

TREATY BODY MONITOR

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Key facts	1
Opening remarks by the delegation	1
Overview of key issues	2
Counter-terrorism measures.....	3
Moratorium on execution of death penalty	3
Torture, ill-treatment, enforced disappearance, arbitrary arrest in the Chechen Republic	4
Threats and violence against journalists and human rights defenders.....	5
Reported extraditions and informal transfers of foreign nationals to countries in which the practice of torture is alleged.....	5
Discrimination on the basis of sexual orientation	6
Other issues not addressed in concluding observations	7
Conclusions and next steps	7

Key facts¹

Ratification	Reservations	Party to Optional Protocols	Other core treaties ratified	Date of previous examination, submission of present report
16 October 1973	No reservations	1 st OP (individual communications)	CERD, ICESCR, CEDAW, CRC, CAT	24-25 October 2003, 20 December 2007

Opening remarks by the delegation

The delegation of the Russian Federation was led by Mr Georgy Matyushkin, Deputy Minister of Justice, Plenipotentiary of the Russian Federation in the European Court of Human Rights. He was supported by a large high-level delegation consisting of representatives of the Supreme Court, Office of the Prosecutor

¹ The information in this table is sourced from the Office of the High Commissioner for Human Rights (OHCHR), and is available at www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx.

General, Ministry of Justice, Ministry of the Interior, Ministry of Health and Social Development, Ministry of Foreign Affairs, Ministry of Education and Science of the Russian Federation, and the Permanent Mission in Geneva.²

In his opening speech, Mr Matyushkin expressed his appreciation for the work of the Committee, and hope that an independent assessment of implementation of the *International Covenant on Civil and Political Rights* (the ‘Covenant’) in the Russian Federation would help to reach a better understanding of the human rights situation in the country, as well as contribute to a better resolution of existing problems. He continued with a brief overview of progress made since the submission of the State report in 2007 in the judicial system, pre-trial dispute resolution, protection of children’s rights, anti-corruption measures, the rights of minorities and indigenous peoples, as well as dissemination of information on the Covenant and the work of the Committee.

This was followed by remarks of other members of the delegation. Mr Sizov from the Office of the Prosecutor General of the Russian Federation covered in his presentation the structure and mandate of the Prosecutor’s Office, criminal justice in the Chechen Republic, draft anti-terrorism provisions on compensation, legal aid and rehabilitation for victims of terrorist acts, protection for participants of criminal proceedings, government projects on tolerance and prevention of ethnic-based offences, and ‘extremist’ activities.³ Mr Davidov, Judge of the Supreme Court of the Russian Federation, highlighted the priority of the Covenant over Russian domestic legislation, and the possibility of direct application of the Covenant in court proceedings. He also touched upon a number of individual complaints to the Committee,⁴ fair trial and national programmes on development of the judicial system, as well as a moratorium on the death penalty in Russia. Mr Gaidov, representing the Ministry of the Interior, elaborated on measures taken to prevent torture and ill-treatment in detention facilities in Russia, including prosecutorial supervision, and visits of ombudsmen and NGOs. He also provided the Committee with statistics on the number of extradited, deported and expelled over the period of 2007-2009. In conclusion, Ms Kurovskaya, from the Office of the Prosecutor General, provided information on women’s rights in Russia and State programmes to combat violence against women, including domestic violence and human trafficking, as well as awareness raising programmes.

As a whole, all opening presentations made by members of the delegation were very comprehensive and detailed, as noted by the majority of members of the Committee, with most of the questions in the list of issues covered.

Overview of key issues

The following overview addresses six of the Committee’s concluding observations following the examination on the basis of those themes that the Committee requested follow-up on implementation within one year.⁵ Each is assessed according to how they were addressed in the examination, including the initial views of the State, questions and comments by the Committee, and responses provided.

Notably, members of the Committee addressed the delegation with more than 170 questions, which required additional time for answers, and the examination was therefore extended for three additional hours. The dialogue between members of the delegation and the Committee was reasonably comprehensive and covered a variety of issues, including counter-terrorism measures, a moratorium on executions, torture, ill-treatment, enforced disappearance, arbitrary arrest issues, threats and violence against journalists and human rights defenders, *non-refoulement*, and discrimination on the basis of sexual orientation. Likewise, in assessing the

² The list of members of the delegation is available at <http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm>.

³ The definition of ‘extremism activities’ under the Russian Domestic legislation is vague, as it was observed by the Committee (CCPR/C/RUS/CO/6, para 24, available at <http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm>)

⁴ *Lantsova v. Russian Federation*, Communication No 763/1997, UN Doc. CCPR/C/74/D/763/1997 (2002), available at <http://www1.umn.edu/humanrts/undocs/763-1997.html>; *Telitsina v. Russian Federation*, Communication No 888/1999, UN Doc. CCPR/C/80/D/888/1999 (2004), available at <http://www1.umn.edu/humanrts/undocs/html/888-1999.html>.

⁵ CCPR/C/RUS/CO/6, para 30, available at <http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm>.

response of the majority of the Committee members, the oral replies provided by the delegation were informative, and provided a ground for further discussion.

Counter-terrorism measures

The State party should review the relevant provisions of the 2006 Federal law ‘On counteracting terrorism’ to bring it into line with the requirements of article 4 of the Covenant, taking into account pertinent considerations set out in the Committee’s General Comment No. 29⁶ on derogations during states of emergency and General Comment No. 31⁷ on the nature if the general legal obligation imposed on State parties to the Covenant.⁸

The issue of counter-terrorism measures and application of anti-terrorism legislation has been brought up earlier by members of the Committee on a number of occasions in consideration of previous periodic reports submitted by Russia.⁹ Likewise, the issue has been raised again during the recent examination of the sixth periodic report. Following the initial remarks by the head of delegation and representative of the Office of the Prosecutor General, discussion on the compatibility between the counter-terrorism measures envisaged in the 2006 *Federal law ‘On Counteracting Terrorism’* (the ‘2006 Federal law’) and provisions of the Covenant was initiated by Committee member Ms Keller.

In the focus of attention of the Committee members were scope of restrictions to civil rights under the anti-terrorism legislation, and compatibility of relevant national law provisions with requirements of Article 4 of the Covenant (states of emergency), procedures to ensure the rights of suspects in terrorism activities, definition of the term of ‘terrorism’, and establishment of an independent mechanism to review and report on implementation of anti-terrorism legislation. In response to the above questions, Mr Sizov, representing the Office of the Prosecutor General read a long list of counter-terrorism measures under the 2006 Federal law, emphasising that this was exhaustive and no other measure except for those envisaged under the law could be applied. He also mentioned that recent amendments to the 2006 Federal law clarified qualifications of various offences, such as seizure of hostages, hijacking of ships or planes, in order to enable domestic courts to clarify their position in hearing those types of cases, and removed discrepancies in definitions of acts of terrorism under domestic legislation. Since those amendments were adopted in the form of federal law, he stated that no changes to other legislative acts were required.

Despite that the answer was rather comprehensive, and provided information on most of the questions asked, no specific reference was given as to the compatibility of the current provisions under 2006 Federal law with Article 4 of the Covenant. As a result, the Committee requested in its concluding observations that the State adopt a narrower definition of crimes of terrorism and ensure procedural guarantees, consider establishing an independent mechanism to review anti-terrorism laws, and provide information on what rights under the Covenant can be suspended during anti-terrorism operations.

Moratorium on execution of death penalty

The State party should take the necessary measures to abolish the death penalty *de jure*, at the earliest possible moment, and consider acceding to the Second Optional Protocol.¹⁰

The need for *de jure* abolition of the death penalty in Russia has been emphasised earlier by the Committee in its concluding observations on Russia’s fifth periodic report.¹¹ The Committee reiterated its concern,

⁶ CCPR/C/21/Rev.1/Add.11, available at <http://www2.ohchr.org/english/bodies/hrc/comments.htm>.

⁷ CCPR/C/21/Rev.1/Add.13, available at <http://www2.ohchr.org/english/bodies/hrc/comments.htm>.

⁸ CCPR/C/RUS/CO/6, para 7, available at <http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm>.

⁹ See for instance, CCPR/CO/79/RUS, para 13, available at <http://tb.ohchr.org/default.aspx?country=ru>.

¹⁰ CCPR/C/RUS/CO/6, para 12, available at <http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm>.

¹¹ CCPR/CO/79/RUS, para 11, available at <http://tb.ohchr.org/default.aspx?country=ru>.

highlighting its importance in the light of expansion of jury trials throughout Russia starting on 1 January 2010. The issue was raised in the opening remarks of the head of delegation, who reassured the Committee members that the Russian Government would continue to observe the moratorium despite of the lack of support among the population. Mr Davidov, representing the Supreme Court of the Russian Federation emphasised that although the Russian leadership supports the *de jure* abolition of death penalty and accession to the Second Optional Protocol to the ICCPR, public opinion still goes against such an abolition. He stressed that the Russian leadership and Parliament could not ignore the public opinion on the issue.

In his comment to the above statement, Mr Rodley said he was ‘not aware of any country’ which took into consideration public opinion when deciding the issue of the abolition of the death penalty, since it may take many years to change public opinion. At the same time, he highlighted the importance of political will and leadership on the issue of the death penalty. Nevertheless, the views of Committee members seemed not to be persuasive for the Russian delegation. In his oral replies Mr Matyushkin restated his view on the inadmissibility for the authorities to act in a way that would completely disregard public opinion, which, according to him, could provoke a social conflict. He also emphasised yet again the existing political will to continue to apply the moratorium on the death penalty. However, no reply was provided on what measures the Government may take in order to change the mindset among the population.

The dialogue on the appropriateness of consideration of public opinion was resumed by a remark by Mr Amor, who suggested that it would not be anti-democratic for a State to go against the public opinion and pioneer the transformation of a social mentality. Mr Amor repeated the Mr Rodley’s earlier question regarding the steps taken to change the public opinion, However, the position of the delegation on the role of public opinion in decision-making process remained unchanged, yet Judge Davidov did agree on need for awareness raising as an effective means to prepare society for *de jure* abolition of death penalty.

Torture, ill-treatment, enforced disappearance, arbitrary arrest in the Chechen Republic

The State party is urged to implement fully the right to life and physical integrity of all persons on its territory.¹²

The issue of reported acts of torture, ill-treatment, enforced disappearance, extrajudicial killings and secret detention in the Chechen Republic was considered by the Committee in the examination of previous reports submitted by Russia.¹³ With reference to jurisprudence of the ECtHR, the Committee pointed out on the list of issues the lack of effective investigation into cases of allegations of torture, arbitrary killing and enforced disappearance in Chechnya.¹⁴ It also requested information on criminal investigations and prosecutions, and judgments on reported large-scale abuses and killings of civilians during counter-operations in Chechnya.¹⁵

In addition to the provided written replies to the list of issues with respect to human rights violations in Chechnya, the head of the delegation drew the attention of the Committee to the fact that more than 100,000 families had been compensated from the State budget for the homes they lost during the counter-terrorist operation in Chechnya. Also, as the representative of the Office of the Prosecutor General pointed out, particular attention was paid to investigations into crimes committed in the course of operations, providing the number of investigated cases and figures on convictions.

However, despite the detailed information provided by the Russian Government, the situation with human rights in Chechnya gave grounds for a number of questions by the Committee. This began with Ms Keller’s

¹² CCPR/C/RUS/CO/6, para 14, available at <http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm>.

¹³ See for instance, CCPR/C/79/Add. 54, para 28, available at <http://tb.ohchr.org/default.aspx?country=ru>, and CCPR/CO/79/RUS, para 13, available at <http://tb.ohchr.org/default.aspx?country=ru>.

¹⁴ CCPR/C/RUS/Q/6/, para. 15, available at <http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm>.

¹⁵ CCPR/C/RUS/Q/6/, para. 11, available at <http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm>.

question on measures taken to safeguard the rights of those suspected of terrorism. Mr Rodley then drew an alarming parallel between the scale of disappearances and abduction cases that took place during and after the counter-terrorist operation in Chechnya, and in Latin American countries that had undergone similar conflicts, where a lack of independent and effective investigation and prosecution of past and current violations of human rights aggravates the situation, creating an atmosphere of widespread impunity in the region.

The delegation agreed with views and concerns of the Committee on the importance of the issue, but did not share its opinion on the scale of violations, having reported a decrease in the number of abductions and kidnappings in recent years. Likewise, in the opinion of Mr Sizov of the Office of the Prosecutor General, it was not necessary to establish a separate independent body for investigation of human rights violations in the Chechen Republic, since this may duplicate mandates of currently existing investigative bodies.

Threats and violence against journalists and human rights defenders

The State party is urged to:

- (a) take immediate action to provide effective protection to journalists and human rights defenders...;
- (b) ensure the effective investigation, and when appropriate, prosecution strengthen its efforts to ensure thorough, independent and impartial investigation...¹⁶

Concern about the recent criminal prosecutions related to threats, violence and murder of journalists and human rights activists, including the high-profile cases of murder of A. Politkovskaya and A. Baburova was expressed by the Committee in its list of issues, as well as the right to life and freedom from torture. Although the written replies provided by the Government address the issue in a detailed manner, the question was not covered in the delegation's opening remarks.

Committee member Mr Thelin first noted the uneasy situation in the area of freedom of opinion and expression and security of journalists. The topic was elaborated further by Committee member Ms Wedgwood, who considered it in the context of obligation of State parties to ensure 'effective measures to prevent violence'. She emphasised that it should be 'a fundamental obligation of the State to provide protection of those in the front line'. In response, Mr Matyushkin replied that the law enforcement agencies take all measures required to investigate grave crimes, and in particular when the victims are human rights defenders and journalists. However, he failed to provide explanation on the reasons of this phenomenon in Russia, leading Ms Wedgwood to claim that the lack of explanation on the reasons of those crimes is revealing in itself.

Reported extraditions and informal transfers of foreign nationals to countries in which the practice of torture is alleged

The State party should ensure that no individual, including persons suspected of terrorism, who are extradited or subjected to informal transfers, whether or not in the context of the Shanghai Co-operation Organisation, is exposed to the danger of torture or cruel, inhuman or degrading treatment or punishment. Furthermore, the State party should recognise that, the more systematic the practice of torture or cruel, inhuman or degrading treatment, the less likely it will be that a real risk of such treatment can be avoided by diplomatic assurances, however stringent any agreed follow-up procedure may be.¹⁷

Given the significance of the principle of *non-refoulement* in the context of prevention of torture, cruel, inhuman or degrading treatment or punishment, the issue of extraditions was raised by the members of the

¹⁶ CCPR/C/RUS/CO/6, para 16, available at <http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm>.

¹⁷ CCPR/C/RUS/CO/6, para 17, available at <http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm>.

Committee during the examination of the State report. The issue was raised several times during the examination of the report. Referring to the data provided by the Government on the total number of extradition requests and percentage of approved requests, Mr Thelin asked the delegation to give further information on the number of refusals based on the risk of torture. He also recalled cases on extradition brought before the ECtHR, asking the delegation to provide information on what had been done in order to prevent such cases in the future. Mr Rodley also noted that some instances of the risk of *refoulement* to torture had been so rapid that the ECtHR was unable to take measures. He touched upon the problem of informal extraditions and reliance on diplomatic assurances.

Ms Kurovskaya, representing the Office of the Prosecutor General, responded by elaborating on procedural aspects of extradition. She pointed out that it is in the competence of the Prosecutor General only to take decisions on all requests on extradition, thus denying any instances of informal extraditions, mentioned before by Mr Rodley. She also addressed the rights of persons subject to extradition, for instance the right to appeal the decision before the court, and diplomatic assurances required by the Prosecutor General when deciding each issue of extradition. In relation to the latter, Ms Kurovskaya mentioned that it would be the responsibility of the requesting State which provided diplomatic assurances and guarantees to comply with them, namely, not to subject to torture an extradited person. This statement may imply that, in the view of representatives of the Office of the Prosecutor General, the scope of obligation of the prosecution to exclude the risk of *refoulement* to torture covers only obtaining diplomatic assurances, but does not extend to any other procedures to follow-up on the received assurances and guarantees, or to monitor the extradited person.

Discrimination on the basis of sexual orientation

The State party should:

- (a) provide effective protection against violence and discrimination based on sexual orientation...;
- (b) intensify its efforts to combat discrimination against LGBT persons...;
- (c) take all necessary measures to guarantee the exercise in practice of the right to peaceful association and assembly for the LGBT community.¹⁸

Despite of the fact that the issue of discrimination on the basis of sexual orientation had not been mentioned in the list of issues, it was raised Committee member Mr O’Flaherty in the course of examination. Concern was raised regarding the scope of application of anti-discrimination legal provisions, enforcement of relevant legislation, as well as prevention and investigation of acts of violence against lesbian, gay, bisexual and transgender (LGBT) persons. The issue was also raised also in relation to discrimination in the workplace, when, according to information provided by Mr O’Flaherty, more than half of working LGBT persons have to hide their orientation in order to avoid being discriminated against.

The Russian delegation was also asked about the reasons for the repeated refusal of gay parade marches in Moscow, as well as difficulties for LGBT organizations to obtain registration. Reported hate speeches by public officials, alleged attacks and use of excessive force by the police, gave the Committee grounds for concern about the adequacy of anti-discrimination laws to protect the rights and freedoms of LGBT persons, prejudice in society in general, and criminal and administrative accountability for violations perpetrated.

The head of the delegation, however, did not share Mr O’Flaherty’s view on inadequacy of protection provided by domestic anti-discriminatory laws. In his opinion, LGBT persons can be considered only within the context of general anti-discrimination law provisions, but not as a vulnerable group in need of special protection by law. In the opinion of Mr Matyushkin, LGBT persons can benefit from the protection provided by existing anti-discrimination provisions, which are sufficient to ensure adequate protection of this category.

¹⁸ CCPR/C/RUS/CO/6, para 27, available at <http://www2.ohchr.org/english/bodies/hrc/hrcs97.htm>.

Regarding the repeated denial by the authorities of the possibility to exercise the right to peaceful association for the LGBT community, the head of the Russian delegation made a reference to the discretionary powers of local authorities, which took into account the negative attitude of society when taking decisions on the issue of gay march events. However, the head of the delegation did acknowledge the need to overcome negative prejudice in the society towards the LGBT community.

These issues were also addressed by the Committee in its concluding observations, which called upon Russia ‘to provide effective protection against violence and discrimination based on sexual orientation, in particular through the enactment of comprehensive anti-discrimination legislation’, as well as to launch sensitization campaigns among the population and to take measures to guarantee the right to peaceful association and assembly for the LGBT community.

Other issues not addressed in concluding observations

Most of the issues raised during the examination of the report were included in the Committee’s concluding observations. Exceptions were discussions on the modification of the list of terrorist organisations by law enforcement agencies and domestic courts, and the relationship between the Ombudsman and other human rights bodies established in Russia.

Conclusions and next steps

In conclusion to the nine-hour examination of the State report, Mr Matyushkin thanked the members of the Committee for the ‘atmosphere of genuine interest in the development of the legal system in Russia. He also highlighted the importance of the submission, review and discussion of periodic reports as an important tool in assessing the situation in Russia. Mr Matyushkin expressed his hope that the issues raised by the Committee would serve as a basis for further development of legislation and State practice on its implementation and enforcement.

The follow-up issues as selected by the Committee cover, namely, investigation of alleged human rights violations committed by members of Russian forces and organized armed groups under their control on the territory of South Ossetia,¹⁹ allegations of torture, ill-treatment, enforced disappearance, arbitrary arrest, extrajudicial killing and secret detention in Chechnya and other parts of the North Caucasus,²⁰ incidences of threats, violent assaults and murders of journalists and human rights defenders,²¹ reported extraditions and informal transfers of foreign nationals to countries where practice of torture is alleged.²² The Committee also specifically requested Russia to provide in its next periodic report detailed information on the impact of measures taken by the Russian Government upon the traditional habitat, way of life and economic activities of indigenous people which also were covered in the course of examination.²³

The seventh periodic report is due to be submitted by 1 November 2012, and should include, on request of the Committee, specific, up-to-date information on the follow-up action taken on the recommendations made and on the Covenant as a whole. It also requested that the next periodic report be prepared in consultation with civil society.

Last revised and updated: 10 December 2009.

¹⁹ CCPR/C/RUS/CO/6, para 13, available at <http://www2.ohchr.org/english/bodies/hrc/hracs97.htm>.

²⁰ CCPR/C/RUS/CO/6, para 14, available at <http://www2.ohchr.org/english/bodies/hrc/hracs97.htm>.

²¹ CCPR/C/RUS/CO/6, para 16, available at <http://www2.ohchr.org/english/bodies/hrc/hracs97.htm>.

²² CCPR/C/RUS/CO/6, para 17, available at <http://www2.ohchr.org/english/bodies/hrc/hracs97.htm>.

²³ CCPR/C/RUS/CO/6, para 28, available at <http://www2.ohchr.org/english/bodies/hrc/hracs97.htm>.

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