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HUMAN RIGHTS COMMITTEE
Seventy-ninth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Russian federation

1. The Committee considered the fifth periodic report of the Russian Federation (CCPR/C/RUS/2002/5) at its 2144th, 2145th and 2146th meetings, held on 24 and 25 October 2003 (see CCPR/C/SR.2144, 2145 and 2146) and adopted the following concluding observations at its 2159th and 2160th meetings (CCPR/C/SR.2159 and 2160), held on 4 November 2003.

A. Introduction

2. The Committee welcomes the fifth periodic report of the Russian Federation, prepared in conformity with the reporting guidelines. The Committee regrets,

however, that the report did not include full information on follow-up given to its previous concluding observations. The Committee also regrets the delay of almost four years in the submission of the report and the subsequent last-minute postponement of the consideration of the report, which had initially been scheduled for the seventy-eighth session in July 2003.

3. The Committee expresses its appreciation for the discussion in some depth with a high-level delegation, comprising senior officials from various ministries and government institutions and relevant areas of expertise. For the most part the replies given were frank and constructive.

B. Positive factors

4. The Committee notes with appreciation numerous legislative developments and efforts to strengthen the judiciary since the submission of fourth periodic report, which have further improved the protection of Covenant rights.

5. The Committee notes the information given by the delegation about a decision of the Plenum of the Supreme Court of 10 October 2003 instructing general courts in their obligation to be guided by relevant international treaties, including human rights treaties.

6. The Committee welcomes the Federal Constitutional Law No. 1 of 26 January 1997, which creates the institution and sets out the functions and responsibilities of the Federal Commissioner for Human Rights, in line with the Committee's previous recommendations. It also notes the election of the first Federal Commissioner in May 1998.

7. The Committee welcomes the notable achievements in addressing the problem of overcrowding in prisons through increasing resort to alternative forms of punishment, amnesties and reduced use of pre-trial detention.

C. Principal subjects of concern and recommendations

8. The Committee is concerned that the State party has not implemented the Committee's views under the Optional Protocol in the cases of *Gridin v. Russian Federation* and *Lantsov v. Russian Federation*. While noting the delegation's explanation that the decision not to follow the views of the Committee regarding the release of Mr Gridin was based on a careful study by the Supreme Court and Procurator's Office, the Committee expresses its

concern that a failure to give effect to its views would call into question the State party's commitment to the Optional Protocol.

The Committee urges the State party to review its position in relation to views adopted by the Committee under the Optional Protocol and to implement the Views, in order to comply with article 2 (3) of the Covenant which guarantees a right to an effective remedy when there has been a violation of the Covenant.

9. The Committee reiterates its concern regarding persistent inequality in the enjoyment of Covenant rights by women. In particular, the Committee notes with concern the high level of poverty among women, the prevalence of domestic violence against women, and a marked difference in the wages of men and women for equal work.

The State party should ensure that effective measures are taken to improve the situation of women as to their full enjoyment of Covenant rights (article 3).

10. The Committee is concerned about the large number of persons in the State party who are being trafficked for sexual and labour exploitation, mainly to destinations outside the borders of the State party. In this context, the Committee notes that the State party has given increasing attention to the problem in recent years. In particular, the Committee notes that anti-trafficking legislation has been drafted and that the State party is working towards the ratification of relevant United Nations treaties in this field.

The State party should reinforce measures to prevent and combat trafficking in women through, inter alia, enacting legislation penalizing such practices and providing protection and support, including rehabilitation programmes, for the victims (article 8).

11. The Committee notes that the death penalty was abolished de facto by Presidential decree of 16 May 1996, entitled "Phasing out of the death penalty in connection with Russia's entry into the Council of Europe". The Committee also notes that the State party envisages legislation to abolish the death penalty. It is concerned, however, that the current moratorium will automatically end once the jury system has been introduced in all constituent entities of the State party, scheduled to be completed in 2007.

The State party should abolish the death penalty de jure before the expiration of the moratorium (article 6) and accede to the Second Optional Protocol.

12. While the Committee notes that a number of measures have been taken to prevent the use of excessive force and torture by law enforcement personnel during the process of questioning, it remains concerned that suspects and

detainees are not sufficiently protected under current legislation. The Committee is concerned at the reported occurrence of torture or ill-treatment, especially during informal interrogations in police stations when the presence of a lawyer is not required.

The State party should ensure that law enforcement officials are prosecuted for acts contrary to article 7 of the Covenant, and that the charges correspond to the seriousness of the acts committed. The State party should ensure the implementation of existing applicable legislation, as well as the Covenant, through further professional training of law enforcement personnel on the rights of suspects and detainees.

13. The Committee remains deeply concerned about continuing substantiated reports of human rights violations in the Chechen Republic, including extrajudicial killings, disappearances and torture, including rape. The Committee notes that some 54 police and military personnel have been prosecuted for crimes committed against civilians in Chechnya, but remains concerned that the charges and sentences handed down do not appear to correspond with the gravity of the acts as human rights violations. The Committee is also concerned that investigations into a number of large-scale abuses and killings of civilians in 1999 and 2000, in the locations of Alkhan Yurt, Novye Aldy and Staropromyslovskii district of Grozny, have still not been brought to a conclusion. The Committee acknowledges that abuse of and violations against civilians also involve non-State actors, but reiterates that this does not relieve the State party of its obligations under the Covenant. In this regard, the Committee is concerned about the provision in the Federal Law "On Combating Terrorism" which exempts law enforcement and military personnel from liability for harm caused during counter-terrorist operations.

The State party should ensure that operations in Chechnya are carried out in compliance with its international human rights obligations. The State party should ensure that abuse and violations are not committed with impunity de jure or de facto, including violations committed by military and law enforcement personnel during counter-terrorist operations. All cases of extrajudicial executions, enforced disappearances and torture, including rape, should be investigated, their perpetrators prosecuted and victims or their families compensated (articles 2, 6, 7 and 9).

14. While acknowledging the serious nature of the hostage-taking situation, the Committee cannot but be concerned at the outcome of the rescue operation in the Dubrovka theatre in Moscow on 26 October 2002. The Committee notes that various attempts to investigate the situation are still under way but expresses its concern that there has been no independent and impartial

assessment of the circumstances, regarding medical care of the hostages after their liberation and the killing of the hostage-takers.

The State party should ensure that the circumstances of the rescue operation in the Dubrovka theatre are subject to an independent, in depth investigation, the results of which are made public, and, if appropriate, prosecutions are initiated and compensation paid to the victims and their families.

15. The Committee welcomes the marked improvement registered since the consideration of the previous report with regard to overcrowding in prisons and the scheduled further reduction of the number of prisoners by more than 150,000. Albeit, it was not clear whether all serious overcrowding in all places of detention had been resolved. The Committee remains concerned about reports of poor hygiene and violence by prison officers in some places of detention.

The State party should continue and reinforce efforts to reform the prison system to meet the requirements of article 10 of the Covenant. The State party should ensure that the problem of overcrowding is completely eliminated and that prisoners' complaints concerning violations of their rights are promptly and thoroughly investigated. Moreover, the Committee encourages the adoption of the draft federal law "On public control over ensuring human rights in places of forced detention and assistance of public associations in their activities", adopted in first reading by the State Duma in September 2003, which would allow for independent oversight of prison conditions.

16. The Committee notes the statement by the delegation that all persons who have returned to Chechnya have done so voluntarily. However, it also observes that there are reports of undue pressure on displaced persons living in camps in Ingushetia to make them return to Chechnya.

The State party should ensure that internally displaced persons in Ingushetia are not coerced into returning to Chechnya, including by ensuring the provision of alternative shelter in case of closure of camps (article 12).

17. While the Committee welcomes the introduction of the possibility for conscientious objectors to substitute civilian service for military service, it remains concerned that the Alternative Civilian Service Act, which will take effect on 1 January 2004, appears to be punitive in nature by prescribing civil service of a length 1.7 times that of normal military service. Furthermore, the

law does not appear to guarantee that the tasks to be performed by conscientious objectors are compatible with their convictions.

The State party should reduce the length of civilian service to that of military service and ensure that its terms are compatible with articles 18 and 26 of the Covenant.

18. The Committee notes with concern the closure in recent years of a number of independent media companies and an increase in State control of major media outlets (TV channels, radio stations and newspapers), either directly or indirectly through state-owned corporations, such as the state-run company Gazprom, which took over the independent nationwide television network NTV in 2001.

The State party is invited to protect media pluralism and avoid state monopolization of mass media, which would undermine the principle of freedom of expression enshrined in article 19 of the Covenant.

19. The Committee is concerned that the proposed amendments to the law “On Mass Media” and the law “On Combating Terrorism”, adopted by the State Duma in 2001 in the aftermath of September 11, are incompatible with article 19 of the Covenant. It notes with satisfaction that the President of the Russian Federation vetoed the amendments in November 2002.

The State party should ensure that above-mentioned amendments, which were put in abeyance in November 2002, but are due to be debated again by a parliamentary commission, are brought into conformity with the State party’s obligations under the Covenant.

20. While welcoming the State party’s efforts to ban and prosecute groups propagating racist and xenophobic views, the Committee expresses its concern that the definition of “extremist activity” in the federal law of July 2002 “On Combating Extremist Activities” is too vague to protect individuals and associations against arbitrariness in its application.

The State party is encouraged to revise the above law with a view to making the definition of “extremist activity” more precise, to exclude any possibility of arbitrary application and give notice to persons concerned regarding actions for which they will be held criminally liable (articles 15 and 19-22).

21. The Committee is concerned that journalists, researchers and environmental activists have been tried and convicted on treason charges, essentially for having disseminated information of legitimate public interest, and that in some

cases where the charges were not proven, the courts have referred the matter back to prosecutors instead of dismissing the charges.

The State party should ensure that no one is subjected to criminal charges or conviction for carrying out legitimate journalistic or investigative scientific work, within the terms covered by article 19 of the Covenant.

22. The Committee expresses its concern at the high incidence of harassment, violent attacks and murders of journalists in the State party.

The State party should ensure that all cases of threats against and violent assault and murder of journalists are promptly and thoroughly investigated and that those found responsible are brought to justice (articles 19 and 6).

23. While acknowledging the difficult circumstances under which presidential elections were held in the Chechen Republic on 5 October 2003, the Committee expresses concern at reports that these elections did not meet all the requirements of article 25 of the Covenant.

The State party should ensure full compliance with article 25 in its efforts to restore the rule of law and political legitimacy in the Republic of Chechnya.

24. The Committee is concerned at the increase of racially motivated violent attacks against ethnic and religious minorities, as well as about reports of racial profiling by law enforcement personnel. It notes with concern reports of xenophobic statements made by public officials.

The State party should take effective measures to combat racially motivated crimes. It should ensure that law enforcement personnel receive clear instructions and proper training with a view to protecting minorities against harassment. The State party is also encouraged to introduce specific legislation to criminalize racist acts as well as racially motivated statements made by those in public office (articles 2, 20 and 26).

25. The Committee is concerned about the long delay in the processing of asylum claims, in particular in Moscow and the Moscow region, where asylum seekers may have to wait for more than two years before being able formally to initiate the application procedure. It is also concerned that the Migration Service in Moscow reportedly has not allowed unaccompanied children to lodge asylum claims unless they have a legal guardian.

The State party should ensure timely access of asylum-seekers to the refugee status determination procedure, in particular in Moscow and its region, as well as proper documentation of asylum-seekers throughout the procedure, including the appeal stage. The State party should ensure

that the relevant authorities appoint a legal guardian for unaccompanied children seeking asylum (articles 13 and 24).

26. The State party should disseminate widely the text of its fifth periodic report and the present concluding observations. In accordance with article 70, paragraph 5, of the Committee's rules of procedure, the State party should provide within one year relevant information on the implementation of the Committee's recommendations in paragraphs 11 and 13 above. The sixth periodic report should be submitted by 1 November 2007.



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