



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

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Summary record of the first part (public)* of the 1112th meeting

Held at the Palais Wilson, Geneva, on Friday, 9 November 2012, at 10 a.m.

Chairperson: Mr. Grossman

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* No summary record was prepared for the second part (closed) of the meeting.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Fifth periodic report of the Russian Federation (CAT/C/RUS/5; CAT/C/RUS/Q/5; HRI/CORE/1/Add.52/Rev.1)

1. *At the invitation of the Chairperson, the Russian delegation took places at the Committee table.*
2. **Mr. Matyushkin** (Russian Federation), reviewing the main developments since the submission of the State party report in December 2010, said that the Russian authorities had continued efforts to remedy overcrowding in remand centres (SIZOs) and prisons, in particular by adopting new legal provisions with a view to reducing recourse to pretrial detention and custodial sentences. In 2011, the number of judicial decisions to remand a suspect in custody had decreased by more than 25 per cent in comparison with 2009 and more than 40 per cent in comparison with 2007. Since 2011, more than 36,000 persons had been sentenced to deprivation of liberty, a new alternative penalty introduced in 2010 whereby it was forbidden to leave home at certain hours of the day or take part in public demonstrations without authorization. Furthermore, judges handed down custodial sentences less frequently. In 2011, the number of persons sentenced to imprisonment had decreased by 20 per cent in comparison with 2009 and by almost 25 per cent in comparison with 2007.
3. A series of measures to improve detention conditions had been taken, including the Outline for the development of the penal correction system and the strategic federal programme for the reform of the penal correction system under which more than 9,000 additional places had been created in remand centres. At present, the average area per inmate exceeded the standard established in the national legislation, which was four square metres.
4. In order to combat the impunity of perpetrators of acts of torture committed during questioning, a special department had been created within the Investigative Committee, an independent body responsible for conducting preliminary criminal investigations, to investigate allegations of the illegal use of force by the police.
5. A substantial reform of departments that dealt with home affairs was under way. The Police Act had been adopted in 2011, following broad consultations. The Act provided for procedural safeguards to ensure that law enforcement services respected human rights and freedoms and that police activities were overseen by civil society.
6. Oversight committees empowered to visit places of detention had been established pursuant to a law adopted in 2008. Those committees, which had a total of 700 members, conducted more than 1,500 visits annually. They did not require authorization to visit a place of detention. In 2010, a legal protection mechanism against undue procedural delays had been established and its effectiveness had been recognized in 2011 by the European Court of Human Rights.
7. **Ms. Gaer** (Country Rapporteur) noted with satisfaction that the State party had chosen the optional reporting procedure but regretted that the dialogue was taking place two years after submission of the report since the oral consideration, initially scheduled for May 2012, had been postponed at the request of the Russian authorities.
8. With regard to basic safeguards for the protection of the rights of suspects, she wished to know whether the State party envisaged taking measures whereby persons who had been arrested could notify a member of their family themselves and whereby lawyers would no longer be required to obtain authorization from the investigating authorities in

order to contact a client in a temporary detention centre (IVS) or a remand centre. Furthermore, she would like to know whether police officers had been subject to disciplinary sanctions for having refused a suspect the right to consult a lawyer, whether all questioning was filmed, whether investigators and lawyers could obtain the video recordings and, if not, for what reasons. More detailed information on the monthly visits by prosecutors to temporary detention centres and their quarterly visits to prisons would be useful. It would also be interesting to know whether violations of the Convention had been uncovered during those inspections and, if so, what action had been taken to remedy them and punish those responsible. In particular, had action been taken pursuant to the decision of the ECHR mentioned in paragraph 85 of the report to prosecute those responsible for the violations that had been observed?

9. It would be helpful if the delegation could provide statistics on the number of violations of the Convention identified by the Ombudsman in the course of inspecting places of detention. Moreover, she asked the delegation to indicate whether additional resources could be allocated to regional ombudsmen so that they no longer depended upon the goodwill of regional government authorities in order to visit detention centres in remote areas. She further asked the delegation to indicate whether the federal authorities envisaged allocating funds to the 78 oversight committees created under the relevant Act of 2008, so that they could effectively discharge their duties, and whether measures could be taken to ensure that the members of those committees were appointed by an independent institution, such as the Ombudsman. In view of the fact that a number of committee members had been refused access on various pretexts to some places of detention, particularly in Sverdlovsk, Rostov, Nijni Novgorod and Moscow, she requested information on the measures taken to eliminate the obstacles that prevented committees from discharging their mandate. Moreover, she wished to know whether an investigation had been launched into the case of Alexey Sokolov, a member of an oversight committee in the Sverdlovsk region who, having denounced violations of the Convention in places of detention, had been arrested and convicted on the basis of fabricated evidence. She asked to whom the reports of the oversight committees were forwarded for action and asked the delegation to provide statistics on the number of cases of torture and ill-treatment reported by the committees which had given rise to criminal investigations and prosecutions, in addition to the outcomes of those cases. Moreover, she invited the delegation to provide information on the case of Leonid Razvozzhaev, a Russian national who had disappeared in Ukraine while applying for asylum there and who had been handed over to the Russian authorities and tortured. Had that case been investigated? With regard to the case of Serguei Magnitsky, a lawyer who had died in preventive detention in 2009, she would like to know why the family members of the deceased had not yet been authorized to obtain access to the material elements of the case that they needed in order to conduct forensic examinations and why the competent bodies had taken so long to launch an investigation into his death. In addition, she would like to know how many investigations had been launched at the request of the Commissioner for Human Rights, Vladimir Lukin.

10. The State party had provided a number of statistics on complaints lodged by detainees against prison staff in its comments on the Committee's concluding observations in respect of its fourth periodic report (CAT/C/RUS/CO/4/Add.1). She asked the delegation to supplement that information with statistics on allegations of torture and ill-treatment involving members of the security forces and Ministry of Interior staff. It would also be helpful if the delegation could explain the striking contrast between the high number of complaints and the very low number of prosecutions resulting from those complaints.

11. She would like to know how many investigations into cases of torture had been opened at the request of the Office of the Ombudsman. According to some sources, the Ombudsman had failed to convince the public prosecutor in the Irkutsk region to launch an

investigation into alleged acts of torture in remand centre No. 1. Could the delegation provide further information on that case?

12. She noted that detailed statistics provided by the State party related to complaints against prison staff and not against the police. Data on complaints against police officers would be welcome. The delegation was also invited to account for the significant gap between the number of complaints and the number of prosecutions.

13. She would like to know how the work of investigators was supervised and whether some had already been subject to penalties for failure to investigate, in view of the fact that close to half of the cases heard by the European Court of Human Rights involving failure to respect the obligation to investigate related to the Russian Federation. She asked whether the State party intended to strengthen the Investigative Committee, which, in theory, should deal with thousands of complaints and had a staff of 60 for the entire country. Data on the activities of that body would be welcome. In addition, she invited the delegation to provide examples of cases in which evidence obtained under torture had been dismissed by the courts.

14. With regard to the situation in the North Caucasus, she would like to have further information on the security measures taken and the investigations conducted into disappearances or abductions. She would also like to know the schedule for the publication by the State party of the reports of the European Committee for the Prevention of Torture.

15. She would like to obtain additional information on investigations and prosecutions in connection with the death in custody of Sergei Nazarov in March 2012 and on the measures taken to prevent acts of police violence such as those that had caused his death. Furthermore, she invited the delegation to provide updated information on measures for the protection of human rights defenders and, in particular, on the investigations into the murders of Anna Politkovskaya and Natalya Estemirova, the violence to which Sapiyat Magomedova had been subjected and the intimidation directed at Tanya Lokshina. In that regard, the new laws on extremism and non-governmental organizations were cause for serious concern and gave rise to fears that a Russian association receiving financial assistance from the United Nations Fund for Victims of Torture could be considered as a foreign agent. Clarification on that matter would be welcome.

16. With regard to the protection of minorities and of vulnerable groups, she would like to know more about the investigations launched and the measures taken in connection with cases of deaths of Roma in custody, beating and abduction of Tajiks, harassment of lesbian, gay, bisexual and transgender community activists and the mistreatment of peaceful demonstrators.

17. **Mr. Bruni** (Alternate Country Rapporteur) said, with reference to paragraph 28 of the fifth periodic report, that incommunicado detention created vulnerability and asked whether such detention was subject to review and maximum limits. He invited the delegation to comment on the information that some individuals were subjected to ill-treatment between their arrest and their formal registration in custody. He recalled that the recommendations of the High Commissioner for Human Rights following her visit to the Russian Federation in 2007 had included the recommendation that video recordings should be made of interrogations and asked whether measures had been taken in that regard.

18. He noted that hazing in the armed forces had not been eradicated, even in the opinion of the Russian Government. Information on additional measures envisaged to combat hazing, such as its criminalization and the automatic expulsion of perpetrators, would be appreciated.

19. With regard to the principle of non-refoulement, he asked whether the bill mentioned in paragraph 156 of the State party report had been adopted. Recalling that

extradition procedures must be in accordance with article 3 of the Convention against Torture, he requested further information on the case of Yusup Kasymakhunov, who was facing extradition to Uzbekistan although he was at risk of torture there. Noting that a very large number of foreigners and stateless persons had been subject to administrative expulsion in 2009, he asked for further information on the criteria for their expulsion and the countries to which they had been expelled.

20. He asked the delegation to explain why only a few dozen criminal proceedings concerning acts of torture or ill-treatment in the prison system were brought every year while thousands of certificates indicating that such acts had taken place were issued by medical staff. He would like to have examples of cases in which the prosecutor had revoked arbitrary disciplinary action against inmates and explanations in connection with the alarming number of such violations recorded in 2009. Recalling that the Special Rapporteur on torture recommended that solitary confinement should not be used for disciplinary reasons, he requested further information on the punishment and isolation cells used in Russian detention centres. In addition, he invited the delegation to provide information on the overall prison occupancy rate in Russia. Further information would also be welcome on specialized prison facilities for persons sentenced to hard labour from 2013. In what sense was that measure an alternative penalty that would reduce the prison population?

21. He would appreciate further information on the situation of health services in places of detention, particularly those offered to persons with disabilities, and in psychiatric hospitals. He was concerned that no case of torture or cruel, inhuman or degrading treatment or punishment had been recorded in remand centres when the number of complaints had increased 20-fold between 2004 and 2009. More details on that subject would be welcome. In addition, he was concerned that the official figures showed that cruel treatment and acts of sexual violence against women and children were virtually non-existent in the Russian prison system, while such incidents occurred in numerous other countries and the Committee had heard very serious allegations to the contrary. He invited the delegation to provide further information in that regard.

22. He asked whether the Russian authorities had established special services for the victims of physical and psychological torture or intended to do so. The statement by the head of the Russian delegation that average living space per detainee was more than four square metres was inconsistent with paragraph 291 of the report, which indicated that the available space was sometimes less than two square metres. Clarification on that matter would be welcome. The figures provided by the State party indicated that deaths in detention, particularly deaths due to AIDS, were increasing. He asked the delegation to explain the reasons for that trend and to indicate the measures taken to reverse it.

23. He once again urged the State party to make public the reports and recommendations developed by the European Committee for the Prevention of Torture (CPT) when it had visited the Russian Federation. He noted that the Committee had issued public statements on the situation in Chechnya in 2001, 2003 and 2007 and that, in conformity with article 10 (2) of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, such statements indicated that the State party had not cooperated or had refused to improve the situation in the light of the Committee's recommendations.

24. **Ms. Sveaass**, underscoring that the information provided to the Committee by civil society was an essential element of the dialogue with States parties, asked whether the new, broader definition of high treason adopted by the Russian parliament could mean that non-governmental organizations which shared information with the Committee or received financial assistance from the United Nations would be considered as foreign agents. Moreover, she asked whether the State party was considering sending an invitation to the Special Rapporteur on torture. In addition, she would like to know whether psychiatric establishments for patients confined against their will were supervised by the Office of the

Public Prosecutor on a regular basis or only in response to complaints, and what aspects were supervised. Moreover, she would like information on reported cases of abuse in psychiatric hospitals. Furthermore, she invited the delegation to advise the Committee concerning the investigations conducted into cases of police abuse against Roma and on preventive measures taken in that regard. She asked the delegation to inform the Committee about measures taken to prevent domestic violence and provisions prohibiting such violence, to indicate whether it was considering reforming criminal procedure so that acts of sexual violence were automatically investigated and whether it was considering prohibiting marital rape by law. In addition, the low number of rape cases reported and investigated raised questions; it would be useful to hear from the delegation whether psychological and medical support was provided to victims. Lastly, she would like to know what the State party intended to do in order to reintegrate torture victims and, in addition, asked for information on forced sterilizations carried out on persons with disabilities and transgender people.

25. **Mr. Tugushi** observed that torture was defined in the State party's Criminal Code in a note to article 117, the status of such a note being unclear, that article 117 did not use the term "torture" but "torment", that the definition provided did not criminalize acts intended to coerce a third person as acts of torture and, moreover, that the legislation provided for a statute of limitation of 10 years for the crime of torture. He asked whether the State party was considering reviewing those provisions and incorporating all components of the definition of torture contained in article 1 of the Convention in the Criminal Code, and taking action to ensure that acts similar to torture were subject to prosecution. The Committee had been informed that in a number of cases, the welfare supervisory commissions responsible for visiting places of detention had not been allowed to meet in private with the persons whom they wished to interview, that their members had, on occasion, been subject to intimidation and that commissions were always required to give prior notice of visits. He asked the delegation to comment on those allegations and to indicate whether there were plans to increase the capacities and resources of the commissions concerned. Furthermore, he asked the delegation to respond to allegations that suspects were not allowed access to a lawyer prior to their initial interview and that, in some cases, legal aid lawyers sought to convince their clients to confess.

26. **Ms. Belmir** said that a number of issues remained outstanding including the appointment and dismissal of judges, the appointment of juries, access to justice, the right to legal counsel and preventive detention. Numerous appeals against the State party had been lodged with the European Court of Human Rights on criminal procedure issues and, although the State party had responded positively to the Court's decisions, particularly with regard to issues of access to justice and the duration of preventive detention, it should be noted that the problems persisted, and there was reason to ask why.

27. **Mr. Mariño Menéndez** said, with regard to the numerous cases of forced disappearance reported in the North Caucasus and Chechnya that had not been investigated, that he wondered whether it might be useful to create a national register of complaints for enforced disappearance or torture, as the existence of such registers ensured greater transparency. He would like to know how investigations into reported cases of torture by staff in places of detention were progressing and what guarantees were offered to complainants.

28. Noting that administrative offences which, by definition, were not criminal offences could be subject to penalties of up to 15 days' imprisonment, he asked which courts could hand down those penalties and whether their decisions could be appealed.

29. In addition, it appeared to be possible to extradite a person even if that person had been granted temporary asylum. He asked the delegation to indicate whether extradition decisions always had precedence over decisions to grant temporary asylum. If that were the

case, it called into question the usefulness of decisions to grant temporary asylum. He asked the delegation to explain whether it was true that foreigners detained pending expulsion could be kept in administrative detention for up to two years. Lastly, it would be interesting to know whether the State party was considering ratifying the two major conventions on statelessness.

30. **Mr. Gaye** said that the information provided in the State party report with regard to the prohibition against invoking the order of a superior to justify torture appeared contradictory; he asked the delegation to clarify that issue and to indicate whether, under Russian law, a person who carried out an order detrimental to the legitimate interests of others was considered criminally liable. He also invited the delegation to indicate whether torture was classified as a crime in Russian criminal law.

31. **Mr. Wang** Xuexian asked whether it was true that 4,423 persons had died in Russian prisons in 2012, whether investigations had been carried out in that regard and whether it had been established that some of those deaths were linked to acts of torture and ill-treatment. In connection with the expulsion of migrants in irregular situations, it would be interesting to know whether appropriate procedures were in place to ensure that those expulsions did not in any manner contravene the provisions of the Convention.

32. **The Chairperson** said that the absence of a clear definition of torture incorporating all the elements contained in article 1 of the Convention posed problems for the classification of offences and for the establishment of appropriate penalties and made it difficult for the Russian Federation to gather statistics on cases of torture and to develop policies in that field. He would like to know whether the State party was considering the adoption of a precise and full definition of torture and, moreover, asked whether any cases had arisen during the period under consideration in which police officers had challenged the order of a superior to commit an act of torture.

33. He invited the delegation to provide further information on the practical cooperation mechanism that was being developed in order to obtain guarantees in extradition cases. In addition, he called on the delegation to provide information on cases of hazing in the armed forces and on the investigations conducted and penalties handed down in those cases, in addition to information on training for military procurators. Given that no requests for witness protection had been recorded during the period under consideration, in his view the effectiveness of the protection system could be examined and the opportunity to reform it considered.

34. He invited the delegation to reply to the questions addressed by the Committee to the State party in a letter about the situation of several people. Lastly, he asked the delegation to specify the measures being taken by the State party to protect lesbian, gay, bisexual and transgender people and to indicate whether investigations had been conducted into the 220 rapes reportedly committed in the town of Kushchyovskaya and the perpetrators brought to trial.

The first part (public) of the meeting rose at 12.05 p.m.