



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

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COMMITTEE AGAINST TORTURE

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SUMMARY RECORD OF THE 732nd MEETING

Held at the Palais Wilson, Geneva
on Friday 10 November 2006, at 10 a.m.

Chairperson: Mr. MAVROMMATIS

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (item 6 of the agenda) (*continued*)

Fourth periodic report of the Russian Federation (CAT/C/55/Add.11; HRI/CORE/1/Add.52/Rev.1; CAT/C/RUS/Q/4; and CAT/C/RUS/Q/4/Add.1)

1. *At the invitation of the Chairperson, the Russian delegation took places at the Committee table.*

2. The CHAIRPERSON stated that since it had not been possible to translate the written responses to the list of issues in time, the members of the Committee had received only a summary in English, drawn up by the secretariat. He therefore suggested that the Russian delegation should quote extracts from its responses during its oral presentation, so that the content could be captured in the record of the meeting.

3. Mr. LOSHCHININ (Russian Federation) said that owing to a last-minute difficulty, the official who had been intended to represent the Office of the Procurator General within the Russian delegation had not been able to come to Geneva, which was all the more regrettable since that person had drafted the written responses to the questions raised in the list of issues on the role of that Office. Also, while conceding that they had been submitted late, he regretted that the written responses had not been translated.

4. The Russian Federation was a Party to almost all the main human rights instruments and maintained a dialogue with the bodies responsible for monitoring their implementation, including the Committee against Torture. Since the presentation of its third periodic report on the implementation of the Convention against Torture, the Russian Federation had taken a whole range of measures to respond to the Committee's recommendations, including in particular the incorporation in domestic law of the definition given in article 1 of the Convention. Although the definition of torture appearing in the Russian Criminal Code was not completely in line with that in the Convention, it had a wider scope in that it established the criminal liability, from the age of 16, of any perpetrator of acts of torture, in other words not only State officials, but also all individuals, whatever their status.

5. In addition, the legal underpinnings of the protection against torture of parties to legal proceedings was regularly reviewed and strengthened. In particular, in 2004, the Federal Act granting the protection of the State to victims, witnesses and other parties to criminal proceedings had been adopted in order to amplify the provisions of the Code of Criminal Procedure, by prohibiting recourse to torture at all stages of the criminal proceedings and stipulating the inadmissibility of evidence obtained by torture. The Code of Criminal Procedure contained provisions laying down the precise duration of police custody, which could be up to 30 days, in exceptional cases listed in the legislation. The arrest of suspects had to be carried out in conformity with the law and it was mandatory for any case of illegal detention or kidnapping of a suspect to be investigated and, in appropriate cases, for the perpetrators to be prosecuted.

6. The Russian Government continued to be of the view that the right to protection against torture and cruel, inhuman or degrading treatment or punishment

was an absolute principle and that the right could not be limited in any circumstances whatsoever, including in the context of the fight against terrorism. That principle was reiterated in the new Federal Counter-Terrorism Act of 6 March 2006, which contained a number of provisions allowing for restrictions on the rights of persons during the course of a counter-terrorism operation. Of course, recourse to torture was prohibited even in that type of situation.

7. Furthermore, in conformity with the recommendations of the Committee, various measures had been taken to improve to improve the situation of detainees in prisons and places of pretrial detention. In 2005, the Ministry of the Interior and the Ministry of Justice had enacted directives concerning the internal regulations on police lock-ups, remand centres and prisons so as to improve the access of the detainees to medical care and their conditions of detention, in particular for female and minor detainees.

8. In September 2006, the Government of the Russian Federation had adopted a programme for the period 2007-2016 with the aim of aligning the conditions of detention in police custody and prisons with international standards and domestic legislation. Provision had been made to allocate 54 billion roubles (about US\$ 2 billion) to the implementation of that programme, with 42 billion roubles being assigned to building and renovation of pretrial detention centres. It was also planned to create more than 33,000 additional places for the detention of suspects and accused persons. In addition, a draft Federal Constitutional Act providing for the creation of courts for minors had been adopted by the State Duma at the first reading.

9. In addition, the measures taken to respond to the recommendations of the Committee concerning the prevention and elimination of torture and mistreatment within the armed forces had had encouraging results. The military courts had examined a large number of complaints in recent years of hazing (*dedovshchina*) within the army, thereby demonstrating that the senior ranks and the military procurators' offices were now fully determined to bring to light any such acts, to investigate them with dispatch and to bring the perpetrators before the courts. In addition, the armed forces regularly organized training courses on domestic legislation and international humanitarian law, as part of which the provisions establishing the criminal liability of the perpetrators of acts of violence were explained to the military personnel.

10. In 2006, a presidential decree had been adopted providing for the creation of councils of members of civil society to be attached to the federal ministries and departments. The one that would be attached to the Federal Office for Prison Establishments would in particular have the task of inspecting the pretrial detention centres and other places of detention. It should also be mentioned that the opinion and the recommendations of civil society organizations were increasingly taken into consideration when new laws were drafted and the legislation against torture applied.

11. Referring to the recent murder of the journalist and human rights advocate Anna Politkovskaya, Mr. Loshchinin said that the Special Rapporteur on torture, Mr. Nowak, had sent a letter to the Russian authorities expressing the view that she had been murdered because she was investigating torture in the North Caucasus. Those allegations had not yet been confirmed, but the investigation was taking its course. The case had been removed from the municipal court of Moscow and

referred to the Office of the Procurator General of the Federation. Meanwhile, the mission that the Special Rapporteur had been due to undertake to the Russian Federation had had to be postponed owing to differences of opinion over the details of the visit. However, the Russian authorities were not in the slightest opposed to a visit by Mr. Nowak and hoped to be able to reach an agreement with him so that it could take place in the near future.

12. Mr. SEMENYUK (Russian Federation) stated that several important changes had occurred in the federal prison system since 2004. The Directorate for Prison Administration of the Ministry of Justice had been restructured into a federal office within the executive branch and granted new powers relating to law enforcement. Like its predecessor, the office came under the Ministry of Justice, which meant that issues such as the appointment of senior administrative personnel and cooperation with the European Court of Human Rights would continue to be part of the remit of that ministry.

13. As part of the activities undertaken to place the prison system on a firmer legal footing, the legislation had been modified so as to improve the situation of suspects in police custody, of the accused in pretrial detention and of detainees serving a prison sentence. In particular, pursuant to decision No. 205 of the Government of the Russian Federation dated 11 April 2005 defining minimum standards relating to food rations and to day-to-day objects that must be provided to persons sentenced to a loss of liberty, to suspects and to the accused who had been placed in pretrial detention centres of the Federal Office for Prison Establishments, it had been stipulated that detainees had the right to the same rations as soldiers in the armed forces.

14. With regard to the conditions of detention of women serving a prison sentence, a number of amendments had been made to the legislation. In particular, women who had a child could now have their sentence suspended until the child had reached the age of 14, whereas in the past the corresponding age had been set at 8; the number of letters and packages that female detainees could receive was now unlimited; pregnant women were entitled to maternity allowances; access to medical care was guaranteed to pregnant detainees before and after the delivery; and women with children below the age of 3, held in a special section of the prison, and those who were exempted from work on the grounds of their pregnancy could not be placed in a punishment cell or a special cell.

15. Turning to the question of minors in trouble with the law, he said that the practice had been modified such that, of the 12 types of penalty provided for in the Criminal Code, only six were enforceable, and in any event brought a remission of sentence. As a general rule, the maximum penalty could not exceed ten years' imprisonment, even where several sentences were cumulated. If the minor was less than 16 years old at the time of the offence, he could not be sentenced to more than six years and, in the case of the most serious offences such as murder and terrorism, the maximum sentence was 10 years. For those offences, the minimum threshold set forth in the Criminal Code amounted to half of the full duration of the sentence.

16. The age of the minor was considered by the judges to be an attenuating circumstance. In the event of a minor offence, the minor could be exonerated of criminal liability and go through a rehabilitation process. Thus, under paragraph 2 of article 92 of the Criminal Code, a minor who had committed an offence of average to serious gravity could be excused from serving his sentence and placed in a closed

rehabilitation and teaching establishment. Given those provisions and measures, only a very small percentage of minors tried for an offence were sentenced to a loss of liberty. Those who did serve that type of sentence were housed separately from the adults in establishments designed especially for the purpose: the prison colonies. At the present time, they held only 14,500 minors, their total capacity being 27,000.

17. On 16 November 2006, the Supreme Court was due to adopt a decision which would recommend to judges that they not pass sentences depriving minors of their liberty except in extreme cases, when there was no possibility of adopting a less severe penalty. In the case of girl offenders, the judges were urged to study very closely all the circumstances of the case and all the data available on the girls involved.

18. At the present time, most offenders who were minors at the time of the offence received a suspended sentence or an alternative penalty not entailing their removal from society. Specialized bodies, the penalty monitoring services, had the task of verifying that penalties were correctly applied and of tracking the behavioural development of minors under a suspended sentence.

19. In 2005, the prison administration service estimated at over 96,000 the number of offenders of minor age who had been before the courts, 93.2 per cent of whom had received sentences not involving loss of liberty. Officials of the prison administration service, working together with the commissions for young people's affairs of the Ministry of the Interior, made regular visits to the minors' families to check that they were properly supervised. Educational and vocational training programmes as well as specialized assistance with the problems of alcohol and drug abuse were also open to such young people.

20. Improving the conditions of detention was one of the priorities of the Government, in particular in the pretrial detention centres which, with an occupancy rate of 108.6 per cent as at 1 October 2006, had a serious overcrowding problem. In its finding No. 5 of 10 October 2003, the Supreme Court had made it obligatory for the courts to take into account the theoretical and actual capacity of the pretrial detention centres before ordering that a person suspected or accused of having committed an offence be placed in that type of establishment. Since 2004, the capacity of the pretrial detention centres had been considerably increased (with 14,000 additional places created in 2005, 8,430 at the beginning of 2006 and 6,451 planned from the present time to the end of 2006). In addition, the floor area per detainee had been increased to 3.6 m² at the beginning of 2006, and was expected to be raised to 3.8 m² by the end of the year, provided that sufficient budgetary resources were available. In September 2006, the Government had adopted a wide-ranging programme of reform of the prison system for the period 2007-2016. In addition to the renovation of existing installations and the construction of new places of detention conforming to international standards, the programme provided for the application of measures centred around respect for the fundamental rights of the detainees. Certain rights were already guaranteed at the present time, such as the right to medical care, confirmed in a joint order dated 17 October 2005 of the Ministry of Health and the Ministry of Justice. Furthermore, growing attention was paid to preparing detainees for their return to life in society. The prison establishments were working more and more closely with the social protection services and with other public services that informed the detainees of the benefits that were open to them and helped them with the various procedures.

21. The Russian Federation was making an effort to collaborate in a spirit of openness and mutual trust with the international bodies responsible for protection of human rights and to learn from that dialogue ways to improve the situation in its territory. In that respect, it had welcomed with considerable interest the report drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) pursuant to its last visit in September 2006, notably the observation that the conditions in the detention centres of the Chechen Republic had improved and that no cases of ill-treatment of the detainees by the personnel had been reported. Pursuant to the recommendations made by the Committee, several directives aimed at protecting the rights and the interests of persons placed in detention had been incorporated into the instructions given to the staffs of the establishments concerned. In addition, departments of the Office of the Procurator General monitored those establishments regularly. It was also standard practice for the media, Russian and international governmental and non-governmental organizations, and human rights bodies to visit places of detention. The State Duma had approved at its first reading a draft law relating to the supervision of places of detention by commissions whose members would be appointed by the Commissioner for Human Rights of the Russian Federation. In 2004, a Social Council at the Ministry of the Justice had been created, the members of which visited prison establishments. Similar councils were currently being created in each of the republics of the Russian Federation. Furthermore, changes had been made to the legislation governing the operation of prison establishments, with the effect of removing all censorship of detainees' correspondence, thereby allowing the detainees to make complaints in complete confidentiality. The Government was also aware that raising the awareness of the prison staff as to respect for human rights was indispensable to put an end to illegal practices such as torture, intimidation, abusive use of restraints, and so on. To that end it had set up a programme of ongoing training and seminars on the international rules in that area.

22. Mr. TERESHENKO (Russian Federation) said that the Ministry of Defence was working actively to combat certain practices contrary to the code of military conduct which were used as disciplinary measures in the armed forces. The State Duma had adopted a draft law on the procedures applicable in the sphere of disciplinary measures, which would enter into force in January 2007. In addition, a complaint-gathering mechanism had been set up so as to permit soldiers to report offences anonymously. Between 2001 and 2005, 21,163 military personnel had been sentenced by military courts for conduct contrary to regulations. The year 2005 had seen a drop in the number of abuses committed in the armed forces, by comparison with 2004. The number of suicides of soldiers had also dropped. In addition, the Government had adopted in 2004 a programme entitled "Raising the professionalism of a number of major military groups and troop units", the implementation of which was due to be completed in 2007. The length of compulsory military service was also due to be reduced to 18 months with effect from 1 January 2007, and then to 12 months with effect from 1 January 2008.

23. Mr. MILEHIN (Russian Federation) said that the Ministry of the Interior paid particular attention to the provisions of Federal Act No. 103 of 15 July 1995 on pretrial detention of suspects or accused persons. Several remand centres had been declared not to be in conformity with the law following inspection visits, and had been closed. There also existed a set of internal rules for the remand centres, setting out a number of guarantees, such as that of the mandatory medical examination of

the detainees on their arrival and their departure in order to detect any physical injuries. In addition, in accordance with article 96 of the Code of Criminal Procedure, the arrest of a suspect must be notified immediately to a close relative. The suspect must also be informed of the rights he or she enjoyed under article 46 of the Code of Criminal Procedure.

24. The activities of the Ministry of the Interior and of the local and regional authorities directed towards improving the situation in the pretrial detention centres and the conditions under which detainees were transferred were pursued in close collaboration with the representative of the Russian Federation at the European Court of Human Rights and the Office of the Mediator for Human Rights in the Russian Federation. Several joint inspection visits carried out in 2005 and 2006 had brought to light a number of deficiencies and infringements of the standards and rules in force, as a result of which immediate measures had been taken. In several detention centres, the cells had been renovated and re-equipped, as had the sanitary and medical facilities. Steps had also been taken to improve the state of the exercise yards and to allow prisoners to listen to radio and have access to libraries.

25. The Ministry of the Interior also attached great importance to cooperating with national and international human rights bodies. Several spheres of cooperation had been defined, including monitoring of the activities of the police and the forces of law and order to ensure observance of the constitutional rights and legitimate interests of detainees. Each meeting with members of the European Committee for the Prevention of Torture had proved to be positive and fruitful. In line with the recommendations of that Committee, some places of pretrial detention had been closed, others were undergoing refurbishing, and some new ones were being built.

26. Much still remained to be done in order to improve prison conditions, even though major resources had already been invested in the undertaking. It was estimated that some fifteen years would be needed to resolve all of the problems. The Ministry of the Interior had drawn up a plan for the period 2005-2008 setting forth priority measures for the construction and renovation of pretrial detention centres. The funds committed in 2005 for that plan had been 3.5 times as high as those of the preceding five years, and the activities undertaken in 2005 and 2006 to implement the plan had resulted in the construction of 16 pretrial detention centres, the re-equipping of 19 and the refurbishment of more than 400. A programme had also been adopted to bring 40 per cent of the places of pretrial detention into conformity with the standards between the present time and 2009. In addition, strict mechanisms to monitor the transfers of detainees had been put in place.

27. Mr. LEBEDEV (Russian Federation) recalled that testimony obtained through torture could not be used as evidence and that statements made without the presence of a procurator and not confirmed before a court were not admissible. In addition, the accused must be able to participate in all stages of the legal proceedings to which they were subject. A system of guarantees allowed them to report at any time any act of torture or attempted torture committed against them. In 2005, 4,850 members of the staff of the pretrial detention centres and reformatories had been the subject of administrative actions, at the outcome of which 72 of them had been dismissed.

28. The death penalty had not been carried out in Russia since 1996. If a person was the subject of a petition for extradition to a country where capital punishment was in force, the Russian authorities required an assurance that the death penalty

would not be imposed on the person concerned. The national legislation and the Minsk Convention did not contain specific provisions prohibiting extradition in cases where there was a risk of torture. However, the Criminal Code did provide that extradition could not be performed if a court handed down a decision stating sufficient reasons for the extradition to be forbidden.

29. The departments of the Office of the Procurator of the Chechen Republic ensured full observance of the criminal legislation, in particular with regard to the requirement to bring any person arrested before a judge in the 48 hours following his or her arrest and to keep proper records of all police custody right from the beginning of the custody. One of the priorities of the military procurator was to investigate whether the armed forces had taken part in crimes committed against the local population in Chechnya in the course of counter-terrorism operations. A special investigative unit had been set up to that end.

30. Mr. GOLTYAEV (Russian Federation), recalling that a definition of torture had been integrated into the Criminal Code (articles 117 and 302), stressed that State officials responsible for acts of torture or ill-treatment suffered heavy penalties. Recourse to torture to obtain testimony was considered a violation of the standard procedure and thus constituted an offence subject to two to eight years' imprisonment. In 2005, 824 persons had been accused under paragraph 2 of article 117 of the Criminal Code, and 481 of them had received a suspended sentence. In the same year, 1,564 persons had been accused under paragraph 1 of the article, and 961 of them had received a suspended sentence. By contrast, not a single case under article 302 had been brought before a court in 2005.

31. There was no specific provision establishing the criminal liability of an individual who gave an order to carry out torture, but doing so could be punished under paragraphs 2 and 3 of article 286 of the Criminal Code, which penalized the abuse of authority. The statistics on the number of persons sentenced under that article did not include detailed data on the number of sentences having to do with torture.

32. Since torture was considered a universal crime, the criminal legislation protected not only Russian citizens but also foreigners and stateless persons.

33. Jury courts currently existed throughout the country, except in the Chechen Republic where they would be established starting on 1 January 2007. Such courts had examined 572 criminal cases in 2004, 608 in 2005 and 333 during the first half of 2006. They had granted acquittals in 17 per cent of cases, most frequently owing to infringements of the Code of Criminal Procedure, committed in particular at the stage of the preliminary investigation. The statistics did not indicate how many of those acquittals were related to testimonies obtained by means of torture. A new verdict could be rendered in the cases examined by those courts if the judgment was set aside by the Court of Appeal.

34. Victims of acts of violence committed by State officials could obtain monetary compensation, including for moral harm suffered. Similarly, any harm caused by a sentence pronounced illegally or by an illegal detention constituted grounds for petitioning for compensation. Furthermore, confessions of guilt could not form the only basis for a conviction. They must in all cases be corroborated by other elements, in the absence of which the judgment could be set aside by a higher court.

35. Courts for minors or chambers specializing in criminal cases involving minors were currently being established under a new Federal Constitutional Act.

36. Ms. GAER (Country Rapporteur) thanked the State party for the numerous responses given to the list of issues. She said that her remarks would be framed to draw attention to the questions to which no response had yet been given and on which she sought additional information. Thus, picking up paragraphs 2 (d) and 2 (e) of the list of issues, she inquired as to the reasons that the three lawyers hired to defend the young detainees in Nalchik in October 2005 had been removed from the cases, and whether it would be possible to learn of examples of cases in which Russian courts had applied the legal provisions stipulating that no exceptional circumstance whatsoever could be invoked as a justification of torture.

37. While taking note with interest of the information provided on the inspections performed in the detention centres (para. 6), Ms. Gaer said that she would wish for more details on how the inspections had been conducted and what conclusions had emerged from them. Noting that only a single report of a visit by the European Committee for the Prevention of Torture to Chechnya had been published whereas seven such visits had taken place between 2000 and 2006, she inquired as to the reasons for that situation. Given the delegation itself had just cited the most recent report of that Committee to illustrate the high standard of the conditions of detention in Chechnya, could the delegation state whether the Government intended to publish those reports, and, if so, when?

38. The question of domestic violence against women had not been covered in the responses of the State party (para. 8) and it would therefore be useful if the delegation could supply information on the measures taken or planned in that sphere.

39. No statistical figures had been supplied on the number of diplomatic assurances given and received in extradition matters (para. 12). In the case of extraditions to or from States parties to the Minsk Convention, the issue appeared to be somewhat different since that convention did not make provision for such a procedure. A recent matter gave a good illustration of that particular problem, namely the extradition of 14 Uzbeks arrested in June 2005 in Ivanova and accused of having taken part in the events in Andijan in May 2005. It would be enlightening to have information on the procedure followed and the guarantees requested in the context of that extradition. Speaking more generally, in the absence of diplomatic assurances, were other measures taken before a deportation or extradition in order to ensure that the person concerned would not be exposed to the risk of being tortured? Numerous testimonies recorded violations of the standard procedures in extradition and deportation matters. It would be interesting to know the reasons for that state of affairs and to know what measures were being taken in practice to prevent such violations.

40. According to the information supplied by the State party, no complaint of torture had been lodged by a prisoner with the competent authorities. Could the delegation state what were the conditions under which that type of complaint was recorded (para. 26)?

41. Ms. Gaer also wished to know whether there were witness protection mechanisms for the victims of torture and whether military personnel responsible for acts of torture or mistreatment had ever been transferred to other units (para. 30).

She also asked for information on the measures taken to improve the effectiveness of the investigations of torture and on the modifications, if any, made to the law-enforcement promotion system (para. 31).

42. In its response, the State party had not given any information on the cases in which redress had been ordered by a court and actually paid to victims of torture and other cruel, inhuman or degrading punishment or treatment (para. 32). Nor had it indicated what specific measures had been taken to ensure in practice respect for the principle of inadmissibility of evidence obtained by torture (para. 34).

43. With regard to the murder of Anna Politkovskaya, which was currently being investigated, Ms. Gaer recalled that the journalist had already been the target of threats and attempted assaults. In her last article, published in the *Novaya Gazeta*, the journalist had described the extradition of a Chechen, Beslan Gadaev, arrested in August 2006 in Ukraine. In the article, she had reproduced the testimony of that individual on the torture that he claimed to have suffered in a Grozny police station, as well as a letter received from mothers of detained young Chechens, describing the inhuman treatment to which they said they were subjected. It would be illuminating to know whether the circumstances alleged in that article had been investigated since its publication.

44. According to information received both from governmental sources and from non-governmental ones, the presence of the federal forces in Chechnya had changed, with the Chechenization of the conflict. It would therefore be useful, to help the Committee better understand the current situation, if the delegation could shed some light on the current status of the Russian troops and of the local forces under federal control. In particular, the delegation could state what were the manpower levels of those troops and what was their precise mission. It could also indicate what authority had responsibility for inspecting them and investigating allegations of torture. In the light of a very high number of allegations relating to illegal detentions and disappearances of persons, Russian NGOs had begun systematically to gather the information reaching them on that subject and to create a database from the information. For their part, had the authorities undertaken to draw up lists of the persons concerned and attempt to establish what had become of them?

45. According to numerous reports, persons were said to be illegally detained and tortured in Grozny in the premises of the Operational Search Bureau, which came under the Directorate-General of the Ministry of the Interior with responsibility for combating organized crime. The former President of Chechnya, Mr. Ahmed Kadirov, had himself laid serious accusations against the personnel of that body. She hoped that the delegation could indicate what was the authority with responsibility for placing people in detention in those premises and give information on the maximum duration of the detention and the grounds on which it could be extended. Indications of acts of torture had been detected on illegally detained persons upon their admission into the pretrial detention centres (SIZO). The certificates drawn up had served as evidence before the courts but the fact remained that acts of torture had been committed. That then raised the question of whether there existed any supervisory mechanisms, and Ms. Gaer wished to know whether the officials of the Operational Search Bureau were required to report to the Office Procurator General or to any other competent authority. The delegation was also requested to describe the measures that could be taken in order for the details of suspects to be recorded

immediately upon their arrest. In addition, in the light of the numerous allegations of detention of family members of persons suspected of terrorist activities, she wished to know whether the State party intended to take measures to put an end to that practice, that could not be justified under any circumstances whatsoever.

46. Ms. Gaer found it regrettable that the Special Rapporteur on torture had not been able to visit the Russian Federation. She did not understand in what way his visit would be contrary to the State party's legislation, particularly since a mission by the Special Rapporteur on violence against women had been authorized. Numerous NGO representatives had had access to detention centres throughout the country and the European Committee for the Prevention of Torture had made several visits to the Russian Federation. Stressing the overriding importance of mechanisms for prevention of torture, Ms. Gaer expressed the hope that the negotiations about the visit of the Special Rapporteur on torture would be restarted so that he could finally visit the country under conditions guaranteeing that he would be able to carry out his mandate freely.

47. Ms. Gaer observed, with reference to article 1 of the Convention, that the definition of torture given in article 117 of the Criminal Code did not refer explicitly to law enforcement officers. While it was true that investigators who committed acts of torture during interrogations were subject to prosecution under article 302 of the Criminal Code, the State party might give consideration to including a reference to all State officials. That would make it possible to strengthen the protection of suspects during the period before they were entered in the police records and were indicted, which was the time when the risk of torture was highest. Article 302 of the Criminal Code stipulated two to eight years' imprisonment for investigators or officials of the justice system found guilty of acts of torture. Noting that no legal proceedings had been undertaken in 2005 under that article, she asked the delegation to state whether there were any statistics at national level on officials found guilty of acts of torture over the preceding years.

48. Ms. Gaer recalled that in the case of *Mikheyev v. Russia*, the European Court of Human Rights had submitted that there had been a violation of article 3 (prohibition against torture) and of article 13 (right to effective remedy) of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The police officers involved in that matter had finally been penalized, but in its finding the Court had noted that the preliminary investigation had been closed and reopened more than 15 times, a factor which raised once again the question of whether or not there were monitoring mechanisms and of the obligation on State officials to be accountable for their actions. Ms. Gaer also wished to know whether any of the 2,388 persons sentenced pursuant to article 117 of the Criminal Code had been officials and, if so, how many there had been. In addition, the names of four senior army officers had been given in various findings of the European Court on cases of torture. She would therefore welcome detailed information on control by civilian authorities over the army and on the bodies with responsibility for investigating acts of torture carried out by military personnel and prosecuting the perpetrators.

49. Amnesty International and other non-governmental organizations had informed the Committee that there existed statutory provisions restricting the access of persons held in police custody to a lawyer and to members of their family, which was contrary to the torture prevention measures that States parties were required to

take under article 2 of the Convention. She asked the delegation for its views on that issue, and also for its comments on reports that detainees were held in solitary confinement, that acts of torture were not investigated and that reprisals were taken against the defenders of the victims of such acts.

50. The rules governing the conduct of counter-terrorism operations in Chechnya were referred to in paragraphs 36 to 46 of the State party's report. However, Ms. Gaer sought certain clarifications on the new Federal Counter-Terrorism Act adopted on 6 March 2006 and in particular on the procedures for monitoring the legality of the use of force in counter-terrorism operations that caused deaths or assaults on the integrity of persons or property. She also wished to know whether the implementation of article 12 of the law defining the procedures for launching a counter-terrorism operation was under the control of any judicial organ and whether there was any authority with responsibility for verifying the legality of the operation, given that under the law such operations were authorized only as a last resort. She asked the delegation to state whether persons arrested or detained under that law lost the right to the general law guarantees provided for by the Code of Criminal Procedure. She also sought details on the guarantees enjoyed by persons interrogated by virtue of Federal Act No. 18 of 22 April 2004 amending article 99 of the Code of Criminal Procedure, notably with regard to the right to the assistance of a lawyer and the right to remain silent. She also asked whether the Duma reports on the observation of the application of the law would be made public.

51. Ms. Gaer thanked the delegation for the many items of information it had provided on the provision of compensation to victims of torture. While welcoming the fact that the State party had put an end to hazing in the army, she asked whether army personnel had ever been punished for failing to take action when made aware of a possible act of torture. She also sought information on the number of cases relating to acts of torture which had not been resolved owing to a lack of evidence.

52. The Special Rapporteur on violence against women stated in her report (E/CN.4/2006/61/Add.2) that women were victims of forced disappearances, summary or arbitrary executions, torture and rape involving police officers in the North Caucasus. Paragraph 56 of the report stated that women were also subjected to humiliating strip-searches in the presence of members of their family, carried out by male guards at military checkpoints. Ms. Gaer wished to know whether the State party had taken or planned to take any measures to put an end to such practices and to bring the perpetrators before the courts.

53. Finally, Ms. Gaer noted that the twin mandate of the Procurator continued to cause problems, since he was responsible both for initiating proceedings and for monitoring the proper performance of the investigation. She asked whether the State party intended to create an independent monitoring mechanism, in line with the 2002 recommendations of the Committee against Torture (CAT/C/CR/28/4).

54. Ms. BELMIR said she was pleased at the spirit of openness demonstrated by the State party and at the frankness with which the delegation reported on the implementation of the commitments undertaken by the Russian Federation in the field of human rights, both at the international and at the regional level. The variety of information brought to the knowledge of the Committee demonstrated the intention of the authorities to fulfil their obligations and the State party should be encouraged to persevere in that undertaking. But with all that being said, the measures adopted within the context of the fight against terrorism gave rise to

numerous remarks. The adoption of many legal provisions derogating from the rules of general law set forth in the Criminal Code and the Code of Criminal Procedure, and the installation of a military procurator's office in the North Caucasus in 2002, gave the impression that a state of emergency was in force in certain parts of the country. What exactly was the situation?

55. Despite the reforms undertaken by the State party, questions still remained as to the independence, effectiveness and impartiality of the judiciary, as did the matter of corruption within it. Ms. Belmir drew the attention of the State party to the fact that the appointment and dismissal of certain categories of judges by the executive branch was contrary to the principle of the independence of the judicial branch. The fact that the investigation of acts of torture was in the hands of the Office of the Procurator General was a cause for concern, since that body was also responsible for initiating prosecutions. With regard to the administration of justice for minors, Ms. Belmir wished for additional information on the measures taken by the State party to ensure that minor and adult offenders were detained separately. She also sought information on the reasons for and circumstances of the arrest of minors in the Chechen Republic. She also wished the delegation to indicate the measures taken to prevent assaults on the physical integrity of detained women and to guarantee their access to justice.

56. The CHAIRPERSON thanked the Russian delegation and requested it to attend a subsequent meeting in order to hear the remainder of the oral questions.

The meeting rose at 1 p.m.