Committee against Torture

Concluding observations on the fifth periodic report of the Russian Federation

Addendum

Information received from the Russian Federation on follow-up to the concluding observations*

[25 October 2013]

* The present document is being issued without formal editing.
Comments on paragraphs 11, 12 and 16 of the concluding observations of the Committee against Torture on the fifth periodic report of the Russian Federation on implementation of the provisions of the Convention

Paragraph 11

1. As stipulated by article 16, paragraph 1 (1), of Federal Act No. 76-FZ of 10 June 2008 on Public Oversight of Respect for Human Rights in Places of Forced Detention and on Assistance to Inmates of Places of Forced Detention, teams of no fewer than two members of Public Oversight Committees (POCs) may visit places of detention for monitoring purposes with no need for special permission, in line with the procedures established by the competent federal authorities for visits to such facilities and in compliance with the internal regulations of the place of detention in question.

2. In accordance with paragraph 4 of the Regulations Governing Visits to Establishments of the Penal Correction System by Members of Public Oversight Committees, as set forth in Federal Penal Corrections Service Decree No. 652 of 28 November 2008 on planned visits to such facilities, the committee must notify the Service’s competent local agency of its intention to visit places of detention, specifying planned dates and times.

3. In the Federal Penal Corrections Service branches in Irkutsk and Sverdlovsk provinces, POC members were prevented from exercising their mandates by the directors of correctional facilities, who had not been apprised of the relevant legislative requirements and regulations.

4. Following internal investigations carried out on this matter, six Federal Penal Corrections Service staff members were disciplined in 2012.

5. POC members work on a voluntary basis (article 12, paragraph 1, of the Federal Act mentioned above).

6. Under article 9, paragraph 1, of the Act, voluntary associations that successfully nominate candidates for appointment to POCs are required to reimburse expenses incurred by them in fulfilment of their mandates and to provide the relevant POC with logistical support and information.

7. Under article 10, paragraph 6, of the Act, the decision on whether to accept or reject the nomination of a POC member rests with the Council of the Social Forum of the Russian Federation.

8. Under article 15, paragraph 1, of the Act, POCs must forward reports on their monitoring activities to the Human Rights Ombudsman and the corresponding regional human rights ombudsman, the Social Forum and its regional counterparts, voluntary associations that have nominated candidates for POC membership, the media, the relevant federal and regional authorities, local authorities and other competent State authorities or their officials. In cases where the monitoring of inmates’ rights includes places of detention where minors, pregnant women and women raising their children in prison nurseries are held, reports are also sent to the Ombudsman for Children’s Rights in the Office of the President and to the equivalent regional bodies in those territories where the monitoring took place.

9. Visits by members of POCs to places of detention run by the Ministry of Internal Affairs are regulated by Ministerial Decree No. 196 of 6 March 2009.
10. Local offices of the Ministry are in contact at the regional level with POCs, with which they conduct joint inspections of places of detention.

11. On the instructions of the Federal Penal Corrections Service, and with a view to forestalling breaches by prison staff of regulations governing access to facilities by POC members, courses on Federal Act No. 76 were held in 2012 for prison staff at the local level.

12. Under a joint project run by the Directorate of Human Rights and Antidiscrimination of the Council of Europe and the Human Rights Ombudsman, staff of the Federal Penal Corrections Service and its regional bodies as well as assistant directors of the Service’s local offices that deal with human rights in the penitentiary system regularly attend seminars on support for the work of POCs.

13. In the first half of 2013, they took part in two such seminars, one held from 16 to 17 April in Krasnoyarsk, on human rights in detention and the right of persons held in custody to medical care, and another, held from 25 to 26 April in Khabarovsk, on the right of persons held in detention to medical care and voluntary medical insurance. They also participated in two round table discussions, held on 14 June 2013 in Rostov-on-Don, on the provision of passports and Russian citizenship to persons serving prison terms in the Southern Federal Area and on the social rehabilitation of convicts.

14. In order to raise the profile of the assistant directors responsible for upholding human rights in the penitentiary system, the director of the Federal Penal Corrections Service issued an instruction under which the role of the assistant directors of its regional offices was expanded to give them responsibility for cooperation with civil society organizations.

15. The Service has adopted organizational and regulatory measures to improve the conditions of detention for persons being held in remand centres and to ameliorate the provision of everyday material necessities and health care for them.

16. When a regional office of the Federal Penal Corrections Service receives recommendations by a POC arising from its inspection of prison facilities and containing information pertaining to violations of the law, an inquiry is carried out and steps are taken to ensure that such violations do not reoccur.

17. With regard to safeguarding the rights of persons involved in criminal proceedings, the law contains sufficient guarantees to uphold the rights of the accused throughout the entire judicial process and in the selection of a restraining measure.

18. In particular, article 108 of the Code of Criminal Procedure sets forth clear guidelines and grounds for detention. For instance, where remand in custody is deemed necessary, the person conducting the initial inquiry, with the consent of the head of the investigative body or of the procurator, files the appropriate application with the court. The application should set out the reasons and grounds rendering such a measure necessary for a particular suspect or accused person and explain why alternative measures of restraint are not viable. The application is accompanied by material substantiating the grounds for the application.

19. Moreover, the court may not hand down a ruling to apply the most rigorous measure of restraint — incarceration — without considering evidence submitted by the prosecution and the defence regarding the presence or absence of grounds for applying such measures.

20. A fundamental rule in criminal proceedings is that the investigator makes a considered assessment of all the available evidence in the case, in which he or she is firmly guided by the law. This legal precept precludes investigators, procurators and courts from making arbitrary assessments of the evidence.
21. In addition, it guards the court, investigator or anyone else conducting criminal proceedings from any external pressure whatsoever to take a particular decision.

22. Breaches resulting from failure to comply with these obligations may be redressed through complaints or requests for judicial review of the lawfulness and validity of actions undertaken or not carried out by the team of investigators, the procurator or the court.

23. With regard to the right of the accused to petition for disqualification of an investigator, it should be noted that a whole chapter of the Code of Criminal Procedure provides a sufficiently broad list of circumstances under which a judge, procurator, investigator or person conducting an inquiry may be barred from participating in criminal proceedings.

24. Article 61, paragraph 2, of the Code, on circumstances precluding participation in criminal proceedings, refers to the right to request the disqualification of such persons in the event of circumstances that suggest that they may have a personal stake, whether direct or indirect, in the outcome of the criminal case in question.

25. It is therefore clear that the law allows for the disqualification of any persons involved in criminal proceedings, particularly where there is substantiated evidence of their lack of objectivity.

26. The right to appeal the decisions and actions or omissions of officials in pretrial proceedings is laid down in article 46 of the Constitution as a guarantee of the judicial protection of civil rights and freedoms in criminal proceedings.

27. In addition, based on the general provisions of the legislation on criminal procedure, the consideration by the courts of complaints under article 125 of the Code of Criminal Procedure takes place in open court and under the adversarial system of justice.

28. When reviewing the lawfulness of decisions and actions or omissions by officials in response to a claimant’s demand to rectify infringements of civil rights and freedoms, a judge may demand the submission of any evidence that may help to reach a properly substantiated verdict.

29. The law therefore places no obstacles or restrictions in the way of judicial appeal. In fact, it must be said that judicial control over the actions and omissions of officials involved in criminal proceedings has been strengthened.

30. The foregoing considerations demonstrate that the law in the Russian Federation currently safeguards the constitutional rights and freedoms of citizens in criminal proceedings and gives them the means to protect these rights.

31. The procedure for consideration by Government and local administrations and officials of the conclusions, proposals and appeals submitted by POCs is regulated by the Act on Civil Monitoring.

32. These institutions and officials examine the conclusions, proposals and appeals addressed to them by the POC and inform it of the outcome of their deliberations as provided for under the law.

33. On 24 November 2009, the Preobrazhensky district investigation agency, a unit of the investigation department under the Investigative Committee attached to the Office of the Procurator of the Russian Federation for Moscow, initiated criminal proceedings for offences under article 293, paragraph 2 (Negligence), and article 124, paragraph 2 (Failure to aid a sick person), of the Criminal Code in connection with the death in custody of S.L. Magnitsky in Federal Penal Corrections Service Remand Centre No. 1 in Moscow.

34. On 18 July 2011, the central investigation department of the Investigative Committee of the Russian Federation launched criminal case No. 201/366795-10 against
two former staff members of Federal Penal Corrections Service Remand Centre No. 2: D.B. Kratov, the former deputy chief of the centre’s medical treatment and prevention unit, and L.A. Litvinova, former head of the centre’s therapy department. Ms. Litvinova was charged with offences under Criminal Code article 109, paragraph 2 (Infliction of death by negligence due to improper performance of professional duties), and Mr. Kratov was charged under article 293, paragraph 2 (Negligence leading to death).

35. The case against Ms. Litvinova was discontinued upon expiration of the statute of limitations. On 29 December 2012, in Tver District Court in Moscow, Mr. Kratov was acquitted of the criminal charges against him for lack of evidence.

36. All due diligence was exercised during the investigation to verify allegations by N.N. Magnitskaya, her representatives and human rights organizations regarding the involvement in Mr. Magnitsky’s death of law enforcement officials.

37. It was found that Mr. Magnitsky’s arrest, the decision to charge and remand him in custody and the extension of the period of his detention in custody were performed lawfully and with sufficient grounds.

38. Allegations that the prosecution of Mr. Magnitsky was conducted unlawfully and motivated by the private interests of Ministry of Internal Affairs employees O.F. Silchenko, P.A. Karpov, A.K. Kuznetsov and others, whose involvement in the large-scale misappropriation of State funds Mr. Magnitsky had allegedly exposed, were found to be without objective basis.

39. Allegations that Mr. Magnitsky’s transfer from one remand centre to another and from one cell to another within the same remand centre had been carried out in order to exert pressure on him were unsubstantiated.

40. In the absence of objective evidence linking the cause of Mr. Magnitsky’s death to actions by law enforcement officials, on 19 March 2013, the central investigation department of the Investigative Committee decided to discontinue criminal proceedings in accordance with article 24, paragraph 1 (1), of the Code of Criminal Procedure, in view of the lack of evidence of a crime. There are no grounds for resuming pretrial investigations.

41. Moreover, as a result of the inquiry into the circumstances of Mr. Magnitsky’s death, the director of the Federal Penal Corrections Service relieved the heads of the Service’s Moscow office and of the remand centre, in which Mr. Magnitsky was held, of their duties and disciplined and dismissed a number of its staff members. Mr. Karpov, an investigator in the central investigation department of the Ministry of Internal Affairs in Moscow, and Mr. Kuznetsov, a departmental head in the Ministry, were relieved of their duties at their own request.

42. At the same time, V.A. Markelov and V.G. Khlebnikov, who, together with Mr. Magnitsky and V.N. Kurochin, S.M. Korobeinikov and O.G. Gasanov unlawfully organized a tax rebate of 5,409,503,006 roubles in December 2007, were sentenced to long terms of imprisonment.

43. As a result of his death on 16 November 2009, criminal proceedings against Mr. Magnitsky under article 199, paragraph 2 (corporate tax and/or fee evasion), of the Criminal Code were discontinued on 27 November 2009. However, the consent of family members required for the termination of criminal proceedings in such situations, in accordance with Decision No. 16-P handed down by the Constitutional Court on 14 July 2011, was not forthcoming.

44. In this context, and following an appeal to the Office of the Procurator by relatives of Mr. Magnitsky and their lawyers contesting the findings of investigators regarding his guilt and demanding his rehabilitation, the decision to discontinue criminal proceedings in
line with article 79 of the Constitutional Court Act was reviewed and duly reversed by the Procurator. The criminal proceedings against Mr. Magnitsky were transferred to Tver District Court in Moscow, which on 11 July 2013 found him guilty as charged.

45. The prosecution of Mr. Magnitsky was discontinued in accordance with article 24, paragraph 1 (4), of the Code of Criminal Procedure, in other words, because of the accused’s death, but in order to address his relatives’ request regarding his rehabilitation, that decision was overturned. Mr. Magnitsky was subsequently found guilty of two offences under Criminal Code articles 33, paragraph 3 (Complicity in or organization of a crime), and 199, paragraph 2 (a) and (b) (Corporate tax and/or fee evasion).

46. On the Committee’s concerns about reports regarding the prosecution of Alexei Sokolov, a former member of the Moscow POC, the facts are as follows.

47. In a decision by Bogdanovichesky City Court in Sverdlovsk province on 13 May 2010, as amended in cassation by the criminal chamber of the Sverdlovsk Provincial Court, Mr. Sokolov was found guilty of theft under article 161, paragraph 3 (a), of the Criminal Code and sentenced to 3 years’ imprisonment. The sentence has entered into force. The facts of the theft were established and the criminal proceedings against Mr. Sokolov were conducted in accordance with the law.

Paragraph 12

Subparagraphs (a) and (b)

On amending the legislation requiring non-profit organizations that receive financial assistance from abroad to register as foreign agents

48. In accordance with article 2, paragraph 6, of Federal Act No. 7-FZ, of 12 January 2012, on non-profit organizations, Russian non-profit organizations are considered to be foreign agents when they receive funds or other resources from foreign governments or their agencies, international and foreign organizations, foreign citizens, stateless persons or their authorized representatives, and/or from Russian legal entities that receive funds or other resources from the above-mentioned sources, and are politically active, inter alia, in the interests of foreign sources, in the territory of the Russian Federation. Under the terms of the Act, activities in the areas of science, culture, the arts, health care and the provision of medical and preventive treatment, social support and protection, motherhood and childhood protection, social support for persons with disabilities, promotion of healthy lifestyles, physical culture and sports, the protection of flora and fauna, charitable works and efforts to promote charity and volunteer work do not constitute political activities.

49. The legal definition of “foreign agent” thus does not affect the provision of support to non-profit organizations involved in different types of social work such as environmental conservation, safeguarding the rights of persons with disabilities, prisoners, the elderly and the homeless, and other similar activities.

50. With regard to repealing amendments to the Criminal Code in 2012 that “expanded the definition of State treason” and preventing prosecution of persons who communicate with or provide information to the Committee against Torture and other human rights organizations, the following should be noted.

51. Under article 275 of the Criminal Code, the following acts committed by citizens of the Russian Federation constitute high treason: espionage; the provision to a foreign government or an international or foreign organization or representatives thereof of State secrets or information entrusted to or known to them through their service, employment or research positions, or in any other way provided for under the law; or the provision of financial, logistical, advisory or other assistance to a foreign government or an international
or foreign organization or representatives thereof in carrying out activities that pose a threat to the security of the Russian Federation.

52. These amendments to the Criminal Code have clarified the individual criminal offences that constitute high treason, thereby allowing law enforcement officials to avoid ambiguities in their interpretation of the law. Concerns about the possible use of this legislation to prosecute persons who cooperate with international organizations are unfounded and do not correspond to the actual terms of the legislation, which does not prohibit “the sharing of information on the human rights situation in the Russian Federation with the Committee or other United Nations human rights organs”.

53. Considerable efforts are being made to protect journalists and to monitor more closely the investigation of crimes committed against them. Following the recent upsurge in attempts to assassinate members of the media, the Office of the Procurator-General has, in line with Presidential Order No. 247-PR of 11 February 2013, prepared legislative proposals on this subject which it has submitted to the Ministry of Internal Affairs and the Secretary of the Security Council of the Russian Federation. Under the proposals, article 144 of the Criminal Code, which deals with obstructing the performance by journalists of their lawful professional activities, would be amended to specifically criminalize attempts to assassinate journalists and their close relatives because of their performance of their professional duties.

Subparagraph (c)

On bringing to justice those responsible for the killings of Anna Politkovskaya and Natalya Estemirova and the beating of Sapiyat Magomedova

54. Criminal proceedings under article 105, paragraph 2 (b), of the Criminal Code are under way for the murder of Anna Politkovskaya, columnist for the newspaper Novaya Gazeta.

55. Criminal charges were brought against R.R. Makhmudov, D.R. Makhmudov, I.R. Makhmudov and S.G. Khadzhikurbanov. The murder was committed by R.R. Makhmudov. He was arrested in the Chechen Republic on 31 May 2011 and, on 2 July of the same year, he was charged with a series of offences, including the murder of Ms. Politkovskaya (article 105, paragraph 2 (b), (g) and (h), of the Criminal Code: murder of persons or their relatives in connection with the conduct of their professional activities or discharge of public duties, committed by a group of individuals, a group of individuals by prior conspiracy or an organized group acting in its own interests or on behalf of others, including when accompanied by robbery, extortion or banditry).

56. S.G. Khadzhikurbanov, D.R. Makhmudov, I.R. Makhmudov and L.-A.A. Gaitukaev were also indicted under article 105, paragraph 2 (b), (g) and (h). They have pleaded not guilty and the criminal trial continues.

57. In accordance with articles 91 and 92 of the Code of Criminal Procedure (Grounds and procedures for arresting suspects), D.Y. Pavlyuchenkov was arrested on 23 August 2011, remanded in custody three days later and charged with offences under Criminal Code article 105, paragraph 2 (b), (g) and (h), on 2 September 2011.

58. On 31 May 2012, the Basman District Court in Moscow ordered the conversion of the measures of restraint imposed on Mr. Pavlyuchenkov into house arrest, in light of his full admission of guilt and active cooperation with investigators in their efforts to establish the facts of the case, whereby he provided detailed information regarding the circumstances of the journalist’s murder.
59. The Moscow City Court ruled that Mr. Pavlyuchenkov was guilty of being an accessory to the crime and sentenced him to 11 years’ imprisonment.

60. On 15 July 2009, an inquiry was launched into the kidnapping and murder, that very day, of Natalya Estemirova, a member of the Memorial Human Rights Centre. The inquiry was conducted by the investigation department under the Investigative Committee attached to the Office of the Procurator for the Chechen Republic, under Criminal Code articles 126, paragraph 2 (a) and (c), 105, paragraph 1 (Kidnapping and murder) and 222, paragraph 1 (Illegal acquisition, transfer, sale, storage, transport or possession of firearms or their component parts, munitions or explosive substances or devices).

61. On 16 July 2009, the case was transferred to the central investigation department of the Investigative Committee for the North Caucasus Federal Area for further investigation.

62. The criminal investigation is being supervised by the Office of the Procurator-General of the Russian Federation in the North Caucasus Federal Area.

63. On 25 June 2010, the investigation department of the Investigative Committee of the Russian Federation for the Republic of Dagestan received a complaint from Ms. Sapiyat Magomedova, a lawyer with the A.S. Omarov and Partners law firm, alleging that she had been assaulted by personnel of the Khasavyurt city police station in the Republic of Dagestan.

64. The special inquiries unit of the investigation department of the Investigative Committee opened an inquiry into the matter, as a result of which criminal proceedings were launched on 1 July 2010 under article 286, paragraph 3 (a), of the Criminal Code (Abuse of authority).

65. The inquiry established that on 17 June 2010, Ms. Magomedova arrived at the Khasavyurt city police station in her capacity as counsel for M.L. Evtemirova, who was being investigated for offences under article 161, paragraph 2 (a), (c) and (d), of the Criminal Code (Robbery carried out by a group of persons by prior conspiracy or with the use or threat of use of force not endangering life or health). Ms. Evtemirova had been brought to the station that day by B.M. Magdiev, B.M. Molaev, A.Y. Yusupov and other members of the special company of the Police Patrol and Inspection Service in Khasavyurt.

66. Ms. Magomedova, disregarding security arrangements, headed for the administration building of the police station. When police officers attempted to stop her and accompany her back to the checkpoint, Ms. Magomedova began to insult them publicly in front of civilians and in a manner offensive to their honour and dignity, tore the epaulettes from the uniform tunic of one officer and ripped off the collar of another officer’s T-shirt, badly scratching his chest in the process. When questioned, police officers Magdiev and Molaev, along with 13 other witnesses, including civilians, stated that Ms. Magomedova had insulted police officers and grabbed one of them by his police uniform. The officers did not use force on Ms. Magomedova. Rather, she was injured when she lost her balance and fell to the pavement as she attempted to strike an officer with her handbag.

67. Ms. Magomedova’s allegations were backed up only by her relatives and friends, who were not present at the time of the incident and only had her version of what took place. Nevertheless, two officials of the Khasavyurt police station were charged with abuse of authority under article 286, paragraph 3 (a), of the Criminal Code and sent for trial.

68. On 1 July 2011, Ms. Magomedova was charged with assaulting and publicly insulting police officers and also sent for trial.

69. Upon examining the two matters, the courts returned them to the Office of the Procurator in accordance with article 237 of the Code of Criminal Procedure and ordered that they be presented as a single case. On 26 December 2011, the two criminal cases were
combined. On 28 December 2011, the police investigator of the investigation department of the Investigative Committee of the Russian Federation for the Republic of Dagestan dropped the charges against both the police officers and Ms. Magomedova, in accordance with article 24, paragraph 1 (2), of the Code of Criminal Procedure, on the grounds of absence of material evidence of a crime.

70. The decision by the Office of the Procurator of the Republic of Dagestan was deemed lawful, given that the available evidence of guilt, both in the case of the police officers and Ms. Magomedova, was inadequate and based solely on witnesses’ statements. It proved impossible to establish a true picture of what had occurred between the police officers and Ms. Magomedova, given that all avenues for gathering additional evidence had been exhausted.

**Paragraph 16**

71. In order to more effectively combat violence in the armed forces and prevent deaths and injuries among servicemen and women, Order No. 66 of the Deputy Procurator-General of the Russian Federation and Chief Military Procurator on monitoring the application of the law to ensure safe conditions of military service was issued on 29 May 2012 and is being effectively applied. The order sets forth a package of system-wide measures aimed at preventing violent crime and other unlawful activities, such as hazing, in the Armed Forces of the Russian Federation and among other troops, military formations and agencies.

72. Under the decree, compliance by commanding officers with the law on ensuring safe conditions of military service is reviewed by the procurator, independently of the investigation of criminal cases or preliminary inquiries into the death or injury of military personnel. During such reviews, the reliability of reports of deaths and injuries among military personnel and the timeliness and objectivity of the corresponding inquiries are evaluated. The Office of the Procurator acts on breaches of the law, taking steps to restore the legal rights and defend the interests of military personnel (and where necessary of members of their families) and taking appropriate legal action against officials directly responsible for injury to members of the military and against high-ranking officials who fail to take active measures to ensure safe conditions of military service. Where necessary, spot checks are conducted. An overview of the structure and trends in cases involving the death or injury of military personnel provides a picture of which military units and institutions are problematic in this regard. In the light of this information, monitoring activities are conducted with the help of specialists and measures are determined to prevent non-combatant casualties and to tighten surveillance by the Office of the Procurator. Military procurators or their deputies personally verify the lawfulness and validity of procedural decisions not to institute criminal proceedings or to discontinue such proceedings in cases involving death or serious injury to military personnel.

73. Bearing in mind the importance of preventing and combating violent crime by members of the military and the need for joint action by military command structures to eradicate the causes and conditions that encourage these unfortunate situations, in 2000, at a coordination meeting of the heads of law enforcement agencies combating crime in the Armed Forces of the Russian Federation and among other troops, military formations and agencies under the Deputy Procurator-General of the Russian Federation and Chief Military Procurator, which was attended by the heads of ministries and departments legally responsible for military units, it was decided to establish an interdepartmental task force to combat harassment, assault and other violent crimes in military units. The members of the task force include personnel of the Office of the Chief Military Procurator, representatives of the central military investigation department of the Investigative Committee of the Russian Federation and members of the military command. The task force monitors the
state of law and order in the Armed Forces, develops measures to combat violent crime among military personnel and assesses the effectiveness of actions taken by commanding officers to prevent such offences. Members of the group conduct scheduled inspections of the military units, institutions and garrisons that are the least satisfactory in terms of military discipline and law and order. Military procurators conduct legal training classes in which members of the military are acquainted with the implications under criminal law of crimes committed in military service.

74. Joint standing task forces with similar mandates have been set up in the offices of military procurators at the district level.

75. Twice a year, meetings are held in the Office of the Chief Military Procurator to discuss progress in efforts to prevent violent crime among military personnel.

76. In 2012, pursuant to their mandate, military procurators carried out 7,913 checks on protection of the lives and health of members of the Armed Forces, which revealed 7,894 violations of the law. In 3,252 instances, military officials were ordered to desist from unlawful activity, and 824 warnings were issued about inadmissible violations of the law. As a result of the consideration of documentation arising from actions by the procurators, the rights of more than 125,000 servicemen and women were restored, more than 3,200 officers were disciplined and 2,013 criminal cases were launched.

77. Paragraph 6 of Order No. 84, issued on 7 May 2008 by the Procurator-General, on the jurisdictional boundaries between territorial, military and other specialized procurators, stipulates that military procurators, assuming the role of bodies conducting inquiries into offences committed by military personnel at all stages of criminal proceedings from the time reports are received that an unlawful act has been committed, are responsible for supervising the conduct of proceedings by the military investigative bodies of the Investigative Committee of the Russian Federation and by military commanders. This work is carried out within the confines of the law and with due diligence so as to ensure the prompt and impartial investigation of all violent crimes involving military personnel. All reports of violent crime, including cases involving the death of conscripts, result in the launching of criminal proceedings.

78. On the whole, the criminal prosecution of military personnel for harassment and assault is conducted properly, as can be seen from an analysis of the current situation regarding oversight of the work of pretrial investigative bodies. In accordance with article 73, paragraph 2, of the Code of Criminal Procedure, on circumstances subject to proof, when investigating offences, the military investigative agencies also seek to establish the circumstances that enabled such offences to take place. Upon completion of the preliminary investigation, the nature of the liability (disciplinary or criminal) on the part of officers who allowed harassment or assaults to be committed is addressed.

79. The proper investigation of all cases of violence (hazing), ill-treatment or abuse in military units and of the death of members of the Armed Forces is thus guaranteed.

80. The joint efforts of the law enforcement agencies and the military high command have brought about a fall from 1,911 to 1,426 in the number of offences arising from harassment between military personnel of equivalent rank (articles 335 and 336, paragraph 1, of the Criminal Code, misconduct by military personnel of the same rank and insulting members of the Armed Forces); from 1,314 to 1,124 of assault carried out by superiors on subordinates (article 286, on abuse of authority); and from 338 to 226 in cases of insubordination (articles 332–334, on the failure to obey orders, insubordination against superior officers and acts compelling them to violate military discipline; and article 336, paragraph 2).
81. The number of such unlawful acts as a proportion of the overall catalogue of offences committed by military personnel fell in comparison with the previous year and amounted to one quarter of all reported criminal acts. The number of victims of harassment and assault last year fell from 3,524 to 2,783.

82. Those found guilty of harassment or assault are duly punished in accordance with current provisions of the law.

83. In all, 2,124 persons were convicted by the courts last year for the offences of harassment, assault and violent acts carried out against superiors. More than half (1,127 persons) received prison sentences, 883 of which were suspended; 275 were sentenced to detention in military disciplinary units, and 722 had military service restrictions imposed on them or were fined. In addition, 10 servicemen were stripped of their ranks for such offences.

84. Bearing in mind that the offences set forth in the first paragraphs of articles 286 and 335 of the Criminal Code are not considered serious crimes and that the punishment applicable is generally mitigated by such circumstances as the fact that the perpetrators come forward freely with an admission of their guilt, actively assist in the uncovering and investigation of the crime, provide the victim with medical and other assistance immediately after committing the offence, voluntarily make good the material loss and moral damage incurred and otherwise act to compensate for the harm caused, in many cases the courts hand down sentences other than deprivation of liberty or apply the provisions of article 73 of the Code of Criminal Procedure regarding suspended prison sentences.

85. Under article 51 of the Federal Act on Military Duty and Military Service, any conscript who commits a violent crime and is sentenced to a prison term is liable to dishonourable discharge when that sentence enters into force, while professional military personnel sentenced to prison terms, including suspended sentences, for premeditated offences, face discharge immediately upon sentencing. The law as it currently stands does not provide for the dismissal from military service of persons who incur other penalties. However, in the majority of cases the high command has the final word on whether to dismiss the officers who have committed such offences. Moreover, with a view to raising the standard of recruits for compulsory military service, persons who have not yet served out an existing criminal sentence are excluded from such recruitment, in line with article 23, paragraph 1, of the Act.

86. Victims of offences by military personnel are entitled to medical and psychological assistance free of charge in departmental health-care facilities, while compensation for material loss and moral damage is made in line with the provisions of the criminal and civil procedural legislation and paid for either by the guilty party or out of State funds.

87. The work of agencies of the military procurator to combat violent breaches of the law is conducted openly. Results of investigations into crimes that have achieved particular notoriety are publicized in the media and in the “News” section of the Office of the Chief Military Procurator’s official website. The portal also allows military personnel and other persons to file online complaints with the Office relating to unlawful acts.

88. In order to address shortcomings, resolve problems as they arise and increase the effectiveness of efforts by military procurators, investigative agencies and military officials to ensure safe conditions of military service and to prevent harassment and violent crime in military units, other initiatives tailored to specific situations are also planned and carried out.

89. Efforts to prevent violent crime in the military forces of the Ministry of Internal Affairs are conducted in accordance with Order No. 405, issued by the commander-in-chief
of the Ministry’s military forces on 24 November 2009, on measures to step up the prevention of harassment in such units.

90. With a view to coordinating efforts to combat harassment, the interdepartmental task force to combat harassment, assault and other violent crimes has developed a workplan and is implementing it in conjunction with the Office of the Chief Military Procurator.

91. The results of efforts by the military leadership to maintain military discipline and order are examined annually at meetings of the military council of the central command of military forces attached to the Ministry of Internal Affairs. During these meetings, which are attended by representatives of the executive and legislative branches of government, individual assessments are made of initiatives undertaken by officials to maintain order in the units under their command.

92. In order to attack the root causes and prevent situations that give rise to violent crime among servicemen and women and conflicts in military units, psychological research was carried out in 2012 in the regional command centres of the Ministry’s military forces. The conclusions of that research formed the basis for a comprehensive plan for 2013 to 2014 for the maintenance of military discipline and order in the military forces of the Ministry.

93. Measures taken in the current year in the Ministry’s military forces have led to a 58.4 per cent reduction in the number of breaches of statutory regulations regarding relations between members of those forces compared with the same period in the previous year. Moreover, in the past three years there have been no reports of the death of members of the military forces from assault involving breaches of statutory regulations governing relations between servicemen and women or abuse of authority.