuse of office) of the Criminal Code of the Russian Federation;
 - death of Murad Bogatyrev on September 8 2007 in the premises of Local Police Precinct of the city of Malgobek of the Ingush Republic. A criminal case #07540061 based on Art. 286 (abuse of office) of the Criminal Code of the Russian Federation;
 - death of Zeytun Gaev on November 17, 2007 in the premises of the Directorate For Combating Organized Crime of the Ministry of Internal Affairs of the Republic of Kabardino-Balkaria (city of Nalchik). Gaev was brought there on November 15, but up to his death the militia officers denied that he was held there and did not let the lawyer to see him.

Article 7 (prohibition of torture) and Article 9 (right for freedom and personal security; prohibition of arbitrary arrest or detention)

37. Could you comment on the fact that in the North Caucasus according to the information provided by the human rights NGOs and complaints of the lawyers, the whereabouts and destiny of people detained on suspicion of having committed crimes based on Article 205

of the Criminal Code of the Russian Federation (terrorism), 208 (organization of an illegal armed groups or participation in such a group), 209 (banditism), 222 (illegal keeping or bearing of weapons or ammunitions), 317 (infringement on life of law enforcement officer), remain unknown to their relatives for a prolonged period of time (up to several days) after detention or arrest, and no access to them is allowed by the lawyers hired by their relatives?

Article 3 (equality of men and women)

To pp. 35, 41 of the report:

38. With regard to article 3 in p. 9 of the Concluding Observations to the 5th periodic report of the RF on the implementation of the Covenant on Civil and Political Rights the UN Human Rights Committee demanded Russia should take effective measures to improve the situation of women in terms of the realization of the rights set out in the Covenant.

What is the attitude of the RF towards growing inequality of women in the Chechen republic? This inequality is expressed in being forced into marriage, in married men's second marriages with teenage girls (*violation of article 23, part 3 of the Covenant: No marriage shall be entered into without the free and full consent of the intending spouses*), and officially accepted forcing into wearing scarves. A particularly outrageous evidence of the humiliating situation of women is the indulgent attitude of the authorities and society to the murders of women for the so-called "immoral behaviour". Absolute absence of opportunities to seek protection from the prosecution bodies is confirmed by the statements of the President of the Chechen Republic Ramzan Kadyrov on the issue of equality of women (see <http://www.kp.ru/daily/24169/380743/print/>), as well as of other representatives of the authority and society in the Republic (see also <http://hrol.org/node/3881>).

To Paragraphs 21-22:

39. In Paragraphs 21 and 22 of the Report it is indicated that the following institutions had been created in the Russian Federation dealing with the issues of gender equality: Public Commission on ensuring equal rights and equal opportunities to men and women in Russia, Interagency Commission on ensuring equality of men and women in the Russian Federation, Coordination Council on gender issues. Is domestic violence a part of the scope of issues considered by the above mentioned institutions? If it is, then please provide information about the actions taken by these institutions when working with the issue of domestic violence against women. If it is not, please indicate what institutions and subdivisions work on the federal level on resolution of this issue and what exactly is done for its resolution.

To Paragraph 35:

40. In Paragraph 35 it is indicated that the law establishes responsibility for torture, torture is understood as a special way of inflicting not only physical but mental suffering to the victim. Article 117 of the Criminal Code of the Russian Federation "Torture" is referred to in the paragraph. Please cite statistical data on application of this article when considering the domestic violence related cases.

To Paragraph 39:

41. In Paragraph 39 it is indicated that within the territory of the Russian Federation 22 social hostels for women with underage children are open. Is the local residence registration

(*propiska*) necessary for a woman to be able to get accommodation in such a hostel? Is the increase of number of such hostels planned?

Article 4 (derogation of rights under the state of emergency)

To Paragraph 43:

42. Regime of the counter-terrorist operation, implementation of which was made possible based on the Federal Law of March 6, 2006 #35-FZ “On counteraction to terrorism” is to a great extent similar to the emergency regime, but, unlike the latter, it does not presuppose either an official announcement or informing the UN Secretary-General, or any other limitations stipulated in the Constitutional Law on Emergency Situations (term of the state of emergency, territory of its implementation, etc.).
43. How does the permission under Article 4 of the Covenant of the partial derogation of rights strictly under the condition of the state of emergency corresponds with the similar limitation of rights under the regime of a counter-terrorist operation?

Article 6 (right to life)

To paragraph 49:

44. Many of those who were convicted and received death sentence before 1996 and whose sentence was not executed, received life imprisonment by the Decree of the President of the Russian Federation by the way of pardon. This is also relevant for the convicts who committed crimes in the end of the 1980s – beginning of the 1990s, when sentence of life imprisonment did not exist. According to the Criminal Code of the Russian Soviet Federative Socialist Republic, a 15-year imprisonment served as the alternative to the capital punishment and in the case of commutation of death penalty – by imprisonment of up to 20 years. Life imprisonment appeared in the Russian criminal law from January 6, 1993.
45. Use of life imprisonment in case of commutation for those convicted for crimes committed before January 6, 1993, aggravates the situation of those persons. The law which renders punishment to a more severe one should not have a retroactive force. The examples of this are the cases of the pardoned persons with newly given life sentences, Peter Stakhovzev (convicted by Irkutsk Regional Court in 1991), Oleg Filatov (Convicted by the Supreme Court of the Udmurt Republic in 1991).

Is there a possibility for reviewing such sentences in order to give sentences reflecting the penal measures which were in force at the moment of perpetration of crimes?

46. Par. 60 of the Report states that most abductions in the Chechen Republic have been committed by “criminal groups specializing on abductions of people for ransom or other benefits, mainly of material nature.” Please provide evidence in support of this statement. What steps have been taken by the Russian authorities to remedy this situation?
47. Positive responsibility of the state regarding the right to life necessarily includes measures aimed at prevention of murders of political and civic activists, journalists, lawyers and other figures of public importance such as a recent double murder of a lawyer Stanislav Markelov and a journalist Anastasiya Baburova. Preventive measures are required, including creation of correct attitude in the society towards the opposition

and to people who simply think and write openly expressing their independent opinion, and it is a duty of the state to formulate correct domestic ideological policy without nurturing enmity towards such persons in the society. A different construction of state policy results in direct incitement of radically minded persons to violence and murder.

Positive responsibilities also include holding not any but a really effective investigation of such crimes, an investigation where all theories are considered, false evidence is not manufactured, inadmissible evidence is not permitted, rights of the affected party are not ignored, their access to investigation is ensured. Nonobservance of these minimal standards of effective investigation leads to these cases falling apart in the court as it happened with cases about murders of Kholodov, Khlebnikov and others and is likely to happen with the case of murder of Anna Politkovskaya.

Please explain how the government of the Russian Federation plans to change the situation in the sphere of protection of civic activists, journalists and lawyers from murder and threats of violence, to ensure effective investigation of such cases and undertake preventive measures against such cases?

To Paragraph 51:

48. In Paragraph 51 of the Report it is indicated that “during the period of counter-terrorist operation in the Chechen Republic the courts considered 187 criminal cases in relation to 224 persons regarding crimes committed by law enforcement officers of which 173 persons were convicted and sentenced to various types of punishment”.

In order to understand the meaning of these figures it is necessary to compare them with the number of cases in which complaints were filed but they did not result in transfer of cases to the court, as they were dismissed or initiation of the proceedings was refused. Please provide this information. Please also present the data concerning the suspended cases regarding complaints of torture, murders and disappearances.

Article 7 (prohibition of torture)

49. Par. 63 of the report quotes statistics of convictions on charges under article 117 of the Criminal Code (torture). Please, provide details on how many of the offenders convicted under this article are government officials and have committed the crime while they were on duty. Par. 63 of the report also quotes statistics of convictions on charges under article 302 of the Criminal Code (coercion to extract testimony). Please, provide statistics of convictions for torture and ill-treatment under art. 286 of the Criminal Code (abuse of power).
50. It has been reported by mass media as well as international and Russian NGOs that most officials accused of torture and ill-treatment are charged under part 3 of art. 286 of the Russian 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 this practice and reasons why such offenders cannot be charged under art. 117 of the Criminal Code, which contains a note with a definition of torture.
51. Please, explain why the definition of torture in article 117 of the Criminal Code fails to mention involvement of a public official or other person acting in an official capacity as a constituent element of this crime.

52. Par. 64 of the Periodic Report states that unofficial interrogations are prohibited and mentions rules regulating interrogations provided by the Criminal Procedure Code. Do Criminal Procedure Code and other relevant regulations guarantee the right of detainees to communicate with defense lawyer only during interrogation and other official investigatory actions or at any other time? What practical measures are taken to secure access of detainees to legal assistance during first hours of investigation?
53. Par. 68-69 of the report quotes statistics on the number and findings of investigations opened into complaints against abuse in the penitentiary system, and the findings of supervisory reviews of the penitentiary system. Please, provide details on the number and findings of investigations into complaints filed by detainees, suspects, accused, witnesses and their representatives against police abuse, in particular complaints about the use of torture and ill-treatment by police officers. Please, provide details of the number and findings of supervisory reviews conducted into the Ministry of Interior agencies.

To pp. 70-74 of the report:

54. Article 7 of the Covenant forbids torture. Point 14 of the Concluding Observations to the 5th regular report of the RF pointed out to the RF the necessity of a thorough investigation of the circumstances of the events in October 2002 in the Dubrovka theatre.

How did the RF fulfil this demand? Why the young Chechen Zaurbek Talhigov who came to the theatre in response to an appeal of the State Duma deputy to help release the hostages, is the only convict in the case of the terrorist act and the operation of liberation of hostages? Why Zaurbek Talhigov, infected with hepatitis C in custody, is subjected to permanent humiliation and punishments? Why he is not provided with medical care?

Why cannot Zaurbek Talhigov, Zara Murtazalieva and other young Chechens convicted for an INTENTION of a crime, unlike the murderer of a Chechen girl former colonel Budanov, realize their right to the grant of parole?

There are numerous publications about both cases. Zara Murtazalieva was convicted on 17 January 2005 for an intention to commit a terrorist act on the only ground that among the pictures she took there were three photographs of an escalator in a shopping mall.

To Paragraphs 68–69 (Art. 7 of the Covenant, prohibition of torture) and 110 (Art. 10 of the Covenant, rights of the accused and of persons in detention):

55. Public oversight is one of the efficient tools for prevention of torture and inhuman treatment of the detained, arrested and convicted. The legislative initiatives aimed at its establishment have been considered by the Russian Parliament for over 10 years. In 2008 the Federal Law “On public oversight over enforcement of human rights in the detention facilities and on assistance to persons in the detention facilities”. Instead of the oversight without prior notification suggested during the elaboration of the law, it is stipulated in the law that visits by public inspectors’ committees to the detention facilities are to be organized with a prior notification of the institutions concerned. In addition to the above the law includes norms which do not allow one-on-one conversations in pre-trial and temporary detention facilities, where torture mainly takes place along with the provision stating that the oversight procedure for the facilities of an agency is to be specified by the

agency itself. Please explain, what was the motivation for inclusion the above listed norms into the law?

In the currently enacted form the law is not able, from our point of view, to effectively influence decrease of torture and arbitrary actions aimed at persons deprived of liberty. Is amendment of the law foreseeable?

Please also clarify how the given law regulates public oversight over local police stations.

Article 7 (prohibition of torture) (in the context of the penitentiary system and pre-trial detention)

To Paragraph 68-69

56. In Paragraphs 68-69 of the Report the statistical data is given on procession of complaints of persons under arrest, convicted and their representatives concerning issues of compliance with law in the institutions and agencies of the penal and correctional system, as well as statistics concerning results of routine inspections as well as inspections related to specific complaints. Please explain how such a low percentage of complaints which are recognized to be valid can be explained. In particular please comment why after the murder of four inmates in the Kopeyskaya correction facility the Federal Penitentiary Service justified the murder.
57. Could you please comment on the statements of Russian NGOs that there exists a practice of persecution of complainants, that they are often urgently transferred to a different facility so that an inspector is not able to meet hem, and that the right for filing a complaint free of censorship to the prosecutor's office and other agencies is violated under the guise of amicable agreement with the administration.
58. According to information provided by Russian NGOs the so called "sections for discipline and order" is one of the main sources of violence in correctional facilities. Please communicate if any measures are taken in order to change the situation? Is it possible to dismantle the "sections for discipline and order" in correction facilities?
59. Could you explain why in the recent year the number of pardons drastically decreased (12 thousand people were granted a pardon in 2001 and zero - in 2007).
60. According to information provided by Russian NGOs, the process of release on parole has become increasingly difficult. In particular the legislation contains a discrepancy regarding requirements of repentance on the part of the convict. Article 9 of the Correctional Code of the Russian Federation "Correction of the Convicted" provides a closed list of criteria which does not contain the requirement of repentance. However, the requirement of repentance is contained in the Article 175 of the Correctional Code of the Russian Federation "Procedure of submitting parole application and recommendation for substitution of the unexpired part of sentence with a more lenient sentence". As a result an inmate, who considers the sentence to be unjust or a judicial error, is effectively deprived of the possibility to apply for release on parole. Could you please explain this contradiction in the law?
61. Please clarify why in practice sentences alternative to imprisonment are rarely used.

Article 7 (prohibition of torture) (in the context of human rights in the armed forces)

To para. 62:

62. The Committee continues to note multiple cases of inhuman treatment and torture of military servicemen by commanding officers and senior conscripts, sometimes resulting in death and suicides. Often such treatment is aimed at extortion and coercion of soldiers to unlawful acts. According to multiple reports of NGOs and mass media, victims of inhuman treatment in the army are not provided with necessary medical assistance and legal protection. Please clarify what measures are undertaken and planned by the Russian government for eradication of such malpractice, punishment of the guilty, provision of medical and legal assistance to the victims of violence in the armed forces and for normalizing law and order in the Russian armed forces.

Article 7 (prohibition of torture) (in the context of investigation of terrorist acts and counter-terrorist operations in the Dubrovka Theater Center and in School #1 in Beslan)

To Paragraphs 71-79:

63. How can you explain the fact that up to now the large-scale deaths of people in the course of terrorist acts and counter-terrorist operations in Moscow in the Dubrovka Theater Center on October 23-26, 2002 and in School # 1 in Beslan on September 1-3, 2004 have not been properly investigated with regard to actions of the special services, special forces subdivisions and “power” structures which resulted in large-scale deaths of the hostages?
64. Please comment on the fact that according to the investigators the only cause of death of people was the actions of the terrorists and not:
- at the Dubrovka theater – use in the course of storming of the Theater Center of a gas the composition of which remains unknown and after use of which 125 people who were among the hostages, died (with the total number of victims being 130 people);
 - in Beslan – use in the course of the storming the school of such fire weapons as flamethrowers RPO-A and tank guns?
65. Please comment on the fact that the same agency, the Federal Security Service, implements “counterterrorist operations” and then participates in investigating them, which evidently creates a conflict of interest and from the outset rules out objective investigation. What can be done to eliminate such a “conflict of interest”?
66. Were the measures taken in the course of hostage rescue operations in both cases for aimed at minimization of losses, first of all the measures recommended by the international documents, enacted in this sphere such as attempts to hold negotiations with hostage-takers?
67. How the serious discrepancies can be explained between conclusions of various parliamentary commissions about the counter-terrorist operation in Beslan, when one of the commissions, in particular, recognized that the start of the storming was determined by the actions of the federal military units and the special services, and the other commission denies this fact.
68. Currently the case about looting in the course of the rescue operation during the counter-terrorist operation in the Dubrovka Theater Center has been reopened. What is the

timeframe for consideration of this case? What factors have caused the long delay in the investigation?

Article 8 (prohibition of slavery, slave trade and forced labour)

To para. 80 of the report:

69. Article 8, p.3 (a) of the Covenant states: *No one shall be required to perform forced or compulsory labour*. However, slave labour of illegal migrants is widely used in Russia, first of all of persons from Uzbekistan, Tajikistan, Kyrgyzstan, whose right to obtain a work permit is established by Russian law (see article 13.1. “Labour activity of foreign citizens arriving in Russia in a visa-free regime” of the Federal law “On the legal status of foreign citizens”).
70. Which measures does Russia intend to take for the elimination of exploitation of labour migrants, forced detention and limitation of their freedom, refusals to pay for their work? The presence of violations in this sphere has been acknowledged by the director of the Federal Migration Service of the RF Mr. Konstantin Romodanovsky (see report of the FMS report at the board of 31 January 2008, http://www.fms.gov.ru/press/publications/news_detail.php?ID=9792). Facts of the use of slave labour are stated in numerous publications, for example, in Zoya Svetova’s article “We were taken to the forest, execution was imitated” (“The New Izvestiya”, 7 March 2008, <http://www.newizv.ru/news/rating/?date=2008-03-05>).

Article 8 (prohibition of slavery, slave trade and forced labour) (in the context of human rights in the armed forces)

To Paragraph 80:

71. The Committee is concerned about numerous reports of NGOs and mass media about illegal use of enforced labor of servicemen, unrelated to the duties of the military service. Sometimes these cases can be related to criminal conspiracy of officers and civilians (entrepreneurs, heads of construction and trading firms, etc.); the resulting income from “leasing” the soldiers is received by their commanders. Such compulsory labor is forbidden not only by the Covenant but by the Russian legislation as well. In 2005 Sergey Ivanov, then the Defense Minister, issued Order #428 “On prohibition of engaging servicemen in labor activities not related to the duties of the military service”. However, judging by the continued multiple incoming reports, this has not effectively influenced the existence of the malpractice. The Committee is not aware of any single conviction case of commanding officers or civilians on the basis of Article 127.2 of the Criminal Code, stipulating the liability for the use of slave labor.
72. Please, clarify what activities are being implemented and are planned for implementation by the Russian authorities in order to get the legislation and the law enforcement practices in compliance with the international obligation of Russia, with the purpose of complete and unequivocal prohibition and eradication of this malpractice. Please provide the latest statistical data on criminal prosecution and punishment of the persons guilty of utilization of enforced labor of servicemen unrelated to the duties of the military service

To paragraph 85:

73. Paragraph 85 indicates that the Federal Law “On state protection of victims, witnesses and other participants of criminal proceedings” was adopted on August 20, 2004 and

came into force on January 1, 2005. What is the enforcement practice of the Federal Law “On state protection of the complainants, witnesses and other participants of the criminal proceedings”? Is the monitoring performed of the protective measures in terms of the number of the protected persons, categories of criminal cases and the measures applied (provision of personal protection, change of residence, appearance modification, etc.), and in terms of the procedural status of the protection object? Please cite the statistical data on how many victims or witnesses obtained protection within the framework of this law.

Article 9 (right for freedom and personal security; prohibition of arbitrary arrest or detention)

To paragraphs 87-92 of the report:

74. Comments in para. 87-92 concern the guarantees for detainees under criminal law but do not comment on the rights of persons who are detained under administrative law or who are stopped by police patrols for documentary checks (passports and valid registration in the place of residence). Are people stopped for such checks considered as “detained” and enjoy the same rights? Are these stops somehow documented? If each person stopped is provided with a copy of the written record of the stop, which includes an explanation of the reasons for the stop, for the purposes of bringing a complaint if he or she considers this stop arbitrary?

To paragraph 90 of the report:

75. Please, clarify what guarantees for detainees exist in case of administrative detention (art. 27.3 of Code of Administrative Offenses)? Art. 27.5 (I) of this Code allows police to subject violators of administrative law to administrative detention lasting three hours, and in cases of immigration violations and some other cases up to 48 hours. How detention is documented in such cases? If no offenses were found, what documents the released person is provided with and what is the procedure for bringing complaints?

76. What are the guarantees for the detainees in cases of administrative arrest (art. 3.9. of the Code of Administrative Offenses, which allows administrative detention up to 15 days as a sanction for violation of administrative law)? In what facilities administratively arrested are kept? Please, adduce statistics on number of administratively arrested and number of complaints on administrative arrests resolved by courts.

77. Practice of selecting a measure of restraint in the form of detention continues to be widespread. According to information of Russian NGOs, approximately 25% of all persons held in pre-trial detention centers are then either acquitted or receive sentences not presupposing imprisonment. Could you clarify, why such fact does not serve as the basis for reconsideration of the practice of court decisions ruling for detention of suspects?

To Paragraph 91:

78. In Paragraph 91 of the Report in information concerning court decisions on extending the pretrial detention term in pending a court ruling about the suspect being guilty or acquitted, that “in 2005 courts considered 277,208 petitions of prosecutors, investigators and interrogating officers for selecting detention as a measure of restraint. Out of the above number 254,554 petitions were granted and 7,930 were dismissed». The numbers given in the report indicate that in Russia such measure of restraint as detention still remains not an exceptional measure but, on the contrary, remains pervasively and

excessively widespread. At the same time Paragraph 3 of Article 9 of the Covenant and a similar norm in the European Convention do not function as “presumption of release pending trial”. Please comment on how the government of the Russian Federation plans to address this problem.

Article 10 (treatment of persons deprived of their liberty) in view of article 18 (freedom of conscience)

79. In pp. 93-96 of the report measures aimed at the humanization of the penitentiary system are described, in particular, those providing improvement of the conditions of detention in custody, strengthening of the control over the observance of lawfulness in the penitentiary system. Information on the scale of funds allocated for the achievement of these goals is cited.

At that the nutrition norms of prisoners in the penitentiary system do not provide for menu variations depending on the restrictions of use of a number of products in connection with religious beliefs of the prisoners.

Moreover, there are incidents of penalty imposition on Muslim prisoners for praying at the times prescribed by their religion in case these times contradict inner routine regulations in confinement institutions.

In this connection and in view of the obligations under p. 1 of article 18 of the Covenant (“*Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom <...> to manifest his religion or belief in worship, observance, practice and teaching*”) could you kindly inform us of the measures taken to guarantee the corresponding rights of the prisoners.

Article 12 (liberty of movement and freedom to choose residence)

80. The RF authorities deny exit to third countries to Uzbek citizens without the so-called Uzbek authorizing stickers in their passports (analogue of exit visas). This denial is motivated by the obligations under the Russian-Uzbek intergovernmental agreement of 30.11.2000, in accordance with which the parties commit to “*let citizens of the Party states out to third states in case they have valid and duly drawn up, in accordance with national legislation of the Party states, documents allowing for crossing the border and will take measures to prevent departure to third countries of persons banned for departure by the relevant authorities of the Parties*”.

Those Uzbek citizens recognized by the UNHCR in need of international protection and those who have secured consent of the third countries to grant asylum, fall under this restriction.

However, persons who have been recognized by the UNHCR as complying with the criteria of the 1951 Convention Relating to the Status of Refugee can not be forced to apply to the authorities of their country of origin for documents or permissions, even if the RF refused to grant a refugee status to them.

What measures does the RF intend to take with regard to article 12 of the Covenant to solve this problem?

To p.112

81. Does the Russian law regulate components of the liberty of movement other than administrative registration of stay and residence? Are there any guarantees against arbitrary restrictions of people and vehicles' movements by official and private persons? What are the explanations for the practices of closing by mining companies in Siberia and Far North of the territories they operate for other people?

To p. 113

82. Article 12 of the Covenant states: *Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.* Freedom of movement in Russia is traditionally dependent on the presence of a registration (*propiska*) at the place of residence of sojourn.

How can the RF explain permanent appearance of new local registration rules introducing additional limitations in comparison with the federal limitations?

These limitations exist, for instance, in Krasnodar territory. At present Moscow is also going to introduce such rules as of 1 February 2009 (see <http://www.vz.ru/society/2009/1/23/249556.html>). By this rule a new prerequisite for a registration in Moscow at a place of sojourn for foreign citizens or citizens from other cities of Russia is introduced – this is a special statement from the register testifying to the signing of a rent agreement in the capital. Thus foreign citizens will be deprived of an opportunity to legally reside in Moscow, since in accordance with the RF Law “On migration accounting” they have to get registered in 3 days, during which it is impossible to rent an apartment and register a rent agreement.

83. What kinds of papers mentioned in para. 113 are required in practice for obtaining a registration by a place of residence or sojourn? What does civil domestic passport serve in fact as the only identity paper for the purposes of registration? How can the liberty of movement and the opportunity to be registered be provided for the people who do not possess a passport for some reasons?
84. How can the practice of requiring documents or operations not envisaged by the law be explained? Among these additional documents or operations can be a contract of tenancy, documentary consent of the dwellers to the new tenant's registration, prepayment of running costs or registration at the military commissariat, fingerprinting at the police. Are there any measures undertaken to counter such practices?
85. One shall take into account that an individual can live without his or her fault with no registration by a place of residence or stay, since he or she may have no dwelling, or the dwelling's formal status may be an obstacle to getting the registration, or the owner or holder may refuse to approve registration of the new tenant officially. How can thus one explain that registration is widely used as a precondition for the exercise and enjoyment of rights and liberties including voting rights, ownership and other property rights, access to health care, right to employment?
86. What are the reasons for the systematic circulation of discriminatory notices about employment vacancies open only to the people with local residence registration? In particular, such advertisements are issued by law-enforcement bodies (like the Interior

Department of the Moscow Metro) and governmental enterprises (like the state unitary enterprise the Moscow Metro).

To para. 115 (minorities and the right to choose residence):

87. What was the outcome of the Krasnodar regional court decision mentioned in para. 115? Did it result in registration of the Meskhetian Turks by their places of residence?
88. The refusals in registration of Meskhetian Turk by places of residence were systemic in Krasnodar Krai since late 1980s. What was and what is still the position of the Russian federal government in this respect, and why were no steps taken to stop these refusals and provides for the registration of Meskhetian Turks?

To para.116 (minorities and the right to choose residence):

89. Did the Krasnodar regional court decision mentioned in para. 116 result in changes in the registration procedures within the Krasnodar Krai? How can one explain that the Commissions of migration control operated in the region until 2006, and that at the moment the commissions of immigration control also not envisaged by the law are still working?

Article 13 (freedom from unlawful expulsion)

90. From 2003 to 2008 at least 15 persons were illegally expelled from the RF territory to Central Asian states and China, including 2 persons who were expelled in violation of the ruling of the European Court of Human Rights on suspension of expulsion under Rule 39 of the Rules of the Court. The Court has twice found (in cases *Ismoilov and Others v. Russia*, no. 2947/06, and *Muminov v. Russia*, no. 42502/06) Russia guilty of violation of a number of articles of the European Convention of Human Rights, in particular, article 3 corresponding with article 7 of the Covenant, in connection with a threat of tortures applicants are subjected to in case of their expulsion. In the case *Ismoilov and Others v. Russia* the Court criticised the stand of the Government, in accordance with which the Government has a certain international legal obligation to cooperate in combating terrorism and extradite applicants charged with terrorist activities regardless of a threat of maltreatment in the requesting country (Judgment, 24 April 2008, p. 126).

Nevertheless the RF General Prosecution Office continues to deliver decisions on extradition of persons to countries where they are threatened with tortures, while the courts, up to the Supreme Court of the RF, refuse to satisfy appeals against the given decisions.

In this connection we are kindly requesting to explain:

- which international legal obligation exactly is meant and how is it related to the requirements of article 7 of the Covenant?
- which measures does the RF intend to take to return the following illegally expelled persons: R. Muminov (*applicant to the ECHR in case # 42502/06*), A. Kamaliev (Tursinov) (*applicant to the ECHR in case # 52812/07*), A. Boymatov, A. Usmanov to Uzbekistan, M. Iskanderov (*applicant to the ECHR in case # 17185/05*) to Tajikistan and S. Baiburin - to Kazakhstan.

- which measures have already been taken and which are going to be taken against officials guilty of expulsion of the abovementioned A. Kamaliev (Tursinov), which took place on 05.12.2007 in violation of the ruling of the European Court?

To p. 123 of the report:

91. Article 13 of the Covenant forbids arbitrary exile of foreign citizens.

How can the RF explain the presence of two exile procedures, that of deportation and expulsion? The first one is implemented without the court ruling at the order of the Federal Migration Service director (see Order of the RF Ministry of Interior of 26.08.2004 N 533), a lawyer cannot get access to the person to be deported, and no opportunity of appeal is granted.

There are cases of deportation of Chinese citizens, who were in the process of refugee status determination. For instance, on 28 March 2007 the servicemen of the RF Department of the FMS, Saint-Petersburg and Leningrad region immigration control detained the Chinese citizen Ma Huey and her 8-year-old daughter. The same evening they were deported to China despite the fact that Ma Huey's husband, the girl's father, had a legal right to reside in the RF. On 13 May 2007 a disabled Chinese citizen Gao Chunman married to a RF citizen was brought out of the apartment, detained and deported. Both deportees were seeking asylum in the RF.

At the same time on 2 June 2008 the decision of the European Court of Human Rights delivered on 6 December 2007 in connection with the application # 42086/05 "Liu and Liu v. Russia" came into force, in which the European Court ascertained that legal norms on which the decision on deportation is based do not provide an adequate degree of protection from arbitrary interference.

How can the RF explain the absence of criteria of application of decisions on expulsion by the courts in article 18.8 of the Code for Administrative Offences?

Article 18.8 stipulates: "Violation of the sojourn regime by a foreign citizen or a stateless person... entails an imposition of an administrative fine in the amount from 20 to 50 minimum wages with or without administrative expulsion outside the RF".

Thus hundreds of persons were subjected to administrative expulsion for minor offences, persons, who had families, underage children and elderly parents in the territory of Russia. The RF Constitutional court (Definition of 2 March 2006 # 55-O) recognized this practice illegal, the Supreme Court cancelled a few decisions. However, many applicants don't have the time to wait for the Supreme Court decision.

Assessing the situation in the RF at the 37th session in November 2006 the UN Committee against Torture mentioned "extensive wide application of administrative expulsion in accordance with article 18.8 of the Code for administrative offences for minor violations of the rules of sojourn in the country". As a recommendation the Committee wrote: "The state should give additional explanations as to what violations of sojourn rules in its territory may entail an administrative expulsion and establish a clear procedure providing for a fair application of these rules". These recommendations have not been fulfilled.

Article 14 (right to fair trial)

To para. 129-140

92. Par. 129-140 of the Periodic Report provide general information and statistics concerning functioning of judiciary but does not include information about implementation of various procedural guarantees which shall secure right to fair trial and equality of arms.

Please provide information on steps taken to secure right of indigent people to legal aid in criminal and civil proceedings.

93. Criminal Procedure Code provides defense with the right to collect and present evidence. What legislative and other measures have been taken to secure practical implementation of this provision?

To paragraph 130:

94. Current procedure of holding judges accountable for misconduct, as practice shows, may be used for political and ideological pressure on judges from the side of higher judicial or executive bodies. In this respect please provide information on cases when any executive or judicial authorities have been brought to criminal or other type of accountability for putting pressure on a judge.

95. It is indicated in pp. 88 and 90 of the report that the existing Code of Criminal Procedure of the RF establishes a court procedure of taking decisions on custodial placement of persons and judicial supervision of the prolongation of detention terms. Moreover, the definitions of the RF Constitutional Court of 04.04.2006 N 101-O and of 01.03.2007 N 333-O-II stipulate that the norms of the CCP concerning the terms of detention apply to all the cases in the RF CCP domain, including the cases on extradition of persons at the requests of foreign states.

However, in practice it is only in exceptional cases that the Prosecution Office puts a question before the courts on the prolongation of the detention terms of persons in custody pending extradition. At that the courts on the RF territory as a rule deny satisfaction of these persons' appeals against illegal detention. In its decisions European Court of Human Rights has repeatedly mentioned that Russian legal system does not provide due judicial control over detention of persons pending extradition.

Could you please inform us of the measures taken and to be taken to provide integrity and lawfulness of the legal practice in this regard?

96. Pp. 88-92 of the Periodic Report provide statistics about the use of pre-trial detention. Please provide detailed information about situation with deprivation of freedom that does not relate to criminal proceedings, i.e. about detention of migrants prior to deportation, involuntary hospitalization to psychiatric institutions, and placement of juveniles to special correctional and educational facilities. What measures are taken to expand application of restraint measures which do not include deprivation of freedom?
97. Article 125 of the Criminal Procedural Code of the Russian Federation became the most important innovation in the Russian legislation and it allows bringing appeals to a court against any decisions, actions or inaction of investigative authorities, which affect constitutional rights. In the recent years under various pretexts the judicial authorities more and more often refuse the right to lodge such appeals. The most widespread pretext

is that the reported violations do not infringe on constitutional rights. For example, Khasavyurtovskiy court of Dagestan did not discern what particular constitutional rights were infringed upon of the complainants who filed a complaint regarding refusal to open a criminal case after a murder of their six-year old daughter during a “mop-up” operation in their village in Chechnya. Regarding the case of M. Khodorkovsky the courts of Moscow and Chita multiple times refused to consider complaints, even though the matter was regarding the infringement upon constitutional right for defense. Similar examples of these are multiple.

Why while justifying these decisions the courts refer to instructions of the Supreme Court of Russia, and if in fact these references are wrong, why the Supreme Court of the Russian Federation does not curb such practice of denial of justice?

98. Please communicate information about the percentage of acquittals in the country as a whole, as well about the percentage of overturned acquittals in comparison with percentage of overturned of conviction verdicts.
99. How well-grounded are the decisions of judges about closed door proceedings under various pretexts? Could this be qualified as abuse of power in desire to draw the consideration of cases out of attention and oversight of the public and the media? Consideration of Anna Politkovskaya murder case is one particular example where in order to justify a closed door trial a manufactured pretext was used.
100. How can the use of obligatory metal cages for all defendants be justified in those courtrooms which are not permanently used for consideration of grave offences? Could this predetermine the finding the defendant guilty? Does public and sometimes prolonged keeping of an innocent person in a cage (that is of a person whose guilt has not been decided by the court yet) comply with the requirements of the Covenant about the use of only such limitations which are absolutely necessary? Such inhuman and degrading treatment of defendants is aggravated by lack of food, insufficient drink and inadequate rest (only 5-6 hours of sleep in the days of court hearings), and in such an exhausted condition they have to defend themselves. How does this comply with the requirements of Article 14 of the Covenant?

Article 15 (freedom from being held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence at the time when it was committed)

101. In accordance with the Federal law of 27.07.2006 N 153-FZ the wording “induction of other persons to participation in the activity of a terrorist organization” was deleted from article 205-1 of the RF Criminal Code. Simultaneously, article 205-2 was introduced into the RF CC – “Public appeals to terrorist activity or public justification of terrorism”.

After that at the requests of a number of persons convicted earlier for induction to participation in a terrorist organization, article 205-1 of the RF CC was excluded from their sentences in connection with the decriminalization of this act. However, at least in two cases, that of A.D. Khasanov, mentioned in p. 196 of the report, and that of M.Sh. Ahmetsafin, the actions of these persons were re-qualified for article 205-2, which

did not exist in the RF CC as of the moment of delivering sentences to these persons in 2005.

In this connection could you please explain which measures are taken in the RF to provide integrity of the court practice with a view to bring it in line with the requirements of article 15 of the Covenant.

Article 16 (right for legal personality)

(clarification: the current paragraph of the Report of the Government of the Russian Federation comments upon the Article 16 of the Covenant, protecting the right for legal personality. The content of the paragraph of the Report is based on a not entirely correct understanding of the notion of “legal personality” in our view. The question that we propose here is related not to the Article of the Covenant, but to the contents of the paragraph of the Report):

To Paragraph 142

102. The Federal Law of December 1 2007 #310-FZ “On organizing and holding the XXII Winter Olympic Games and the XI Paralympics of 2014 in the city of Sochi, development of the city of Sochi as a mountain climatic resort and on entering modifications in certain legal acts of the Russian Federation” contains provisions of expropriation from citizens and organizations of land and buildings including those in private ownership “**through termination of such rights**”. A land plot or dwelling places instead of the expropriated ones are provided “without preliminary consent for the location of the facilities”. The citizens are effectively deprived of the right to appeal to court: the court decisions on eviction suits filed by the administration take effect immediately after proclamation and are to be executed immediately and without the possibility of cassational appeal in the court of a higher jurisdiction. The contradictions between the Civil Code, Land Code, Housing Code, Civil Procedure Code and this law’s provisions are resolved through entering into the Codes of additional clauses about priority of the Sochi law over the provisions of the Codes.

A similar procedure of “termination” of civil rights in the city of Vladivostok is provided for in the draft Federal Law “On organizing and holding the Summit within the framework of the Asia-Pacific Economic Cooperation forum in 2012, development of the city of Vladivostok as a center for international cooperation in the Asia-Pacific region and on entering modifications in certain legal acts of the Russian Federation”; the draft was approved in the first reading in January 2009.

Please comment on these pieces of legislation.

Article 18 (freedom of conscience)

To Paragraphs 150-154 (right for conscientious objection to military service)

103. Does Russia intend to reduce the difference in the length of the military and the alternative service?

104. In paragraph 150 of the Report the benefits and compensations are indicated which are granted in relation to labor activities of citizens performing alternative civil service. What specific benefits and compensations are provided?

105. Paragraph 153 states that the alternative civil service is provided for in particular in the organizations which are under jurisdiction of local self-government bodies. However, the relevant provision of the Federal Law “On Alternative Civil Service” is not applied as it requires adoption of a specific federal law about alternative civil service in municipal organizations. Currently alternative civil service is possible only in state organizations which makes it considerably more difficult to use the work of the alternative service persons in the social sphere. Is it planned to enter modifications in the legislation on alternative civil service in organizations which are under jurisdiction of local self- government bodies?
106. The issue of performance of alternative civil service in organizations under military jurisdiction remains highly relevant, as this often contradicts the convictions and conscience of a citizen. As the result part of the citizens sent to perform alternative civil service the military organizations evade performance of the service and become criminally liable. At the same time the right to choose the sphere and type of labor activity (from the ones in the list of organizations, professions and positions) can be enforced without changes in the legislation. The law does not prohibit the agency responsible for organizing the alternative civil service (which is the Federal Labor and Employment Service) to take into consideration citizen’s requests concerning a particular place for alternative civil service. Is such correction of law enforcement possible?
107. A serious issue is that many citizens who opted for alternative civil service are allocated to positions where salaries are considerably lower than subsistence level (mainly this is the case with hospitals, disabled persons homes and other social service organizations). At the same time the law forbids the persons who are in the alternative civil service to take up part-time jobs on the side. Thereby the citizens who undergo alternative civil service are being discriminated in comparison with the military conscripts who are being provided for fully by the state. Will any measure be taken to remedy this situation?

Article 18 (freedom of conscience) in the context of problems in application of the counter-extremist legislation)

108. How can you explain the charges of extremism brought against Jehovah's Witnesses in 2008 (a criminal investigation opened under art. 282 of the Criminal Code) for dissemination of their religious texts widely known and never persecuted before in Russia?
109. How can you explain the charges of extremism (and corresponding sanctions, such as closure of the website *Islam as It Is*) for publication of religious texts consisting of faith debates and posing no danger to the public (the same example, an article on whether Nowruz should be celebrated)?

Par. 196 mentions grounds for persecution, such as dissemination of texts which “*are intended for ideological preparation of Muslims for adopting radical ideas which do not correspond to the provisions of traditional Islam.*” What legal provisions do the Russian courts rely upon when they consider such charges?

110. On what legal grounds did the Russian Supreme Court find Hizb ut-Tahrir a terrorist – rather than just an extremist - group? Have there been any examples of terrorist attacks committed by this organization in Russia?
111. Why have “incitement to religious hatred” charges been brought in cases of ironic treatment of religious issues, clearly without any danger to the public, such as the *Banned Art 2006* exhibition or the *South Park* cartoons?
112. On what grounds were Said Nursi’s books and Nurdjular’s activities found extremist and banned in Russia?
113. On what grounds were four Falun Dafa materials found extremist in December 2008? Specifically, a report by Canadian human rights investigators David Matas and David Kilgour about organ harvesting from Falun Gong practitioners in China.

Article 19 (freedom of expression and information)

To para. 156, in relation to criminal sanctions for dissemination of extremist materials:

114. Decisions of the law enforcement bodies to initiate a criminal investigation in cases of dissemination of extremist materials or incitement to hatred and to prosecute such crimes, as well as the court decisions in such cases, have always been based on linguistic and psychological expertise which was made with a purpose to define whether the acts under consideration had characteristics of the above mentioned crimes. Since this question requires a specialized expertise, please explain why the definition of these crimes does not contain such characteristics as “intent to incite hatred” or “obviously / prima facie” extremist “, so that an ordinary person could define whether he or she risks committing a crime, and regulate his or her behavior accordingly?
115. In para. 157 it is pointed out, that “it is prohibited to use the rights of a journalist for dissemination of information with the aim of degrading a person or certain categories of persons on grounds of... and also in connection with their political beliefs”. The statute “On main guarantees for election rights...” (section 5.2. art. 56) prohibits candidates during the election period to broadcast on TV information which may create negative image of an opposing candidate. How these provisions comply with freedom of expression and role of the media in promoting political discussions?
116. Para. 159 mentions possibility of criminal sanctions for violation of media laws. Art. 129 section 2 of the Criminal Code provides sanctions for libel, made in mass media, including arrest from 3 to 6 months; sec. 3 of art. 129 admits imprisonment up to 3 years as a sanction for libel in combination with imputation in committing serious or less serious crimes (for instance, in bribery or torture). Art. 130 section 2 criminalizes insult to a person, made in mass media. These articles are applied to journalists who criticize government, public officials or politicians. How the “necessity” of these sanctions for the protection of others can be explained in the meaning of Art. 19 (3) of the CCPR?
117. Please, provide statistics on how many criminal cases for crimes against journalists and mass media, which are mentioned in para. 162, were initiated, heard in courts and ended with sanctions for perpetrators.

To para. 164:

118. How can a recent judicial practice to award moral damages for injury to reputation of legal persons (so called “reputational damage”) be explained, if, according to Civil Code, moral damages can only be awarded to physical persons? What are the criteria to define the amount of such “reputational damage” so that to avoid arbitrariness and prevent intended bankruptcy of a newspaper or other mass media enterprise?
119. How can you explain a fact that, contrary to the Ruling of the Supreme Court of the Russian Federation of 24 February, 2005, which ruled that the amount awarded to physical persons for moral damages caused by publications should not result in bankruptcy of a mass media, the average cost of claims to mass media (according to statistics of Glasnost Defense Foundation) increased in 2008 up to 2,5 million roubles, and the average amount awarded for moral damages became 197 900 Roubles (against average amount claimed of 1 000 051 Roubles and the average amount awarded of 88 000 in 2007)?
120. Please, explain, why government officials and politicians enjoy better protection in civil actions for protection of their dignity and honour and why higher value of their reputation and honour (and, consequently, higher amount for moral damages to their reputation) is presumed if compared with private individuals?
121. Why administrative sanctions, mentioned in para. 166, have not been applied to violators of administrative law, who have been publishing a false duplicate of newspaper “Arsenyevskiye Vesti” (Vladivostok) for more than 6 months, and what has been done to find the violators?

To para. 171:

122. Please, provide statistics on how many criminal cases, mentioned in para. 171, were initiated against state officials, state bodies, public associations for violation of freedom of mass media, censorship, interference with mass media activities, illegal termination or stoppage of their activities? How many cases have resulted in judicial decisions? How many criminal cases have been initiated against public officials for violation of mass media freedoms?

To para. 173:

123. What guarantees exist and what is undertaken in order to prevent the seizure and revealing of confidential information and information about journalists’ sources of information during searches and seizures in journalists’ facilities and mass media offices, made under a pre-text of looking for counterfeited software or upon the judicial warrant, issued for some special purpose? Can the materials, which were occasionally found in the computers or in premises of journalists during searches under the warrant, issued for other purposes, become a ground for initiating a new investigation, based on the content of these materials?

To para. 173:

124. Please, provide data on how many newspapers and broadcasters are municipal enterprises or created like municipal unitary enterprises? What percentage municipal and city mass media enterprises comprise in the total number of printed, TV and electronic mass media?

To Paragraph 177-179 of the Report:

125. A series of trials took place in Russia concerning the so called espionage cases. Journalists, scientists, PhDs were convicted (V. Danilov, V. Moiseev, G. Pasko, A. Babkin, I. Sutyagin and others), who were “exposed” essentially in their contacts with foreigners, even though they did not transfer any classified information. The courts determined their guilt only on the basis of “expert assessments” of the classified nature of the transferred information which were conducted by persons being in subordination vis-à-vis the prosecuting agency, the Federal Security Service.

How do such sentences correspond with the right to a fair trial (Article 14 of the Covenant): independence, impartiality of judges, equality of arms, legal certainty, as well as prohibition of punishment for actions of non-criminal nature (Article 15 of the Covenant)? How their right for distribution of information without unjustified, arbitrary limitations was observed (Article 19 of the Covenant)?

In addition to the above, we would like to express our regret regarding disrespect to the Committee reflected in the commentary of the compilers of the Sixth Periodic Report to Paragraph 21 of Concluding Observations of the Committee to the Fifth Periodic Report of the Russian Federation (Paragraph 177 of the Sixth Periodic Report of the Russian Federation). Paragraph 177 states that those convicted in the years of 2004-2006 for disclosure and transfer of information classified as state secret, are not “environmental activists” while the Concluding Observations of the Committee clearly refer to a number of “journalists, scientists, environmental activists”. It is common knowledge that V. Danilov and I. Sutyagin, whose cases are mentioned in Paragraphs 178 and 179 of the Report, are scientists. What is the meaning of the statement in Paragraph 177 that they are not environmental activists, other than to show disrespect to the Committee, remains unclear.

To para. 180:

126. According to Glasnost Defense Foundation, 115 journalists were murdered in 2003-2008, 5 of them – in 2008. Please, provide information about investigation and, where applicable, about results of such investigations and judicial decisions.

127. How many criminal investigations have been initiated upon the complaints of journalists who reported that they had received threats of murder or violence against them? What measures (if any) had been undertaken in order to protect the life and security of these journalists and prevent possible assaults against them?

Article 19 (freedom of expression) in the context of problems in application of the counter-extremist legislation

128. Par. 176 of the report says that “*manifestations of such activity listed in art. 1 of the Federal Law on Combating Extremist Activity are strictly linked to respective articles of the Russian Criminal Code. Thus, legal entities are only liable for acts which would qualify as crimes if committed by individuals, ruling out any arbitrary interpretation of this Federal Law.*”

However, art.1 mentions some acts punishable under the Code of Administrative Offenses, rather than the Criminal Code (e.g. mass dissemination of extremist materials),

while some other acts do not match the wording of the Criminal Code, and the anti-extremist law does not say that extremist acts include only those acts which are criminal offenses. In practice, corresponding legal entities and individuals do not face liability simultaneously.

Please, explain the correspondences between art. 1 of the on Combating Extremist Activity and Criminal/Administrative Codes in more detail. Are there plans to bring art. 1 of the anti-extremist law in strict correspondence with the Criminal Code or the Criminal and Administrative Codes, and codify this correspondence in the law? Are there any other plans to clarify the wording of art 1 of the anti-extremist law to reduce the risk of arbitrary enforcement?

129. How do you explain anti-extremist sanctions against mass media just for reporting intolerant statements or citing activists of hate groups, even though the reporter and the publisher clearly disagreed with such statements or argued against them (examples in 2008: *Novaya Gazeta v Peterburge* was warned, *Chernovik* in Dagestan faced criminal charges under art.280 and 282 of the Criminal Code)?
130. Why do Russian courts treat groups such as “the police,” “the Russian armed forces,” and even “the Government of Marii El Republic” as social groups protected by art. 282 of the Criminal Code and use such interpretations to convict people?

Article 20 (hate propaganda)

131. Are there any plans to register suspicion in a hate crime when the crime is first reported? It would enable the authorities to collect official statistics of reported hate crimes, not just the number of criminal cases and convictions.
132. We welcome better law enforcement with regard to violent hate crimes (crimes affecting life and health), but the number of convictions is a small fraction of the actual number of such crimes. According to the official report, there were 60 convictions between 2004 and 2006, and the SOVA Center observed little, if any, increase in the number of convictions in this category of cases in 2007-2008 as opposed to 2006. At the same time, according to SOVA Center’s clearly incomplete data, in 2008 there were more than 90 hate killings and at least 400 victims of other violent hate crimes, and these statistics increase each year. What steps is Russia planning to take to suppress violent hate crimes? Are there more recent statistics available on these crimes and related convictions?
133. Why has art. 282.1 of the Criminal Code been invoked just in a several cases every year, even though investigators have often detected organized gangs committing hate crimes (and many members of such gangs have been tried and convicted)? Why are articles 282.1 and 280 of the Criminal Code not enforced against gangs which openly promote discrimination and violence?
134. Has the impact exercised by the practice of criminal prosecution of persons who have not committed violent acts under charges with participation in banned Islamic organizations (for instance, in “Hizb ut-Tahrir”) on the spread of radical Islamic ideas in Muslim society been studied? If such data exists, could you please provide this information – in particular, with a view to establish a correlation between the number of

persons sentenced to real imprisonment and radicalization of Muslim youth in the corresponding regions.

Article 21 (freedom of assembly)

To Paragraph 197:

135. What is the number of criminal cases based on Article 149 of the Criminal Code of the Russian Federation (“hindrance to holding assemblies, meetings, demonstrations, processions, picketing or participation in the above”) initiated in the period covered by the Sixth Report? How many of them made it to the court? How many of those resulted in convictions?
136. The Russian legislation contains a possibility for the agency responsible for processing notification of organizers of a public event to propose to the organizers to change time and location of the public event. In case of refusal to accept the offer the organizer does not have the right to hold the event. How the basis for accepting such an offer is defined? Does not this regulation serve as the basis for introduction of a practically authorization based procedure for holding public events? Could this norm serve as the basis for moving public events to remote and/or isolated locations where participants are not able express their opinion within visibility and hearing range of authorities seats and considerable number of citizens (as it is the case with Taras Schevchenko Embankment in Moscow, an isolated location which is regularly offered to participants of public events in the city of Moscow)? Do the organizers of public events have the right to discuss on equal basis with the authorities the prospects for moving the time and location of the event? What are the documents which regulate such negotiations? How is the possibility to hold a public event within visibility and hearing range of its target audience guaranteed?
137. How the right for assembly is guaranteed in the case of the so called spontaneous or impromptu events? Is holding a peaceful public event without a notification (namely, in case of actual impossibility of a preliminary notification) a basis for crackdown and detention of its participants?
138. How the distinction between the participants of public events and journalist, covering the events or observers from human rights organizations recording the proceedings is regulated? How is the possibility of coverage of a public event by the mass media and the most open access for journalists to the event guaranteed?
139. How do the legislation and the law enforcement practice regulate the situations of contradiction between the freedom of assembly and other rights and interests (use of traffic area and sidewalks, recreation, etc.)? Is the presumption in favor of freedom of assembly enshrined in the law along with possibility of holding them in case of conflict with other rights and interests? How the legislative acts provide for preference to freedom of assembly, envisaging the lowest level of interference?
140. How compliance by the authorized officials and representatives of the law enforcement agencies with the procedure for termination of the event is guaranteed? What are the legal acts and norms which regulate the use of force while terminating a public event? How many cases of event termination including the use of force were analyzed by the supervisory agencies in the period covered by the Sixth Periodic Report?

What is the number of cases where the fact of breach of procedure for termination of public events was recognized? What is the number of cases when the representatives of the law enforcement agencies were found guilty of excessive use of violence and other infringements while terminating public events?

141. How can the practice be explained of limiting the number of participants through obligatory indication by the organizers of the “estimated number of participants” in the notification of holding a public event? Why such limitation is applied by the representatives of the authorities even in those cases when free physical space is clearly available in the location set for the public event?
142. How the exercise of the right for freedom of assembly for members of sexual minorities is guaranteed? Why are the representatives of sexual minorities consistently refused official approval of their public events? What are the legal stipulations on which such decisions of the authorities are based?
143. How can the fact be explained that the representatives of pro-governmental political organizations and movements successfully coordinate holding marches and demonstrations in the downtown areas with shutting down of vehicle and pedestrian traffic, whereas opposition political movements and activists critical of the authorities are required to move processions and demonstrations to such areas of cities which do not allow exercise the right for expression of opinion within hearing and visibility range of authorities seats and a considerable number of citizens, on the basis of alleged impossibility to shut down vehicle and pedestrian traffic?

Article 21 (freedom of assembly) in the context of problems in application of the counter-extremist legislation

144. In recent years, a number of civil society activists planning to attend conferences or demonstrations have faced selective ID checks or even detention by the police (including situations when they were stopped before the departure of their train or plane); they received oral explanations from the police that their names were on a certain "list of extremists" (the exact words could vary). What are those lists? Which law enforcement bodies are in charge of compilation, maintaining and using these lists? What are the legal grounds for keeping and using the lists in this manner?

Article 22 (freedom of association)

To par. 198-204:

145. Paragraph 198 of the report states that amendments to the legislation on NGOs came into force on 18 April, 2006. In this context, please comment a decision of the Leninsky District Court of the city of Voronezh, later upheld by the Voronezh Regional Court, which states that the new NGO legislation came into force on 17 April, 2006, because a day before the publication of the new laws in *Rossiyskaya Gazeta* on 18 April they were published on 17 April in the *Collection of the Laws of the Russian Federation*, and on this ground the court ruled legal a decision to deny registration to an NGO “Great Scythia” by the Federal Registration Service which had claimed that registration documents had been “submitted to an inappropriate registration body” (documents were submitted on 17 April 2006 according to the old requirements of the law).

146. According to the official data of the Federal Registration Service, published in 2008, a percentage of denials in registration of NGOs in 2007 (which was the first full year of application of the new laws) averaged 13.2% across the country, while in several regions it was substantially higher - 37% in Ekaterinburg, 36% in St. Petersburg, 26% in Novgorod Region, etc. Could you please provide information about the main reasons of refusal in registration and explain the high level of refusals.
147. According to NGO reports, many existing NGOs encounter difficulties when they apply to the registering authority for approval of changes in their charters or information about the change in address or the name of the head of the organization. In particular, registration officials often insist on amending the charters, legally registered years ago, in particular, demand changes in the formulation of charter goals and objectives. Those NGOs that refuse to accept these demands, cannot function properly because their new address or their new director have not been approved.
148. Please explain what is the need and justification of such requirements of changes in the charters that were duly registered and approved years ago and what is the legality of demands to amend charter goals and objectives.
149. The current legislation does not define in full detail the procedures of conducting inspections of NGOs essentially providing the controlling agency with indefinitely broad powers. According to official statistics of the Federal Registration Service, in 2007 the total number of 13381 NGOs was inspected across the country. Notably, in 80-90% cases the inspected organizations received formal warnings for some kind of violation of the law (total number of warnings was 45920). The warnings are issued for any reasons, including for an insignificant and technical infraction of the law. However, according to the legislation, a record of two formal warnings constitutes a formal reason for the state authorities to initiate liquidation of an NGO. This provision in combination with the high number of warnings, including for insignificant infractions, has lead to what many experts refer to as “strangulating bureaucracy” and a self-censorship effect when NGOs begin to limit their activities in order to avoid attention of the controlling agency. Could you please comment on the value of this approach to government control of NGO work that has rather a punitive than correctional character and does not seem to be enabling development of civil society?
150. Are there regulations containing a closed list of documents and limitations on the amount of documents that can be demanded by the controlling agencies from NGOs in the course of inspection with the purpose of control of correspondence of NGO’s activity to the goals and objectives in its charter and to the Russian legislation?
151. There is no procedure and criteria of inclusion of NGOs in the plan of inspections by the registration authority; in practice the choice of objects of inspection is fully a matter of personal discretion of the officials. This was recognized by the leadership of Federal Registration Service. NGO experts provided their recommendations on criteria of inclusion in the plan of inspections. Could you please provide information whether a regulation has been adopted stipulating criteria and procedures of setting up a plan of NGO inspections?
152. Quite a few NGOs have been found in violation of the law because they conducted activities outside of the city or region of their registration and received a formal warning

from the Federal Registration Service for this offence. Could you please provide explanation of this requirement and the purposes it serves?

153. Several NGOs were found guilty in violating tax requirements because the Federal Registration Service qualified their public expression of gratitude to donors, including foreign embassies, in the NGO publications as “advertisement” and ruled that the relationships of NGOs with donors were not of a grant nature but of a commercial character and therefore were not tax-exempt. Could you please explain this position of the agency?
154. NGO experts submitted proposals on amending procedures regulating inspections of NGO in the spring of 2008 to the Government Commission on Administrative reform. Have the proposals been reviewed and considered for incorporation in the regulations? Are there plans to amend rules of procedures of inspections of NGOs, limiting them in scope and duration and at the very least bringing them in line with inspections of commercial companies?
155. In the opinion of NGO experts, considerable part of Russian NGOs is not able to cope with the burden which is laid on them by the new annual reporting requirements which experts believe to be confusing and unclear. In 2007 and 2008, annual reports in compliance with the new procedure were submitted by less than half of Russian NGOs. Even the staff of the Registration Service complained that information required by the reports does not help them to understand whether NGOs comply with the legislation. In response to this problem, NGO experts produced proposals on amending annual reporting forms making them more clear and compact. The leadership of the Federal Registration Service conducted several meetings with the NGO experts in 2007-2008 and agreed to incorporate their proposals in the new reporting forms starting with the reporting period in spring 2009. Have the new annual reporting forms been approved and will they be applied in 2009?
156. According to official statistics of the Federal Registration Service, in 2007 8274 NGO liquidation claims were filed by the Service to courts. As of the end of 2007, 6000 of those were satisfied by courts. Among the 6000 liquidated NGOs approximately 3500 were closed down for “inactivity” and a 2500 – for breach of law. Could you please provide information on what kind of violations of the law were the main reasons for liquidations?
157. Which regulatory act stipulates a registration procedure under the new NGO legislation which establishes a possibility for NGOs to receive consultations at the registering authority on the order of preparation of documents as well as a possibility of making changes to submitted documents without issuing a decision of turning down an application by the registering authority?
158. NGOs complain that there is a widespread discretionary interpretation of vague norms of the law by the staff of the registration authority leading to unlawful claims to NGOs not based on the law provisions, uneven application of the law in different regions, registering authority officials exercising their powers beyond those prescribed by the law, and appropriation by the registering authority officials of functions of other controlling agencies. What procedures exist in the Ministry of Justice to process complaints of NGOs, review implementation practice across the country, train staff of the agency, and

interact with NGO experts? Have there been any staff members of the registering authority who have been disciplined or punished for violation of the law and for unlawful interference, harassment, or intimidation of NGOs?

159. On July 2, 2008 Prime Minister Vladimir Putin signed a decree which annulled the previous list of foreign organizations whose grants to NGOs are tax exempt which contained 111 names. According to the new resolution tax exemptions were maintained for 12 intergovernmental organizations only; all others were to lose this status starting January 1, 2009. After January 1, 2009 any other foreign grant-making organizations would have to be included in the list according to a new procedure and criteria which was to be elaborated by the Government by October 1, 2008, according to the Decree. In addition, the Presidential Decree included the list of thematic fields which can be covered by tax exempt grants, and in contradiction to the Tax Code Art. 251 regulating tax exemptions for NGOs, it did not include human rights – unclear, whether by a mistake or intent. Up to the current moment no document on procedures and criteria has been adopted by the government, reportedly as a result of internal disagreements between different agencies. As a result foreign donors and their Russian NGO recipients are currently in a legal void. Could you please clarify what are the prospects of a speedy adoption of the regulations on the rules and criteria for inclusion in the list of foreign tax-exempt donors? Will the Presidential Decree of July 2, 2008 corrected to bring it in compliance with the Tax Code provision on foreign grants to NGOs?
160. Then President of the Russian Federation Vladimir Putin made several statements in 2006-2007 that he was willing to consider amending the new NGO legislation according to international norms should he be made convinced that the new laws do harm to civil society. Such analysis was provided to the then President in May 2007 by the Presidential Council on the Development of Institutes of Civil Society and Human Rights along with concrete proposals on amending the NGO legislation to bring it in conformity with international norms. In this respect, could you please provide information on whether these or other proposals on amending the NGO legislation have been considered by the Government?
161. Arguments related to national security matters, sovereignty and “impermissible political activities of NGOs” were put forward to justify adoption of the new legislation and strengthen state control of civil society organizations. However, allocation of the registering authority with new powers of control has apparently not led in 2006-2008 to discovery of facts when NGO activities “threatened national security” and/or any major scale illegal actions by NGOs in Russia. Discovered violations have been almost fully limited to irregularities in filling out reporting forms or inaccurate handling of internal documentation. Rare cases of closure of NGOs charged with “extremist activity” are in the domain of the FSB. However, new onerous and ambiguous control and reporting requirements have had negative impact on the development of civil society. Could you please comment on government policy intentions in defining balance between national security interests and provision of effective guarantees to freedom of association?
162. Could you please comment on why a standing invitation to the UN Special Rapporteur on the Situation of Human Rights Defenders to visit the country has not been issued?

163. According to NGO reports, several NGO and civil society activists were murdered in 2003-2008 and several dozen more have experienced violent attacks against them or received death threats, including through web-sites of radical nationalist groups.

Please, provide information about investigation of murders of NGO and civil society activists, and, where applicable, about results of such investigations and judicial decisions.

Please provide information on how many criminal investigations have been initiated upon the complaints of NGO representatives and civil society activists who reported that they had received threats of murder or suffered violent attacks against them? What measures (if any) have been undertaken in order to protect life and security of these NGO members and activists and prevent possible assaults against them?

Article 22 (freedom of association) in the context of problems in application of the counter-extremist legislation

164. The National Bolshevik Party (NBP) was found extremist and banned on the basis of just three episodes: a publication of its former members and two incidents of violence which were obviously insignificant, since criminal charges in both cases were dropped. What are the grounds for a continued ban of this organization?

Article 23 (protection of the family)

To Paragraph 205:

165. The Committee welcomes the special attention to the problems of family declared by the top political leadership of the Russian Federation and appreciates the announcement the year 2008 as the Year of Family which arrangements included a big number of seminars and conferences – as it is informed about in the Report.

In this context, please clarify what practical measures are undertaken or are planned to be undertaken by the State Party to support families with children, in particular families with many children, low income families and families with poor living conditions.

166. Please clarify what measures are undertaken or are planned to be undertaken by the State Party to overcome the consequences of decentralization process in the social service provision resulting in unjustifiable disparities throughout the country in availability and access to social and other services for children.
167. Please provide information on measures undertaken by the State Party to provide support and material assistance to economically disadvantaged families, including targeted programmes with regard to the most vulnerable groups of families, in order to guarantee the right of all children to adequate standard of living.
168. Regarding Article 23, Item 4 of the Covenant, please provide information on what laws and regulations of the Russian Federation guarantee the right of the child to be brought up by his/her biological mother and father in case of divorce of the child's parents. What improvements in the Federal Law are planned for adoption in the State Party in view of the reported mass scale violations of the right of the child to be brought up by both parents even in case of their divorce?

Article 24 (rights of the child)

To para. 206-210

169. The Report refers to the Third Periodic Report of the Russian Federation to the UN Committee on the Rights of the Child (CRC/C/125/Add.5) as a source of information on fulfillment by the State Party of Article 24 of International Covenant on Civil and Political Rights. Meanwhile, the UN Committee on the Rights of the Child in its Concluding Observations (CRC/C/15/Add.274, 30 September 2005) to the named above Russia's Third Periodic Report underlined that State Party did not fulfill a number of previous recommendations of the UN Committee on the Rights of the Child and again repeated these recommendations. In the view of this, please clarify:
170. When the State Party plans to adopt federal laws establishing in the Russian Federation specific federal procedures and courts for juvenile offenders to be dealt with separately under the justice system (the juvenile justice system) which was repeatedly recommended by the UN Committee on the Rights of the Child in the years 1993, 1999 and 2005?
171. Does the State Party plan to ensure full and effective implementation of the minimal standards for the enjoyment of rights of the child in the context of the decentralization of social service provision established by the Federal Law No. 122 (2004) in order to prevent disparities in the enjoyment and protection of children's rights – as it was recommended by the UN Committee on the Rights of the Child in the year 2005?
172. What comprehensive strategy has been adopted and immediate preventive measures have been undertaken to avoid separation of children from their family environment and to reduce the number of children living in institutions as it was recommended by the UN Committee on the Rights of the Child in the year 2005?
173. When the State Party plans to ratify the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption as it was recommended by the UN Committee on the Rights of the Child? The Convention was signed by the President of the Russian Federation in September 2000 and has not been ratified for 9 years after that.
174. In the context of the UN Secretary-General's ongoing in-depth study on the question of violence against children (A/RES/56/138) and the related questionnaire to Governments, please clarify what measures are undertaken or are planned to be undertaken by the State Party to strengthen its efforts to provide adequate assistance to children who are exposed to violence within the family and in institutions and to decrease the level of such violence?
175. What measures are undertaken or are planned to be undertaken by the State Party to address the issue of discrimination against children with disabilities (Item 50 of the UN Committee on the Rights of the Child Concluding Observations, 2005), including measures guaranteeing equal access to services for children living in families and decreasing the placement of children with disabilities in boarding schools with a view to limiting this practice to only those cases where it is in the best interest of the child?

176. What measures are undertaken or are planned to be undertaken by the State Party to provide equal educational opportunities for children with disabilities?
177. Why do the Federal law “On Citizenship of the Russian Federation” No.62-FZ from 31 May 2002 in conjunction with the Federal law “On Legal Status of Foreign Citizens in the Russian Federation” No.115-FZ from 25 July 2002 provide for acquisition of Russian citizenship to children born to stateless parents only if the parents resided legally on Russian territory and envisage no ways for these children to gain a legal status?
178. Why do children born in Russia to parents who have no identity papers get no birth certificates or other papers certifying their personality?

Article 25 (right for participation in state governance, electoral rights)

To paras. 211 – 215

179. Referendum is one of the main forms of direct citizens’ participation in state governance. The conditions for holding a referendum provided for by the Federal Constitutional Law of June 24, 2004 #5-FKZ “On referendum of the Russian Federation” on the basis of citizens’ initiative are deemed by experts non-executable. Is a possibility considered for creating more realistic requirements for holding a referendum which would allow to hold a referendum not only upon initiation by the authorities but also based on the grassroots initiative?

To Para. 216, subparagraph “a”:

180. Extremely strict requirements to signature sheets (no more than 5% of rejected items and consideration of signatures having slight technical deficiencies to be inauthentic), make registration of candidates through submission of signatures possible only in case of benevolent attitude of the electoral committee to the party submitting the documents. Together with the abolition by the State Duma in January 2009 of registration of parties for the elections on the basis of an electoral deposit, could such a procedure result in considerable limitation of passive electoral rights, non-admission to the elections of unwanted candidates and limitation of political competition? What does the Russian government plan to do to address this problem?

To para. 217:

181. Constitution of the Russian Federation (Article 32) established a closed list of limitations on active and passive electoral rights (“Citizens who are declared by the court to be legally incompetent or are held in penitentiary facilities by court decision do not have the right to elect and to be elected”). Does the deprivation of passive electoral rights of persons who have completed serving their prison terms but have criminal record as well as of persons convicted for extremism crimes to punishments without actual imprisonment, comply with the Russian Constitution and Article 25 of the Covenant, ensuring free elections?

To para. 219:

182. What is the motivation for a ban on creation of electoral blocs by political parties as well as abolishment of participation of members of one party in the election lists of another party?

183. What is the purpose of establishment of the 7% electoral threshold, one of the highest in the world?
184. Minimum voter turn-out was abolished, that is the minimum number of voters coming to the polls necessary for the elections to be considered valid. Could this together with simultaneous abolishment of “none of the above” vote lead to a decrease of level of representation of the elected legislative bodies?
185. The unequal starting level for participation of political parties in election campaigns (preference for parliamentary parties while registering the party lists and high possibility of registration refusal for other parties) does not allow claiming that the principle of equal opportunities is maintained for all participants of the election process. How could the Russian authorities comment this problem?
186. The Federal laws of May 18, 2005 #51-FZ and of July 21, 2005 #93-FZ deprived public associations of the right of nominating observers at the elections. At the same time the Ombudsman for Human Rights of the Russian Federation does not have the right to invite international election observers. What is the goal of such limitations?

To para. 221:

187. “Sets for processing ballots” (KOIB) which were created as government contractual work, have been used multiple times at elections of various levels; these sets are essentially scanners for ballots together with mechanisms for recognition and counting. According to the information of the Central Election Commission, a possibility for switching to completely paperless voting technology is being currently considered on the basis of automatic vote counting using sensor mechanisms. Russian legislation regulates application of the procedure of automatic means for voting and vote counting in very general terms only; a more detailed regulation is left upon the instructions of the Central Election Commission of the Russian Federation. The law also permits to forego control manual vote counts. Is there a possibility that such modernization of the procedure would lead to undermining of the principle of transparency of elections?

Article 26 (prohibition of discrimination):

To paras. 231-232

188. How many criminal cases under Article 136 of the RF Criminal Code were commenced and filed to the courts within the reporting period?
189. Why is the notion of “discrimination” determined only in the Criminal Code and only as a violation of rights, liberties and lawful interests of a person rather than in a mode that follows from Russia’s international obligations – as unjustifiable different treatment?
190. In what way can the general legal provisions which declare equality or rights or ban violation of equality in certain areas regulated by a given law be employed practically?
191. What forms of responsibility for discrimination other criminal liability are established by the Russian legislation?

192. Does the Russian government take any preventive measures against discrimination?

Article 27 (minority protection)

To para. 233

193. How can the lack of a comprehensive antidiscriminatory legislation, an overall ban on discrimination and initiatives concerning antidiscriminatory legislation be explained?

To para.234

194. How can one explain that the spheres of activities (which cover only support to languages, education and culture) and, respectively, the rights of “national-cultural autonomies” are restricted in comparison with “ordinary” civic associations and other types of non-profit organizations?
195. Why does the Federal law “On National-cultural Autonomies” No.74-FZ from 17 June 1996 set up a restriction in terms of what ethnic groups are entitled to initiate the NCA establishment? An NCA may be established only on behalf of a group “being a national minority on a respective territory”, and the establishment of multi-ethnic NCAs is not envisaged since 2003.
196. What kinds of mechanisms can NCAs employ to represent their claims and interests before the authorities? How many constituent regions of Russia have consultative bodies on NCA or ethnic minority affairs? How often is the Consultative Committee on NCA affairs under the Russian Ministry for Regional Development convened? Who does set up its agenda, and what are the outputs of its activities? By what means can ethnic minority organizations which are not NCAs represent themselves before the authorities?

To para.235

197. How can one explain why after the 2004 amendments to the Federal law on national-cultural autonomy only one level of governmental financial support remained out of three levels (federal, regional and local) available to NCAs before? What are the quantitative data concerning support of NCAs by public authorities? What is the mechanism of allocation and distribution of public funds granted to ethnic minority protection?

To paras.236-237 (indigenous peoples):

198. Why was the Federal law “On Guarantees of Rights of Numerically Small Indigenous Peoples” No.82-FZ from 30 April 1999 amended in 2004 in a way that the provision of its Article 4, according to which governmental bodies and local self-governments secured the rights of small indigenous peoples “to their own original socio-economic and cultural development and to protection of their traditional habitat, traditional way of life and economic activities” were lifted as well as the guarantees of social welfare and medical aid benefits to indigenous peoples and quotas of their representation in regional and local representative bodies?

199. Is the Federal law “On the Territories of Traditional Nature Exploitation for Numerically Small Indigenous Peoples of the North, Siberia and Far East” No.49-FZ from 7 May 2001 in force still? How many “territories of traditional nature exploitation” have been established to date? How many “communities of numerically small indigenous peoples” have been established in accordance with the Federal law “On General Principles of Organization of Communities of Numerically Small Indigenous Peoples of the North, Siberia and Far East” No.104-FZ from 20 July 2000?

To paras.238-241 (minority languages):

200. By what means are “free development” and usage of minority languages in the place of minorities’ compact settlement secured? In particular, how this is being done in the former autonomous districts merged from 2005 onwards into other constituent regions?
201. Is there any legally binding formal status and specific guarantees granted to educational institutions where minority tongues which are not official languages are being used as a mean of instruction or studied as a subject?
202. How did the abolition of “national and regional standard” in primary and secondary school curricula in 2007 affect the teaching of minority languages?