United Nations CCPR/C/RUS/RQ/8

# International Covenant on Civil and Political Rights

Distr.: General
29 March 2021
English
Original: Russian
English, French, Russian and Spanish only

**Human Rights Committee**
**132nd session**
28 June–23 July 2021
**Consideration of reports submitted by States parties under article 40 of the Covenant**

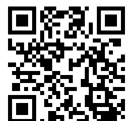
## Replies of the Russian Federation to the list of issues in relation to its eighth periodic report*

[Date received: 16 December 2020]

* The present document is being issued without formal editing.



Please recycle



## Replies to the issues raised in paragraph 1 of the list of issues (CCPR/C/RUS/Q/8)

### Implementation of the Views of the Human Rights Committee

1. All the Committee's Views give rise to investigations into the alleged violations of the human rights enshrined in the International Covenant on Civil and Political Rights. If it is found, on the basis of this verification of the arguments made in the Views, that a human right enshrined in the Covenant and the Constitution of the Russian Federation has been violated, the Russian law enforcement authorities initiate a review of the case concerned in court.

2. For example, the Committee's Views adopted on 31 March 2016, concerning communication No. 2059/2011 submitted by Y.D. Mamonov, and the Views adopted on 29 March 2017, concerning communication No. 2496/2014 submitted by I.V. Kostin, prompted a review of the cases of these convicted offenders.

3. Given the lengthy period that elapses between the transmittal of a communication alleging violations of Covenant rights and the receipt of the Committee's Views in Russia, it is often not possible to take any measures. Therefore, to ensure a prompt response, Russia takes appropriate measures at the point when communications are received from the Committee: the law enforcement authorities responsible for monitoring and oversight in the relevant field investigate the violations alleged in the communication. Such measures were taken with regard to the communications submitted by A.I. Burlaku (No. 3247/2018), A.A. Osenchugov (No. 3688/2019) and others.

### Compatibility with the Covenant of the amendments to the Constitution (arts. 79 and 125 (5) (b))

4. Act No. 885214-7 amending the Constitution to improve the regulation of certain issues relating to the organization of the public authorities introduced a provision in article 79 of the Constitution, pursuant to which decisions of intergovernmental bodies based on an interpretation of provisions of international agreements ratified by Russia that is incompatible with the Constitution are not enforceable in Russia. Article 125 was amended accordingly to grant the appropriate powers to the Constitutional Court. This addition to the Constitution is fully compatible with the international obligations of Russia, including under the Covenant.

5. The new versions of articles 79 (Constitution, chap. 3) and 125 (Constitution, chap. 7) are the logical extension of the first two chapters of the Constitution, concerning the constitutional order and human and civil rights and freedoms. For example, article 15 (4) in chapter 1 of the Constitution provides that the generally recognized principles and rules of international law and the international treaties ratified by Russia are an integral part of its legal system. If an international treaty of Russia establishes rules that differ from those provided for by its laws, the rules of the international treaty must prevail. Article 17 (1) in chapter 2 of the Constitution establishes that human and civil rights and freedoms are recognized and upheld in Russia in accordance with the generally recognized principles and rules of international law and the Constitution.

6. The addition to article 79 of the Constitution is an elaboration of the imperatives of these constitutional provisions, providing an additional guarantee of protection for the constitutional rights of citizens of the Russian Federation in exceptional cases where international bodies apply in their decisions an interpretation of international agreements that contradicts the Constitution. It states that decisions of intergovernmental bodies in which international treaties are interpreted in a way that is incompatible with the Constitution cannot be implemented in Russia.

7. This point has previously been highlighted, on multiple occasions, by the Constitutional Court, which has noted that the ratification by Russia of an international treaty

does not mean the renunciation of State sovereignty; this idea is legally reflected in the supremacy of the Constitution.[1]

8. A State may not agree with changing practice and may articulate its position in the decisions of its highest national courts and elsewhere.

9. The relevance of this issue has been highlighted many times by the constitutional justice authorities of Council of Europe States, including by the Federal Constitutional Court of Germany in the "*Solange*" series of decisions (beginning with the Decision of 29 May 1974 in case 2 BvL 52/71 (BVerfGE 37, 271) ["*Solange-I*"]) in relation to the Court of Justice of the European Union and by the Constitutional Court of Italy in relation to the European Court of Human Rights (Decision of 19 November 2012 in case No. 264/2012); these authorities concluded that it was necessary for the relevant constitutional provisions, which guaranteed greater protection for human and civil rights and freedoms, to prevail.[2] The standards applied in the Federal Constitutional Court of Germany and the Constitutional Court of Italy may be defined as ultra vires constitutional review and the doctrine of counter-limits, respectively. In the case of the Constitutional Court of Italy, the counter-limits doctrine has been applied not only to decisions of the European Court of Human Rights but also to decisions of the International Court of Justice, when the State refused in practice to enforce the judgment of 2012 in the dispute between Germany and Italy regarding the jurisdictional immunities of the State. An even clearer example is provided by the Hirst case in the United Kingdom: the matter of enforcement of the judgment of the European Court of Human Rights in that case spent 13 years before Council of Europe bodies. In this instance, the British authorities, referring to the constitutional doctrine of parliamentary sovereignty, refused to implement the Court's judgment in any way, without proposing any kind of mutually acceptable solution.

10. A recent example from the case law of the Federal Constitutional Court of Germany, Decision No. 2 BvR 859/15 of 5 May 2020, in which the Court called into question the enforceability of a final decision of the Court of Justice of the European Union, is instructive in this regard.

11. The purpose of the legal mechanism, as explicitly laid down in the Constitution, is not to validate a refusal to implement a decision of an intergovernmental body, but rather to allow a compromise to be found and, whenever possible, a mutually acceptable way for Russia to implement the decision of the intergovernmental body while consistently upholding the supreme legal force of the Constitution. In this regard, a good illustration is the well-known European Court of Human Rights case *Anchugov and Gladkov v. Russia*, in which the competent authorities of the Russian Federation faced constitutional and legal barriers to execution of the judgment. The Constitutional Court, in its Decision No. 19-P of 19 April 2016, proposed an interpretation of the international obligations arising from the European Court of Human Rights judgment that was acceptable in the Russian legal order. This interpretation was approved in 2019 by the Committee of Ministers of the Council of Europe, which found the Court's judgment to have been executed (Resolution CM/ResDH(2019)240 of 25 September 2019).

12. The officials of law enforcement and judicial authorities undergo their professional training in higher education programmes, which include study of the fundamental international human rights treaties.

13. Law enforcement and judicial officials regularly complete further training programmes, including those at the European Studies Institute attached to the Moscow State Institute of International Relations of the Ministry of Internal Affairs on the following subjects: the European human rights protection system; the work of the European Court of Human Rights and execution of its decisions; and the realization of constitutional and international human rights safeguards in Russian legislation and case law. They also take part

[1] Constitutional Court Decisions No. 13-P of 29 June 2004, No. 8-P of 27 March 2012, No. 17-P of 9 July 2012 and No. 21-P of 14 July 2015.

[2] The Constitutional Court of the Russian Federation produced a detailed analysis in its Decisions No. 21-P of 14 July 2017 (Official Gazette No. 163 of 27 July 2015) and No. 12-P of 19 April 2016 (Official Gazette No. 95 of 5 May 2016).

in the education programme of the Office of the United Nations High Commissioner for Human Rights and the annual summer schools of the permanent secretariat of the Association of Asian Constitutional Courts and Equivalent Institutions.

## Replies to the issues raised in paragraph 2 of the list of issues

14. In the information included in the eighth periodic report of the Russian Federation in response to paragraph 6 of the Committee's concluding observations, it was noted that, in the view of the Russian Federation, a non-international armed conflict was ongoing in Donbass and that the conflict had been characterized in that way by the International Committee of the Red Cross.

15. South Ossetia is an independent sovereign State, which exercises full State powers and performs its functions independently, including in the sphere of respect for human rights.

## Replies to the issues raised in paragraph 3 of the list of issues

16. Since 2015, no cases of abductions, extrajudicial killings, torture and ill-treatment, secret detention or violence against women or lesbian, gay, bisexual, transgender and intersex persons in the North Caucasus Federal Area have been identified and no reports of such illegal acts have been received.

17. Regarding the abduction and murder of N.K. Estemirova, the search for A.A. Bashaev, a member of an illegal armed group, is ongoing. Charges were brought against him in February 2010 and an international wanted notice has been issued through the International Criminal Police Organization (INTERPOL) for his arrest and extradition.

## Replies to the issues raised in paragraph 4 of the list of issues

18. On 18 March 2019, Shali City Court sentenced O.S. Titiev, an employee of the Grozny-based human rights centre Memorial, to 4 years' imprisonment in an open prison under article 228 (2) of the Criminal Code. No appeal was lodged against the sentence, which became enforceable.

19. Mr. Titiev's guilt was proved in court. His claim that police officers staged or fabricated the discovery of narcotics in his possession was refuted in the judgment, with grounds stated. Moreover, as the court stated in its judgment, no relationship was found between Mr. Titiev's arrest and his professional activities.

20. On 22 May 2020, a criminal case was opened by the investigation department for the Chechen Republic, a unit of the Investigative Committee of Russia, under article 116 of the Criminal Code in connection with the use of violence against the *Novaya Gazeta* journalist E.V. Milashina and the lawyer M.A. Dubrovina. The investigation did not establish that the offences committed against these persons were related to their professional activities. Steps are currently being taken to identify the persons who were involved in the offence; the investigation is ongoing, and its progress and results are being monitored by the Office of the Procurator of the Chechen Republic.

21. In August 2018, the investigation department for the Chechen Republic initiated criminal proceedings under article 317 of the Criminal Code in relation to the incursion, while armed with knives, into the compound of the Shali District Office of the Ministry of Internal Affairs of Russia by S.I. Akhtaev and M.R. Musaev, during which they were lawfully killed by police officers. The proceedings were terminated on 20 June 2019 owing to the death of the suspects.

## Replies to the issues raised in paragraph 5 of the list of issues

22. To combat racism, xenophobia and racial profiling in Russia, it has been made a criminal offence to commit acts intended to incite hatred or enmity or to degrade individuals

or groups of persons on the grounds of sex, race, ethnicity, language, origin, attitude to religion or membership of any social group if these acts are performed in public, including through the use of mass media or information and telecommunications networks, including the Internet (Criminal Code, art. 282).

23. In 2018, with a view to making criminal law less repressive, article 282 of the Criminal Code was amended to rule out prosecution for such acts when they constitute a one-off offence and do not present a serious threat to the constitutional order or national security.

24. The Ministry of Internal Affairs continuously monitors inter-ethnic and interfaith relations, including on the Internet.

## Replies to the issues raised in paragraph 6 of the list of issues

25. The applicable Russian legislation on work and employment, health care and housing prohibits discrimination, including on grounds of sexual orientation and gender identity.

26. Family law in Russia is based on the need to strengthen the family, to promote family relationships founded on mutual love, respect and support and a sense of responsibility towards the family on the part of all its members, to prevent any arbitrary interference in family life and to ensure the free exercise of rights and access to judicial protection of these rights for family members.

27. In accordance with article 5 of Federal Act No. 436-FZ of 29 December 2010 on the Protection of Children from Information Detrimental to Their Health and Development, the information that may not be disseminated among children includes material rejecting family values and promoting non-traditional sexual relations.

28. Pursuant to article 14 of Federal Act No. 124-FZ of 24 July 1998 on Fundamental Guarantees for the Rights of the Child in the Russian Federation, public authorities take measures to protect children from information, propaganda and activism that could cause harm to their health and moral and spiritual development. This includes the above-mentioned material promoting non-traditional sexual relations.

29. The purpose of the legal provision prohibiting the promotion of homosexuality among minors, that is the deliberate and uncontrolled dissemination of information that could be harmful to a child's health and moral and spiritual development, is to ensure children's intellectual, moral and psychological safety, in accordance with the goals of State policy on minors. These measures are compatible with article 10 (2) of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950.

30. The constitutional provision defining marriage as the union between a man and a woman cannot be viewed as discriminatory and unconstitutional; rather, it is intended to reflect established social norms, the intrinsic purpose of which is the preservation and development of the human race.

31. The establishment of harsher penalties for offences motivated by hatred or enmity towards a particular social group is dictated by the need to ensure equal rights for citizens, as guaranteed in article 19 of the Constitution.

32. Current criminal law contains a number of provisions intended to protect individuals from criminal assaults connected with their membership of a particular social group; these provisions establish higher penalties when the relevant offences are motivated by political, ideological, racial, ethnic or religious hatred or enmity or by hatred or enmity towards a particular social group.

33. It follows from a literal interpretation of the wording of this aggravating factor that the legislature considers an act to constitute a greater danger to society if the perpetrator is motivated by hatred or enmity towards any social group, regardless of its characteristics. Accordingly, for the purpose of applying these provisions of criminal law, a "social group" must be understood as any group of people with a common characteristic (for example, ethnicity, religion, occupation, property status or culture).

34. The approach described above is also reflected in case law. The Supreme Court, in assessing the legality of prosecution in a case of criminal mischief, found that “the target of a criminal assault within the meaning of article 213 (1) (b) of the Criminal Code may be any social group understood as a community linked by systematic relationships regulated by either formal or informal institutions”.[3] Lesbian, gay, bisexual, transgender and intersex persons are no exception. An attack on members of this social group committed in connection with such membership would be categorized as an offence motivated by hatred or enmity towards a particular social group.

## Replies to the issues raised in paragraph 7 of the list of issues

35. In 2014, a federal bill on the prevention of domestic violence was prepared in the State Duma, the lower house of the Federal Assembly. In line with the procedure for proposing legislation, the bill was submitted to the Government.

36. In July 2019, the President of the Federation Council, the upper house of the Federal Assembly, V.I. Matvienko, ordered the establishment of an interdepartmental working group to improve legislation and law enforcement practices in the prevention of domestic violence. The bill produced is currently being finalized, taking into account the proposals and comments received.

37. The bill includes individual preventive measures such as judicial injunctions (protection orders), legal awareness-raising and information, preventive discussions, a preventive register, preventive monitoring, social adaptation assistance for victims of domestic violence, social rehabilitation for victims of domestic violence and specialized psychological programmes.

38. The amendments made to article 116 of the Criminal Code in 2016 included a note about the battery of close relatives (spouse, parents, children, adoptive parents and children, siblings, grandparents and grandchildren), guardians or tutors and persons related by marriage to the perpetrator or living in the same household. This clarification led to a number of problems for persons responsible for applying the law. The question arose as to why close relatives did not include uncles, aunts, nieces, nephews, cousins, step-parents and stepchildren. The term “persons living in the same household”, which is not used in current Russian legislation, also raised issues. The amendments introduced in 2016 led to a situation in which perpetrators could receive a harsher sentence for intrafamilial battery (a maximum of 2 years’ imprisonment) than for minor bodily harm to close relatives (a maximum sentence of 4 months’ short-term rigorous imprisonment under article 115 of the Criminal Code). In other words, an offence with more serious consequences would have incurred a significantly lighter sentence if committed against a close relative.

39. That situation showed that the criminal law principles of equality, fairness and proportionality were not being met. Accordingly, Federal Act No. 8-FZ was adopted on 7 February 2017, amending article 116 of the Criminal Code to reclassify intrafamilial battery as an administrative offence, punishable under article $6.1^1$ of the Code of Administrative Offences.

40. Repeat offences of battery under article $6.1^1$ of the Code of Administrative Offences are punishable under article 116.1 of the Criminal Code.

41. Currently, cases of criminal battery are handled using a semi-public prosecution procedure, whereby they are heard at first instance by justices of the peace and cannot be terminated by reconciliation of the victim and perpetrator.

42. In accordance with Federal Act No. 442-FZ of 28 December 2013 on the Principles of Social Services in the Russian Federation, in the event of intrafamilial conflict or domestic violence citizens are recognized as requiring social service provision and are entitled to receive such services.

[3] Cassational ruling of the Supreme Court No. 8-O11-10 of 7 July 2011.

43. Social services for victims of domestic violence are provided by the social service agencies of the constituent entities of the Russian Federation and by non-profit organizations. Given the special focus generally placed on assistance to women and children, the constituent entities of the Russian Federation have crisis centres or units to help women and children who are victims of domestic violence. Social services may be provided on a residential basis in the crisis centres.

44. According to statistical monitoring through form 1-SD, in 2019 Russia had 2,768 providers of social services for families and children, offering 1,338 residential units with 47,504 places and 764 day units with 19,692 places. Of these providers, 2,315 were State organizations, 437 were municipal organizations and 16 had another form of ownership.

45. All the constituent entities of the Russian Federation have a children's helpline with a single nationwide telephone number, 8-800-2000-122. This helpline provides advice not only to children and adolescents, but also to their parents and other persons requiring urgent psychological and other specialized support. In 28 constituent entities, the crisis centres and shelters for women in critical psychological and social conditions run regional helplines and hotlines providing psychological support to this population group.

46. Domestic violence against women and children is among the priorities of the Commissioner for Human Rights. To prevent the social exclusion of women and violence against women, a programme for cooperation between Russia and the Council of Europe to protect women's rights was initiated in 2019, with the Commissioner's participation. In January 2019, a project on cooperation for the implementation of the Russian Federation National Action Strategy for Women 2017–2022 was officially launched.

## Replies to the issues raised in paragraph 8 of the list of issues

47. The criminal justice mechanism to address offences against the sexual inviolability and sexual freedom of individuals (Criminal Code, arts. 131–135) is generally compatible with international standards.

48. Under the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), ratified by Russia in 2013, States parties are obliged to criminalize all types of solicitation of minors for sexual purposes, including the intentional proposal, through information and communication technologies, to meet a child for the purpose of committing any non-violent sexual offence, if the proposal is followed by material acts leading to such a meeting. Current Russian legislation does not contain special provisions criminalizing the solicitation of children for sexual purposes. However, such acts may be categorized as the preparation of a sexual offence, with reference to article 30 (1) of the Criminal Code.

49. The Lanzarote Convention and other international legal instruments set out the aggravating circumstances in sentencing for sexual assault, which include infliction of serious damage to the physical or mental health of the victim, particular vulnerability of the victim, commission of the offence by a member of the family, a person cohabiting with the victim or a person having abused his or her authority, and commission of the offence by a group of persons or by a person previously convicted of offences of the same nature.

50. Almost all these circumstances are either already recognized in Russian law and identified in article 63 of the Criminal Code as aggravating factors or are included as constituent elements of the relevant sexual offences (for example, article 131 (2) (a), article 132 (3) (b) and article 135 (5) of the Criminal Code).

51. The Criminal Code includes a number of legal provisions intended to prevent female genital mutilation and so-called "honour killings": article 105 (Murder), article 111 (Grievous bodily harm), article 112 (Intentional infliction of moderate bodily harm) and article 117 (Cruel treatment).

## Replies to the issues raised in paragraph 9 of the list of issues

52. To ensure well-organized and secure judicial processes in terrorism-related criminal cases, four courts of exclusive jurisdiction have been established within the military justice system (the First Eastern District Military Court, the Second Western District Military Court, the Central District Military Court and the Southern District Military Court). In accordance with article 31 ($6^1$) of the Code of Criminal Procedure, in addition to criminal cases under the jurisdiction of the district military courts, these courts try, from first instance, all criminal cases relating to terrorism offences committed in the territory of Russia, a full list of which is set out in the article, certain other offences committed in conjunction with a terrorism-related offence and offences for which sentencing will require consideration of the aggravating circumstance specified in article 63 (1) (p) of the Criminal Code, namely commission of an offence for the purpose of promoting, justifying or supporting terrorism. The relation of the defendant or defendants to the armed forces is not significant in this regard and changes to the exclusive jurisdiction are not permitted under any circumstances. Criminal cases under exclusive jurisdiction are tried by a panel of three judges from the appropriate district military court (Code of Criminal Procedure, art. 30 (2) (3)).

53. Regarding the prosecution of members of the radical organizations Network and Hizb ut-Tahrir al-Islami and of the journalist Svetlana Prokopyeva, the allegations of the use of violence and other illegal investigative methods were investigated and refuted in the judgment. The statements made by the accused during the pretrial investigation were not used by the court to establish their guilt.

54. The activities of the Islamic Liberation Party (Hizb ut-Tahrir al-Islami) cell are recognized as terrorist in accordance with Russian legislation.

55. On 6 July 2020, the Second Western District Military Court convicted the journalist Svetlana Prokopyeva under article 205.2 (2) of the Criminal Code for the public justification and promotion of terrorism using the mass media or information and telecommunications networks, including the Internet, and imposed a fine of 500,000 roubles. The defence appealed against the judgment, which did not become enforceable.

56. In view of the above, there is no reason to believe that these persons were prosecuted by the national authorities arbitrarily as political opponents or for criticizing the Government.

## Replies to the issues raised in paragraph 10 of the list of issues

57. The increase in the number of complaints of torture in 2018 and 2019 can be attributed to high-profile trials related to incidents of ill-treatment, which were widely reported in the media in these years, drawing more attention to the issue among convicted persons and members of the human rights community.

58. In most cases, the investigations carried out by the procuratorial authorities and the Federal Penal Service, some at the request of the Commissioner for Human Rights, did not support the complainants' allegations.

59. Complaints of ill-treatment are usually made by persons being prosecuted as a procedural defence in criminal proceedings and are primarily linked to attempts by accused persons to retract their previous confessions by claiming that they were obtained unlawfully. In general, such complaints concern the use of physical and psychological coercion by officers against suspects and accused persons in order to obtain a confession. However, these complaints are submitted so long after the alleged events that it is difficult to verify the complainant's allegations.

60. In most cases when such complaints are investigated, the investigation file, which includes the statements of the defence lawyers and official witnesses who were present during the conduct of procedural actions and the video recordings made during interviews and other procedural actions, shows that the confessions were obtained lawfully.

61. To improve the effectiveness of efforts to prevent torture and ill-treatment, a federal bill has been drafted to amend article 83 of the Penalties Enforcement Code and article 34 of

the Federal Act on the Custody of Suspects and Accused Persons, to stipulate the mandatory use of portable video recorders or other audiovisual recording equipment for officials of the penal correction system.

62. In accordance with Federal Act No. 494-FZ of 27 December 2019 amending various laws, which entered into force on 1 January 2020, remand and convicted prisoners are entitled to monetary compensation for violations of the detention conditions provided for by Russian legislation and by the international treaties ratified by Russia.

63. Owing to the adoption of this law, the European Court of Human Rights found inadmissible and struck out of its list of cases approximately 2,000 Russian complaints about such violations, proposing that the applicants exhaust the new domestic remedy.

64. The investigative authorities have initiated 30 criminal cases relating to violations of the legally established grounds and procedures for the use of physical force and restraints against remand and convicted prisoners, identified in 2018 and 2019 at facilities of the Federal Penal Service's department for Yaroslavl Province.

65. Guilty verdicts were handed down in all these cases. Five persons were convicted. One received a prison sentence and four received a suspended prison sentence. As an additional penalty, all of them were deprived of the right to work for law enforcement agencies in positions of authority or exercising managerial or administrative powers.

## Replies to the issues raised in paragraph 11 of the list of issues

66. The Ministry of Internal Affairs has developed a federal bill on the granting of asylum in the territory of the Russian Federation, which was drafted in accordance with the Outline of State Policy on Migration for 2019–2025 as approved by Presidential Decree No. 622 of 31 October 2018 and is intended to improve the asylum system and thus ensure that Russia fulfils its international obligations towards asylum seekers and refugees. The Convention relating to the Status of Refugees of 28 July 1951, the Protocol relating to the Status of Refugees of 31 January 1967 and best practices from a number of other countries with many years of experience in implementation of this Convention were taken into consideration in the bill.

67. Regarding the alleged extrajudicial rendition of F.F. Abbasov to Azerbaijan, the acts indicated in the extradition request received from Azerbaijan are not criminal offences under Russian law. For that reason, on 27 February 2019 the Office of the Procurator General refused to fulfil the request of its counterpart in Azerbaijan.

68. Mr. Abbasov had been granted temporary asylum in the Russian Federation on the basis of article 12 (2) (2) of Federal Act No. 4528-1 of 19 February 1993, the Refugee Act, pursuant to a decision of the Federal Migration Service's department for Moscow Province of 17 June 2011. The duration of Mr. Abbasov's temporary asylum in Russia had been extended several times, most recently until 17 June 2014.

69. On 26 February 2014, Mr. Abbasov was granted permanent residency in the Russian Federation (a foreign national's residence permit valid until 26 February 2019).

70. On 12 October 2018, the Central Administration of the Ministry of Internal Affairs of Russia for Moscow Province declined to consider the merits of Mr. Abbasov's asylum application because he had permanent residency in Russia. On the same grounds, on 23 November 2018 Mr. Abbasov was refused temporary asylum in Russia, as provided for by article 5 (1) (10) of Federal Act No. 4528-1 of 19 March 1993.

## Replies to the issues raised in paragraph 12 of the list of issues

71. In accordance with Federal Act No. 3132-I of 26 June 1992 on the Status of Judges in the Russian Federation (the Status of Judges Act), any interference in the work of judges administering justice is prosecuted. Out-of-court communication with a judge about a case before him or her or with the president or deputy president of a court, the president of the

corps of judges of a court or the president of a division of a court about cases before the court is prohibited.

72. Out-of-court communication means written or oral communication with a judge by a central or local government agency or other entity or organization or an official or citizen who is not a party to the judicial proceedings or communication by the parties to the judicial proceedings in a form not provided for by procedural law.

73. Information about out-of-court communication with a judge must be disclosed and brought to the attention of the parties to the judicial proceedings by publication on the court's official website.

74. Regarding the powers of presidents of courts in the light of the amendments made to the Status of Judges Act and the Federal Act on the Judicial Bodies of the Russian Federation pursuant to Federal Act No. 234-FZ of 29 July 2018, which entered into force on 1 January 2019, the new law provides that disciplinary proceedings may be initiated only on the basis of a complaint by a citizen, organization or official or the Council of Judges of the Russian Federation.

75. The qualification board must examine complaints about judges independently, without transmitting them to the president of the court. This has enhanced the role of the judicial community in holding judges accountable.

76. The presidents of courts organize the courts' work, including the investigation of complaints about lower-level courts and judges, on which basis they may submit evidence for consideration by the Council of Judges or the qualification board. They are also entitled to express their opinion that the evidence gathered indicates that a judge's actions constitute a disciplinary offence. However, the judicial bodies are not bound by such opinions and make their decisions independently and autonomously.

77. In accordance with the Status of Judges Act, judges must avoid doing anything that might diminish the authority of the judiciary or the dignity of judges or cast doubt on their objectivity, fairness or impartiality, both in the exercise of their functions and in their off-duty behaviour.

78. In 2020, the Supreme Court prepared a review with a view to the implementation of the National Plan to Combat Corruption for 2018–2020 approved by Presidential Decree No. 378 of 29 June 2018. The review was aimed at improving the procedures for preventing and settling conflicts of interests that arise in the exercise of a judge's functions, including in the consideration of cases involving citizens and legal entities with financial or other ties to the judge and his or her close relatives by blood or marriage.

## Replies to the issues raised in paragraph 13 of the list of issues

79. In accordance with the requirements of Federal Act No. 103-FZ of 15 July 1995 on the Custody of Suspects and Accused Persons, meetings between suspects or accused persons and their lawyers are not subject to any restrictions as to their number and duration, except in the cases provided for by the Code of Criminal Procedure.

80. Meetings are conducted in compliance with the public health requirements for prevention of the spread of coronavirus disease (COVID-19), which are set out in Decision No. 345 of the Chief State Medical Officer of the Federal Penal Service of 27 April 2020 and Decision No. 649 of 23 May 2020.

81. To prevent the spread of COVID-19 among suspects, accused persons, convicted prisoners and employees in facilities of the penal correction system, in accordance with the Decisions of the Chief State Medical Officer of the Federal Penal Service of 16 March 2020 on the introduction of additional public health measures to prevent the outbreak and spread of COVID-19, visits to these facilities by federal government representatives, public monitoring commissions, lawyers and other persons must be restricted until further notice.

## Replies to the issues raised in paragraph 14 of the list of issues

82. The statistics on the number of persons convicted under article 148 of the Criminal Code since its amendment in 2013 are as follows: none in 2013, one in 2014, two in 2015, five in 2016, five in 2017, two in 2018 and two in 2019. Nine of these persons were sentenced to community service and five to pay a fine.

83. On 21 September 2015, K. and S. desecrated the Orthodox cross, venerated by believers as a symbol of faith. They agreed jointly to make a dummy of a person and place it on a consecrated Orthodox memorial cross located in an open area by the highway, i.e. in a public place. These acts, committed by K. and S. in a public place, manifested blatant contempt for society and insulted the religious feelings of believers (judgment of 31 May 2016 of the justice of the peace of judicial district No. 10 in Vyatskie Polyany District, Kirov Province).

84. V. registered on the social network VKontakte and publicly posted on his page: photographs of an eight-pointed (Orthodox) cross with an obscene caption; a photograph with an obscene caption showing a sculpture of a crucifixion scene (with Jesus Christ nailed to the cross in the centre and a smiling man sitting on the cross expressing satisfaction and joy with a thumbs-up sign); and a photograph of an upside-down four pointed cross with the text “Those who accept God have converted themselves and others to belief in their own insignificance and feebleness” (judgment of 16 August 2016 of the justice of the peace of judicial district No. 2 in Ioshkar-Ola District, Mari-El Republic).

85. The actions of Z. were characterized as falling under article 148 (2) of the Criminal Code. This person, while under the influence of alcohol, in a building belonging to a local religious organization, the Orthodox parish of the Cathedral of the Kemerovo Saints in the Moscow Patriarchate, i.e. in a place specially designated for worship and other religious rites and ceremonies, with the intent of insulting the religious feelings of A., B. and C., members of the Orthodox faith and congregants of the Cathedral, publicly addressed Jesus Christ and icons depicting Jesus Christ with obscene and indecent language, which insulted the religious feelings of the aforementioned citizens (judgment of 23 November 2015 of the justice of the peace of judicial district No. 6 in Central District, Kemerovo).

86. An analysis of the mental element of the offence specified in article 148 (1) of the Criminal Code shows that the main characteristic defining it is the intent to insult the feelings of believers. The insult cannot be made for the purpose of injuring a person’s honour and dignity but rather must be directed specifically at the religious feelings of a person who is a follower of a certain religion. Religious feelings are the devout attitude of a person towards something he or she holds sacred in accordance with his or her religious beliefs. This will obviously include the person’s religious beliefs, the tenets of the religion, the saints and their works, the holy images and texts, other objects of religious significance and sites of religious pilgrimage.

87. Article 354[1] of the Criminal Code prohibits public denial of the facts established by the judgment of the International Military Tribunal for the prosecution and punishment of the major war criminals of the European Axis, endorsement of the crimes established in that judgment, dissemination of information known to be false about the activities of the Soviet Union during the Second World War, dissemination of information manifesting blatant contempt for society with respect to the days of military glory and the commemorative dates related to the defence of Russia and desecration of symbols of Russian military glory. Article 354[1] of the Criminal Code has been applied in a handful of cases.

88. For example, in 2016 Perm Territory Court handed down a judgment[4] against L. under article 354[1] (1) of the Criminal Code, imposing a fine of 200,000 roubles.

[4] Judgment of Perm Territory Court in criminal case No. 2-17-16 of 30 June 2016, Pravosudie State online system https:/oblsud--perm.sudrf.ru/modules.php?name=sud_delo&srv_num=1&name_op=doc&number=3669024&delo_id=1540006&new=0&text_number=1.

89. P., M. and O. were found guilty under article $354^1$ of the Criminal Code in judgments of the Stavropol Territory Court of 21 November 2016,[5] the Supreme Court of the Republic of Crimea of 2 August 2017[6] and the Supreme Court of the Republic of Buryatia of 27 December 2016.[7]

90. The statistics on persons convicted under articles $128^1$ (Defamation) and $298^1$ (Defamation of a judge, juror, procurator, investigator, person conducting an initial inquiry or law enforcement official) of the Criminal Code since their introduction in 2012 are as follows: 5 and 0, respectively, in 2012; 107 and 2 in 2013; 138 and 2 in 2014; 94 and 4 in 2015; 141 and 2 in 2016; 95 and 6 in 2017; 35 and 3 in 2018; and 83 and 9 in 2019. Of the persons convicted under article $128^1$ of the Criminal Code, 537were sentenced to pay fines and 167 to community service; of those convicted under article $298^1$ of the Criminal Code, 14 were sentenced to pay fines and 10 to community service.

91. The statistics on persons convicted under article 275 (Treason) of the Criminal Code since its amendment in 2012 are as follows: 6 in 2012; 4 in 2013; 15 in 2014; 6 in 2015; 14 in 2016; 4 in 2017; 4 in 2018; and 8 in 2019. All these persons were sentenced to a definite term of imprisonment.

92. The exercise by citizens of their constitutional rights (including freedom of thought and expression, artistic freedom and the right to hold and impart views and act in accordance with them) must not infringe upon the rights and freedoms of others. If such an infringement is socially dangerous and illegal (regardless of whether it is directed against specific individuals or public order in general), the perpetrator may be held liable under public law, including criminal law, in order to defend the public interest.

93. Accordingly, the above-mentioned criminal law prohibitions are compatible with the Constitution and the rules of international law inasmuch as they are established in federal law and were adopted to ensure respect for the rights and reputation of others and to protect national security, public order and public morals.

## Replies to the issues raised in paragraph 15 of the list of issues

94. Pursuant to Federal Act No. 30-FZ of 18 March 2019, the Federal Act on Information, Information Technologies and Data Protection was amended to empower the Office of the Procurator General to request that the Federal Service for Supervision of Communications, Information Technologies and Mass Media take steps to restrict access to Internet sites that disseminate certain types of information.

95. The site owners' rights are safeguarded through the legally prescribed procedure for unblocking a web page (restoring access to the site) following deletion of the prohibited information.

96. The new legislation addresses the suppression of information manifesting blatant contempt for the authorities and does not affect constructive criticism. The new legal provisions apply equally to all citizens, including public officials.[8]

97. Federal Act No. 425-FZ, which amended article 4 of the Consumer Rights Protection Act and will enter into force on 1 January 2021, provides that Russian software must be pre-installed on various categories of technologically advanced goods. This law does not oblige

[5] Pravosudie State online system: https://kraevoy--stv.sudrf.ru/modules.php?name=sud_delo&srv_num=2&name_op=doc&number=1027539&delo_id=1540006&new=&text_number=1.

[6] Pravosudie State online system: https://vs--krm.sudrf.ru/modules.php?name=sud_delo&srv_num=1&name_op=doc&number=6397395&delo_id=1540006&new=0&text_number=1.

[7] Pravosudie State online system: https://vs--bur.sudrf.ru/modules.php?name=sud_delo&srv_num=1&name_op=doc&number=2706050&delo_id=1540006&new=0&text_number=1.

[8] https://regnum.ru/news/polit/2593982.html (viewed on 20 September 2020).

device manufacturers to replace their applications with Russian software but requires only the pre-installation of Russian-made programmes.

98. The reason for the requirement to install software from a special list of pre-installed programs when selling certain types of technologically advanced goods is to protect the rights of Russian consumers. Russian Internet and communication service users will have the opportunity to use their purchased devices without needing to install additional mobile applications and other computer programs.

99. The developers do not intend the pre-installed programs to be primary software; if they so wish, users will be able to disable or delete them.

## Replies to the issues raised in paragraph 17 of the list of issues

100. In Russia, the relations between science and technology actors, government agencies and consumers of science or technology products (works and services), including the provision of State support for innovation, are regulated by Federal Act No. 127-FZ of 23 August 1996 on the Sciences and State Policy on Science and Technology and the laws and regulations of Russia and its constituent entities adopted in accordance with the Act.

101. Pursuant to Act No. 127-FZ, the government agencies of the Russian Federation, inter alia: guarantee creative freedom for science and technology actors, allowing them the right to choose the subject and methods of their scientific research and experiments; recognize the right to take justified risks in science and technology; and ensure freedom of access to information on science and technology, except in the case of the State, professional or commercial secrets specified in Russian legislation.

102. Science and technology are governed on the basis of a combination of the principles of government regulation and self-regulation. Government agencies of Russia and its constituent entities and State academies of science determine, within the scope of their mandates, the relevant priorities for the development of science and technology, ensure the establishment of a system of scientific organizations, carry out intersectoral coordination of science and technology, devise and implement science and technology programmes and projects, advance the integration of science and industry and achieve scientific and technological progress.

103. Governance of science and technology is effected within limits, without violating creative freedom. Government agencies of Russia and its constituent entities: approve the statutes of public scientific organizations at the level of the Federation and the constituent entities, as applicable; monitor the effective use and integrity of the assets of public scientific organizations; and perform other functions within the scope of their mandates (Act No. 127-FZ, art. 7).

104. No information is available about pressure applied to or reprisals taken against academics.

## Replies to the issues raised in paragraph 18 of the list of issues

105. The Strategy to Combat Extremism in the Russian Federation for the period up to 2025 was approved by Presidential Decree No. 344 of 29 May 2020, to implement State policy on countering extremism and give effect to the provisions of Federal Act No. 114-FZ of 25 July 2002 on Combating Extremist Activity.

106. To prevent arbitrary interpretations, the Strategy clarifies the individual terms used in the definition of extremist activity or extremism and sets out the aims of State policy on countering extremism, one of which is to improve Russian legislation and law enforcement practice in that area.

107. On 20 April 2017, the Supreme Court of the Russian Federation handed down a decision on the dissolution of the Administrative Centre of Jehovah’s Witnesses in Russia, a religious organization, and the local religious entities affiliated to it. One of the grounds for dissolving the organization and declaring it to be extremist was the fact, established by the

court, that it was importing and disseminating in Russia religious literature, some of which (approximately 100 items) was subsequently found by Russian courts to be extremist and placed on the federal list of extremist materials.

108. The response to the activities of these religious organizations is linked to the impact on the rights of third parties, including minors.

109. The reports that prompted the measures were primarily complaints by private citizens who were relatives of persons involved in local Jehovah's Witnesses organizations.

110. The objectiveness of the legal assessment in these administrative cases is demonstrated by data on the activities of local Jehovah's Witnesses organizations gathered over a period of more than 10 years. The information obtained relates not only to the dissemination of extremist ideas but also to such matters as refusal of medical treatment (blood transfusions), involvement of minors in the adherents' way of life, abandonment of domestic obligations and payment of regular donations.

111. In addition to reports of the dissolution of marriages and other forms of termination or obstruction of family relations, citizens spontaneously filed requests for measures to be taken in response to the conduct of followers of this religious movement, who were disregarding the rights and interests of others.

112. In 2015, the Staro Oskol unit of the Federal Security Service's department for Belgorod Province received a collective complaint from the residents of the village of Fedoseevka (110 persons), requesting protection from aggressive proselytizing by members of a local religious organization, whose adherents regularly made visits to private homes, imposing their faith and distributing religious literature, including by leaving it in mailboxes, expressed negative opinions about the decisions of the authorities and insisted on acceptance of the Jehovah's Witnesses' religion as the one true faith.

## Replies to the issues raised in paragraph 19 of the list of issues

113. In accordance with article 21 of the International Covenant on Civil and Political Rights, no restrictions may be placed on the exercise of the right of peaceful assembly other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

114. In this regard, Russian legislation not only recognizes the rights of organizers of and participants in public events but also imposes certain obligations on them.

115. Federal Act No. 54-FZ of 19 June 2004 on Meetings, Rallies, Demonstrations, Marches and Picketing (the Meetings and Public Events Act) provides for a notification procedure for the organization of public events, allowing the authorities to take sensible and necessary measures to uphold the constitutional right of citizens to organize public events in conditions that ensure respect for national security and public safety, public order, the protection of public health and morals and the protection of the rights and freedoms of others.

116. Without the procedure, the public authorities would not have an accurate idea of the nature and scale of a planned public event and would have no real opportunity to fulfil their obligation under article 2 of the Constitution to observe and protect human and civil rights and freedoms and take the necessary steps, including preventive and organizational measures, to ensure that the public event could take place in safe conditions, both for the event participants themselves and for other persons.[9]

117. The unauthorized rallies organized and held in violation of the established procedure on 27 July and 3 August 2019 in Moscow and on 27 March 2019 in Magas escalated into violent protest, involving resistance to law enforcement officials, the use against them of improvised weapons (broken bits of furniture, construction waste, etc.) and the infliction of harm to their health of varying degrees of severity.

[9] Constitutional Court Decision No. 24-P of 18 June 2019.

118. Regarding the application of harsher penalties for participation in protests and of "heavy financial fines", the statistical data do not allow for the disaggregation of the exact amounts of the administrative fines imposed. In 2019, 10 persons, of whom 7 were officials and 3 private individuals, received administrative penalties for violations of the law on meetings, rallies, demonstrations, marches and picketing (Code of Administrative Offences, art. 5.38). The total amount of fines imposed in decisions that have become enforceable was 240,000 roubles, or an average of 24,000 roubles per perpetrator.

119. Similar trends were observed in 2018, when fines amounting to 285,000 roubles were imposed on 15 persons (8 officials and 7 private individuals) under article 5.38 of the Code of Administrative Offences. The average amount of the fines was 19,000 roubles.

120. In 2017, a total of seven private individuals were subject to administrative penalties under article 5.38 of the Code of Administrative Offences. Administrative fines amounting to 42,000 roubles, or an average of 6,000 roubles, were imposed.

## Replies to the issues raised in paragraph 20 of the list of issues

121. The activities of non-profit organizations acting as foreign agents are regulated by Federal Act No. 7-FZ of 12 January 1996 on Non-Profit Organizations, pursuant to which a non-profit organization acting as a foreign agent means a Russian non-profit organization that receives money and other assets from foreign sources and participates, including in the interests of the foreign sources, in political activities in the territory of Russia.

122. A non-profit organization intending to act as a foreign agent following its official registration must first submit to the Ministry of Justice an application to be included in the register of non-profit organizations acting as foreign agents. The inclusion of a foreign agent on the register does not entail the mandatory dissolution of the non-profit organization as a legal consequence.

123. In its decision No. 10-P of 8 April 2014, the Constitutional Court ruled that the provisions of the second paragraph of article 32 (7) of Act No. 7-FZ and the sixth paragraph of article 29 of Federal Act No. 82-FZ of 19 May 1995 on Voluntary Associations, within their meaning and intent in the current system of legal regulation, do not prohibit non-profit organizations, including voluntary associations, from receiving money and other assets from foreign sources, do not create a barrier to their participation in political activities in the territory of Russia, do not constitute government interference in the activities of non-profit organizations or monitoring of the appropriateness of those activities and do not deprive such organizations or those involved in them of the right to judicial protection with respect to decisions made about their activities by government agencies in accordance with the law.

124. The requirement for a foreign agent to apply for inclusion on the applicable register before engaging in political activity is intended simply to ensure greater transparency and openness in the activities of such organizations. This obligation in itself does not violate the rights of such non-profit organizations.

125. The Memorial Human Rights Centre, which is an interregional voluntary association, the international historical, educational, charitable and human rights society Memorial, which is an international voluntary association, and the Anti-Corruption Foundation are on the register.

126. A non-profit organization may be removed from the register on the grounds set out in Act No. 7-FZ by a decision of the Ministry of Justice taken within three months of receipt of a request to that effect from the non-profit organization.

127. The Ministry of Justice is currently considering an application from the Anti-Corruption Foundation for its removal from the register.

128. Russian legislation is not aimed at the dissolution of such organizations or the creation of any barriers to their work; it simply obliges these non-profit organizations to comply strictly with the law requiring them to be transparent in their activities and to obtain the status of foreign agent through their inclusion on the relevant register.

129. A foreign or international non-governmental organization may be declared undesirable in Russia in accordance with article 3.1 (1) of Federal Act No. 272-FZ of 28 December 2012 on Sanctions against Persons Involved in Violations of Fundamental Human Rights and Freedoms and of the Rights and Freedoms of Citizens of the Russian Federation if its activities pose a threat to the constitutional order, defence capabilities or national security of the Russian Federation, including by helping or hindering the nomination of candidates or lists of candidates, the election of registered candidates, the initiation or conduct of a referendum or the achievement of a particular outcome in an election or referendum (including through forms of participation in election or referendum campaigns other than in the capacity of foreign or international observer).

130. Foreign or international non-governmental organizations declared undesirable in Russia are placed on the relevant list, which is published on the official website of the Ministry of Justice[10] and in the Official Gazette (Act No. 272-FZ, art. 3.1 (4)).

131. On the basis of information received from the Office of the Procurator General, the foreign organizations Člověk v tísni (People in Need) (Czechia), Open Russia Civic Movement, Open Russia (United Kingdom) and OR (Otkrytaya Rossia) (United Kingdom) (called Human Rights Project Management since 8 November 2017) have been placed on the list.

132. Liability is provided for the operation in the territory of Russia of an undesirable organization and participation in its activities, under the Criminal Code, article 284.1, and the Code of Administrative Offences, article 20.33.

133. On the basis of investigations conducted by the Office of the Procurator General, on 16 September 2020 it was decided to declare 29 foreign and international non-governmental organizations undesirable in Russia and include their details on the list.

## Replies to the issues raised in paragraph 21 of the list of issues

134. The Central Electoral Commission and lower-level electoral commissions have put in place all the necessary conditions for citizens of Russia to freely exercise their rights to stand for election and to vote.

135. On 20 March 2018, at a meeting with representatives of the Central Electoral Commission, a group of accredited international observers from France, Belgium, Serbia, Italy and the Netherlands noted that the election campaign in the country had been well organized and commended the transparency of the voting procedures.

136. A number of national civil society monitors gave a positive assessment of the organization of the presidential election campaign.

137. Citizens' Watch, an association of non-profit organizations defending electoral rights, has observed that, notwithstanding the shortcomings and issues identified, the 2018 presidential campaign can be considered legitimate and transparent.

138. The reports that the 2018 presidential elections took place in an overly controlled environment, marked by continued pressure on critical voices, and that restrictions on fundamental freedoms related to candidate registration limited the space for political engagement and resulted in a lack of genuine competition cite only information from unnamed sources.

139. Shortly before the 2018 presidential election campaign, the law was amended to allow observers to be sent not only by candidates but also by civic chambers, which bring together representatives of various civil society organizations. At the 2018 presidential elections, observers could be sent to polling stations by hundreds of persons authorized by the candidates without any prior notification to the electoral commissions.

[10] Ministry of Justice website: https://minjust.gov.ru/ru/documents/7756/.

140. As a result, during the 2018 presidential elections, 356,000 observers were present at polling stations, including over 157,000 from civic chambers, more than 105,000 members of advisory commissions and almost 15,000 accredited media representatives.

141. Monitoring was carried out by 1,513 foreign and international observers from 115 countries and various international organizations (including the Office for Democratic Institutions and Human Rights and the Parliamentary Assembly of the Organization for Security and Cooperation in Europe, the Executive Committee and the Interparliamentary Assembly of the States members of the Commonwealth of Independent States, the Shanghai Cooperation Organization, the Parliamentary Assembly of the Union of Belarus and Russia, the Collective Security Treaty Organization and the Parliamentary Assembly of the Black Sea Economic Cooperation).

142. Reports of continued pressure on critical voices do not reflect the reality. Many of the presidential candidates (including P.N. Grudinin, V.V. Zhirinovsky and K.A. Sobchak) have made multiple critical statements, including about the current President, without any kind of pressure being placed on them.

143. As regards the allegation that A.A. Navalny was prevented from registering his candidacy owing to a previous criminal conviction that appears to have been politically motivated, the following should be noted. Mr. Navalny was convicted of fraud and money-laundering by Zamoskvoreche District Court in Moscow on 31 December 2014. On 8 February 2017, he was convicted of embezzlement of the assets of a State unitary enterprise by Lenin District Court in Kirov. The charges against him were not related to his political views or involvement in political activities.

144. In its judgments of 23 February 2016 and 17 October 2017, the European Court of Human Rights rejected complaints that the prosecutions were initiated by the public authorities for the purpose of preventing his political activities.

145. In the list of issues, Mr. Navalny is referred to as a “major” opposition candidate. This assertion is misleading, given that eight candidates were registered for the presidential elections. It is therefore inappropriate to refer to “major” and “minor” opposition candidates or to state that there was no real competition in the 2018 presidential elections.

146. The main reason that candidates standing for election from any opposition party are refused registration is their failure to meet the requirements with regard to the procedure and conditions for nomination laid down in electoral law.

## Replies to the issues raised in paragraph 22 of the list of issues

147. The Investigative Committee’s local bodies have not received any reports regarding the persecution, intimidation or unlawful detention of human rights defenders, journalists and bloggers in the Republic of Crimea, and no criminal investigations have taken place.

148. The central investigation department for the Republic of Crimea and Sevastopol, a unit of the Investigative Committee of the Russian Federation, is dealing with four cases in which criminal proceedings have been brought in connection with the disappearances of persons mentioned in the Committee’s list of issues.

149. The law enforcement agencies of the Republic of Crimea have not received any information regarding the disappearance of V.V. Chernysh and the fact that his relatives have lost contact with him.

150. At the initiative of the procurator’s office, an initial inquiry body of the Ministry of Internal Affairs for the Republic of Crimea investigated a report that “local AutoMaidan activist” Mr. Chernysh, a citizen of Ukraine, had disappeared in Crimea. No objective evidence confirming that this person had been in Crimea and had disappeared there was received during the investigation.

151. The circumstances surrounding the disappearances of A.A. Terekhov, R.E. Ganiyev, I.A. Dzhepparov, D.S. Islyamov, S.S. Zinedinov and E.U. Ibragimov, which all occurred at different times, were established by the investigative bodies of the Investigative Committee’s

central investigation department for the Republic of Crimea and Sevastopol in the context of proceedings brought under articles 105 (Homicide) and 126 (Abduction) of the Criminal Code. As the persons to be charged had not been identified during the investigation, and all the investigative steps that could be carried out in their absence had been completed, the pretrial investigations in these cases were suspended in 2017–2019 on the basis of article 208 (1) (1) of the Code of Criminal Procedure. The legality of these procedural decisions was checked by the Office of the Procurator of the Republic of Crimea, which found no grounds for reversing them. The search continues as part of ongoing operations.

152. The Office of the Procurator of the Republic of Crimea has not received requests from the victims or their representatives to consult the files for these criminal cases, nor has it been contacted by interested parties regarding any failure to provide access to information relating to the investigation of the cases.

153. Article 280[1] (Public incitement to acts that violate the territorial integrity of the Russian Federation) was added to the Criminal Code pursuant to Federal Act No. 433-FZ of 28 December 2013.

154. In Decision No. 25-P of 26 October 2017,[11] the Constitutional Court of the Russian Federation noted that, while the International Covenant on Civil and Political Rights establishes the right of everyone to freedom of expression, including freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, or through any other media of his or her choice, it also specifies that the exercise of these rights carries with it special duties and responsibilities, and that restrictions on their exercise may be provided by law for respect of the rights or reputations of others or for the protection of national security or of public order (*ordre public*), or of public health or morals.

## Replies to the issues raised in paragraph 23 of the list of issues

155. In the Republic of Crimea, the activities of religious organizations are carried out in accordance with Federal Acts No. 7-FZ of 12 January 1996 on Non-Profit Organizations and No. 125-FZ of 26 September 1997 on Freedom of Conscience and Religious Associations.

156. As at 1 October 2020, 794 religious organizations were registered in the Republic of Crimea (compared to 763 in 2018 and 786 in 2019); they serve over 20 different faiths and include 242 local religious organizations of Muslims and 4 local religious organizations of adherents to the doctrine of the Greek Catholic Church.

157. In the first nine months of 2020, the Administration of the Ministry of Justice of Russia for the Republic of Crimea decided to register 10 new religious organizations (compared to 33 in 2018 and 29 in 2019).

158. The number of religious organizations in this constituent entity is steadily increasing each year, which shows that citizens are exercising their constitutional rights to freedom of conscience and religion and to association.

159. According to the Administration of the Ministry of Justice of Russia for the Republic of Crimea, 4 Greek Catholic churches and over 100 Muslim groups, including the Spiritual Administration of Muslims of the Republic of Crimea and Sevastopol, a central religious organization of Muslims, are registered in the Republic.

160. On 28 June 2019, owing to non-compliance with Act No. 38-ZRK of the Republic of Crimea of 31 July 2014 on Specific Aspects of the Regulation of Property and Land Relations in the Territory of the Republic of Crimea, the Commercial Court of the Republic of Crimea upheld a claim by the Ministry of Property and Land Relations of the Republic of Crimea to oblige the Crimean Diocese Administration of the Ukrainian Orthodox Church of the Kiev Patriarchate to return to the Ministry a part of the non-residential building in which it was located (17 Sevastopol Street, Simferopol). The court decision was executed through a forced eviction.

[11] Case concerning the constitutionality of article 2 (5) of the Federal Act on Information, Information Technologies and Data Protection in connection with a complaint by A.I. Sushkov.

161. The Mejlis of the Crimean Tatar People, a voluntary association that had been carrying out extremist activities, was dissolved by court decision on 26 April 2016 in response to an application by the Procurator of the Republic of Crimea. This decision was upheld by the Supreme Court of the Russian Federation on 29 September 2016.

162. M.A. Dzhemilev, who is mentioned in the list of issues, has evaded the pretrial investigation bodies and is being prosecuted under articles 322 (3), 224 and 222 (1) of the Criminal Code for crossing the State border of Russia illegally on 3 May 2014, storing ammunition (rifle cartridges) and storing a firearm carelessly, which facilitated its use by another person (his son, K.M. Dzhemilev), resulting in the death of F.S. Edemov.

163. Since June 2020, the case has been under consideration by Armyansk City Court of the Republic of Crimea under the procedure set out in article 247 (5) of the Code of Criminal Procedure, without the participation of the defendant, who is represented by counsel, N.N. Polozov.

164. R.A. Chubarov, who has evaded the pretrial investigation bodies, is being prosecuted under articles 212 (1), 280.1 (2) and 280.1 (1) of the Criminal Code for organizing mass disturbances outside the building of the Supreme Council of the Republic of Crimea on 26 February 2014, which resulted in injuries to citizens of varying degrees of severity and two deaths.

165. Since May 2020, the criminal case has been under consideration by the Supreme Court of the Republic of Crimea under the procedure set out in article 247 (5) of the Code of Criminal Procedure, without the participation of the defendant, who is represented by counsel, A.V. Osokin.

166. Mr. Dzhemilev and Mr. Chubarov have been made the subjects of pretrial restraining orders in the form of detention for two months after their extradition to or arrest in the Russian Federation.

167. Pursuant to a decision of Yalta City Court of 3 March 2020 (upheld on appeal by the Supreme Court of the Republic of Crimea on 25 June 2020), Y.T. Masharipov, who had been accused of illicit trafficking in explosive substances and devices, was absolved of criminal liability for an offence under article 222.1 (1) of the Criminal Code and made the subject of an order for involuntary treatment in a medical facility providing specialized inpatient psychiatric care with intensive monitoring.

168. A case opened under article 223.1 (1) of the Criminal Code in connection with the manufacture by Mr. Masharipov of explosive devices was diverted from the criminal court process, and he was recognized as having the right to rehabilitation. These decisions have been appealed by the parties to the Fourth Cassational Court of General Jurisdiction.

169. On 5 March 2020, S.V. Filatov was sentenced by Dzhankoy District Court of the Republic of Crimea under article 282.2 (1) of the Criminal Code, and the sentence has now become enforceable. On 16 September 2020, S.R. Mustafayev was found guilty by a division of the Southern District Military Court of offences under articles 205.5 (1), 30 (1) and 278 of the Criminal Code; the defence has appealed the decision.

170. The Republic of Crimea has taken the measures needed to ensure access to education in the Crimean Tatar and Ukrainian languages.

171. In accordance with articles 10 and 19 of the Constitution of the Republic of Crimea, the State languages of the Republic of Crimea are Russian, Ukrainian and Crimean Tatar. Everyone has the right to use his or her native language and to a free choice of language of communication, education, training and creative work.

172. In accordance with the Act of the Republic of Crimea of 6 July 2015 on Education in the Republic of Crimea, educational activities in State and municipal educational institutions are carried out in the State language of the Russian Federation. In addition, citizens of Russia who are resident in the Republic have the right to receive education in their native language, for example Russian, Ukrainian or Crimean Tatar, and the right to study their native language to the extent possible within the limits of the resources available to the education system, in the manner prescribed by the legislation on education.

173. To realize these rights, the required number of relevant educational organizations, classes and groups and the conditions that they need to operate are created in response to applications made by parents or persons in loco parentis when their minor children are enrolled. Choice means not that it is possible to opt out of studying a native language but that the language in question may be chosen (for example, Russian, Crimean Tatar, Ukrainian or another language of the peoples of Russia that live in the Republic).

174. The State Programme for the Development of Education in the Republic of Crimea, which was approved by a decision of the Council of Ministers of the Republic of 16 May 2016 (as amended on 21 January 2020), provides for measures to preserve and develop the State language of Russia, the State languages of the Republic of Crimea and other languages of the peoples of Russia, including funds to provide students with literature in the Crimean Tatar and Ukrainian languages.

175. In accordance with federal State education standards for primary general, basic general and secondary general education, native language and literature is a compulsory subject.

176. There are currently 544 general education organizations in the Republic of Crimea, which are attended by 213,600 children. Of these, 207,200 (96.9 per cent) are taught in Russian, 6,400 (3 per cent) in Crimean Tatar and 206 (0.1 per cent) in Ukrainian. There have been no school closures or artificially created teacher shortages in the Republic of Crimea.

## Replies to the issues raised in paragraph 24 of the list of issues

177. The rights of numerically small indigenous peoples are guaranteed by article 69 of the Constitution of the Russian Federation in accordance with the generally recognized principles and standards of international law and the international treaties to which Russia is a party.

178. Under Act No. 1-FKZ of 14 March 2020 amending the Constitution of the Russian Federation to improve the regulation of certain issues relating to the organization and functioning of the public authorities, the article in question was supplemented with a second paragraph, in accordance with which the State protects the cultural identity of all the peoples and ethnic groups in Russia and guarantees the preservation of ethnocultural and linguistic diversity.

179. The native habitats and traditional ways of life of numerically small ethnic groups are protected jointly by Russia and the constituent entities of Russia (Constitution of the Russian Federation, art. 72 (1) (l)).

180. Federal Act No. 82-FZ of 30 April 1999 on Guarantees of the Rights of Numerically Small Indigenous Peoples of the Russian Federation is the core legislative act establishing the legal basis for guarantees of the distinctive socioeconomic and cultural development of the numerically small indigenous peoples of the Russian Federation and the protection of their native habitats and traditional ways of life, economic activities and trades.

181. A registration system for members of numerically small peoples was incorporated into the Act pursuant to Federal Act No. 11-FZ of 6 February 2020. This amendment will enter into force on 7 February 2022.

182. Specially protected areas are being created so that the numerically small indigenous peoples of the North, Siberia and the Far East of the Russian Federation can engage in traditional natural resource use and maintain their traditional ways of life. These are areas of traditional resource use the legal status of which, including with regard to the use of natural resources, is regulated by Federal Act No. 49-FZ of 7 May 2001 on Territories of Traditional Resource Use by the Numerically Small Indigenous Peoples of the North, Siberia and the Far East.

183. Given the geographical locations of the places where the numerically small indigenous peoples of the North and the Far East live traditionally, it is important to note that, in 2020, article 11 of Federal Act No. 174-FZ of 23 November 1995 on Environmental Assessment was supplemented with paragraph 7.9, which states that, when major infrastructure projects are to involve construction or reconstruction activities in the Arctic

Zone of Russia, the design plans must undergo a State environmental assessment at the federal level.

184. Additional safeguards are thus provided for by law to ensure compliance with environmental protection requirements in the context of industrial activities that might negatively affect the air, the soil, sources of drinking water and other aspects of the natural world, as well as sacred sites and burial sites.

185. Article 13 (2) of Federal Act No. 7-FZ of 10 January 2002, the Environmental Protection Act, states that, when it is being decided where to build facilities the economic or other activities of which might harm the environment, the opinion of the population or the results of a referendum should be taken into account. This provision is fully applicable to the numerically small indigenous peoples of the North, Siberia and the Far East.

186. Building on these provisions, federal legislation also establishes other rights for numerically small indigenous peoples, for example, in accordance with Federal Act No. 52-FZ of 24 April 1995, the Wildlife Act, the rights to employ traditional methods for the use of wild animals and their products (art. 48) and, in their traditional settlement places, to have priority in the use of wild animals in the areas in which they live traditionally and carry out traditional economic activities (art. 49); the right to fish for the purpose of ensuring their traditional ways of life and traditional economic activities (Federal Act No. 166-FZ of 20 December 2004 on Fishing and the Preservation of Aquatic Biological Resources, art. 25); and the right to hunt for the purpose of ensuring their traditional ways of life and traditional economic activities (Federal Act No. 209-FZ of 24 July 2009 on Hunting and the Preservation of Hunting Resources and on Amendments to a Number of Legislative Acts of the Russian Federation, art. 19).

187. The protection of sacred sites is regulated by the constituent entities of the Russian Federation in which members of numerically small indigenous peoples live. In this connection, an example is Act No. 92-oz of the Khanty-Mansi Autonomous Area – Ugra of 8 November 2005 on the Sacred Sites of the Numerically Small Indigenous Peoples of the Khanty-Mansi Autonomous Area – Ugra.

188. Relations in the domain of traditional natural resource use are regulated at the regional level. For example, the government of Tyumen Province issued Decision No. 41-p of 24 February 2009 approving the regulations on the use of water bodies in the areas of Tyumen Province where numerically small indigenous peoples of the North live traditionally and carry out traditional economic activities for the purpose of protecting their native habitat and traditional way of life.

189. Members of the Shor and Teleut indigenous peoples live in Kemerovo Province (Kuzbass). The village of Kazas in Myski Municipal Area is one of the places where the Shor live.

190. Coal is mined near the village of Kazas. One of the conditions that Yuzhnaya Holding Company had to fulfil in order to obtain a mining licence was to resettle the inhabitants of 28 houses in the village. In this connection, on 10 August 2012, the administration of Myski Municipal Area and the Yuzhnaya Holding Company signed a social and economic cooperation agreement, which sets out the measures to be taken for the resettlement of the inhabitants of the village. At a gathering of inhabitants of the village on 15 December 2012, the decision was made to resettle all those who wished to be resettled.

191. In 2013–2015, 38 purchase and sale contracts were concluded for houses, plots of land and non-residential premises. According to a report by Yuzhnaya Holding Company, the Company and the inhabitants of the village concluded purchase and sale contracts for houses and plots of land and agreements to demolish houses and pay compensation amounting to more than 82 million roubles. Those who own property in the village and their family members and close relatives have been granted unimpeded access, including vehicular access, to the site of the venture.

192. On 6 September 2019, in response to an administrative application by the Central Administration of the Ministry of Justice of Russia for Moscow, Moscow City Court decided to dissolve the Centre for Support of Indigenous Peoples of the North, an interregional

voluntary organization. The organization was dissolved following the discovery that it had repeatedly committed gross violations of Russian legislation in the context of its activities.

## Replies to the issues raised in paragraph 25 of the list of issues

193. Measures to combat COVID-19 have been taken with due regard to striking a fair balance between the realization of rights in the domain of health care and the imposition of temporary restrictive measures.

194. To prevent the spread of COVID-19, a state of heightened alert was introduced in the constituent entities of the Russian Federation. It was introduced on the basis of Federal Act No. 68-FZ of 21 December 1994 on the Protection of the Population and Territory in case of Natural or Man-made Emergencies. The powers of the executive authorities of the constituent entities of the Russian Federation to restrict the movement of people and introduce other measures in the event of situations that threaten public health derive from article 4.1 (10) of Federal Act No. 68-FZ (Additional measures to protect the population) and article 6 of Federal Act No. 52-FZ of 30 March 1999 on Public Health and Disease Control.

195. The state of heightened alert was introduced in all 85 constituent entities of the Russian Federation and declared to be a circumstance of insuperable force (force majeure) in 44 of them. This regulatory model was adopted as a necessary and proportionate response to the threats that had emerged.

196. Spreading false information about coronavirus during a pandemic can have dire social and economic consequences. Such misinformation spreads at lightning speed, creates panic, causes disorientation and direct psychological harm, and thwarts the measures taken to prevent the situation from worsening. Panic-mongers often suggest remedies that can cause real harm to health.

197. The problem of misinformation exists across the world. The World Health Organization has coined the term “infodemic”.

198. In this connection, Russia has introduced administrative and criminal penalties for spreading false information about the coronavirus disease. Under Russian law, such acts are defined as an abuse of the freedom of the media.[12]

199. In order to prevent the emergence and spread of COVID-19 among persons held in penal correction establishments and employees of penal correction establishments or bodies, provision has been made for a number of organizational, public health and disease control measures.

200. The Federal Penal Service approved Order No. 196 of 19 March 2020 on urgent measures to prevent the spread of COVID-19, an operational headquarters was set up, and a plan of urgent measures to prevent the spread of COVID-19 was approved and implemented.

201. On 7 April 2020, the Federal Penal Service approved a comprehensive plan of organizational, practical, public health, preventive, therapeutic and diagnostic measures to address the threat of the occurrence and spread of COVID-19 in institutions and bodies of the penal correction system. It provides for comprehensive preventive and curative measures according to the level of epidemiological danger.

202. In order to respond promptly to a changing epidemiological situation in the medical organizations of the Federal Penal Service, an operational reserve of medical personnel has been formed, consisting of critical care anaesthetists, general practitioners, infectious disease specialists and nurses.

203. To ensure that COVID-19 patients receive supervised treatment, medical organizations of the penal correction system have been provided with medicines in a timely manner in accordance with the temporary guidelines on the prevention, diagnosis and treatment of COVID-19 approved by the Ministry of Health of Russia.

[12] https://iz.ru/989150/ivan-petrov/vrat-na-ispug-panikerov-nachali-privlekat-k-otvetstvennosti.

204. The Constitution of the Russian Federation establishes the right to the inviolability of private life and personal and family privacy. The collection, storage, use and dissemination of a person’s private information without his or her consent is prohibited.

205. Building on the provisions of the Constitution of the Russian Federation, Federal Act No. 152-FZ of 27 July 2006, the Personal Data Act, defines the concept of “confidentiality of personal data” as the requirement for the controller or other person who has access to personal data not to allow their dissemination without the consent of the data subject or other legal grounds.

206. Access to medical care for patients with chronic diseases, including cardiovascular diseases and cancer, and the provision of essential medicines and medical devices to patients and medical organizations are monitored in accordance with Presidential Instruction No. Pr-790 of 9 May 2020 (para. 6).

207. Monitoring is being carried out to prevent disruption to antiretroviral therapy for HIV-positive patients who, during the pandemic, find themselves outside the region in which they are permanently registered.

208. Owing to the prevailing epidemiological situation, the number of outpatient appointments for HIV-positive patients has been reduced, while the number of remote medical consultations for HIV-positive patients has increased.

209. Patients have been hospitalized for non-emergency specialized medical care only upon referral by the attending physician of the medical organization with which the patient is permanently registered, by the executive authority of a constituent entity of the Russian Federation in the domain of health care or by the federal executive authority.

210. Pursuant to Order No. 1470-r of the Government of the Russian Federation of 3 June 2020, medical organizations have begun to resume their core activities in a phased manner.