



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

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## Committee against Torture

### Forty-ninth session

#### Summary record of the 1115th meeting

Held at the Palais Wilson, Geneva, on Monday, 12 November 2012, at 3 p.m.

*Chairperson:* Mr. Wang Xuexian (Vice-Chairperson)

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*In the absence of Mr. Grossman (Chairperson), Mr. Wang Xuexian (Vice-Chairperson) took the Chair.*

*The meeting was called to order at 3 p.m.*

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

*Fifth periodic report of the Russian Federation (continued) (CAT/C/RUS/5)*

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

2. **Mr. Matyushkin** (Russian Federation) said that, although the definition of torture was contained in a note to article 117 of the Criminal Code rather than the article itself, it did form an integral part of the Code. The definition was in conformity with, and in fact broader than, the definition contained in article 1 of the Convention. Article 117 of the Criminal Code applied to all acts of torture, including acts committed by law enforcement officials, under their authority or with their agreement, and acts committed for the purposes of coercion of a third person. Law enforcement officials were subject to greater penalties for the perpetration of torture and could be imprisoned for up to 10 years. Both the person who gave the order to inflict torture and the person who carried out the illegal order incurred liability under the Code.

3. The commission that appointed judges had been made an autonomous body of the judiciary and was composed of judges, academics and representatives of lawyers' associations, who were elected by a conference of judges. The appointment of judges for an unlimited period had been introduced to ensure security of tenure and hence the independence of judges. The age restriction relating to the office of President of the Supreme Court had been rescinded and it was now possible to be appointed Deputy President of the Supreme Court more than once. A mechanism had been established to deal with complaints about early termination of tenure. The aforementioned changes to the judicial system had been made in full conformity with the European Charter on the Statute of Judges.

4. Per head of population, the Russian Federation was generally ranked nineteenth out of 47 member States of the Council of Europe for the number of complaints made against it at the European Court of Human Rights. The number of complaints had fallen in recent years.

5. Discrimination was prosecuted in the Russian Federation through both criminal and administrative procedures and there were no standards discriminating against persons on the basis of their race, religion or any other reason.

6. Victims of torture or ill-treatment were supported through a nationwide system of centres to help persons in need. The centres provided victims of violence with psychological, legal, social and medical help and their number was increasing steadily.

7. Steps had been taken to extend the rights of persons declared incompetent by the courts and psychiatric institutions were monitored regularly. Any person who was declared incompetent by a court was entitled to participate in the hearing and to appeal against the decision. Patients in psychiatric institutions were entitled to contact the head of the institution or the authorities, including the courts, in relation to the observance of their rights. They were also entitled to free legal assistance and to meet with a lawyer in private. Terminations of pregnancy and medical sterilization could not be performed on a person who had been declared incompetent and was unable to express an opinion unless authorized by a judge; the person concerned must have participated in the hearing.

8. Statistics on hazing in the armed forces showed that violence in the armed forces had fallen in recent years. The period of military service had been halved and the armed forces increasingly included professional soldiers in their ranks, which had had a positive impact on the moral and psychological climate among service personnel. Constant monitoring of army facilities had been introduced and unnecessary limitations on the freedom of army personnel had been reduced. A multi-agency working group had been established to end violent crime among military personnel and monitor the situation. A military police force was being established.

9. **Ms. Antipenko** (Russian Federation) said amendments to the Code of Criminal Procedure meant that the procurator could not independently initiate criminal proceedings, take decisions on penalties or lead investigations. The procurator was nonetheless responsible for preventing violations during the preliminary stage of an investigation and for making decisions on arrests and extension of custody.

10. The Code of Criminal Procedure guaranteed the safety of persons in custody by protecting them from groundless accusations, convictions and limitations on their rights and freedoms. Evidence obtained in violation of the Code, including statements obtained without the presence of a lawyer, was not admissible as grounds for conviction. A rehabilitation mechanism was available to any person who had been subjected to illegal coercion.

11. Detainees were required to be held in conditions that posed no threat to their health or life and were informed of their rights and responsibilities. During questioning, the circumstances of detention were clarified to ensure that no laws had been broken. Video recording was often used to prevent coercion of detainees and they underwent a medical examination prior to placement in temporary detention. In case of need, a special supervised medical ward was available. Detainees were asked if they had any complaints or had experienced ill-treatment and were checked for signs of torture by medical personnel, who recorded any evidence found.

12. A person was only taken into custody on the basis of a court decision and only in cases where he or she was suspected of having committed an offence carrying a prison term of more than 2 years. The provision was not applicable to persons suspected of having committed economic crimes in the course of their business activities. In the case of minor offences, detention was only used if the suspect refused to cooperate. Complaints about detention must be considered within a time frame of 120 hours and a person could be held in pretrial detention for a maximum of 18 months.

13. Temporary detention facilities were inspected by the procurator on a daily basis, including at night, and any violation of detainees' rights was investigated with a view to disciplinary measures. Complaints about detention conditions from prisoners were monitored and regional procurators were required to respond to them immediately. Representatives of international organizations and members of a non-governmental supervisory committee were able to visit places of detention at any time.

14. Regarding the allegations of violations of women's rights in detention made by Zara Murtazalieva, no complaint on the matter had been received by the Procurator's Office.

15. On the question of guarantees for detainees who complained of torture, he said that either the individual making the complaint or the official in charge of the place of detention could initiate a transfer to a place of safety. If necessary, the individual was transferred to a different institution. If allegations of violence against a detainee led to a criminal proceeding, the detainee enjoyed all the guarantees provided under the Code of Criminal Procedure. In order to ensure that lawyers could freely perform their duty to defend their clients, they enjoyed a special legal status, which included immunity.

16. Aleksei Sokolov had been convicted and sentenced to 5 years in prison for theft and burglary; the sentence had been reduced to 3 years on appeal. Mr. Sokolov had been released early in July 2011. There was no information to suggest that he had been prosecuted in connection with human rights activities.

17. The Procurator-General or his or her deputy made decisions on extradition and could only do so once written guarantees had been obtained stating that the human rights of the person due to be extradited would be respected. That person was informed in writing of both the decision and his or her right to appeal it in court. An extradition order entered into force within 240 hours of its issuance, although it was suspended during appeal proceedings.

18. In July 2012, the European Court of Human Rights had informed the Russian authorities that Yusup Kasymakhunov should not be extradited to Uzbekistan; his extradition had been suspended while the Court considered his appeal.

19. **Mr. Ibragimov** (Russian Federation) said that Igor Kalyapin, who was representing the victim in the case on the abduction of Islam Umarpashaev, had divulged information relating to the case in violation of the Code of Criminal Procedure. Mr. Kalyapin had confirmed that he had sent the information to his personal e-mail address, which was freely accessible. The information had then been posted on the website of an NGO led by Mr. Kalyapin. An investigation into the incident continued.

20. A criminal investigation had been launched into the death in custody of Pavel Drozdov. Mr. Drozdov had resisted the police and been restrained with handcuffs; he had been found dead some hours later. Video recordings revealed that police officers had used force and special procedures that exceeded their powers and violated the Police Act. Criminal proceedings had been launched and the outcome depended on the results of the investigation.

21. The Human Rights Commissioner, Vladimir Lukin, had contacted the Investigative Committee requesting verification of the information presented in the film *Irkutsk SIZO: territory of torture*, which addressed the topic of torture and coercion of persons who had been arrested and placed in detention in Irkutsk. Inspections and other steps had been carried out between 2004 and 2009 and a decision had been made on whether to initiate a criminal case. Mr. Lukin had been informed of the action taken but had not contacted the authorities again in that regard.

22. The forced sterilization of women had occurred in one psychiatric care institution in Perm in 2004, 2005 and 2007, and not in places of detention. Grigory Bannikov, the director of the institution had, without any authority or legal basis, given his agreement to the sterilization of three women in his care who had been declared incompetent. Mr. Bannikov had been sentenced under the Criminal Code to 2 years' imprisonment with 1 year's probation.

23. In November 2011, the newspaper *Komsomolskaya Pravda* had reported the rape of 220 girls in the town of Kushchëvskaya. The regional authorities had opened an investigation into the incident and found no objective confirmation of the report. Questioning had revealed the rape of two girls; one case was being investigated by the court as an incident linked to a criminal group, while the other case would soon come to court.

24. In the Chechen Republic, various measures had been taken to make preliminary investigations more effective, including the establishment of a specialist investigative working group and a group to investigate crimes in the recent past. In addition, since 2008 the Chairperson of the Investigative Committee had participated in the meetings of various European bodies, including the European Court of Human Rights, and techniques used by

the United Kingdom had been adopted when investigating incidents in the more distant past.

25. A database had been established for all criminal cases on abductions and disappearances in the Chechen Republic since 2000 for use by the investigative department in the region. The database contained detailed information on the time, place and circumstances of the offence, and information obtained about the perpetrator. Approximately 500 of the 3,000 persons abducted or unlawfully detained since counter-terrorism activities had begun in the Chechen Republic had been found or had returned of their own accord. Since 2011, genetic samples had been collected from the relatives of persons who had been abducted in order to help with the identification of bodies. An agreement had been concluded between the authorities and the Human Rights Commissioner in 2012 to allow information on missing persons to be shared. The measures introduced had yielded obvious results, including the sentencing of those responsible for the abduction of Khuseyn Amirkhanov and the 2009 abduction of Zarema Sadulaeva.

26. In response to questions by Ms. Gaer, he said that the investigation into the case of Anna Politkovskaya had been concluded and six persons had been charged under the Criminal Code. A decision would soon be taken on whether to bring Dmitry Pavlyuchenkov — accused of being a member of the group responsible — before the court.

27. Regarding the case of Mr. Magnitsky, the assistant director of the medical unit was currently on trial and other persons involved, including officials from the Ministry of Internal Affairs, were being investigated.

28. Criminal proceedings relating to the killing of Natalya Estemirova had been launched in 2009. Investigations, which were ongoing, had revealed that Alkhazur Bashaev had been involved in the killing and he had been put on an international wanted list. Considerable work had been done on the case, including the questioning of over 1,300 persons, and inquiries had been transmitted to human rights organizations and other States.

29. **Mr. Nurullin** (Russian Federation) said that the new legislation on refugees, which had been framed as part of broader migration policy, was due to be presented as a bill to the Government in the first quarter of 2014, with a view to adoption by the State Duma in the third quarter of 2014. The draft was being developed by an inter-agency working group, with due reference to the Convention relating to the Status of Refugees, the Handbook on Procedures and Criteria for Determining Refugee Status and relevant legislation of other countries.

30. The Russian Federation received approximately 13 million migrants annually. Roughly 6 per cent of migrants were subjected to administrative proceedings for violations of immigration law during their stay in the country. To protect the interests of Russian citizens, migrants who constituted or might constitute a threat to public order or citizens' enjoyment of their rights or did not conform to accepted standards of behaviour were not considered to meet the needs of the State and therefore lost their right to stay in the Russian Federation. They were deported, a measure applied only in cases where other measures had proved ineffective.

31. Administrative deportation involved the supervised, or sometimes independent, departure of a person from the Russian Federation. It was carried out by decision of the court and provided a high level of human rights protection for the person concerned. A foreign citizen could be deported if he or she committed one of eight specific offences relating to violations of immigration procedures or illegal trading in drugs. Specific procedures set out in legislation protected the rights of foreign citizens who were liable to deportation and the individual concerned had 240 hours to lodge an appeal. Any appeal was considered by a higher court within 24 hours. Foreign citizens could only be deported to a State of which they were a citizen or, in the case of stateless persons, to the State where

they were permanently resident. Representatives of that State were duly informed. Statistical data indicated that the number of deportations ordered by the courts was falling and that very few migrants were subjected to administrative deportation.

32. Deportation was a security measure involving the removal of a person from the Russian Federation as a result of the loss or early withdrawal of his or her right to remain in the country. It was ordered in a number of cases, including failure to leave following the early withdrawal of the right to remain in the country, cases where the foreign citizen developed an illness that meant that he or she could no longer remain in the country, or if he or she had arrived under a readmission procedure and there was no agreement on readmission between the Russian Federation and the country where he or she had citizenship. The decision on deportation was made by officials of the Federal Migration Service and could be appealed.

33. The Russian authorities granted foreign citizens political asylum, refugee status or temporary asylum in conformity with the country's international obligations and domestic legislation. Political asylum was granted to a person who had suffered persecution in his or her country of citizenship or ordinary residence due to his or her political activities or beliefs, as long they did not run counter to democratic principles or international legal norms. Decisions to grant political asylum were made by the President and were rare.

34. Refugee status was granted for a period of three years under the Refugees Act. Refugees were not returned to their countries of origin if their lives or freedoms were endangered because of their race, faith, citizenship or membership of a social or political group.

35. Temporary asylum allowed a foreign citizen or stateless person to live in the Russian Federation for a period of one year, with the possibility of extending that period on request. It was granted to persons who did not qualify for refugee status but who could not be returned to their country of origin, ordinary country of residence or any other country because there were substantial grounds for believing that, if returned, they would be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

36. **Mr. Vereykin** (Russian Federation) said that, as part of the reforms taking place at the Ministry of Internal Affairs, staff now received more training on human rights standards and the police operated in a more transparent fashion. Citizens had improved access to complaints mechanisms and could file complaints at all police stations and via the Internet. All cases of abuse of detainees were investigated immediately and disciplinary or criminal proceedings instituted against the perpetrators. Following the death of Sergei Nazarov in March 2012, 18 police officers had been dismissed; criminal proceedings had been brought against 17 of them and there had been 2 convictions to date. Many places of detention had been fitted with video surveillance equipment in order to prevent any illegal acts. Regional human rights commissioners and staff of the Office of the Human Rights Commissioner had made over 4,000 visits to police detention facilities in 2011 and had identified 447 human rights violations.

37. He assured the Committee that subordinates were under a clear obligation not to carry out any instructions that violated federal legislation, whoever issued them. The Ministry of Internal Affairs was gradually improving facilities and conditions in all places of detention; some 14 billion roubles had been allocated for that purpose. The staff of most police stations included medical professionals who examined detainees on arrival and departure, and all detainees had access to emergency health care. The number of deaths in pretrial detention centres (SIZOs) had fallen significantly. The number of people detained in those facilities had also decreased.

38. Steps were being taken to implement international standards on the protection of victims and witnesses of crime. The relevant legislation had entered into force in 2005 and

the Government had allocated some 1.3 billion roubles to its implementation between 2009 and 2013.

39. While administrative arrest could be ordered by judges for a maximum of 15 days, it normally lasted between 3 and 5 days. It could not be applied to several categories of persons, including pregnant women, women with children under the age of 14, minors and people with disabilities. Complaints against administrative arrest must be considered within 24 hours. A bill concerning administrative arrest was currently awaiting first reading by the State Duma.

40. The police, including police in the North Caucasus region, were taking steps to investigate cases of abduction and bring the perpetrators to justice. The Ministry of Internal Affairs of the Chechen Republic had a single database of abductees and missing persons, which it shared with the relevant law enforcement agencies. An integrated programme to prevent abductions and locate missing persons was being implemented, and efforts to identify and disband criminal gangs had been stepped up. In 2011, the number of cases of abduction had fallen significantly nationwide.

41. When addressing citizens, police officers were obliged to indicate their name and rank and, if requested, to show their identity documents. All police officers wore a clearly visible badge that specified their unit.

42. **Mr. Timofeev** (Russian Federation) said that the authorities attached great importance to respecting the rights of detainees, particularly since the country had joined the Council of Europe. Steps were being taken to bring detention conditions into line with international standards, reduce the number of detainees, enhance transparency, increase respect for the rights of detainees and reduce reoffending. In order to reduce overcrowding in prisons and pretrial detention centres, alternative punishments had been introduced, including community work, house arrest and bail, and people were no longer arrested for economic crimes. The cell space allocated to each detainee in pretrial detention centres was 4 square metres, in line with the provisions of domestic legislation. Between 2007 and 2011, about 8,000 additional places had been created in pretrial detention centres; about 1,850 more would be available by the end of 2012.

43. Measures had been introduced in 2009 to improve health care in prisons and pretrial detention centres. It was no longer legal to test medication or methods of diagnosis or treatment on detainees or to use them as subjects for biomedical research. Suspects found to have one of a number of serious diseases were now transferred to medical facilities where they were treated by specialists. There were currently over 900 medical units within prisons and pretrial detention centres, in addition to hospitals and treatment centres. Between 2009 and 2012 the number of deaths in detention had fallen from 4,551 to 4,402. The number of deaths in detention related to HIV/AIDS had increased in the same period.

44. Places of detention were monitored by public watchdog commissions. Since October 2010, regional watchdog commissions had been in operation in 79 locations nationwide and had conducted almost 2,000 prison visits in the first nine months of 2012. Of the 1,160 comments detainees had made, most had expressed disagreement with the conviction. No complaints of torture had been received. The State did not provide financial resources for the commissions; to do so could endanger their independence. Disciplinary proceedings had been brought against the Sverdlovsk prison official who had refused a visit by the commission.

45. As an alternative to full-time deprivation of liberty, some prisoners were allocated paid work outside prisons. The pay they received could be used to compensate victims. Solitary confinement was used only in exceptional cases and for limited periods. Repeat offenders sentenced for serious crimes could be kept in solitary confinement for up to 6

months. Prison governors were responsible for placing prisoners in solitary confinement; those decisions could be appealed before the courts.

46. **Mr. Matyushkin** (Russian Federation) said that the draft legislation on treason was currently awaiting signature by the President. Under the Constitution, if a provision of domestic legislation contradicted the provisions of an international legal instrument to which the Russian Federation was a party, the international treaty took precedence.

47. **Ms. Gaer** (Country Rapporteur) noted from the periodic report, the other documentation available to the Committee and the delegation's oral replies that there appeared to be many reports of abuses in the State party, but an alarmingly small number of investigations, particularly criminal investigations, that led to convictions. Intimidation and even killing of human rights monitors appeared to be widespread and there was a climate of reprisals, which suggested that the State party did not ensure that independent monitoring and prevention of torture took place. If that was true, it would undermine the very purpose of the Convention.

48. While the delegation had indicated that Leonid Razvozzhayev had not complained about his detention, he had told the Moscow public watchdog commission that he had been tortured during his extraordinary rendition from Ukraine to the State party. She asked whether that allegation had been investigated and requested clarification whether the public watchdog commissions were able to conduct unannounced visits to detention centres.

49. She wished to know what action had been taken in response to Alexei Sokolov's complaint that he had been beaten in detention. She would appreciate the delegation's comments on the remarkable coincidence that, as soon as Mr. Sokolov had issued a report criticizing detention conditions, a case involving an economic crime he had allegedly committed five years previously had suddenly been opened and he had been convicted.

50. Given that the Convention prohibited torture and ill-treatment based on discrimination of any kind, she would appreciate an account of the investigations the State party had undertaken into the attacks on vulnerable groups described in the report of the Anti-Discrimination Centre MEMORIAL. The Committee would welcome details of the responses to the specific incidents involving attacks on members of the Roma community, Tajik migrants, peaceful protesters and people in gay clubs. She wished to know what steps the Government had taken to prevent such attacks in the future.

51. She appreciated the delegation's information on a number of cases of alleged ill-treatment in the North Caucasus region and the difficulties in identifying cases. Nonetheless, she wished to know whether anyone had been convicted in any of those cases. The two key perpetrators in the case of *Sadykov v. Russia*, which had come before the European Court of Human Rights, had been covered by amnesties, which violated the Convention. She would appreciate the delegation's comments in that regard. In March 2011, Mr. N.A. Khabarov, the Deputy Prosecutor of the Chechen Republic, had written to an NGO indicating that top-ranking officials of the Investigative Committee had no departmental control over criminal investigations, no specific steps were taken to bring the perpetrators of violations of law to justice and, in some cases, investigators of the Investigative Committee for the Chechen Republic had concealed cases of abduction. She asked what measures the State party was taking in that regard.

52. The case of Sergei Magnitsky appeared to exemplify the lack of effective investigation, particularly criminal investigation, into many crimes of torture and ill-treatment that were allegedly committed in the State party. She requested confirmation that only one low-level official had been prosecuted for Mr. Magnitsky's death, despite several reports alleging the responsibility of other officials and complaints from the victim's family. Investigations had apparently revealed that a number of investigators, including the lead investigator in the criminal case against Mr. Magnitsky, had been responsible for

denying him the medical care he had required. One of the individuals on the lead investigator's team had been accused of fraud by Mr. Magnitsky, which would appear to pose a significant conflict of interest. She wished to know whether the State party had investigated the role of the lead investigator of the death of Mr. Magnitsky.

53. She wished to know whether the cases of deaths in the SIZO in the Irkutsk region had been effectively investigated. Since it appeared that Igor Kalyapin had been a lawyer for Islam Umarpashaev, she asked whether the Investigative Committee used its authority to challenge lawyers who put information concerning their clients' cases online.

54. She would appreciate information on the number of cases in which the European Court of Human Rights had found that the State party had failed to conduct adequate investigations into offences committed during detention. It would be useful to know how many such cases had been investigated after the European Court had handed down its judgements.

55. The Committee had received reports that Alexander Bastrykin, the head of the Investigative Committee, had forced the newspaper journalist Sergei Sokolov into a car, driven him to woods outside Moscow and threatened him with violence as retribution for a critical article Mr. Sokolov had written about him. She wished to know whether an investigation had been ordered into that incident or disciplinary action taken.

56. She would appreciate data on the number of complaints that had been received against police officers in the State party. She asked whether any police officers had been disciplined during the reporting period for failing to notify family members that their relative had been detained or for failing to allow detainees access to a lawyer.

57. **Mr. Bruni** (Country Rapporteur) asked whether the definition of torture in the State party's Criminal Code referred to physical and mental suffering or moral suffering. It would be useful to know what treatment was available to the numerous victims of torture in the armed forces. The acts the delegation had referred to as hazing constituted torture; the reported 9 per cent decrease in the State party was wholly inadequate, given that the Committee had called for zero tolerance of such practices. He urged the authorities to institute thorough criminal prosecutions for those crimes and would welcome details of any examples of such prosecutions. He also urged the State party to introduce automatic expulsion from the armed forces of persons guilty of hazing.

58. Turning to the case of Zara Murtazalieva, he recalled that article 12 of the Convention provided that States parties should ensure that their competent authorities proceeded to prompt and impartial investigations wherever there were reasonable grounds to believe that an act of torture had been committed. It was not therefore necessary for Ms. Murtazalieva to bring a formal complaint. He called on the Human Rights Commissioner or the Investigative Committee to visit women's prison No. 13 in Mordovia, particularly in the light of the many other allegations of ill-treatment there.

59. He wished to know what happened to foreign citizens facing administrative deportation who claimed that they were at risk of torture if returned to their country of origin.

60. He requested data on the number of prisoners in punishment cells. It was unclear whether each detainee was allowed only 1.6 square metres of space in a cell. If so, such a small area was inconsistent with decent living conditions. He commended the State party for bringing down the number of deaths in custody and asked how the previous upward trend had been reversed. It would be useful to have current data for the number of deaths of detainees with HIV/AIDS.

61. The Committee had received reports alleging that it was common practice in the State party for law enforcement officials to take detainees to places of temporary detention

in order to extract confessions from them before registering the detention officially. He would welcome an indication of whether that was the case.

62. He asked whether the State party planned to publish the reports of the European Committee for the Prevention of Torture (CPT) on its visits to the facilities of the penal correction system and if so, when. He would appreciate the delegation's response to the CPT reports on the State party's lack of cooperation with its work.

63. **Mr. Mariño Menéndez** said he wished to know whether enforced disappearance was classified as a crime in the Criminal Code, in accordance with the International Convention for the Protection of All Persons from Enforced Disappearance. In addition, he asked whether the three years' refugee status granted to refugees was automatically renewed and whether refugees could appeal if it were not. Was temporary status granted for a period of one year renewable? Were foreign nationals detained pending expulsion held in administrative detention and, if so, for how long? The State party had indicated that it complied with the principle of non-refoulement. Was the decision to deport persons who had been granted temporary asylum an administrative decision? Lastly, he sought clarification as to whether the State party monitored compliance with the diplomatic assurances given in extradition cases. Were such assurances required for Commonwealth of Independent States countries or were such cases covered by the Minsk Agreement?

64. **Ms. Sveaass** said that the Committee wished to know more about the State party's work on violence against women, particularly in connection with rape, lack of investigation of rape and the underreporting of domestic violence. Was the new complaints system used in cases of violence against women and would that change the situation?

65. Was bail pending trial envisaged for Mr. Vladimir Akimenkov, a young activist with a deteriorating health condition that severely affected his sight? The trial was scheduled for 12 March 2013.

66. In the context of reports that drug abusers were frequently harassed, imprisoned and subjected to police brutality under the State party's zero-tolerance policy with regard to drug abuse, she requested further information on investigations relating to drug abusers in police cells, prisons and private and public health-care settings.

67. **Mr. Tugushi** said that he had asked about the State party's plans to improve access to lawyers and had, in particular, raised the issue of ex officio lawyers listed by the Bar Association. In view of reports that such lawyers asked clients to confess and did not respect the code of professional ethics, he would like to know whether the State party had any plans to tackle that issue. In addition, were there plans to strengthen the public monitoring commissions and provide them with adequate funding?

68. Doctors who conducted medical examinations of detainees in police custody were subordinate to the Ministry of Internal Affairs. Did the State party have plans to change that situation and increase the independence of doctors in temporary detention facilities?

69. Lastly, did the State party envisage expediting the current lengthy investigations into allegations of torture? It was important to conduct timely physical examinations of victims as the traces of torture disappeared with time.

70. **Ms. Belmir** said that the European Court of Human Rights appeared to be operating as a safety valve for the dysfunctioning of the State party's judiciary. The considerable number of cases before the Court originating from the State party mainly related to fundamental safeguards, such as access to a lawyer and pretrial detention. Although the Constitutional Court had accepted the many decisions of the European Court, the Government had acted on a mere handful. The number of appeals originating from the State party would appear to indicate that the judiciary was not functioning properly and pointed

to police violence. The State party should pay heed to the situation reflected in the figures, which the Committee found alarming.

71. **Mr. Gaye** said he wished to know whether lawyer visits to prisoners were conducted under the supervision of prison staff. He asked whether conversations between lawyers and their clients in detention were covered by the provisions relating to confidentiality. At what level had measures relating to the violation of rights to legal assistance been introduced and how had that issue been followed up? Lastly, he expressed surprise that no compensation had been paid to the victims in the few confirmed cases of harsh treatment and sexual violence against women and juveniles in places of detention during the period 2004 to 2009. Why had they not received compensation?

72. **Mr. Matyushkin** (Russian Federation) said that the case of Mr. Razvozzhaev was currently receiving media attention. On the one hand, the public watchdog committee had visited the SIZO in Moscow where he was detained and had reported in the media that he was in good condition and was not being subjected to physical or mental torture or to coercion. On the other hand, Mr. Razvozzhaev had alleged in his communication that he had been subjected to what he described as mental pressure when being taken across the border with Ukraine. The competent State authorities were conducting an investigation into the allegations and the public would be duly informed of the results. However, the incident had occurred recently and it was too soon to speak of the results of the investigation.

73. **Mr. Timofeev** (Russian Federation) said that the powers and functions of the public watchdog commission were regulated by federal law. For planned visits, the commission was required to notify the places of detention that it intended to visit and to inform the Office of the Procurator. Article 16 (2) of the federal law regulating the watchdog commissions provided that members of the commissions must comply with prison regulations and with the legitimate demands of the administration. Article 17 imposed restrictions on the activities of the commissions in order to ensure that inspections were impartial.

74. **Mr. Matyushkin** (Russian Federation) said that Mr. Alexei Sokolov had not been convicted for economic offences but for robbery, which was defined under Russian criminal law as taking the property of another person by overt force.

75. **Mr. Vereykin** (Russian Federation) said with regard to the events of 11 October 2012 that on that date there had been an attack by 20 or so hooligans against 2 clubs for sexual minorities in Moscow. Three injured victims had subsequently been examined by doctors and criminal proceedings had been launched under article 115 of the Criminal Code. A complex investigation had been under way for the past month and a decision in the case would be handed down on 18 November 2012.

76. **Mr. Matyushkin** (Russian Federation), referring to investigations into disappearances and cases of violence in the northern Caucasus, said that the majority of episodes to which reference had been made had occurred during the active counter-terrorism operations in that region in the late 1990s and early 2000s. The situation at that time had made it impossible for the authorities to conduct investigations; it was perhaps more important to consider the experience gained from that situation and the current organization of investigations. In any part of the world it would be difficult to investigate a crime committed many years before.

77. In the case of Mr. Sadikov, the official who had been granted an amnesty had not participated in the torture. The investigation was under way and it remained to be established who had been directly involved.

78. **Mr. Ibragimov** (Russian Federation) said that the circumstances referred to indicated the difficulties involved in resolving criminal cases in the northern Caucasus. It

was difficult for investigators to visit crime scenes during military operations because of the risk to life; in addition, material evidence relating to those cases had been lost. Nevertheless, the Investigative Committee was taking significant steps to improve the effectiveness of those investigations and worked with specialized investigators, conducted training activities and sought to use the experience of other countries.

79. **Mr. Matyushkin** (Russian Federation), responding to the question concerning the investigation into the circumstances of the death of Mr. Magnitsky, said that it was unclear where any conflict of interest would lie. The public official working in the SIZO where Mr. Magnitsky had been detained had been found criminally responsible; the investigation had not only taken place but had been effective. The circumstances of Mr. Magnitsky's death were being investigated by a committee that was completely independent of the Ministry of Internal Affairs, which Mr. Magnitsky had blamed.

80. An investigation had been carried out into a number of deaths at the SIZO in Irkutsk; those cases had been transferred to the courts. The delegation would be pleased to provide further detailed information, should the Committee so require.

81. With regard to Mr. Kalyapin, the question had been framed in such a way as to suggest that the Investigative Committee was infringing the rights of defence lawyers. As the legal representative of the victim, Mr. Kalyapin had been warned by the committee of the need to ensure the confidentiality of information relating to the investigation and thereby ensure that justice prevailed. There was an evident conflict of interest between the role of legal representative and that of human rights defender.

82. **Ms. Antipenko** (Russian Federation) said that the Committee had asked about the apparent discrepancy between the number of complaints received about police violence and the lack of effective response by the authorities. Of the 9,500 or so complaints lodged in 2011, for example, that had referred to violence or other illegal action by police officers, 536 had resulted in criminal cases. In all the other cases, the information contained in the complaints had either not been confirmed or the actions of the police had been found to be legally justified. It should be noted that the police were authorized to use force when detaining suspects.

83. **Mr. Matyushkin** (Russian Federation) said he wished to make it clear that the definition of torture moral, mental and psychological suffering were equivalent terms.

84. In connection with the question raised concerning the relationship of the zero-tolerance policy in the armed forces to cases of abuse or ill-treatment, he repeated that there had been a sharp drop in such cases in 2011 and 2012. The zero-tolerance policy had led to a 25 per cent decrease in reported offences in 2012 in comparison with 2011 and the number of deaths had fallen significantly.

85. **Ms. Antipenko** (Russian Federation) said that the absence of any complaint from Ms. Murtazalieva in no way precluded further checks of the information provided by other sources. Ms. Murtazalieva did not need to submit a complaint to the Procurator's Office. Her delegation had taken note of the information provided and would ensure that it was verified, which might constitute grounds for sending an additional committee to investigate what was happening in that particular colony.

86. **Mr. Timofeev** (Russian Federation) said he wished to make it clear that the 111,000 detainees referred to were being held in pretrial detention facilities.

87. By law, the standard cell size was 4 square metres for a single cell and 4 to 10 square metres for a two-person cell.

88. The majority of the approximately 55,000 detainees with HIV/AIDS were drug users. Their health status was established on arrival in pretrial detention and they were

provided with the necessary medical treatment, in accordance with national legislation and international standards. The main cause of death among such detainees was the terminal phase of their illness, with complications from other infectious diseases such as tuberculosis. In the penitentiary system, the HIV/AIDS mortality rate had remained stable while the overall mortality rate had fallen.

89. In order to prevent suicides, specialized psychologists worked with prisoners in the federal penitentiary system who had difficulties adapting to conditions of detention, and also suicidal prisoners and those who engaged in self-destructive behaviour. In addition, medical facilities and solitary confinement cells were under video surveillance; suicidal prisoners could be held in solitary confinement only under video surveillance. The suicide rate in the penitentiary system had fallen by 9.6 per cent during the previous three years.

90. **Mr. Matyushkin** (Russian Federation) said that the report of the CPT would be published once the inter-agency discussions relating to procedures for the protection of personal data had concluded.

91. The Russian Federation was not a State party to the International Convention for the Protection of All Persons from Enforced Disappearance, which was the reason why facts relating to missing persons were investigated on the basis of general legal provisions, individual petitions and media reports, in accordance with the procedures set out in the Code of Criminal Procedure.

92. **Mr. Nurullin** (Russian Federation) said that decisions on expulsion were taken only by the courts. If it was believed that a foreign national might suffer any form of persecution in the State to which he or she would be sent, he or she could lodge an appeal with a higher court and could not be subjected to administrative expulsion until the appeal was decided. When all available means in the Russian Federation had been exhausted, a foreign national could then address the European Court on Human Rights. Rule 39 was applied in cases where a foreign national could not be subjected to administrative expulsion.

93. The new draft federal legislation on refugees would be introduced in the State Duma in the third quarter of 2013. Under the current legislation, refugee status was granted for a period of three years, after which a further application for refugee status could be made. During the third year of refugee status, applications could also be made for residence or nationality. Temporary asylum was granted for a period of one year, with the possibility of extension.

94. **Mr. Vereykin** (Russian Federation) said that comprehensive action was being taken to prevent domestic violence. At the federal level, a commission for the prevention of violence had been established; it was composed of the chiefs of all the relevant agencies, headed by the Ministry of Internal Affairs. At the regional level, programmes on the prevention of domestic violence had been introduced. The action taken had been successful; the overall number of recorded cases of domestic violence was falling substantially year on year.

95. **Mr. Matyushkin** (Russian Federation), referring to alleged violations of their mandate by ex officio lawyers, said that the Bar Association was fully independent and self-regulating. The Ministry of Justice oversaw the work of the Association; however, lawyers who violated the rights of their clients could only be disbarred by the Association itself.

96. **The Chairperson** said that the Committee would be pleased to receive written replies to the remaining questions raised by the end of the following day.

97. **Mr. Matyushkin** (Russian Federation) said that the Russian authorities were taking decisive steps to eliminate the use of torture and other cruel treatment and had a zero-tolerance policy towards any such behaviour. The Ministry of Internal Affairs held

accountable not only the perpetrators of torture but also their supervisors, and any such acts were investigated by the Investigative Committee. In addition, considerable efforts were being made to bring prisons into conformity with international standards. The number of detainees continued to decrease and there was close cooperation with civil society, which was most evident in the functioning of the public watchdog commissions that were making the penitentiary system more transparent. His Government would continue to take action to ensure the full implementation of all safeguards contained in the Convention.

98. **The Chairperson** said that the constructive dialogue with the State party had provided the Committee with valuable information on which to base its conclusions and recommendations.

*The meeting rose at 6 p.m.*