



**International covenant  
on civil and  
political rights**

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HUMAN RIGHTS COMMITTEE

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

**Fifth periodic report**

**RUSSIAN FEDERATION\***

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**FIFTH PERIODIC REPORT OF THE RUSSIAN FEDERATION ON  
ACTION TAKEN AND PROGRESS TOWARDS RESPECT FOR THE  
RIGHTS SET FORTH IN THE INTERNATIONAL COVENANT ON  
CIVIL AND POLITICAL RIGHTS**

**INFORMATION CONCERNING PARTICULAR ARTICLES  
OF THE COVENANT**

**Article 1**

1. The federal concept of the State structure in Russia is grounded in a balance of the interests of equal constituent entities, having regard for their ethnic individuality and their geographical and other characteristics. The right to self-determination within the Russian Federation is given substance through various ethnic-cum-geographical units and autonomous ethnic cultural organizations.

2. Of the 89 equal constituent entities of the Russian Federation, 21 republics, 1 autonomous oblast and 10 autonomous territories are virtual nation-States. An autonomous ethnic cultural organization is an assemblage of citizens of the Federation who identify with particular ethnic communities and organize voluntarily to preserve their individuality, language, education and national culture. This genuine form of self-determination is especially relevant for ethnic groups which are too scattered to have geographically-based autonomous units. The basic details of the establishment and operation of autonomous ethnic cultural organizations are governed by the federal Voluntary Associations Act of 19 May 1995, the Ethnic Cultural Autonomy Act of 17 June 1996, the laws and regulations of the constituent entities of the Russian Federation and the generally recognized principles and standards of international law and international human rights agreements. The passage of the Ethnic Cultural Autonomy Act gave substance to many of the rights of autonomous ethnic cultural organizations (to receive support from various State authorities, to represent their ethnic and cultural interests before those authorities, to receive and disseminate information in their national languages, to found educational and academic institutions, to take part in the activities of international non-governmental organizations and so forth). According to the justice authorities, there are altogether over 250 different autonomous ethnic cultural organizations registered in the constituent entities of the Russian Federation.

3. The combination of the principles of self-determination and federalism proclaimed in the Constitution of the Russian Federation is enshrined in the federal Act of 4 June 1999 which defines the principles and procedure governing the apportionment of jurisdiction and authority between the State authorities of the Russian Federation and their counterparts in the constituent entities of the Federation. The Act guarantees the equality of constituent entities of the Federation in the apportionment of jurisdiction and authority, declares encroachment on the rights and interests of the constituent entities inadmissible, and guarantees the alignment of the interests of the Federation and its constituent entities. Together with other legislation adopted pursuant to it, the Act has largely done away with earlier problems stemming from the lack of clear coordinating mechanisms between the Federation and its constituent entities.

4. The role of local self-determination within the system of elected bodies in the Russian Federation has increased substantially. Over the past few years, the necessary legal foundations have been laid, in accordance with international standards, for local self-determination to be introduced and to function. The Russian Parliament ratified the European Charter of Local Self-Government in 1998; this sets out principles common to democratic States governing the decentralization of government and civic self-management. Russia has passed a variety of federal acts - the Local Self-Government in the Russian Federation (General Principles of Organization) Act of 28 August 1995, the Local Self-Government in the Russian Federation (Financial Underpinnings) Act of 25 September 1997, and the Citizens of the Russian Federation (Constitutional Right to Vote and Stand for Organs of Local Self-Government) Act of 26 November 1996 - and the President of the Federation has issued decrees on guarantees of local self-government, dated 22 December 1993, the broad thrust of reform in local self-government within the Russian Federation, dated 11 June 1997, and the basic tenets of State policy as regards the promotion of local self-government, dated 15 December 1999, which govern the conduct of municipal elections and local referendums, the financial and budgetary aspects of local self-government, the organization of municipal service and the actions of municipal authorities as entities governed by civil law. Local self-government is playing an ever-increasing role in the establishment of civil society in Russia, being both a means of bringing such a society about and an inseparable component of such a society. Nonetheless, the successful spread of the system of self-government in Russia is hampered by economic difficulties and administrative complications in arriving at coordinated decisions by the federal, regional and municipal authorities.

5. As regards the restoration of historical justice to the unlawfully repressed peoples of Russia, laws and regulations have been passed further to the Rehabilitation of Repressed Peoples Act of 26 April 1991, setting out specific ways in which the State will support the revival and development of the Karachai, Balkir and Kalmyk peoples and the rehabilitation of the Russian Finns, Koreans and Germans, and the Cossack nation. Pursuant to a Presidential decree dated 16 September 1995, the governmental authorities in the constituent entities of the Russian Federation have begun to make wider use of local self-government in dealing with the rehabilitation of repressed peoples, and are supporting its spread in a variety of forms with due regard for ethnic, cultural and other traditions.

6. Three federal laws have been passed to further entrench legal guarantees of individual socio-economic and cultural development among the small indigenous peoples of the Russian Federation and protect their ancestral habitats, ways of life, livelihoods and crafts: the Small Indigenous Peoples of the Russian Federation (Guarantees of Rights) Act of 16 April 1999, the Communities of Small Indigenous Peoples of the North, Siberia and the Russian Far East (General Principles of Organization) Act of 6 July 2000 and the Small Indigenous Peoples of the North, Siberia and the Russian Far East (Areas Traditionally Exploited) Act of 4 April 2001. These regulate in some detail the various relationships between communities of small indigenous peoples and the State authorities. The small indigenous peoples have also been accorded additional rights to pursue self-management, to engage in independent activity, to receive financial benefits, grants and other forms of aid, and to develop their individual traditions.

## Article 2

7. Violating equality of human or civil rights on grounds of sex, race, nationality, language, attitude to religion or other circumstances is a criminal offence (article 136 of the Criminal Code adopted in 1996).

8. As regards paragraphs 2 and 3 of article 2, Russian law affords legal protection for anyone in need of it. Effect is given to this right by the competent legislative, executive and judicial authorities in accordance with article 2, paragraph 3 (b), of the Covenant. The State's constitutional obligation to provide anyone whose rights and liberties have been violated with effective means of legal protection is fleshed out in a series of laws and regulations.

9. In the course of Russia's judicial and legal reforms, a series of legislative and organizational measures to secure judicial protection of and unswerving respect for human rights and freedoms in accordance with the generally accepted standards and principles of international law have been devised and put into effect. The start of the reforms was marked by the passage of the Status of Judges in the Russian Federation Act (since amended) in 1992. The safeguards which that Act put in place extend to judges at all levels, and cannot be set aside or diminished by other regulatory decisions of either the Federation or its constituent entities. In April 2002 a bill offering State protection to victims, witnesses and others assisting in criminal proceedings was introduced in the State Duma of the Federal Assembly of the Russian Federation, with the object of improving conditions for the proper administration of justice.

10. Significant amendments to the conduct of criminal proceedings were introduced by an Act of the Russian Federation dated 16 August 1993, as a result of which, at the request of the accused, criminal cases in a number of Russian regions were taken up by courts consisting of a professional judge and 12 jurors. Under the Code of Criminal Procedure which took effect on 1 July 2002, cases involving offences triable in first instance by the Supreme Court of the Russian Federation, the Supreme Court of a republic, a territorial or oblast-level court, a federal-rank municipal court or the court of an autonomous oblast or territory (a list consisting for the most part of all offences for which the Criminal Code of the Russian Federation prescribes the death penalty) may be sent for jury trial. Courts with juries are now in operation in nine regions of the Federation: Altai Territory, Ivanovsk oblast, Krasnodar Territory, and Moscow, Rostov, Ryazan, Saratov, Stavropol and Ulyanovsk oblasts. In six years juries have heard over 2,000 criminal cases involving some 3,900 individuals accused of especially serious offences.

11. An important landmark in the judicial and legal reform process was the passage by the State Duma, on 23 October 1996, of the federal constitutional Judicial System of the Russian Federation Act. This establishes a three-tier system of federal courts of general jurisdiction, the institute's justices of the peace, and defines the procedure for the attribution of powers to judges. It elaborates on the constitutional principles of judicial power, its autonomy and independence of the legislature and executive branches, the irremovability and inviolability of judges, the equality of all before the law and the courts, public examination of cases, and participation by civilians in the exercise of justice in the form of jurors and lay judges. It also establishes that judicial decisions are binding on all State and local government authorities, voluntary associations and officials without exception, and on other natural and juridical persons.

Provision is made, moreover, for decisions by courts in foreign States, international courts and arbitral bodies to be declared binding within the Russian Federation by international agreements to which the Federation is party.

12. Military courts have been retained within the system of courts of general jurisdiction. Their powers, the procedure for their constitution and their operating procedures are laid down by the federal constitutional Military Courts Act of 23 June 1999. Military courts in the Russian Federation are federal courts of general jurisdiction and exercise judicial authority within the Armed Forces of the Russian Federation and other forces, military formations and federal executive authorities counted under federal law as military services. They administer justice autonomously, being subject only to the Constitution of the Russian Federation, federal constitutional acts and federal law. The judges in military courts are independent and accountable to no one in their administration of justice. Interference of any kind in the administration of justice by judges of the military courts is impermissible and renders the culprit liable under federal law. The guarantees of judges' independence laid down in the Constitution of the Russian Federation, federal constitutional acts and federal law may not be set aside or diminished in the case of judges of the military courts. The law ensures that decisions by military courts can be appealed through the civil justice system: the Presidium of the Supreme Court of the Russian Federation hears protests against decisions, sentences, rulings and orders by the Military Division of the Supreme Court and the military courts. The Cassation Division of the Russian Supreme Court considers appeals and protests against decisions, sentences, rulings and orders handed down in first instance by the Military Division which have not yet become enforceable. Military court and Military Division judges are assigned from the ranks to the military courts and the Supreme Court for fixed periods of service. A military service contract entered into by a military court or Military Division judge is suspended the moment it is decided to appoint the individual concerned to a judicial position.

13. As part of the judicial and legal reform process in the modern Russian legal system, the institution of justices of the peace has been introduced (federal Act of 17 December 1998) with the aim of bringing the courts closer to the needs of the local population and thus facilitating popular access to the justice system, a matter of particular importance when the number of cases coming before the courts is constantly rising. The number of civil cases brought in 2000 was almost 68 per cent higher than in 1996; in 2000 the courts heard over 5 million civil cases. The federal Act of 29 December 1999 set the overall number of justices of the peace and court districts in the constituent entities of the Russian Federation. On 7 July 2000 the State Duma passed yet another federal Act adding definitions of cases triable by justices of the peace and laying down applicable procedural rules for such cases and for appeals against decisions by justices of the peace. As a result, justices of the peace have jurisdiction over minor criminal offences attracting a maximum sentence of two years' deprivation of liberty, and over a wide range of civil cases. The body of justices of the peace numbered over 2,000 on 4 April 2001, and recruitment is continuing.

14. Another important thrust of judicial and legal reform has been continuing efforts to consolidate the independent status of judges in the Russian Federation. A federal Act of 20 April 1995 makes provision for State protection for judges: action by the competent State authorities to ensure their safety, besides legal and social protection.

15. The Enforcement Proceedings Act and the Bailiffs Act, both passed in 1997, have done much to increase the authority of the judiciary, which is grounded, first and foremost, in the unfailing execution of court decisions. They provide for the creation and operation of a bailiff service to see to the mandatory execution of judicial decisions and the maintenance of order in the workings of the courts. They define the procedure to be followed in enforcement proceedings, the structure of the bailiff service, the status of service officials and so forth.

16. Yet another important law, the Supreme Court of the Russian Federation (Judicial Department) Act, was passed on 8 January 1998 to create additional conditions for the independent administration of justice. The Judicial Department is an autonomous unit within the judicial system whose job it is to organize, through staffing, financing and supply operations, the activities of all civil and military courts (other than the Supreme Court of the Russian Federation), judicial bodies and justices of the peace.

17. By Presidential decree of 30 December 1999, the number of judges was increased by 1,000 to 16,742. A staff training and skills-improvement scheme set up at the Russian Academy of Justice has been of no little assistance in building up the judicial corps.

18. To give citizens wider access to the justice system and bring judicial protection closer to the standards of the European Court while creating new opportunities for improving judicial proceedings in the Russian Federation, a new Code of Criminal Procedure was adopted on 18 December 2001 and took effect in June 2002 (a number of provisions will be put into effect later): see paragraphs 64-68 and 111-121 of this report. Work on the draft of a new Code of Civil Procedure is nearing completion.

19. A Government order of 20 November 2001 endorsed the Federal Programme for the development of the judicial system in Russia over the period 2002-2006: this sets out steps to improve the efficiency of the judiciary and make optimum administrative, legal and operational use of the judicial system. The upshot of the Programme is expected to be greater independence for judges, greater prestige for the courts, greater accountability of judges for the administration of justice, consistent application of the constitutional principles governing judicial proceedings, and proper financing for the judiciary.

20. The Constitutional Court is taking on a larger role in the legal protection of citizens. It has become the practice of the Court to refer to international agreements in which it can find additional arguments to support the legal stance it has taken on the basis of the Constitution. One of the most important sources of such arguments is still the International Covenant on Civil and Political Rights. Since it has been operating on the basis of the 1993 Constitution, the Court has referred to the Covenant in 32 decisions and 18 rulings. Decisions of the Court afford grounds for the protection or restitution of rights to all individuals whose interests might be affected by the enforcement of a regulatory instrument or part thereof that is found to be inconsistent with the Constitution.

21. As regards article 2, paragraph 1, of the Covenant, the Constitutional Court affirmed in an order dated 17 December 1998 that the opportunity to defend rights and interests through constitutional justice must be afforded to everyone, including foreigners and stateless persons, if a law violates the rights and freedoms that the Constitution guarantees them.

22. Regarding article 2, paragraph 3, the Constitutional Court in a decision dated 18 February 2000 upheld a citizen's right to familiarize himself with the results of procurators' investigations that directly affected his rights and freedoms, and the right to a judicial review of the legality of refusing to make such results available.

23. As recommended by the United Nations Economic and Social Council, Russia is devoting attention to the development and improvement of non-judicial institutions for the protection of human and civil rights and freedoms. The national system of such non-judicial State institutions consists of the following:

#### **1. The Procurator's Office**

Under the 1995 federal Procurator's Office Act, the Procurator's Office oversees observance of human rights by federal ministries and departments, elected bodies and executive authorities in the constituent entities of the Federation, local government bodies, military authorities, supervisory bodies and officials, and the governing bodies and managers of commercial and non-governmental organizations.

Later amendments to the Act have significantly influenced the scheme of priorities in procuratorial supervision. Increasing the rights-protecting function of the procuratorial authorities in ensuring respect for human and civil rights and freedoms in accordance with the generally recognized standards and principles of international law and the Russian Constitution has become a primary and central concern. This conceptual view of the rights-protecting function of the procurator's office is reflected in a special section of the Procurator's Office Act entitled "Supervision of respect for human and civil rights and freedoms". The equal status of parties to criminal proceedings is enshrined in law, including the new Code of Criminal Procedure. The procurator, who takes part in criminal proceedings on the same footing as the defence and other parties is at the same time required to react to violations of their rights and recommend changes in or the annulment of court decisions.

Every year procurators uncover tens of thousands of instances in which citizens' rights and legitimate interests have been violated by the system of local government authorities, the managers of businesses under various forms of ownership, and the leaders of local administrations. They lodged over 70,000 protests, put forward 75,000 recommendations and brought over 50,000 suits before the courts in 2000 in order to secure restitution of citizens' rights.

During the first half of 2001, the procuratorial authorities in Russia dealt with 523,000 applications and complaints from citizens. About 430,000 citizens had personal interviews with supervising procurators, 144,000 of them with procurators in the constituent entities of the Russian Federation.

According to information from the Office of the Procurator-General, most applications from citizens are complaints about breaches of their rights during investigative procedures. Procurators considered about 183,000 such applications over the first six months of 2001, and granted roughly a quarter of them. Next in frequency of applications to procuratorial offices

came complaints relating to supervision of law enforcement and the legality of legal decisions - a total of 180,000, including some 35,000 complaints about violations of labour legislation, 24,000 complaints to do with housing law and 6,000 on pension-related issues. Then came applications regarding the legitimacy of court orders in civil (66,500) and criminal (57,500) cases.

## **2. The Commissioner for Human Rights**

The post of Commissioner for Human Rights is a State function instituted in accordance with the Constitution by a federal constitutional act in 1997. The same Act also instituted commissioner for human rights posts in the constituent entities of the Russian Federation. So far 25 constituent entities have passed laws governing the activities of these commissioners, and commissioners have actually been appointed in 18.

Unlike the procuratorial authorities, which oversee respect for human and civil rights and freedoms governed, as a rule, by federal law, the Commissioner for Human Rights in the Russian Federation provides State protection of constitutional human and civil rights and freedoms; his rights-protecting activities supplement existing means of upholding rights without annulling or entailing a review of the jurisdiction of other State bodies.

The federal Commissioner's legislative mandate requires him to facilitate the restitution of human and civil rights that have been violated, improvements in Russian legislation on human and civil rights so as to bring it into line with the generally recognized principles and standards of international law, the development of international cooperation in such matters, and public education on the law relating to human rights and ways and means of protecting them.

Since the federal Commissioner for Human Rights was elected in May 1998, the supporting apparatus has been set up and put into operation and tens of thousands of complaints and applications from citizens about violations of their rights and freedoms have been dealt with. The Commissioner submits an annual report on his activities to the President of the Russian Federation, the chambers of the Federal Assembly, the Government of the Federation, and the Constitutional Court, Supreme Court, Higher Court of Arbitration and Procurator-General of the Russian Federation. Four annual reports have been published so far, as have five special reports on violations of the rights of individuals suffering from mental disorders; breaches of the regulations on relations between military personnel in the absence of superior/subordinate relations between them; violations of citizens' rights to freedom of movement and free choice of place of residence within the Russian Federation; violations of civil rights by Ministry of Internal Affairs staff or within the Ministry of Justice's penal correction system; and violations of the rights of invalids in the Russian Federation. The special reports were sent to the State Duma, senior staff at the ministries and governmental departments concerned, and the mass news media.

The effectiveness of the Commissioner's efforts is hampered by the fact that he has no right under the Russian Constitution to initiate legislation with a view to improving federal human rights law, and no opportunity to ask the Constitutional Court for rulings on whether laws on human rights are consistent with the Constitution.



### 3. The Presidential Commission on Human Rights

Unlike the office of the federal Commissioner for Human Rights, which is a constitutional institution of the State, the Presidential Commission on Human Rights serves to carry out the functions of the President as guarantor of the Constitution and human and civil rights and freedoms. It thus does not have the independent status of a federal State body, but is an advisory body to the Head of State. Its powers and composition are defined by a Presidential decree dated 18 October 1996.

The Commission is responsible for collecting, studying and analysing information and material on matters to do with respect for human rights; compiling general yearly reports and ad hoc reports on the subject for submission to the President; drafting suggestions for the President on how to improve the machinery for upholding and protecting human rights; helping to draft the corresponding legislative bills; and considering applications from individuals that contain information about systematic violations of human rights.

24. The Presidential Administration and the governmental machinery of the Russian Federation are responsible for considering and analysing applications from citizens. There is a Presidential office handling applications from citizens which functions as an independent unit of the Presidential Administration. To date, however, Russia has no federal law laying down general rules, with due regard for constitutional requirements, on how executive authorities and other governmental bodies or local government authorities should consider and deal with citizens' proposals, applications and complaints.

25. With a view to the further development of the legal profession, there are plans to adopt a bill on the legal profession in the Russian Federation that will clarify and extend lawyers' rights and abilities. The bill prescribes safeguards of lawyers' independence and gives lawyers more extensive rights while they are providing legal assistance. An article headed "Professional secrecy" prohibits eavesdropping on a lawyer's telephone and other conversations and inspection of the premises where he offers legal assistance. Investigation and removal of material and documents from a lawyer's file on his client's affairs is forbidden. Any information, according to the bill, which relates to the lawyer's provision of legal assistance to his client constitutes a professional secret.

26. A Presidential order dated 4 April 1998 on the celebration of Human Rights Year in the Russian Federation calls for the formulation of a Federal Master Plan to uphold and protect human and civil rights. The Presidential Commission on Human Rights drafted such a plan, which explains the essence of human rights and freedoms, sets out objectives, principles and main priorities for federal executive authorities in seeking to uphold and protect human rights, and establishes a general course towards improvements in uniform standards, systems and procedures for upholding human rights, including those of individual population groups (refugees, displaced persons, ethnic minorities, small indigenous peoples, the elderly and so forth).

27. The justice system in the Chechen Republic has essentially been reinstated, although not entirely so. By December 2001 Chechnya had 12 working courts and a Supreme Court. At the beginning of 2002 there were 29 judges at work in the Republic, examining civil and criminal

cases, receiving citizens and fully exercising all their other powers. All parts of Chechnya are under the supervision of the procurator's office and the organs of law and order. The courts in Chechnya consider a limited number of criminal cases. Cases involving especially serious offences are referred to the Supreme Court of the Russian Federation.

28. Over the 10 years that the Victims of Political Repression (Rehabilitation) Act of 18 October 1991 has been in effect, the Office of the Procurator-General has reviewed over 530,000 criminal cases involving almost 740,000 individuals, and 520,000 citizens have been rehabilitated. Under the Act, the procuratorial authorities are responsible for checking all cases against individuals awaiting rehabilitation and have, among others, reviewed the cases of such well-known historical personages as the Grand Princes of the Romanov family, the renowned dancer Rudolf Nureev, and the Swedish diplomat Raul Wallenberg. The Office of the Procurator-General has rehabilitated all of them. Meanwhile, almost 90,000 people have been denied rehabilitation, most of them individuals who served in the ranks and special units of the German/Fascist forces or police and took part in intelligence, punitive and military operations against the Red Army, the resistance, the armies of the anti-Hitler coalition or peaceful civilians.

The procuratorial authorities' work on rehabilitation cases remains one of their chief priorities. They have been assigned to complete the job as quickly as possible. At present, work on the review of criminal cases has been completed or is nearing completion in 18 regions of Russia; still, there remain large residues of cases awaiting review under the Act in several regions. The procuratorial authorities are constantly coming across issues to do with the restitution of rights and payment of the benefits guaranteed by the Act to victims of political repression. In the course of 9,000 checks on the application of the law on rehabilitation, they have discovered numerous violations, mostly involving non-receipt of social benefits and guarantees. In recent years they have logged 4,000 instances of procuratorial intervention to correct breaches of the law and restore citizens' rights. The Office of the Procurator-General has submitted to the Ministry of Finance a funding proposal for operations in connection with the application of the Act, and reported to the Russian Government and State Duma. Over the past two years, the procuratorial authorities have brought nearly 2,000 suits for a total of 10 million roubles on behalf of rehabilitated individuals and their heirs who had long been left without monetary compensation: the suits have been granted by the courts. Procuratorial intervention and corresponding initiatives by the Office of the Procurator-General have helped to increase allocations under the federal budget in 2000 and 2001 to defend the rights of victims of political repression, and this has had a positive effect on actual compliance with the requirements of the Act.

29. Russia attaches great importance to protecting the rights of ethnic Russians abroad. The Ethnic Russians Abroad (State Policy of the Russian Federation) Act, passed in 1999, establishes that protecting the basic human and civil rights and freedoms of ethnic Russians is an inalienable part of Russia's foreign-policy operations.

30. As regards the rights of foreigners, the Foreign Citizens in the Russian Federation (Legal Status) Act was passed by the State Duma in June 2002. It is based on the relevant international legal standards, and will take effect in October 2002. Under the Act, foreigners and stateless persons in the Russian Federation enjoy the same rights and are under the same obligations as citizens of the Federation except in the instances provided for by international agreement or

Russian federal law. The Act also emphasizes that the exercise by foreign citizens of their rights and freedoms “must not harm the foundations of constitutional order, the defence and security of the Russian Federation, public morals or health, or the liberties and legitimate interests of citizens of the Federation and Russian juridical persons”. There are plans to introduce a quota, which will vary from year to year, for foreign citizens temporarily resident in Russia. Under the Act, foreigners are entitled to temporary residence irrespective of the quota if they have been granted political asylum in Russia, have spent at least five years in Russia as refugees, or are married to a Russian citizen. The Act regulates labour activity by foreign citizens and the procedure for their arrival in and departure from the country.

### **Article 3**

31. In 1997, the State Duma adopted a Legislative Master Plan on equal rights and opportunities for men and women which sets out a strategy for the development of Russian legislation on the prevention of sex discrimination. It covers men’s and women’s rights to equal participation in decision-making at all levels of the legislature, executive and judiciary and in local government authorities; social and labour rights; violence prevention and personal safety; preservation of reproductive health, motherhood and childhood; and the State machinery for guaranteeing men and women equal rights and opportunities.

32. The Master Plan is being put into effect both through new legislative proposals and through amendments to existing laws. A Political Parties Act was passed in 2001; it states that one of the basic principles governing the activities of political parties is the creation for male and female citizens of the Russian Federation of equal opportunities to be represented in the parties’ governing bodies, on their lists of candidates for elected office and in other elected positions in State and local government bodies.

33. At the moment, on an initiative by a number of women’s voluntary organizations backed by the State Duma, work is progressing on a bill on State guarantees of equal rights and opportunities for men and women in the Russian Federation.

34. More detailed information on Russian law and related practice and on the equal-rights situation in the country can be found in the fifth periodic report by the Russian Federation on its implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

### **Article 4**

35. Issues relating to the restriction of particular rights and freedoms in the event of a state of emergency have been brought into line with Russia’s international obligations by the new federal States of Emergency Act of 30 May 2001. Under this Act, steps taken during a state of emergency which entail changes in or restrictions on established human rights and liberties must be kept within the limits dictated by the severity of the situation. Such steps must, however, be in keeping with Russia’s international human rights commitments and must not entail any discrimination against individuals or population groups based exclusively on sex, race, nationality, language, descent, property and employment status, place of residence, attitude

towards religion, beliefs, membership of voluntary organizations or other considerations. A separate provision in the Act defines the Federation's obligations as regards compliance with article 4, paragraph 3, of the Covenant if a state of emergency is declared.

**36. *In re* paragraph 27 of the Human Rights Committee's comments on the fourth periodic report of the Russian Federation**

A study of the procuratorial and investigative practice of the military procuratorial authorities bears witness to the fact that violations of human rights and killings and wounding among the civilian population in the Chechen Republic are brought about by the terrorist activities of members of illegal armed groups. By taking advantage of human settlements and their peaceful inhabitants in their criminal actions, the terrorists pose a real threat to people's lives, health and property. In view of the political situation obtaining when counter-terrorist operations in this constituent entity of the Russian Federation began in September 1999, steps have been taken which have led to significant progress in upholding the rights acknowledged by the International Covenant on Civil and Political Rights. The law-enforcement authorities in the Russian Federation check all reports of violations of rights, including reports from citizens and human rights organizations and information published by the mass media. In every instance where a crime is clearly shown to have been committed, criminal proceedings are launched and the matter is investigated in accordance with current law, with no restrictions on citizens' rights and freedoms occasioned by the counter-terrorist operations in the Northern Caucasus. People who commit crimes are brought to book under the established procedure.

A system of geographically-based and special-purpose law-enforcement bodies has been reintroduced in the Chechen Republic to help impose law and order. The system of Russian procuratorial authorities has now been completely re-established: the office of the procurator of the Chechen Republic, district and inter-district procurators' offices are operating in this constituent entity of the Russian Federation. Five military garrison procurators and the procuratorial investigation unit from the Northern Caucasus Military District military procurator's office have also been posted to Chechnya. Given the prevailing tension, military procurators' office personnel and the military high command are taking steps to maintain law and order among the troops and monitoring military command units' and officers' compliance with the law, and have arranged to collaborate with the local law-enforcement authorities. Joint efforts are being made by the Inter-republican Bar Association, the procuratorial and the judicial authorities to reactivate advisory services offering legal assistance to the civilian population and military personnel in the Chechen Republic.

**Article 5**

37. In keeping with article 30 of the Universal Declaration of Human Rights and article 5 of the Covenant, the Constitution affirms that the list of human and civil rights is open-ended, and that new rights can be added to those already proclaimed.

38. The Constitution rules out the use of legislation to remove from the list rights and freedoms proclaimed in the Constitution and international legal instruments which Russia has undertaken to comply with.

39. The Constitution also identifies values, the repudiation of which is tantamount to abuse of human and civil rights and freedoms. These include the foundations of the constitutional order, the defence and security of the State, the morals, the health, and the rights and legitimate interests of others.

### Article 6

40. A moratorium on executions introduced by Presidential decree dated 16 May 1996, "Phasing out of the death penalty in connection with Russia's entry into the Council of Europe", has been in effect in Russia for over six years.

41. Pursuant to article 20, paragraph 2, of the Constitution (allowing capital punishment to be imposed *pro tem* as exceptional punishment for especially grave crimes against life, the accused being entitled to have his case tried by jury), the Constitutional Court of the Federation imposed a temporary moratorium on death sentences on 2 February 1999. The restriction was prompted by the fact that jury courts had been established in only nine Russian regions. It will apply pending the establishment of jury courts in all constituent entities of the Russian Federation and the entry into force of the corresponding federal law.

42. The death penalty has been retained in the Russian Criminal Code as an exceptional punishment, but the range of especially grave crimes for which it may be ordered is now limited to homicide and attempted homicide. The direction as to mode of execution - shooting - has also been abolished, and commutation of a death sentence into other forms of punishment has been introduced as a measure of clemency. The crimes for which the death penalty may be ordered comprise deliberate homicide in aggravating circumstances; making an attempt on the life of a State or public figure; making an attempt on the life of an individual administering justice or conducting preliminary investigations; making an attempt on the life of an employee of the law-enforcement authorities; and genocide. The death penalty cannot be handed down for any other crime covered by the new Criminal Code, not even such serious offences as treason and espionage. But a person guilty of terrorism, hostage-taking, banditry or other dangerous crime may be sentenced to death if his actions were accompanied by deliberate killing of the victims. Article 79 of the Criminal Code states that the death penalty may not be imposed on women, individuals who were under 18 at the time of the crime, and men who have reached the age of 65 by the time the court passes sentence. If clemency is granted, the death penalty may be commuted to life imprisonment or imprisonment for a term of 25 years.

43. In 1996 (before the moratorium was imposed), courts of first instance imposed the death penalty on 213 convicts (2.9 per cent of the total number convicted of crimes for which the law permitted the death penalty as exceptional punishment). That same year, sentence was carried out on 93 convicts. In 1997, the death penalty was imposed on 202 convicts (3 per cent of the total convicted of crimes for which the then current Russian Criminal Code permitted the death penalty as exceptional punishment). In 1998, 112 convicts were sentenced to exceptional punishment (1.5 per cent of the total convicted of crimes for which the then current Russian Criminal Code permitted the death penalty as exceptional punishment). In 1999, the courts sentenced nine convicts to death (0.1 per cent of the total convicted of crimes for which the Russian Criminal Code now in effect permits the death penalty as exceptional punishment). No

one was sentenced to capital punishment in 2000. In the light of reviews of sentence in cassation and judicial supervision proceedings, acts of clemency and the Constitutional Court order mentioned earlier, not one of the death sentences passed since 1997 has been carried out.

44. As the Head of State, the President has the right to grant clemency. A Presidential Clemency Commission established in 1992 was in operation until December 2001. It considered appeals for clemency from convicts sentenced to death and drafted clemency decrees for the President. Under a Presidential order dated 28 December 2001, clemency commissions have now been established and are in operation in the constituent entities of the Russian Federation, as a means of improving the machinery for giving effect to the President's constitutional powers of clemency and ensuring that the State authorities and the public are involved in the consideration of clemency-related matters.

45. A federal crime-prevention programme for 1999-2000 has been adopted. It includes the following priority tasks:

- Improving the machinery for combined deployment of law-enforcement forces and resources;
- Increasing the efficiency of the law-enforcement authorities in uncovering and investigating serious and especially serious crimes;
- Developing ways and means of harmonizing the efforts of the law-enforcement and other State authorities, non-governmental bodies, voluntary associations and citizens;
- Making it possible to provide full judicial and other State protection of civil rights, liberties and personal inviolability.

46. In the interests of appropriate and timely State compensation for injury to the lives and health of citizens exposed to radiation as a result of the accident at the Chernobyl nuclear power station, the Supreme Court of the Russian Federation studied the practice of the courts considering cases in which invalids seek to exercise the rights which federal legislation guarantees them, and analysed the positions of the federal executive authorities, the State Duma Committee on Labour and Social Policy, and of the voluntary organizations of citizens who suffered in or as a result of the Chernobyl accident. Based on its findings, it issued a decision containing recommendations to the courts on the application of the relevant laws, which enshrines the right of such citizens to receive full, timely compensatory payments and other social benefits.

47. **In relation to paragraphs 25, 28 and 30 of the Human Rights Committee's comments** it must be pointed out that one of the main principles governing counter-terrorist action in the Chechen Republic is proportionality of the strike force used, given the extreme necessity of putting an end to the criminal activities of illegal armed units as required by the federal Counter-Terrorism Act and other Russian law. While counter-terrorist operations are under way it becomes all the more important to society that offences committed by military personnel against the local population should be investigated.

48. A total of 103 criminal investigations were launched in Chechnya in 2001 into offences by military personnel, including crimes against the civilian population. By the beginning of 2002, the inquiries into 52 such cases were complete and 32 of them had been referred to the military courts. Altogether 43 servicemen were charged in those 32 cases. By April 2002, the military courts had found 30 servicemen, among them 3 officers, guilty of offences against the civilian population in the Chechen Republic, and sentenced them to various forms of punishment. To speed up procuratorial inquiries in Chechnya, a further 54 procuratorial investigators were sent to the Republic from the Russian regions in 2002.

### Article 7

49. The third periodic report of the Russian Federation to the Committee against Torture gives detailed information on Russia's compliance with article 7 of the Covenant.

50. Article 120 of the Russian Criminal Code (this is a recent addition to the law previously in effect) makes it an offence to compel the removal of human organs or tissue for transplantation; article 152 makes it an offence to trade in minors for the purpose, inter alia, of removing organs or tissue for transplantation purposes.

51. The Civil Forum staged in Moscow in November 2001 produced proposals and recommendations to increase the penalties for torture; these were forwarded to the Government, the Office of the Procurator-General, the State Duma and the Ministry of Internal Affairs. The recommendations included tightening up internal controls in procurators' offices and the Ministry of Internal Affairs, introducing judicial supervision, fleshing out the concept of torture on the basis of international standards, and introducing programmes at Ministry of Internal Affairs and militia training colleges explaining what kind of behaviour is regarded as torture. Participants at the Forum also suggested that procurators' offices should be given responsibility for checking complaints and overseeing the arrangements for initial inquiries (recommending criminal proceedings if there are complaints and medical evidence of beatings), that independent medical check-ups should always be conducted in the presence of witnesses, that human rights services should be set up at the procurator's office level in the constituent entities of the Russian Federation to handle torture cases, that regulations setting out minimum requirements for the investigation of torture allegations should be issued, and that the right to launch criminal proceedings in cases of torture should be extended to the Federal Security Services.

52. Breaches of the regulations on conduct between military personnel and incidents of officers striking their subordinates continue to be a serious problem in the Armed Forces and other military units in the Russian Federation. On the other hand, non-regulation conduct among military personnel is not widespread only in the Russian Armed Forces: such incidents also occur in other countries' armies, including European ones. The topic was discussed, for example, in Hungary in June 1997 at an international conference on problems of inhumane treatment and non-regulation conduct in the army. Hence the Russian military procurator's office also draws on international experience in seeking to prevent non-regulation conduct. To study the problem of non-regulation conduct in detail, the Central Military Procurator's Office, in conjunction with the research institute on regard for the law and the maintenance of law and order operating within the Office of the Procurator-General of the Russian Federation, has

conducted sociological research into latent criminality and the underlying criminological factors. The findings have been used in the design of measures to counter violent crime in the Armed Forces. The law-and-order situation in the army and navy reveals, on inspection, that the tenaciousness of non-regulation conduct is closely bound up with other unlawful phenomena in the military sphere.

53. A systematic approach to the problem of crime prevention has led to the emergence of new forms of supervision that can directly influence trends in the crime situation. One such is the universal adoption of systematic, large-scale checks by procurators among military units and formations, which serve to make the legal reaction to non-regulation conduct more effective. As part of a general plan of systematic action to counter non-regulation conduct and evasion of military service, the Central Military Procurator's Office issued a nationwide appeal in 1998 to military personnel who had left their units, calling on them to turn themselves in to the authorities. From the outset, this "Own up" operation confirmed suspicions that many of the individuals concerned were evading military service in response to severe personal hardship, some of it related to non-regulation conduct. The Central Military Procurator's Office proposed that they should be granted an amnesty, and on 10 June 1998 the State Duma passed a decision to that effect. Over 11,000 military personnel turned themselves in. Most were cleared of criminal liability.

54. The fact that efforts to stamp out non-regulation conduct are now being considered in close conjunction with practical moves to afford real protection to the victims of criminal acts is another sign of the fresh approach being taken to personnel rights. Senior officials at the Military Procurator's Office had a meeting in March 1999 at which they mapped out a plan of action bringing this question down to the practical level. Further to that plan, instructions on the action to take to ensure the security of military personnel who cooperate in criminal justice proceedings and help to protect the rights and legitimate interests of victims of criminal acts were drafted, as was an order of the Minister of Defence of the Russian Federation bringing them into effect.

In the belief that the reasons for "hazing" can be eradicated only if the military command, the military procurators' offices, the authorities, voluntary and human rights organizations really work together, much effort is being devoted to better coordination of activities and greater openness about the action being taken. Coordination meetings at the Central Military Procurator's Office, attended by senior staff from the ministries and governmental departments that operate military units, have become a part of law-enforcement practice. The decisions they reach are leading to efforts to address the causes and conditions that engender breaches of the regulations on relations between military personnel in all categories.

As part of the coordination effort, the experience of military commanders in whose units there has been no recorded non-regulation conduct for a long time has been studied, distilled and pooled. Military procurators have arranged for conscripts at military command posts and muster stations to have their rights to protection against illegal conduct by their fellow-servicemen and officers explained to them. Confidential hotlines are in operation at the Central Military Procurator's Office and district-level military procurators' offices to allow a prompt response to



signs of non-regulation conduct or other breaches of the regulations. The general public and military personnel are told about them through the mass media. The hotlines enable any member of the military to notify the military procuratorial authorities about incidents of non-regulation conduct.

On 26 June 2000 the Central Military Procurator's Office issued an order requiring closer checks on compliance with the law during investigations of criminal cases involving the deaths or injury of military personnel. This calls for better, more effective preliminary investigations and checks to see that the laws are being obeyed, especially during the initial phase of an inquiry while urgent investigative work is being done. A uniformed division has been set up and is now in operation at the Central Military Procurator's Office; the officers working there are concerned solely with monitoring compliance with the law during investigations into non-regulation conduct.

Representatives of the Central Military Procurator's Office were actively involved in the drafting of an instruction on the investigation procedure to follow in cases where military personnel in military units and Ministry of Defence organizations are injured; the instruction was put into effect in 2000 by order of the Minister of Defence. Efforts to enforce the principle that liability for offences committed in breach of the regulations cannot be repudiated have led to a reduction in such offences. Altogether 48.5 per cent fewer military personnel were subjected to non-regulation conduct and physical violence in 2001 than in 1998, and 13.3 per cent fewer suffered damage to their health.

The State Duma passed the Alternative Civic Service Act in June 2002; it will take effect as of January 2004.

### **Article 8**

55. The scale of trafficking in women in the Russian Federation has grown in recent years. It must, however, be borne in mind that the starting point was virtually zero, since there was no illegal transport of women abroad for sexual exploitation purposes before the early 1990s. The exaggeration in the numbers of Russian women reported by international organizations as falling victim to sexual exploitation abroad is striking. In actual fact, the problem may involve not "tens of thousands" (the number given in a report by the United Nations High Commissioner for Human Rights), far less "500,000 a year" (the kind of figure cited by the European Commission), but a few thousand such women in the course of a year.

Like most other States, Russia has no official statistics on this problem. Objective factors make gathering statistics difficult. The number of victims of the sex trade can be arrived at only from the number of approaches they make to the law-enforcement authorities or the number of applications for help made to social service institutions. Data collection is complicated in the former case by the fact that it is extremely rare for women to bring criminal proceedings, for fear of reprisals from criminal gangs, and in the latter case by the fact that social service institutions cannot divulge information about the women who turn to them for help owing to the principle of confidentiality enshrined in the laws governing their activities.

One can get some idea of the scale of illegal shipments of Russian women abroad from Russian Federal Frontier Service figures. In 1999 and 2000, the Service prevented roughly 5,000 female Russian citizens with defective papers from crossing the State border. Thirty women were detained as they tried to cross the border illegally. Their intended destinations were mainly Turkey, Italy, Germany, Bulgaria, Finland and China. It cannot be said with certainty, however, that all the women were bound to fall victim to trafficking in people. On the other hand, Russian women who have crossed the border perfectly legally, to marry foreigners, travel, work on contract and so forth, are also on occasion subjected to sexual exploitation abroad.

56. There is an article in the Russian Criminal Code, article 152, "Trade in minors", which stipulates stiffer penalties (from 3 to 10 years' deprivation of liberty) for involvement in the illegal carriage of minors out of the country. Seventy-five people were convicted of such offences between 1996 and 2000. A whole series of other articles in the chapter of the Code entitled "Crimes against the person" establish liability for complicated combinations of offences associated with the illegal carriage of women out of the country and their enticement or coercion, once abroad, into prostitution. A total of 38 cases of trafficking in minors were recorded in 2000, as against 28 in 1999. Judicial proceedings into incidents of trafficking in women are similarly sporadic.

An international round table, organized at the initiative of and with backing from the Organization for Security and Cooperation in Europe (OSCE), on the question of trafficking in people was held in Moscow on 13 and 14 July 2000, and attended by representatives of the Procurator-General's Office, the Ministry of Internal Affairs, the Federal Frontier Service, the Russian national Interpol bureau, the ministries of labour and health, the Moscow Government, staff from the secretariats of three State Duma committees (on security, women's affairs, the family and youth, and international affairs) and the secretariat of the Federation Council. The director of the United Nations Information Centre in Moscow, representatives of the International Organization for Migration and a member of the European Commission's delegation to Russia also took part in the discussion. An open and constructive exchange of views enabled participants to map out a series of priority measures to reduce the numbers of Russian women taken abroad to be sexually exploited. There are plans to organize a publicity campaign in the press and electronic media in conjunction with OSCE, to begin preparing and distributing informative material for potential victims of the sex trade, and to offer counselling through crisis centres for female victims of violence.

57. At the suggestion of the Russian Ministry of Foreign Affairs, the Interdepartmental Commission on the Advancement of Women debated action to prevent the sexual exploitation of women, children and teenagers on 20 April 2001. The Commission's decision directs federal ministries and departments to tighten up the existing criminal and administrative law, prevent the use of the mass media and new communications technology for the purpose of trafficking in people, and tighten controls on the activities of travel agencies, agencies offering job placements abroad and "matrimonial agencies" arranging for women and girls to leave the country.

58. Russia signed the United Nations Convention against Transnational Organized Crime and the related Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, on 12 December 2000.

### Article 9

59. Since the fourth periodic report was submitted, the powers of the judicial authorities to monitor observance of citizens' rights to freedom and personal inviolability at the pre-trial investigation stage have been considerably expanded. On 23 March 1999 the Russian Constitutional Court ruled that a series of provisions in the Code of Criminal Procedure of the Russian Soviet Federative Socialist Republic (RSFSR) which denied interested parties the opportunity to challenge the actions and decisions of the body conducting an initial inquiry, an investigator or a procurator as regards searches, confiscation of property, suspension of proceedings in a criminal case or extension of the deadline for a pre-trial investigation were inconsistent with article 46, paragraphs 1 and 2, of the Constitution of the Russian Federation. Since March 1999 these and other procedural actions and decisions by bodies conducting initial inquiries, investigators and procurators (e.g. closing a criminal case, refusing to seek an expert opinion, refusing to acknowledge a party as a victim; confiscating documents, dismissing counsel or, in the case of internal affairs organs and the procuratorial authorities, failing to act) have been appealed against not only to the procurator's office but also to the ordinary courts, by parties whose rights have been violated.

60. Between 1995 and the end of the first half of 2000, the courts heard 422,106 appeals, granting them in about 20 per cent of cases in 1995 and 1996, and up to 15 per cent in 2000. Over the same period they considered 36,332 appeals against extension of remand in custody, and upheld about 14 per cent of them.

61. Article 128 of the Russian Criminal Code makes it an offence to commit someone unlawfully to a psychiatric inpatient facility. In the course of three and a half years, 12 people have been convicted under this article, 4 of them for unlawful committal by taking advantage of their official positions or committal which, through negligence, led to the death of the victim or other serious consequences.

62. Over the past three years, roughly 30 to 32 per cent of convicts have been sentenced to deprivation of liberty as punishment for criminal offences; about 40 per cent of convicts are given suspended prison sentences. Only 6 per cent of convicts are sentenced to actual deprivation of liberty for minor offences, while approximately 53 per cent of those found guilty of such offences have received suspended sentences. Only among those convicted of especially grave crimes does the proportion sentenced to deprivation of liberty as punishment reach 90 per cent.

63. In conjunction with the Russian Ministry of Justice, the Central Military Procurator's Office has drawn up a federal bill on short-term disciplinary imprisonment (*arest*) of military personnel which has already gone through the approval procedure. The bill lays down a judicial procedure for short-term disciplinary imprisonment that meets the requisite standards for human rights at the arrest and pre-trial detention stage. It is expected to be adopted in 2002.

64. The Russian Federation's new Code of Criminal Procedure, a crucial component of legal and judicial reform, was adopted on 18 December 2001. The basic provisions of the Code took effect on 1 July 2002. Given the need to bring the country's entire legal and judicial machinery

into line with it, however, a number of provisions will be brought into effect at a later date. As of 1 January 2003 the constitutional principle of adversarial proceedings will be fully operative, and from then onwards a State prosecutor and defence counsel will be required in every criminal case that reaches the courts.

Beginning on 1 January 2004, judicial supervision will be introduced at the pre-trial proceedings stage. Power to order preventive measures in the form of detention in custody or house arrest, to extend the deadline for detention in custody; to commit suspects and accused persons not in custody to medical or psychiatric inpatient facilities for forensic or psychological tests, to mount watch on homes without the permission of their inhabitants, to conduct searches; to remove objects and documents containing information about deposits and balances in banks and other lending institutions, and to seize correspondence, will pass to the courts.

65. The rights of suspects and accused persons are considerably more extensive than under the RSFSR Code of Criminal Procedure previously in effect. Suspects are now entitled to defence from the moment of their actual detention. They and accused persons are entitled to confidential interviews with defence counsel before their first interrogation, can lodge complaints about the actions (failure to act) of an investigator, inquiry agent, procurator or court, and take part in the court's consideration of them. The new Code clearly defines the procedure for detention of a suspect and observance of his rights. Once a suspect has been handed over to the body conducting an initial inquiry or to an investigator or procurator, an official record of his detention containing an explanation of his rights must be produced within three hours. The suspect's relatives must be notified of his detention within 12 hours. The Code devotes particular attention to the choice of preventive measures. By comparison with the previous legislation these are slightly modified, and more have been added to the list. They include written undertakings not to leave the vicinity; personal recognizance; supervision by the command of a military unit; surveillance of minor suspects or accused persons; bail; house arrest; and detention in custody. Bail as a preventive measure may be employed in connection with crimes in any category, but consideration is given to the nature of the offence, the personality of the suspect or accused and the material circumstances of the individual standing bail. As of 1 January 2004, only a court will be able to order house arrest and detention in custody. Until then the decision to impose either will remain with the procurator, but the right of appeal to the courts against the legitimacy of and grounds for his decision will be retained.

66. Under the new Code, detention in custody is competent for a suspect or accused person in an offence for which the law prescribes punishment of over two years' deprivation of liberty, when there is no possibility of applying another, milder preventive measure. Only in exceptional cases can it be applied for offences punishable by less than two years' deprivation of liberty, such as when the suspect or accused has no place of residence within Russia, when his identity cannot be established, when he is in breach of a previously imposed preventive measure or has hidden from the investigative authorities or the court. A minor may be detained in custody if suspected or accused of committing a grave or especially grave offence, and only exceptionally in connection with an offence of average severity. Stricter checks on the deadlines for detention in custody in the course of preliminary investigations have been introduced. As previously, the total duration during investigation is set at two months. Detention beyond that period is permitted, to a maximum of six months, by decision of a district court judge if there are

no grounds for amending or setting aside the preventive measure. A further extension, to 12 months, may be authorized in the case of individuals accused of grave or especially grave offences, but only if their cases are especially complicated and there are grounds for such a step. A term of over 12 months' detention in custody may be prolonged only in exceptional circumstances, in respect of an individual accused of an especially grave offence, by a judge of a constituent entity of the Russian Federation upon application submitted by the investigator with the assent of the Russian Procurator-General or Deputy Procurator-General. The extended term may not exceed 18 months.

67. One substantial guarantee of citizens' rights and freedoms under the new Code of Criminal Procedure is rehabilitation, which includes the right to compensation for loss of or damage to property, reparation of moral injury and reinstatement of labour, pension, housing and other rights. Rehabilitation is available to individuals on trial who are acquitted; individuals on trial against whom criminal proceedings are halted because the State prosecutor or private plaintiff declines to press charges; individuals against whom proceedings have been dropped for want of a perpetrated offence or *corpus delicti*, want of a statement by the victim in instances where such a statement is required to bring a case, or want of agreement by the court to bring criminal proceedings or arraign the individual concerned; convicted persons, if an enforceable court decision against them is wholly or partly set aside, or if the criminal case is halted; and individuals who have been illegally subjected to coercive measures of a medical nature. The injury caused by the criminal proceedings is fully reimbursable by the State whether or not there has been culpable behaviour on the part of the body or individual conducting the initial inquiry, the investigator, the procurator or the court.

68. One crucial innovation is the concept of inadmissible evidence and the abandonment of the practice whereby a court could send a case back for further investigation (in the new Code of Criminal Procedure the expression "sent back for further investigation" has been replaced by the broader one of return to the procurator). In the absence of proof of guilt, the accused is immediately acquitted; moreover, the procurator is denied the right to enter a protest - which would have to be considered - against an enforceable decision.

### **Article 10**

69. Paragraph 17 of the Human Rights Committee's comments voiced deep concern at the absence of judicial and other machinery to check on the operations of penitentiary institutions. Attention should thus be drawn to the passage of the federal Act of 9 March 2001 amending the current Russian Code for the Execution of Criminal Penalties in the matter of judicial checks on the operation of correctional institutions. In its new formulation, article 20 of the Code stipulates that the court shall check on the execution of sentence when dealing with questions of release on parole, commutation of the unserved part of a sentence into a milder form of punishment, discharge from punishment on grounds of a convict's health, deferral of execution for pregnant women and women with children under the age of 4, and abolition of any kind of corrective institution. The court may also consider complaints from convicts and others about the actions of the administrative institutions and bodies carrying out punishment. These institutions and bodies are required to notify the sentencing court when and where convicts begin to undergo punishment in the form of restrictions on liberty, short-term rigorous imprisonment, assignment

to a disciplinary military unit, or deprivation of liberty, and when punishments in the form of fines, stripping of the right to hold particular jobs or engage in particular occupations, stripping of special, military or honorary titles, ranks or State awards, compulsory labour, punitive deduction of earnings, reduction of military entitlements or confiscation of property are carried out.

70. In recent years the correctional system has been undergoing significant changes as the groundwork is laid for a democratic State governed by the rule of law and as Russia has become a member of the Council of Europe. When the system was placed under the authority of the Ministry of Justice, in September 1998, increased efforts were made to reorganize and reform it and State support for the system increased markedly - the budgetary allocation was almost double that of the previous year. In his message to the Federation Council on 18 April 2002, the Russian President remarked on the importance and necessity of making the country's criminal law and punishment system more humane. A number of decisions on the operation of penitentiary institutions, some of them based on material from the Procurator-General's Office, have been taken at the highest level of the Federation.

71. Suspects and accused persons in the Chechen Republic are kept in local temporary holding facilities or at the special remand centre established by the Ministry of Justice on 8 February 2000 on the site of the former strict-regime correctional colony in Chernokozovo, Naur district. All inmates at the remand centre are provided with individual bedding, three hot meals a day and essential medical care. Food and basic necessities from relatives are delivered in accordance with the standards laid down in the federal Suspects and Accused Persons (Detention in Custody Arrangements) Act. Inspections of the detention facilities by the procurator's office with representatives of international intergovernmental and voluntary organizations have shown that noticeable advances have been made in this area. The number of complaints on the subject lodged by such organizations has declined significantly. Between April 2000 and the end of January 2001, the Chernokozovo remand centre was visited by representatives of a variety of international organizations, including the International Committee of the Red Cross (ICRC), the OSCE Assistance Group, the Council of Europe and its Parliamentary Assembly, and representatives of several Russian news agencies. No complaints of illegal investigative methods or conditions of detention emerged in conversations with inmates.

Visiting the Chernokozovo remand centre in July 2000, ICRC representative Ms. K. Demon remarked on an improvement in the conditions in which people were being held in custody, and commented that there had been not a single complaint from a suspect or accused person. During a visit by a delegation from the Council of Europe Parliamentary Assembly headed by Lord Judd, on 15 January 2001, delegation members voiced dissatisfaction at the long periods spent in custody by accused individuals whose cases had been sent for trial. With the reinstatement of the judicial system in the Chechen Republic in early 2001, this problem is now gradually being dealt with.

In January 2001, ICRC representatives visited a series of remand centres housing individuals detained or arrested during counter-terrorist operations in the Chechen Republic. They prepared a report on their findings which detailed violations of the rights of citizens in that category. In response, the Russian Procurator-General's Office sent the Ministry of Justice's

Central Penal Correction Department an invitation to correct the violations of the rights and freedoms of citizens being held in remand centres to which the ICRC report had drawn attention. It also sent corresponding orders to the procurators' offices in the constituent entities of the Russian Federation within the Southern Federal District.

72. The Criminal Code and Code for the Execution of Criminal Penalties ordain a cardinal shift towards a more humane State correctional policy, and embrace the basic principles of international agreements on the treatment of convicts. Among advances in human rights it is of fundamental importance to point out that, unlike the legislation previously in effect which allowed some restrictions on convicted persons' rights beyond those established by law, the new Code for the Execution of Criminal Penalties rules out any such possibility. Suspension of payment of benefits while sentence is served, loss of housing entitlements and other such restrictions are now things of the past, and the rights to personal security, to freedom of conscience and religious belief, to involvement in relations under family law and to participation in a whole series of civil-law transactions are fixed in law. Convicted offenders are entitled to paid vacations, to qualified legal assistance, to judicial protection and to lodge complaints about the conduct of officials with the courts. Individuals held in remand centres can vote in elections to the State Duma of the Federal Assembly, the Presidency of the Russian Federation, the governmental bodies of the constituent entities of the Federation and local government bodies.

73. Individuals deprived of their liberty are exercising their right to appeal to the President for clemency. Clemency was granted to approximately 13,000 convicts in 2000. Over 200,000 more were released from imprisonment pursuant to a State Duma order decreeing an amnesty to mark the 55th anniversary of victory in the Great Patriotic War of 1941-1945.

74. On 30 November 2001, the State Duma adopted a resolution declaring an amnesty for minors and women and laid down the procedure for its application. This humane step was taken to uphold the rights of minors and women, give rehabilitation and educative functions more prominence in correctional policy towards minors, and encourage the swifter readaptation to society of citizens who committed offences while they were minors. The amnesty covers women and teenagers who have committed both minor and grave offences. It permits the release of individuals who committed offences before they reached the age of 18, women with minor children, the children of invalids, pregnant women and women in need of additional social support. One crucial condition for release under the amnesty is that, the individuals concerned having acknowledged their guilt and behaved irreproachably while serving their sentences, it is considered that there is no point in continuing to confine them in detention. Some 10,000 minors and 14,000 women fall within the scope of the amnesty, or about 28 per cent of the total prison and detainee population in these categories. At the beginning of 2002 there were a total of 47,400 women and 18,700 minors in correctional and educational colonies.

75. Efforts to improve educative work with convicted offenders continue, and it is here that the signs of greater humanity in correctional practice are most apparent. Harsh pressure on the personality is being replaced by relations of trust between the staff and convicts who have started along the path to reform, with priority being given to pedagogical and psychological means of influencing offenders and to dealing with the problems associated with adapting to life in freedom. Besides being given a general and basic vocational education, offenders are offered the

chance of intermediate and advanced vocational training through distance learning and correspondence courses with secondary and higher educational institutions on a contractual basis. Over 600 convicts are studying by such means at present.

76. Other standards laid down in international agreements - on the housing of detainees and convicts, civilized conditions during detention in custody and service of sentence, appropriate medical care and the prevention of cruel, inhuman or degrading treatment - are also reflected in current Russian law.

77. Russia's penal, criminal procedure and correctional law were amended in March 2001 to incorporate further changes in attitude towards those guilty of petty or ordinary offences and expand the grounds for the application of preventive and punitive measures other than detention in custody and deprivation of liberty. The amendments are all designed to preserve social ties and allow tens of thousands of people to expiate their guilt without being cut off from society.

78. In general, the correctional system is becoming more open to monitoring by voluntary, religious and other organizations, charitable foundations and so forth. International contacts also favourably influence matters relating to the rights of individuals deprived of their liberty. Representatives of the Ministry of Justice and the Procurator-General's Office serve in the Council of Europe Steering Group on the reform of the Russian prison system. Working contacts have been established with the European Committee for the Prevention of Torture. Committee members have repeatedly investigated the situation as regards respect for detainees' and convicts' rights in the penitentiary establishments run by the Russian Ministry of Justice. Their reports contain serious individual remarks, but also indicate that remand centre and correctional colony staff do everything they can to improve inmates' lot.

79. In accordance with current legislation, the operations of correctional institutions and bodies are supervised at several levels. Supervisory authority is vested in the federal State authorities, the State authorities of the constituent entities of the Russian Federation, and local government bodies. At the same time, the governing bodies and officials of the penal correction system monitor operations within the department, and the courts monitor the execution of penalties. In the instances provided for by law, the courts will hear complaints from convicts and others about conduct by the administrations of correctional facilities and bodies. The legal rules entitling voluntary organizations to monitor penitentiary institutions, assist them in their tasks and help to correct convicts are of great importance.

80. Procuratorial supervision under the federal Procurator of the Russian Federation Act is a vital safeguard of detainees' and convicted persons' rights. It comes with special powers, chief among them being that a procurator's decisions and demands having to do with compliance with the legally established procedure and conditions governing detention in custody or execution of penalties are binding on the administrations of correctional institutions and bodies. One example of an additional safeguard of detainees' rights is the legal ban on censorship of correspondence addressed to the procurator's office, the courts, or State authorities entitled to supervise places of detention.



81. While noting that, overall, there has been some progress in upholding the rights of individuals in detention, one cannot but remark that the enforcement of some legal standards governing the operations of correctional facilities depends on objective factors - principally the state of the national economy. For example, the introduction of alternatives to custodial sentences, in the form of restrictions on liberty, compulsory labour and short-term rigorous imprisonment (*arest*), which was scheduled to begin in 2001, has been postponed for want of the requisite physical and financial resources. The situation was confirmed in the federal Act of 10 January 2002 amending the Acts bringing the Russian Criminal Code and Code for the Execution of Criminal Penalties into effect. The problem of accommodating detainees in remand centres remains acute. On average, remand centres have just 2.2 square metres of "living space" available for every inmate instead of the legally required 4 square metres. Although the remand centre population decreased by 69,800 over the period 2000-2001, some convicts and suspects have no individual sleeping-places. There is no justification, however, for talk of a deliberate violation of detainees' rights, as the European Committee for the Prevention of Torture, too, has concluded. The experts on the Committee have also commended the positive role played by the procuratorial authorities in reducing overcrowding at remand centres.

82. Russia's remand centres and correctional facilities housed 979,300 inmates on 1 January 2002; this is very slightly higher than their upper capacity limit. Over 60 per cent of remand centre buildings, however, are in a dangerous condition. Five new remand centres have been brought into operation over the past two and a half years, but overall the Federal Remand Centre Construction and Rebuilding Programme for 1996-2000 has not been fulfilled for lack of resources. The Russian Government approved a federal programme for the reform of the Russian Ministry of Justice's penal correction system over the period 2002-2006 on 29 August 2001; this calls for 46,000 additional places for suspects and accused persons in remand centres over the course of five years. Despite some improvement in medical treatment for detainees, shortage of funding has meant it has not been possible to provide full therapeutic care and there is not enough room for all the patients at specialist therapeutic institutions. Campaigns against tuberculosis, financed by international organizations, are under way in several parts of the country.

Despite efforts to instil respect for the law, there are occasions when individual employees of the penal correction system employ unauthorized methods on detainees and convicts. Every such incident is regarded as a critical event and evaluated accordingly, and the officials responsible are brought to book as the law requires. Checks by procuratorial bodies in 2001 confirmed 127 complaints that unauthorized methods had been used. Suffice it to say that during that same year the procurators turned 77 employees of remand centres and correctional colonies over to the courts for illegal conduct and service-related offences. Over 2,700 employees of penitentiary institutions were, on the recommendation of procurators' offices, subjected to disciplinary measures for breaches of the law. Almost 1,500 individuals who had been illegally consigned to punishment blocks in remand centres and correctional colonies had their rights restored by procurators, and 205 were released from penitentiary institutions. Orders by the heads of penal correction institutions which were against the law were set aside by procurators in 1,050 instances.

83. No suitable post-penitentiary aid system has yet been set up. The readaptation of former offenders to society is a question that often escapes the attention of State and public institutions. As in the past, the law and other regulations fail to define the extent of their responsibilities in this area.

84. Within their field of competence, the procuratorial authorities use all the means at their disposal to alleviate the problem of lawlessness in the penal correction system. This is a problem constantly under scrutiny by the Russian Procurator-General's Office. Organizational, staffing, disciplinary and instructional measures are taken and recommendations are made to the relevant ministries and government departments with a view to securing a balanced approach to the questions of whether to approve arrests, detention in custody for given periods and other matters of relevance to the constitutional rights of citizens in detention. The Federal Assembly and Government and the President of the Russian Federation are sent reports containing specific proposals for improving the situation in penitentiary institutions. Improving the effectiveness of the investigative bodies, the courts and the penal correction system, and making sure that procuratorial supervision is more influential in securing unswerving respect for the law at remand centres and during the execution of criminal penalties, remain critical undertakings.

#### **Article 11**

85. Russian legislation makes no provision for the imprisonment of people who are unable to meet contractual obligations of any kind. The Civil Code adopted in 1995 indicates that imprisonment for such offences is inadmissible.

#### **Article 12**

86. The Government approved rules on the registration and removal of citizens from registers in 1995, on the basis of the Citizens of the Russian Federation (Liberty of Movement and Free Choice of Place of Residence in the Russian Federation) Act. The rules state in part that registers are kept with a view to enabling citizens to exercise their rights and freedoms and to perform their obligations vis-à-vis other citizens, the State and society.

87. In 1995 the Russian Constitutional Court ruled the pass (*propiska*) system unconstitutional, as hindering the exercise of a series of civil and political rights including liberty of movement and free choice of residence and abode. Other rulings have laid down stringent conditions for the registration of citizens in accordance with their places of residence. One in particular, dating from 4 April 1996 and concerning the constitutionality of a number of regulatory decisions by the City of Moscow and Moscow oblast, Stavropol Territory, Voronezh oblast and the City of Voronezh governing the procedure for registering citizens for permanent residence, determined that exercise of the constitutional right to free choice of residence cannot be made contingent upon payment or non-payment of taxes or charges of any kind, inasmuch as the basic rights of citizens of the Russian Federation are guaranteed by the Russian Constitution without any financial conditions attached.

88. In a ruling dated 2 February 1998 on a challenge to the constitutionality of rules 10, 12 and 21 of the Rules on registration and removal from registers of Russian citizens in accordance with their places of residence and abode within Russia, the Constitutional Court affirmed that, while essential at the current stage of development of the State to bring about conditions permitting citizens of the Russian Federation to exercise their rights and freedoms, the registration of citizens in accordance with their places of residence was a matter of notification and could not serve as grounds for restricting liberty of movement or free choice of residence and abode except in cases expressly covered by federal law for constitutionally valid reasons.

89. Significant progress is being made in ensuring that citizens are free to travel abroad. A ruling by the Constitutional Court dated 15 January 1998 on a challenge to the constitutionality of article 8, paragraphs 1 and 3, of the Russian Federation (Procedure for Exit and Entry) Act held that the paragraphs concerned, pursuant to which a passport for foreign travel would be issued to a citizen of the Federation only at his or her place of residence, whereas citizens living outside the Federation would be issued passports by the Russian consulates in the States where they lived, were unconstitutional. Given that, under the Act, possession of a passport for foreign travel is an essential requirement for exercise of the constitutional right to leave the country and return unhindered to it, the former arrangements impinged on that constitutional right in the case of individuals who for any reason were not at their place of residence as established by the register.

90. The numbers of complaints submitted to the Interdepartmental Commission established to consider appeals from Russian citizens against decisions to deny them passports for foreign travel or to impose temporary restrictions on their travel abroad decline from one year to the next. Three hundred and thirty-two appeals were received in 1999; 326 in 2000; 248 in 2001. On average, the Commission grants 90 per cent of the appeals it considers.

91. The situation of the displaced population in the Ingush-Ossetian conflict zone (paragraph 26 of the Human Rights Committee's comments) is being monitored by the law-enforcement authorities. The Procurator-General's Office keeps a constant watch over respect for citizens' constitutional rights and the law governing the return of displaced persons of Ingush nationality to the Republic of North Ossetia-Alania. A working group on the topic was set up in April 1999, and supervises compliance with the law during periods of increased migratory activity in conjunction with the plenipotentiary representative of the Russian President and the migration services of both republics. Representatives of the Procurator-General's Office hold periodic meetings with the leaders of the republics to discuss the state of affairs in the region and ways of settling the Ingush-Ossetian conflict.

Senior members of the procuratorial and internal affairs authorities of the two republics met in Vladikavkaz on 20 February 2001; the upshot was the establishment of a permanent investigative team comprising procuratorial and militia personnel to look into crimes committed in the vicinity of the administrative boundary. Joint mobile militia posts have also been set up; they keep constant guard on the border between the Prigorodny and Right Bank districts of North Ossetia-Alania and the Nazran and Djeirakh districts of Ingushetia. Thanks to the combined efforts of the State, local government and law-enforcement authorities, the ban on the return of displaced persons to Dongaron, Dachnoe, Kurtat, Kartsa, Redant, Chmi, Sputnik and Vladikavkaz has been lifted.

By 31 March 2002, a total of 3,615 displaced families (20,131 individuals) of Ingush nationality had received State support for their return to North Ossetia. Including those who never left the republic during the armed stand-off (inhabitants of Kartsa and Maiskoe) there are now some 27,000 citizens of Ingush nationality living in North Ossetia, or almost 80 per cent of the population that officially lived there before the autumn of 1992.

92. The adverse influence of unresolved problems in the Ingush-Ossetian conflict on efforts to settle displaced persons in towns and villages where Ossete and Ingush populations live side by side is manifest. In July 2000, Ingush families tried to return to the middle of the village of Chermen: this provoked another round of confrontation. The action taken by the law-enforcement authorities resulted in criminal proceedings being brought under article 136, paragraph 1, of the Russian Criminal Code, in response to the prevention of the displaced persons from returning. The preliminary investigation is still in progress. Besides this, the Russian Procurator-General's Office has advised the President of the Government of the Republic of North Ossetia-Alania to put a stop to violations of citizens' constitutional rights to liberty of movement and free choice of residence, and suggested that the officials responsible in the Republic's executive and local self-government authorities should be called to account.

93. The situation in the area covered by the Ingush-Ossetian settlement worsened again in April 2001. A lack of coordination between the actions of officials in the two republics as they arranged to settle displaced persons of Ingush nationality in Ir, in the Prigorodsky district, served as the pretext. Political rallies and numerous appeals by citizens to the Procurator-General's Office and State authorities resulted. It has to be admitted that the Russian President's special representative on the Ingush-Ossetian conflict and the Governments of the two republics have been unable to take the steps they had planned to return displaced persons of Ingush nationality to their former homes during the first half of 2001. All previous agreements on the subject have, moreover, been disavowed. It is only thanks to intervention by the Russian President's plenipotentiary representative in the Southern Federal District and the Russian Procurator-General's Office that it has been possible to ease the tension in relations between the two republics somewhat. All official bodies concerned have been directed to keep this process within the bounds of Russian law, i.e. the Constitution of the Russian Federation and federal legislation. The Russian Procurator-General's Office has studied the republics' legislation and found that many acts have yet to be brought into line with federal law. The Russian President and Government have been notified of the fact, and procurators' offices have been reacting accordingly.

94. In 2000, at the prompting of the Russian procuratorial authorities, the judiciary found diverse provisions relating to citizens' exercise of their rights to liberty of movement and free choice of residence and abode in the Decree dated 26 April 1999 by the President of the Ingush Republic on action to regulate migration in Ingushetia, and in the Republic of North Ossetia-Alania's Migration Act, to be contrary to federal legislation. At the time of their adoption, the Decree and the Act markedly exacerbated relations between the two republics.

95. Checks on the application of the law governing the situation of refugees and displaced persons on Russian territory established that the Russian Government order of 30 April 1997 on the procedure to follow in paying compensation for lost housing and property to citizens affected by the crisis in the Chechen Republic who had left Chechnya for good set no deadlines for the

relevant decisions and provided no exhaustive list of the documents to be submitted for the purpose. Incidents were discovered in which submissions for compensation had been under consideration for more than two years. In 2000 the Russian Government passed an order amending the procedure so as to rectify the omissions in the current law, prevent violations of citizens' rights and ensure the legislation was uniformly applied.

### **Article 13**

96. The requirements of article 13 of the Covenant are met by the Constitution of the Russian Federation and the federal Foreign Citizens in the Russian Federation (Legal Status) Act of 25 August 2002.

### **Article 14**

97. Since submitting its fourth periodic report to the Human Rights Committee, Russia has made substantial progress towards genuine implementation of constitutional rights and freedoms in criminal proceedings as required by the International Covenant on Civil and Political Rights. Significant changes have occurred in criminal procedural legislation: 25 federal Acts have been passed and the Constitutional Court has issued 38 decisions and rulings which to varying degrees affect citizens' civil and political rights. The Supreme Court of the Russian Federation has issued 19 general decisions and 252 rulings on specific criminal cases to ensure the correct and uniform application of these standards.

98. The Federal Act of 9 March 2001 amending the Criminal Code, the Code of Criminal Procedure (the version that applied until July 2002), the Code for the Execution of Criminal Penalties and other legislation imposed strict limits on the use of detention in custody as a preventive measure and introduced additional guarantees of judicial appeal against it.

99. The federal Act passed on 20 March 2001, which amended several Russian laws in connection with Russia's ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms, added suspects in a pre-trial investigation to the category of suspects facing criminal proceedings and accorded them all the rights of the latter, including the right to defence. Under the Act, defence counsel is permitted to become involved in a case from the moment charges are brought or, when a suspect is detained or subjected to preventive measures in the form of detention in custody pending the bringing of charges, from the moment when the arrest warrant or detention order is served on the individual concerned. These and many other laws and regulations have helped to make judicial proceedings significantly more democratic and substantially increased the level of judicial protection that citizens enjoy.

100. Intensive efforts to bring about judicial reform are continuing with direct and active backing from representatives of the Russian Procurator-General's Office. The Office has produced and forwarded to the State Duma over 360 different emendations designed to improve a series of procedural standards and, above all, ensure that the constitutional rights of citizens, society and the State are genuinely protected.

101. The Russian Federation has accomplished a number of things in its reform of the judicial system:

- Strengthening the independence of the courts;
- Establishing a federal Constitutional Court;
- Transforming the State arbitral authorities - administrative bodies - into courts of arbitration;
- Laying the federal-level legislative groundwork for instituting justices of the peace and beginning to shape comparable institutions in a number of constituent entities of the Federation;
- Having the courts apply the Russian Constitution and international human rights agreements in their consideration of cases;
- Instituting judicial monitoring of the legality of detention in custody and its prolongation by procurators, and of the use of other procedural measures (searches of homes, tapping of telephone calls etc.);
- Imposing and elaborating a procedure for excluding from judicial proceedings material inadmissible as evidence;
- Introducing jury courts functioning in accordance with the constitutional principles of adversarial proceedings, equality of the parties and the presumption of innocence in nine constituent entities of the Russian Federation.

102. Nevertheless, the ordinary courts often have to cope with an enormous workload in difficult conditions. The volume of cases, complaints and material submitted for judicial consideration grows every year. There is a relatively small number of judges to deal with the quantity of work, and missed procedural deadlines are commonplace.

103. Over 700 court buildings are unfit for the administration of justice; about 170 of them are in a dangerous condition and do not meet even basic standards of safety for their occupants.

104. To ensure that citizens have access to justice in accordance with federal law, a primary link in the judicial system, one closer to the general public, is being instituted in the constituent entities of the Russian Federation - justices of the peace, who will officiate in small judicial districts of a few thousand inhabitants. More than half the constituent entities of the Federation have by now made arrangements for the introduction of justices of the peace. More than 2,000 justices have already begun to dispense justice. The introduction of justices of the peace in most constituent entities is being hampered, however, by a shortage of the requisite financial, staffing and physical resources.

105. The introduction of jury trials throughout the Russian Federation should serve to strengthen judicial protection for citizens' rights. The systematic institution of juries in all constituent entities of the Federation, together with the introduction of justices of the peace and an improvement in the quality of justice will overcome the general public's current distrust of the judicial system.

106. The procedure for the consideration of cases arising out of administrative law also needs improving. A draft federal constitutional law on federal administrative courts in the Russian Federation which has been put before the State Duma by the Supreme Court of the Russian Federation has considerable implications for the activities of the ordinary courts: if adopted, it will facilitate the efficient settlement of cases in this category by an independent judiciary.

107. In 1998, the Constitutional Court looked into the constitutionality of a series of articles in the Russian Code of Criminal Procedure and issued a substantial number of decisions extending citizens' procedural rights. Among other things, it approved cassational appeals of interim judicial decisions by courts of first instance imposing or cancelling preventive measures and committal of individuals to medical institutions for inpatient psychiatric appraisal etc. coupled with de facto extension of the deadline for detention in custody. Convicts have won the right of cassational appeal against judgements of the Supreme Court when it tries cases as the court of first instance. Cassation courts are now required to allow convicted persons in custody the opportunity to acquaint themselves with the trial record and set out their positions.

108. In a decision dated 20 April 1999, the Constitutional Court relieved judicial bodies of the function of laying charges - which was inappropriate for them - and withdrew their right to send back cases for further investigation or to launch criminal proceedings on their own initiative, even against a fresh individual, and order preventive measures against him.

109. In 2000, the Constitutional Court upheld the right of anyone to the assistance of a lawyer (defence counsel) at the pre-trial stages of criminal proceedings whenever his rights and liberties are substantially at issue or could be substantially affected by action taken in connection with a criminal prosecution, whether or not the individual concerned has formally been identified as an accused or suspect. The court conducting a supervisory appeal is now required to acquaint convicts, acquitted persons, their counsel and victims with the protest lodged and grant them the right to convey to the court their position as regards the grounds for the protest.

110. The right of citizens to have criminal and civil cases considered within reasonable time limits is a matter regularly discussed at plenary meetings of the Supreme Court. The Court has issued more than five related decisions on moves by the courts to do away with red tape in their handling of civil and criminal cases, greater personal accountability on the part of judges for the proper and timely consideration of every criminal case, and time limits for the consideration of criminal cases against individuals being held in custody. The presidents of district and higher courts have been advised to keep a closer watch over the courts' compliance with procedural deadlines; to visit the courts more often so that they can view the situation at first hand; and to look into deliberate gross or systematic breaches of procedural deadlines that drag out the

consideration of criminal and civil cases and encroach substantially on citizens' rights and legitimate interests. The Supreme Court regularly surveys compliance with procedural deadlines in the handling of civil and criminal cases and circulates summaries of its findings. The matter is also raised in the Presidium of the Supreme Court.

111. The adoption of the new Code of Criminal Procedure of the Russian Federation in December 2002 substantially broadened the protection afforded to human rights and liberties during criminal proceedings. According to the Code, the fundamental principle and purpose of criminal justice is to uphold the rights and legitimate interests of individuals and organizations affected by crime and to protect individuals from illegal and unwarranted accusation, conviction and restriction of rights and liberties. Proceedings in criminal cases are grounded in the legality and justifiability of procedural decisions with their supporting arguments. This means that, besides prosecuting criminals and inflicting just punishment, one aim of criminal proceedings is to refrain from prosecuting the innocent, release them from punishment and rehabilitate anyone who has unwarrantedly been subjected to prosecution. The Code enshrines such principles as regard for the honour and dignity of the individual, inviolability of the individual, the presumption of innocence, confidentiality of correspondence, telephone and other conversations, and inviolability of the home.

112. The law on criminal procedure has extended the range of offences in which criminal proceedings may be halted if there is reconciliation between the parties and sincere repentance. These include not only petty but also ordinary offences, i.e. those attracting a maximum penalty of up to five years' deprivation of liberty. All rights of both the prosecution and the defence continue to be fully upheld by the law. If, for example, the parties reach reconciliation, proceedings will be halted only upon application by the victim or his legal representative - but this is far from the only condition. The individual concerned must first be called to account himself, make peace with the victim and make good the injury he has caused.

113. Under the Code of Criminal Procedure of the RSFSR which was previously in effect, the notion of inadmissibility of evidence existed only when cases were being tried by jury. Under the normal procedure, only the court could evaluate evidence. The new Code enunciates a general principle governing proceedings on criminal cases: evidence obtained in breach of the Code is inadmissible, has no legal force and cannot be adduced in support of an accusation. The right to gather evidence is granted not only to the agent conducting the initial inquiry, the investigator and the procurator, as those acting for the prosecution, but also to victims, civil claimants and respondents and their representatives. It is also granted to defence counsel, who is entitled to gather evidence by amassing physical objects, documents and other information; questioning individuals with their assent; and requesting references, testimonials, and other documents from State authorities, local government authorities, voluntary associations and organizations, which are obliged to supply the documents concerned or copies thereof.

114. The procedural law affords extensive scope for appeals against actions and decisions by the court and officials conducting criminal proceedings. It is not only the parties to a case who are entitled to appeal, but also other persons insofar as procedural actions and decisions affect their interests. The parties to proceedings can appeal against decisions by the agent conducting the initial inquiry, the investigator, or the procurator not to institute criminal proceedings, to terminate criminal proceedings, or other decisions or actions (failure to act) that might infringe



the constitutional rights and liberties of the parties to the proceedings or hinder citizens' access to justice; they can appeal against the imposition of preventive measures in the form of house arrest or detention in custody, extension of the deadline for detention in custody and so forth.

115. Yet another distinctive check on respect for the rights and legitimate interests of citizens caught up in criminal proceedings is now to be observed at the judicial proceeding stage before the basic examination of evidence begins. This is the preliminary hearing, which takes place when a party petitions to have evidence excluded; when there are grounds for referring a case back to the procurator; when there are grounds for suspending or halting the proceedings; to settle a question relating to a particular mode of judicial examination; and to decide whether a case should be tried by jury.

116. The principle of adversarial proceedings and equality of the parties is a guarantee of the rights of the accused during the judicial examination. The State prosecutor and defence counsel must be in attendance. Retraction by the State prosecutor of a charge that has formally been brought has the effect of closing the case. Under the new Code of Criminal Procedure, the judicial investigation begins with the presentation by the State prosecutor of the charges brought against the accused. The prosecution presents its evidence first, followed by the defence. The accused is first questioned by defence counsel and parties to the judicial examination for the defence, then by the State prosecutor and parties to the examination for the prosecution. The law has expanded the list of people who may take part in the discussions between the parties. These include, besides the prosecutor and defence counsel, the accused, the victim and the victim's representative. Civil claimants and respondents and their representatives may take part if they have petitioned to do so.

A special mode of judicial examination has also been established: with the agreement of the State prosecutor or private plaintiff and the victim, the accused is entitled to acknowledge the charge brought against him and petition for sentence to be passed without going through a judicial examination. This mode is competent for offences attracting punishment under the Russian Criminal Code not exceeding five years' deprivation of liberty. Conditions apply, to afford protection for the accused's rights and ensure they are upheld: the accused must be aware of the nature and consequences of his petition; and the petition must be made voluntarily, after consultation with defence counsel.

117. Jurisdiction over criminal cases and the composition of the courts by which cases are to be considered are defined by criminal procedural law. A large category of cases falls to the jurisdiction of justices of the peace - cases involving offences attracting a maximum punishment of three years' deprivation of liberty. An exception is made for cases requiring protracted investigation and verification of evidence, since the institution of justices of the peace was created for the sake of swifter, more routine consideration of criminal cases that do not represent a great danger to society, and for cases brought by private plaintiffs. Criminal proceedings on a charge brought privately are instituted by means of an application submitted by the victim to a justice of the peace; they are halted if, without good reason, the victim fails to appear for the court's consideration of the case, which is assimilated to retraction of the charge.

118. Special characteristics of jury trials are defined in the Russian Code of Criminal Procedure. Participation in the administration of justice is a citizen's constitutional right (article 32, paragraph 5, of the Russian Constitution) and a guarantee of a fair trial. Jurors are painstakingly selected in accordance with the Code of Criminal Procedure to consider a given criminal case; they undertake their legally established responsibilities after taking an oath. They are present while evidence is examined and are entitled to put questions to the accused, the victim, witnesses and experts through the court president. It is up to the jurors to decide whether a criminal act has been committed and whether the accused is guilty of committing it. On occasion their decision may not coincide with the opinion of the professional judge, but if the jury's verdict is that the accused is innocent, the judge must acquit him. At the same time, a guilty verdict by the jury is no hindrance to an acquittal by the judge if he finds that the actions of the accused do not display the indicia of a crime.

119. The Code of Criminal Procedure contains provision for an entirely new kind of proceeding in modern Russian justice - appeal against decisions handed down by a justice of the peace. In essence this amounts to a fresh examination of all the evidence considered by the justice of the peace when one party to the judicial examination disagrees with the justice's evaluation of it. It serves as a guarantee of the legitimacy, justifiability and fairness of the judicial decision. It must be pointed out, however, that the appeal court is entitled to re-evaluate the evidence considered by the justice of the peace and substitute a conviction for an acquittal if this possibility is raised in the procurator's submission or the victim's complaint.

120. The most important feature of the new Code of Criminal Procedure from the point of view of protection for citizens' rights in judicial supervision proceedings is the rule barring a worse outcome, in other words ruling out any review of a conviction or a court's determination or decision on grounds that would put the convicted person in a worse situation, or review of an acquittal.

121. The re-opening of criminal proceedings in the light of new or newly discovered facts as a result of a decision by the Russian Constitutional Court or the European Court of Human Rights is a completely new safeguard of human rights.

### **Article 15**

122. The Russian Criminal Code that took effect on 1 January 1997 sets rules on when criminal laws apply that are fully consistent with article 15 of the Covenant. Article 9 of the Code states that guilt and liability to punishment are determined by the criminal law in effect at the time when an act is committed. Under article 10, a law decriminalizing an act, reducing the penalty or otherwise improving the situation of an individual who has committed a crime shall have retroactive force, i.e. shall apply to individuals who committed the act concerned before the law took effect, including people currently serving sentence and people who have completed their sentences but have a criminal record. A law making an act an offence, increasing the penalty or otherwise exacerbating an individual's situation shall not have retroactive force. If an enforceable penalty is reduced by a new criminal law, it shall be subject to reduction within the limits laid down by the new law.

### **Article 16**

123. Recognition as a person before the law is guaranteed to citizens within the territory of the Russian Federation by the Constitution (chap. 2) and the Civil Code which took effect on 1 January 1995. Due regard is had to rights guaranteed by the main international human rights agreements. The Civil Code has substantially increased citizens' legal competence. In keeping with new economic conditions, it provides for the possibility of citizens' owning any kind of property, engaging in business and any other kind of activity not prohibited by law, conducting any transactions not prohibited by law, entering into obligations, selecting their places of residence and so forth.

124. There are limits to citizens' exercise of their legal competence. In exercising his civil rights and liberties, a citizen must not damage the environment or violate the rights and legitimate interests of others. In some instances, similar restrictions are imposed by law.

### **Article 17**

125. The rights covered by this article are protected by criminal law in the Russian Federation. Over the four years beginning with the entry into force of the Russian Criminal Code, 42 people have been convicted under article 137 of the Code of acts encroaching on the inviolability of private life; 61 people have been convicted under article 138 of the Code for violation of the confidentiality of correspondence, telephone conversations, postal, telegraphic and other communications; and 5,476 people have been convicted under article 139 of the Code for encroachments on the inviolability of the home.

126. The new Russian Labour Code which took effect in February 2002 offers important guarantees of non-interference in private life. Among other things, it stipulates that employers and their representatives are not entitled, as they process an employee's personal data, to obtain or process personal information about the employee's political, religious or other beliefs and private life. In circumstances directly related to labour-relations issues an employer may, in accordance with article 24 of the Russian Constitution, obtain and process personal information about an employee, but only with the employee's written consent (art. 86).

127. The circulation of information known to be false which besmirches the honour and injures the dignity of another person or damages his reputation (slander) is a criminal offence under Russian legislation (Criminal Code, art. 129). The introduction of the new Criminal Code has led to 886 convictions under this article: 74 for slander in a public statement, publicly staged production or in the mass media, and 137 for slander combined with an accusation of a serious offence.

128. Making unseemly attacks on another person's honour or dignity (defamation) is also a punishable offence under article 130 of the Russian Criminal Code. A total of 9,637 people have been convicted of this, 163 of them for defamation in a public statement, publicly staged production or in the mass media.

### Article 18

129. Article 148 of the Russian Criminal Code makes unlawful obstruction of the activities of religious organizations or observance of religious rights an offence. The new Code of Administrative Offences which took effect on 1 February 2002 also stipulates penalties for breaches of the law on freedom of conscience, freedom of belief and religious associations where such breaches do not amount to criminal offences.

130. The Freedom of Conscience and Religious Associations Act was passed by the State Duma in 1997. It confirms the right of everyone to freedom of conscience and of belief, and to equality before the law irrespective of attitude towards religion or beliefs. Unlike the previous Freedom of Religion Act of the RSFSR (1990), the current federal Act enshrines a series of fundamentally new provisions. It substantially alters the procedure for the establishment of religious organizations and reduces the circle of individuals who can found and belong to a local religious organization. Only Russian citizens are entitled to found local religious organizations. Foreign citizens and stateless persons can now only be members of a religious organization, and for that they must be permanently resident in the Russian Federation. The Act stipulates that nothing in the law on freedom of conscience, freedom of belief and religious associations must be so construed as to diminish or impinge upon the related human and civil rights guaranteed by the Russian Constitution or stemming from international agreements to which the Russian Federation is a party. Under the law, foreign citizens and stateless persons legally within the Russian Federation have the same right to freedom of conscience and belief as citizens of the Russian Federation and may be held liable in accordance with federal law for breaches of the law on freedom of conscience, belief and religious associations.

131. The 1997 Act introduced a new concept - that of a religious group. A religious association of citizens functioning without State registration is acknowledged to be a religious group. Thanks to this provision, it is established that the activities of an unregistered religious association are legal.

132. In the seven years that the Freedom of Conscience and Religious Associations Act has been in effect, it has twice been considered in the Constitutional Court of the Russian Federation and the ordinary courts have considered dozens of civil cases concerned with the application of individual provisions. The Supreme Court of the Russian Federation has not so far, however, turned its attention to the uniform application of the Act in practice.

133. Under the Act, citizens and religious organizations can appeal to the courts against a refusal by, or reluctance on the part of, the registration authorities to register a religious organization. Inasmuch as re-registration of religious organizations with the State presupposes that their charters and other founding documents have been brought into line with the requirements of the Freedom of Conscience and Religious Associations Act, refusal by and, hence, reluctance on the part of the registration authorities to re-register an association can also be appealed before the courts.

Citizens and citizens' associations can also have recourse to judicial protection of their rights to freedom of conscience and belief under the procedure established by the Actions and Decisions Infringing Civil Rights and Freedoms (Court Appeals) Act.

Court cases to uphold individuals' honour, dignity and business reputations may also be included among the suits brought at the initiative of religious organizations and citizens. Under article 152, paragraph 1, of the Russian Civil Code a citizen is entitled to petition the courts to have reports that besmirch his honour, dignity and business reputation retracted unless the party publishing the reports can show that they are factual. Under paragraph 7 of the same article, the rules applying to the protection of a citizen's business reputation apply *mutatis mutandis* to the protection of the business reputation of a juridical person. However, few cases of religious organizations and citizens appealing against the actions of the judicial authorities, other State authorities or local government authorities, and few suits brought by religious organizations and citizens to protect their honour, dignity and business reputations, come before the courts.

134. The right to freedom of conscience and belief in the Russian Federation may be restricted only insofar as this is necessary to protect the foundations of the constitutional order, public morals and health, human and civil rights and legitimate interests, national defence and State security. The list of grounds set out in the Act for the abolition of a religious organization or for a judicial ban on the activities of a religious organization or group is exhaustive.

135. The Act contains a provision entitling a citizen of the Russian Federation to substitute alternative civilian service for military service in conformity with his convictions or beliefs. The Constitutional Court ruled in 1999 that this right does not need to be fleshed out and is a directly applicable, individual right, i.e. one related to freedom of belief in its individual, not collective, sense and, hence, one that must be respected regardless of whether a citizen belongs to any religious organization. At the request of religious organizations and by decision of the President of the Russian Federation, serving clergy may, in accordance with Russian law on military conscription and military service in peacetime, be granted a deferral of call-up for military service and exemption from military reserve duty. The Alternative Civilian Service Act was passed by the State Duma in June 2002 and will take effect on 1 January 2004.

### **Article 19**

136. Regard for freedom of speech and freedom of information is an inseparable component of the democratic changes taking place in the Russian Federation. The Russian Federation currently has 8,000 registered electronic and nearly 35,000 registered printed news and information organs.

137. The Information, Computerization and Data Protection Act, which contains provisions defending citizens' information rights, was passed on 25 January 1995. The article of the Act entitled "Exercise of the right of access to information and information resources" fundamentally altered the legal status of a citizen applying for information. The practice used to be that even the most vital information was generally made available to citizens only upon application from an organization of some kind. The request had to indicate what the information was needed for. The article in question makes it plain that the old approach is inadmissible. It states: "Citizens, governmental authorities, organizations, voluntary associations and local government authorities have equal rights of access to State information resources and shall not be required to explain the need for the information they request to the owner of such resources." It also says that access by natural and juridical persons to State information resources underpins public scrutiny of the activities of State and local government authorities, voluntary, political and other organizations,

the state of the economy, the state of the environment and other domains of public life. Hence it affirms that access to information is a form of public monitoring of the activities of State authorities and a safeguard of such monitoring.

The same article regulates the procedure for the supply of information. A list of information services and details of the procedure and conditions governing access to information is to be supplied by the owner of information resources free of charge. A fee may be charged for some kinds of information - the Act is not specific on this point. The conditions under which information may be obtained, however, must be disclosed free of charge. Even if a fee is to be charged for information, it must not be so high as to deprive a citizen of his right to obtain the information.

The Act establishes guarantees of the supply of information and lists the categories of information available: details of civil rights and liberties, public safety and matters of public interest. Article 24 indicates the ways in which the right of access to information can be defended, including the right to appeal to the courts against a refusal to divulge information or the supply of incorrect information. If information is withheld or incorrect information is supplied, the applicant is entitled to compensation for damages. Article 24 also establishes that the chiefs and employees of State authorities who illegally restrict the right to information are liable to the appropriate legal penalties.

138. There is an important clause in the Act governing refusal to divulge information on the grounds that it is secret. At present, a refusal invoking the secrecy of the information requested is not definitive. Article 10 of the Act delimits information by categories of access. Paragraph 1 of the article says that the State information resources of the Russian Federation are open and accessible to all. The only exception is information in the limited-access category.

139. The Environmental Protection Act of 20 December 2001 establishes the right of citizens and voluntary organizations to obtain information about the environment. It provides that citizens and voluntary organizations are entitled to request information on the state of the natural environment and measures to protect it.

140. The right of the mass media to information is enshrined in the Mass Information Media Act of 27 December 1991. Over the past 10 years the Act has undergone numerous amendments: the founder of a media organ has been replaced by the owner; efforts to monopolize the mass media have been checked; and stiffer penalties have been introduced for circulating inaccurate information through the media. Articles holding publishers more accountable for the content of the mass media, on the right of a publisher to own publishing assets and media products at one and the same time, and on the correction of false reports, both during electoral campaigns and at other times, have been added.

141. Besides this Act, the activities of the media and citizens' rights and freedom to obtain and circulate information are governed by:

- The Mass Media and Book Publishing (State Support) Act of 1 December 1995 (as amended on 22 October 1998);

- The District (City) Newspaper (Economic Support) Act of 24 November 1995 (as amended on 2 January 2000);
- The Presidential decree dated 6 July 1999 on action to improve State management in the mass media and mass communications domain;
- A decision dated 10 September 1999 by the Russian Government entitled “Questions relating to the Russian Ministry of the Press, Broadcasting and Telecommunications”;
- A decision dated 12 January 1996 by the Russian Government on better information for the general public in the Russian Federation.

142. Article 144 of the Russian Criminal Code makes it an offence to obstruct journalists in their legitimate pursuits. Altogether 26 people have been convicted under this article in the four years since the new Criminal Code took effect.

#### **Article 20**

143. Planning, preparing for, embarking on or conducting a war of aggression, and public incitement to embark on a war of aggression, are punishable under articles 353 and 354 of the Russian Criminal Code. Under article 282 of the Code, seeking to arouse ethnic, racial or religious hatred or demean ethnic dignity and propagandizing citizens’ exclusivity, supremacy or inferiority on grounds of their attitude to religion or their ethnic or racial background are also punishable activities. Being motivated by ethnic, racial or religious hatred is, moreover, an aggravating circumstance for criminal punishment purposes.

#### **Article 21**

144. One important manifestation of the fundamental constitutional principle of freedom publicly to air one’s demands and interests, words and thoughts, and a vital guarantee of a democratic civil society, is the right of every citizen to take part in peaceful public events and encounters. The constitutional provision on citizens’ right to assemble peacefully, to hold meetings, political rallies and demonstrations, to march and to picket merits fleshing out in current legislation. Despite numerous debates, however, there is as yet no such law, and in accordance with a Presidential decree of 25 May 1992 on the procedure for organizing and conducting political rallies, marches, demonstrations and pickets it is understood that such events are to be organized in the light of the provisions in the Declaration of Human and Civil Rights and Freedoms concerning citizens’ right to assemble freely and without weapons, conduct political rallies, marches and demonstrations and picket provided that the authorities are first informed. Exploiting this right to bring about violent change in the constitutional order, to inflame racial, ethnic, class or religious hatred or to propagandize violence and war is prohibited. The Decree also stipulates that, pending the adoption of an appropriate federal law, the rules laid down in the decree of the Presidium of the Supreme Soviet of the USSR dated 28 July 1988, “Procedure for the organization of meetings, political rallies, marches and demonstrations in the USSR”, shall apply within the Russian Federation insofar as they are not inconsistent with the Declaration of Human and Civil Rights and Freedoms.

145. Article 149 of the Russian Criminal Code makes it an offence illegally to obstruct the conduct of or participation in a meeting, political rally, demonstration, march or picket, or to coerce people into participation, if this is done by an official taking advantage of his official position or using or threatening to use force. Three people have been convicted under this article since the new Criminal Code of the Russian Federation took effect.

## Article 22

146. Over the time that has elapsed since the adoption of the Constitution of the Russian Federation, the law on citizens' social and political rights has been virtually rewritten and the regulatory foundations have been laid for a democratic State controlled by the law. The legislation on this subject passed in recent years has liberalized public life and released the structures of civil society from the strict tutelage of the State. These encouraging developments began in 1990 with the adoption of the USSR Public Associations Act, which laid down the fundamental legal principles to govern the activities of voluntary (public) associations. For the first time, the Act provided a definition of a voluntary association, formulated the objectives of creating an association, laid down the principles of its operation and delimited its rights and responsibilities. Virtually any registered association of 10 or more people pursuing commercial objectives was categorized as a voluntary association.

147. The new federal Voluntary Associations Act passed in 1995 extended and fleshed out the rights and obligations of voluntary associations. They are free to determine their internal structure, objectives, ways and means of operating, and adopt their statutes autonomously. Matters affecting the interests of voluntary associations are dealt with by State and local government authorities in conjunction or by agreement with the associations concerned. At the same time, the State is required to uphold the rights and legitimate interests of voluntary associations and support their activities through, inter alia, the granting of tax and other advantages.

148. The largest voluntary associations are the trade unions, to which the majority of the population belongs. In relations with State bodies, business organizations and businessmen, the trade unions represent and defend the interests of their members in work-related, socio-economic, cultural and other matters. The specific activities of trade unions are stimulated, and the particularities of their foundation, operation, reorganization and liquidation are regulated, by the federal Trade Unions (Rights and Guarantees of Operation) Act of 12 January 1996. The key significance of this statute is that the independence of the trade unions as regards their internal operation is now underpinned by the authority of the State. No one can interfere in their activities - not the executive, nor the organs of self-government, nor political parties. Among other things, the Act establishes the right of the unions to monitor compliance with labour and labour-protection law, to participate in the privatization of State and municipal property, to be involved in the regulation of collective labour contracts, and in the last resort to call strikes and other forms of collective action to defend the social and employment interests of hired workers. It entitles them to pay unrestricted visits to organizations, regardless of their form of ownership or affiliation, to visit places where their members are working so as to defend their rights and interests in matters of working conditions, industrial safety and compensation for injury, and to propose the adoption by the appropriate State authorities of laws and regulations on social and labour relations.



### Article 23

149. The official State position is that the family in the Russian Federation is the fundamental unit of society, the natural and best setting for a child to grow up in - one that ensures its all-round development and protection. With this in view, a range of measures were taken in the 1990s to provide support to families with children in the face of changing socio-economic conditions. A new Family Code was adopted, and the fundamental principles of State family policy were laid down. These texts define the rights of the child as having priority, and stipulate that parents and children's legal guardians must be given essential aid and support.

150. In all, over 200 laws and regulations have been passed since 1992, touching on all spheres of families' and children's daily lives with a view to affording them greater social protection; they include federal laws, Presidential decrees and decisions by the Government of the Russian Federation. Supplementary benefits for families with children, other kinds of social assistance and new care arrangements for children deprived of parental support are being introduced through legislation in a number of regions. One of the most telling and effective elements of national policy in favour of children has been the introduction in Russia since 1993 of a radically new, personally oriented, ramified system of social service institutions for families and children. It is basically intended to avert family distress, offering customized assistance to families and children during life's crises and helping children with deviant behaviour, invalid children and children missing one or both parents to rehabilitate socially and fit in with their families and society. The main kinds of institution involved are social assistance centres for families and children; social rehabilitation centres and shelters for children and adolescents; rehabilitation centres for children and adolescents with limited opportunities; and psychological help-lines. The network has grown from 107 entities in 1993 to 2,240 at the beginning of the year 2000.

151. Proper protection for motherhood being essential to women's participation in the workforce, the Government of the Russian Federation took care, while preparing the draft of the new Labour Code, not to omit any of the provisions of undimmed relevance, especially those relating to pregnant women. The new text retains rules such as that allowing both parents to take leave upon the birth of a child and in other circumstances relating to the child's upbringing. It conserves the approach of giving parents increased responsibility for the upbringing of their children and providing a genuine opportunity to entrench equality between men and women.

152. The Public Employment in the Russian Federation Act makes provision for vocational training, retraining and job placement for the least well-off segment of men and women with family obligations - unemployed men and women who are their families' only breadwinners, and families with minor children in which both parents are jobless.

153. The interests of families with children were borne in mind during the year 2000 review of the Russian Federation's tax legislation, which took effect on 1 January 2001. Tax allowances (the part of the parents' individual incomes exempt from taxation) were increased for families with children, and amounts spent by citizens on schooling and medical care - a topic of particular concern to families with children - were made deductible.

## Article 24

154. The weight of rapid socio-economic and ideological change in Russian society has been too much for some families to bear and they have fallen into disarray, with parental obligations being ignored in some cases, giving rise to the phenomenon known as “social bereavement” when children with living parents are left virtually as orphans, or parents are deprived of their parental rights. The numbers of children with no one to look after them are also growing as mortality among parents of working age rises. The result has been that the number of orphans and children deprived of parental care has increased by 50 per cent over a decade, reaching 700,000 by the end of the year 2000. The Russian Government regards this as a crucial problem requiring priority attention.

155. Over 100,000 orphans and children deprived of parental care have been discovered in Russia every year over the past five years. Thanks to current law and practical action, however, only a quarter of orphaned children have had to be raised in institutional care. Four hundred and sixty-three thousand children live and are being brought up in a family environment, either as adoptees or as foster children. To boost the numbers of orphans taken in by families, there is a constant search for new ways of placing children who have been left without parental care in a family setting. These include the introduction, by way of the Family Code, of the institution of foster homes, experiments with placement in host families, and the creation of family upbringing units at social rehabilitation centres and children’s shelters. A new type of institution - aid centres for children bereft of parental care - is taking a multifaceted approach to the issue of placing children in families, offering preliminary medical and social rehabilitation and readying the families to adopt or take the children in. Significant progress in this area has been made in a number of Russian regions.

156. In the light of children’s right to be brought up in a family setting and to protect children’s interests in the event of adoption, international or otherwise, both deprivation (restriction) of parental rights and adoption in Russia are handled by the courts; all relevant circumstances are carefully gone into during the court proceedings so that a decision can be reached in the interests of the child. A data bank on children available for adoption has been set up to support the placement of orphans in families, and since February 1998 a special information bulletin has been published, every issue giving details of children needing to be placed in families. Information on children in the federal data bank is also published in other periodicals. A federal act regulating the State data bank on children left without parental care was passed in April 2001.

157. The Russian Federation signed the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption on 7 September 2000. Many issues that had previously hampered adoptions by foreign citizens were settled in March 2000 by decisions of the Russian Government.

158. By tradition, Russia has evolved an elaborate network of institutions for orphans. It is scarcely likely, despite the efforts being undertaken, that residential institutions for orphans can be closed down in the immediate future. In keeping with the Convention on the Rights of the Child, therefore, children’s homes and orphanages are being reduced in size so as to improve living conditions and surroundings for their inmates. Young children’s homes (for children up to

the age of 3 or 4) are making extensive use of modern rehabilitation methods for sick children and children with developmental disorders, and this improves the adoption prospects for the children concerned.

159. When summer vacation arrangements are made, orphans, including those being raised in residential institutions, are the first to be catered for. A law passed in 1998 gives them a very important guarantee as regards their future prospects: they preserve their right to housing, even if it is privatized by their relations. Special educational programmes to promote their subsequent integration into society are being developed and put into effect.

160. The federal Orphans and Children Left Without Parental Care (Additional Guarantees of Social Protection) Act was passed and the Family Code of the Russian Federation, the RSFSR Housing Code and the federal Privatization of the Housing Stock in the Russian Federation Act were amended in 1998 to protect the rights of orphans and children left without parental care. Efforts are being made to find new ways of looking after such children. Cadet schools (residential) and municipal guardianship centres for the surrounding districts are being set up at children's homes.

161. Opportunities for orphans to obtain a general secondary education and vocational training increased over the period 1997-2000, thanks in part to moves to extend the age-limits for attendance at residential institutions (to 18 and over) and create conditions enabling inmates to adapt to post-institutional life, and to the introduction of supplementary benefits for such children entering primary, secondary and post-secondary vocational training institutions.

162. In recent years society has been taking a keen interest in the conditions in which orphaned children grow up in residential institutions, as can be seen from the current development, with input from non-governmental human rights and other organizations, academic workers and regional children's rights advocates, of independent machinery to monitor respect for children's rights in State institutions. In practice such monitoring arrangements are already in effect in those regions that have created children's rights advocate posts.

163. The federal Prevention of Juvenile Delinquency (Fundamental Principles) Act took effect in June 1999. The passage of the Act was one more step in the gradual legal formulation of new conceptual approaches to preventive work with minors in Russia, hastening the practical shift from punishment to social protection as the principle underlying the operations of the juvenile delinquency prevention system. Further to the Act, the Russian Government has passed decisions approving sample regulations to govern special institutions for minors in need of social rehabilitation and regulations on the transport of minors who have run away from their families, children's homes, boarding schools, special and other children's institutions, and how it is to be paid for.

164. Some 800 special-purpose institutions for minors in need of social rehabilitation and general-purpose social welfare bodies are currently operating in Russia, and the numbers of children receiving assistance from these institutions grow every year (249,000 in 1999; 345,000 in 2000). Altogether 266,246 minors underwent rehabilitation at 2,444 social service institutions for families and children in the year 2000: over half were returned to their families; 14,000 were sent to educational institutions for orphans and children left without parental care. Vladimir

oblast, for example, has 47 social institutions of various kinds, including 16 children's homes and 20 social service institutions (shelters for children and adolescents, rehabilitation centres for children with limited opportunities, and psychological and emergency learning assistance centres). In 2000 these afforded assistance to 886 minors - 112 children left without parental care, 297 living in families in socially dangerous circumstances, 87 who had run away from their families or children's institutions, 37 who had nowhere to live, and 338 in other socially risky situations. Similar institutions operate in other Russian regions.

165. At the same time, procurator's offices in the constituent entities of the Russian Federation [reported] 100,840 violations of minors' rights and interests in 2001 (as against 86,518 in 2000); a total of 25,420 suits were brought in defence of those rights and interests (as against 23,392 in 2000).

166. Under article 22 of the Basic Guarantees of Children's Rights Act, the State produces an annual report on the situation of children in the Russian Federation. The Russian Government has also set up an Interdepartmental Commission to coordinate efforts relating to Russian compliance with the Convention on the Rights of the Child and the World Declaration on the Survival, Development and Protection of Children; the Commission is operating pursuant to a governmental decision dated 2 February 2001. A federal bill to create a children's rights advocate in the Russian Federation is before the State Duma for consideration. So far seven constituent entities of the Federation have instituted special-purpose children's rights advocates, the Chechen Republic among them. A plan to improve the situation of children in the Russian Federation over the period 2001-2002 was approved by resolution of the Russian Government dated 21 August 2001.

167. A Constitutional Court ruling of 23 May 1995 in a case challenging the constitutionality of articles 2 and 16 of the RSFSR Victims of Political Repression (Rehabilitation) Act concerned the constitutionality of a provision in the Act under which children who had been with their parents when they were repressed on political grounds were held to be victims of political repression. The Court pointed out that holding such children to be victims of political repression rather than repressed limited the scope for their rehabilitation: it assigned to them a legal status different from that of individuals subject to rehabilitation and, in particular, reduced the amount of compensation payable. The Court ruled that children who had been put by force or under duress in places of penal servitude, i.e. in circumstances where they were patently deprived of rights and liberties, should be held to have been repressed on political grounds.

In a later decision, on 18 April 2000, the Court, based on the legal position set out in its ruling of 23 May 1995 and the sense in constitutional law of the corresponding provision of the Victims of Political Repression (Rehabilitation) Act of the Russian Federation, determined that children left before the age of majority without the care of one or both parents because they had been repressed without cause on political grounds should themselves be held to have been repressed on political grounds.

## Article 25

168. Since submitting its fourth periodic report, the Russian Federation has done much to give substance to citizens' rights to set up State and local government authorities and take part in their work. The fact that these rights were the least satisfactorily expounded in the Basic Law has lent particular urgency to the undertaking. The failure to include in the Constitution a chapter on the electoral system and related matters of electoral policy provided a further stimulus to the elaboration of sectoral principles in electoral law. The Constitution basically confines itself to laying down citizens' constitutional right to elect and be elected to State and local government bodies and to take part in referendums; article 32, which is devoted to these rights, makes no mention of the principles of universal, equal and direct suffrage or the secret ballot.

These and many other problems with the Basic Law as regards citizens' voting rights have since been resolved in a whole series of laws passed by the State Duma over the course of 1994-1999:

- The Citizens of the Russian Federation (Basic Guarantees of Electoral Rights) Act of 6 December 1994, as amended on 26 November 1996;
- The Elections to the State Duma of the Federal Assembly Act of 9 June 1995;
- The Referendums Act of 10 October 1995;
- The Elections to the Presidency of the Russian Federation Act of 17 May 1995;
- The Citizens of the Russian Federation (Constitutional Right to Vote and Stand for Organs of Local Self-Government) (Action in Furtherance of) Act of 26 November 1996, as amended on 22 June 1998;
- The Citizens of the Russian Federation (Electoral Rights and Right to Participate in Referendums) (Basic Guarantees) Act of 19 September 1997, as amended on 30 March 1999;
- The Elections to the State Duma of the Federal Assembly Act of 24 June 1999;
- The Breaches of Russian Electoral and Referendum Law (Administrative Liability of Juridical Persons) Act of 6 December 1999;
- The Elections to the Presidency of the Russian Federation Act of 31 December 1999.

169. The Citizens of the Russian Federation (Basic Guarantees of Electoral Rights) Act of 6 December 1994 has become something of a centrepiece among these various laws. The Act, whose contents are far more extensive than its title would suggest, defines not only guarantees but also the principles underlying electoral rights and the specific powers through which they are exercised, since the Constitution contains such information (art. 81) only in relation to elections to the Presidency of the Russian Federation. It enshrines the democratic principles

underpinning Russian citizens' electoral rights and establishes that the right to elect and be elected is universal in nature, not subject to any kind of discrimination on grounds of sex, race, ethnic background, language, descent, property and employment status, place of residence, attitude towards religion, beliefs or membership of voluntary associations.

Suffrage is held to be equal. This is manifested in the power to be added to the electoral rolls, in the formation of equal electoral constituencies, and in the right of Russians living outside the country to exercise their voting rights. The Act calls these powers guarantees, but in actual fact it is they that embody equal suffrage.

To ensure that citizens have the opportunity to express their choice by voting for a particular candidate, the Act defines the organizational arrangements whereby citizens can select candidates - through voter associations or blocs, or directly as part of a group of voters. It also enshrines a voter's power freely to express his preference for and support a given candidate.

170. The Citizens of the Russian Federation (Constitutional Right to Vote and Stand for Organs of Local Self-Government) (Action in Furtherance of) Act, passed by the State Duma in 1996 together with Provisional Regulations governing the conduct of elections to elected local government bodies and official positions in constituent entities of the Russian Federation that had not taken steps to give effect to federal citizens' constitutional right to elect and be elected to local government bodies, has also had a substantial impact on citizens' exercise of their right to take part in the management of local affairs that are not covered by the State system. It was particularly timely because it came out when the system enabling citizens to exercise their electoral rights at a national scale was only just taking shape and the corresponding laws and regulations at the regional and local levels were either non-existent or under review. Its sphere of application explicitly allows it to be invoked if Russian citizens' rights to elect and be elected to local government bodies are breached owing to unsettled legal questions about the activities of such bodies, expiry of their terms of office, or the absence, reorganization or abolition of municipal entities. At the same time, the Act and the Provisional Regulations lay down specific legal standards for the constitution of organs of self-government where none yet exist or the existing ones have, for one reason or another, ceased to function, and define the conditions, procedure and mechanism for the conduct of elections to elected local government bodies and official positions in accordance with the Act itself and the federal Local Self-Government (General Principles of Organization) Act.

The Act was amended in 1998, chiefly to extend the range of circumstances in which it could be invoked and to clarify and flesh out some provisions on the procedure for the conduct of elections to local government bodies and positions. Even so, the first moves towards the creation of a new system of electoral legislation did not pass off entirely smoothly. The 1994 Citizens of the Russian Federation (Basic Guarantees of Electoral Rights) Act contained a series of grave flaws, including an absence of standards regulating the procedure for calling elections and requiring them to be held periodically which later provided the President of the Russian Federation and the heads of regional administrations and local government bodies with an opportunity to ban elections or postpone them indefinitely. Many other issues to do with how the collection of voters' signatures, the course of an election campaign, determining the outcome of an election campaign and the financing of candidates' and associations' activities were to be supervised also remained unsettled.

171. The Electoral Rights and Right to Participate in Referendums (Basic Guarantees for Citizens of the Russian Federation) Act was passed in 1997. It took account of many failings of the previous, 1994, Act on the subject and introduced more detailed regulation of basic electoral procedures: the obligation to hold elections, the procedure for calling them, the compilation of electoral rolls, the establishment of electoral boards, pre-election publicity, election financing, voting arrangements, vote-counting, determining the outcome of elections and so forth. It was also enlarged in scope to encompass referendums, and the procedures and institutions previously elaborated in federal legislation were adapted to suit the particular features of a referendum. As part of this process, referendums in constituent entities of the Russian Federation and local referendums were made subject to federal regulation; this was in response to the need for legislative safeguards of citizens' constitutional right to take part in referendums held in constituent entities of the Federation. It must also be mentioned that some parts of the new Act which were addressed to the legislative authorities of both the Russian Federation and its constituent entities did not always take account of the specific features of elections and referendums in the constituent entities, especially at the local level.

172. Practice in applying the Act turned up a series of other failings and shortcomings. To rectify them, the State Duma passed a law amending the Act in March 1999. This reworded several articles and provisions in the light of the experience gained: among other things, it detailed the procedure by which electoral and referendum boards should deal with citizens' complaints of irregularities in the run-up to and holding of elections, and made it compulsory to indicate on candidate-selection sign-up sheets and ballot forms whether a candidate faces any unpurged or unquashed criminal conviction or holds dual citizenship. It allows candidates and electoral associations to put down a deposit instead of collecting voters' signatures, and to withdraw their decision to register a candidate (list of candidates) should it turn out that he (they) has/have supplied false information.

173. The Electoral Rights and Right to Participate in Referendums (Basic Guarantees for Citizens of the Russian Federation) Act of 1997 stipulates that its provisions will take priority over those in other laws governing federal elections, and this made it necessary to bring those other laws into line with the Act. The Elections to the State Duma of the Federal Assembly Act was especially heavily reworked in consequence. The earlier Act, passed in 1995, contained a good many provisions that were not wholly consistent with the principles of equal opportunities for all participants in elections and democratic supervision over the preparations for and conduct of electoral campaigns and the evaluation of their outcome. The new version is constructed around general precepts and guiding principles which those involved in elections and law-enforcers can draw upon to devise various different ways of playing their parts in the process. But the legislature has gone considerably further in ensuring that citizens have a genuine right freely to express their choice in elections, and in regulating the procedure for the conduct of elections. The chief innovations in the Act can be summarized as follows:

- Putting pressure on citizens to take part or not take part in elections is forbidden by law;
- The machinery for establishing electoral districts and constituencies has been clarified;

- A procedure for the establishment of electoral boards at all levels has been defined that ensures that different political forces are represented;
- Stiffer requirements now apply to the addition to the electoral rolls of citizens voting somewhere other than their permanent or principal place of residence;
- The procedure by which electoral associations and voter blocs put forward candidates and assemble and modify lists of candidates has been clarified;
- The procedure for collecting signatures in support of candidates/lists of candidates and checking their authenticity is regulated in greater detail; an upper limit has been put on the numbers of voters' signatures to be submitted to electoral boards;
- An electoral deposit has been introduced as an alternative to the collection of voters' signatures;
- The list of things it is illegal for candidates holding State or municipal office to do, falling under the heading "taking advantage of one's official situation or position", has been increased and made more detailed;
- Matters relating to election funding are now more strictly regulated - in particular, categories of citizens and juridical persons that are not entitled to engage in charitable work during election campaigns have been defined, and a range of activities deemed illegal has been delineated.

174. Some emendations in the spirit of the 1997 Act were also made to the Elections to the Presidency of the Russian Federation Act passed in December 1999.

175. The Breaches of Russian Electoral and Referendum Law (Administrative Liability of Juridical Persons) Act passed by the State Duma in 1999 is very important from the point of view of imposing order on the electoral process and requiring more of those who take part in it. It provides for specific fines and other penalties on voter blocs and associations for failure to respect the rulings of electoral boards, breaches of the procedure defined in current law for publishing documents and information, the provision of funding or other material support to candidates or voter associations and so forth.

176. The passage of new electoral laws in recent years has substantially strengthened the legislative foundations for the creation of State authorities at all levels, has helped to democratize the process in accordance with international standards, and has created real safeguards of citizens' right to free expression of their will during elections. There are, however, still a good many unclear and incompletely regulated issues on the legal side of the electoral process which demand legislators' attention. For example, the current procedure in elections to federal authorities of delineating electoral districts so that there is at least one per constituent entity of the Russian Federation does not accord with the principle, enshrined in federal legislation, of universal, equal suffrage and, hence, equal representation in elected bodies. The numbers of votes cast for different candidates can, under this arrangement, differ by as much as an order of magnitude. The right - still in effect - of Federation-wide voluntary associations and voter blocs



to put forward lists of candidates for the federal electoral district and the same individuals for single-member constituencies is also contrary to the principle of equal suffrage and, in particular, equal status for candidates. Nor can it be considered democratic when a candidate in the top three of a voter association's list is in effect denied the opportunity not to stand or to withdraw in favour of another candidate on pain of prohibitive sanctions against the entire association. In this connection, the move by a number of members of the State Duma to amend article 5, paragraph 11, of the Elections to the State Duma Act so as to remove withdrawal of a candidate in the top three of the Federation-wide section of a federal list of candidates from the catalogue of grounds for refusing to register or retracting registration of that list, merits attention.

177. Current legislation, while regulating access by candidates and voter associations to the mass media, imposes no limits on numbers of paid slots in either the State or private media; the result is television screens and newspapers dominated by the "big money", and evident inequality among candidates. A federal bill on political advertising currently working its way through the State Duma Committee on Voluntary Associations and Religious Organizations may help to resolve this and other, similar, problems.

178. There remain a good many unresolved problems relating to constitutional guarantees of judicial protection for citizens' electoral rights. The flow of applications to judicial bodies and various levels is rising steadily, while the procedure and timeframes for rulings on them and, in particular, the effectiveness of such rulings remain somewhat unsatisfactory. A bill put forward by members of the Federation Council which would add to the Acts on basic guarantees and on elections to the State Duma language on the procedure for consideration of complaints to the courts about violations of citizens' electoral rights should make for some progress on this issue.

179. Bringing the entire body of legislation on elections and referendums in the constituent entities of the Russian Federation into line with federal standards is still a pressing task. To tackle such a volume of legislation will require the development and adoption in the constituent entities of "framework" and "model" electoral laws so that the main part of the legislation, relating to the organization and conduct of elections and referendums and to basic guarantees of citizens' rights, can remain constant and be elaborated within the framework of federal electoral law, while matters of practical implementation in the specific conditions obtaining in individual regions are handled in the constituent entities' laws. From this point of view, and in view of the need to unify the entire collection of laws on elections, an idea now being worked on in the State Duma Committee on State Construction looks very promising: this is to produce an Electoral Code encompassing all aspects of electoral law. There would then be no need for ad hoc laws on elections to the State Duma and the Presidency, basic guarantees of citizens' electoral rights, referendums and so forth. The intention is that the Code would apply directly and "operate" over the entire country.

180. An important institution favouring direct participation by citizens in the conduct of State affairs is Russian citizens' right, established in the Constitution, of equal access to public service. Public service in the Russian Federation includes the federal public service run by the Russian Federation and the public services of the constituent entities of the Federation, run by the entities concerned. The fundamental law governing citizens' right to public service is the Foundations of Public Service in the Russian Federation Act of 31 July 1995, in the version of 18 February 1999. Presidential decrees on public office in the Russian Federation and on

the roster of public offices held by federal public servants, both dating from 11 January 1995, and a decree approving the lists of public offices in the federal public service, dating from 3 September 1977, are also of importance for the implementation of article 32, paragraph 4, of the Constitution. These establish that no direct or indirect restrictions or advantages of any kind depending on sex, race, nationality, language, descent, property and employment status, place of residence, possession or absence of citizenship of a constituent entity of the Russian Federation, attitude towards religion, beliefs, membership of voluntary associations founded in accordance with the Russian Constitution and federal law, or other considerations are permitted upon entry into, or in the course of, public service by citizens whose professional qualifications meet the requirements for the job concerned.

The Act specifies that ordinary Russian labour legislation covers State employees. There are, however, some special additional obligations for State employees: they must uphold the constitutional order, respect the Constitution of the Russian Federation, and carry out federal laws and the laws of the constituent entities of the Federation; they must perform their official functions in good faith; they must follow orders, instructions and directions from their superiors; they must maintain a level of skill adequate for the performance of their official functions; they must ensure respect for and protect citizens' rights and legitimate interests, deal promptly with applications from citizens and take decisions in the manner prescribed by law. Of cardinal importance also are a series of restrictions associated with public service. For example, State employees are forbidden to engage in other paid work apart from teaching, research and various other creative activities; they cannot be members of (elected) legislative bodies of the Russian Federation, its constituent entities or local government authorities; they cannot engage in business activities; they may not serve on the boards or management of business entities; they must not accept rewards or gifts from individuals or juridical persons; they cannot strike or take part in other activities that disrupt the operation of State bodies. The Act also defines the principles of public service, the rights, duties and safeguards available to State employees, and the conditions and circumstances under which public service is to be performed. A number of other laws deal with the particular features of service in individual State organs such as the Ministry of Internal Affairs, procurators' offices and the tax police.

181. One specific way in which the Constitution provides for contact between citizens and the State is the right to apply in person, and to address individual and collective applications, to State and local government bodies. Correspondingly, State and local government bodies and officials are obliged to consider applications attentively, within the established deadlines and in due form, and to take legal, well-founded decisions in response. State persecution for mass, group or individual applications in exercise of this right is ruled out, inasmuch as article 45 of the Constitution guarantees State protection for human and civil rights and liberties.

As yet, the manner in which civilians' applications are to be considered has not been regulated by new legislation. The Decree by the Presidium of the Supreme Soviet of the USSR of 12 April 1968 (as amended on 4 March 1980 and 2 February 1988) on the procedure for the consideration of proposals, reports and complaints from citizens thus continues to apply: this lays down requirements that applications must meet and the deadlines and procedure for their consideration, and establishes that officials can be held liable for creating red tape, taking a bureaucratic attitude towards citizens' applications, or persecuting citizens for submitting proposals, reports or complaints.

Besides the administrative procedure for considering complaints from citizens about illegal actions by State or local government bodies or officials there is also a judicial one established by the Actions and Decisions Violating Civil Rights and Liberties (Court Appeals Against) Act of 27 April 1993, in the version approved by federal Act of 14 December 1995. This sets out a list of specific actions which are subject to appeal through the courts, the conditions and procedure for submitting an appeal and the procedure for consideration by the courts. It establishes that an enforceable court decision is binding on all State and local government bodies, institutions, enterprises, voluntary associations, officials and citizens and is enforceable throughout the Russian Federation.

182. Hindering citizens in the exercise of their electoral rights or their right to take part in a referendum, or hindering election or referendum boards in their work, is a punishable criminal offence under article 141 of the Russian Criminal Code. Over the four years since the new Criminal Code took effect, 20 people have been convicted of such an offence. Over the same period, 65 people have been convicted under article 142 of the Code, which makes it a crime to forge election or referendum papers or to miscount votes.

#### **Article 26**

183. It is an offence under article 136 of the Russian Criminal Code to violate the equality of human and civil rights and liberties on grounds of sex, race, nationality, language, descent, property and employment status, place of residence, attitude towards religion, beliefs, or membership of voluntary associations in a way that injures citizens' rights and legitimate interests. Six people have been convicted under this article since the new Criminal Code took effect.

184. For more detail on Russian compliance with article 26 of the Covenant, please see the Russian Federation's reports to the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of All Forms of Discrimination against Women.

#### **Article 27**

185. The main aim of Russian Federation policy towards ethnic, religious and linguistic minorities is to enable all Russian citizens to exercise to the full their right to social and ethnic-cultural development and to bring about social integration. This aim is reflected in the Outline of State Ethnic Policy approved by Presidential decree on 15 June 1996. The Outline lays down the following main principles of State policy on ethnic issues:

- Equality of human and civil rights and liberties irrespective of race, nationality, language, attitude towards religion, or membership of social groups or voluntary associations;
- Prohibition of any restrictions on civil rights based on membership of a social, racial, ethnic, linguistic or religious group;
- Preservation of the historical integrity of the Russian Federation;

- Equality of all constituent entities of the Russian Federation in their relations with the federal State authorities;
- A guarantee of the rights of numerically small indigenous peoples in accordance with the Russian Constitution, the standards of international law and international treaties to which the Russian Federation is a party;
- The right of every citizen to determine and indicate his ethnic background without coercion of any kind;
- Support for the development of the ethnic cultures and languages of the peoples of the Russian Federation;
- Prompt and peaceful settlement of disputes and conflicts;
- A ban on activities intended to undermine State security or inflame social, racial, ethnic or religious differences, hatred or enmity.

186. The plan to give effect to the Outline includes legislation to harmonize inter-ethnic relations and improve the federal structure; the preparation and conduct of federal and regional programmes and individual undertakings to promote socio-economic and ethnic-cultural development in the constituent entities of the Russian Federation and among the peoples of Russia; and provision of the academic analysis, information and staff necessary to cope with the tasks set out in the Outline. Many federal ministries and governmental departments and the State authorities in constituent entities of the Russian Federation are involved in the execution of the plan.

The plan devotes much attention to preventive action targeted on all population groups, which is intended to foster tolerance, but also impatience with displays of nationalism and chauvinism: it includes the creation of an ethnological monitoring system; better patriotic indoctrination for serving military personnel and the inculcation in military collectives of an atmosphere of inter-ethnic respect and harmony. The training colleges run by the Russian Ministry of Defence, Ministry of the Interior, Federal Security Services and Federal Frontier Service have introduced courses on the foundations of State ethnic policy and the history, traditions and culture of Russia's peoples.

The authorities in the constituent entities of the Russian Federation, local government authorities, ethnic voluntary associations and autonomous ethnic cultural organizations are working alongside the federal authorities to give effect to the Outline. Over 60 different constituent entities have drawn up and are carrying out regional programmes to develop the ethnic cultures of peoples and ethnic groups and promote inter-ethnic cooperation with due regard for the socio-economic, ethnic and demographic characteristics of each such entity. Thanks to such programmes, for example, native-language instruction at the primary, secondary or higher education level is available in 35 ethnic languages spoken within the Federation; in all, over 80 languages spoken by Russian peoples and ethnic groups are taught at State expense. The number of languages in which papers are published and radio and television programmes are broadcast has grown considerably (up to 100 languages).

An Assembly of Russia's Peoples has been set up with regional branches. Inter-ethnic coordinating councils with an advisory role have been established as part of the State authorities in virtually every constituent entity of the Russian Federation. Conferences and congresses of the peoples living in various regions are held regularly to discuss tolerance and inter-ethnic harmony. Particular attention is devoted in a variety of forums to the role of the press in fostering healthy growth in inter-ethnic relations. The authorities in Moscow and other large cities operate 24-hour hotlines for citizens who have been subjected to discrimination of one sort or another, and take action in consequence.

187. The general socio-economic situation and the impact on the land of industrialization have had a deleterious effect on the indigenous peoples of the North, Siberia and the Far East. A number of acts have been passed as a matter of priority to minimize this effect: the Small Indigenous Peoples of the North (Guarantees of Rights) Act (1999), the Communities of Small Indigenous Peoples of the North, Siberia and the Russian Far East (General Principles of Organization) Act (2000) and the Small Indigenous Peoples of the North, Siberia and the Russian Far East (Areas Traditionally Exploited) Act (2001), which establish the legal framework for the revival of their traditional lifestyles under modern conditions. The problem of traditional land use and economic management has been dealt with in a number of regions by adopting special regulations and laws (Amur, Magadan, Chita, Murmansk and Sakhalin oblasts, Krasnoyarsk Territory, the Republic of Sakha (Yakutia), the Republic of Buryatia, and the Taimyr and Chukotsk Autonomous Areas).

Targeted federal programmes entitled "Children of the North" and "Economic and Social Development of the Small Indigenous Peoples of the North until the year 2010" are in progress.

A Council on the Extreme North and the Arctic was established as part of the Government of the Russian Federation in April 2002; one of its tasks is to bring about conditions permitting sustainable socio-economic development among the small indigenous peoples of the North and other population groups pursuing traditional lifestyles in the areas concerned.

188. A bill entitled "Plenipotentiary Representative of the Russian Federal Assembly on the rights of peoples living in the Russian Federation" is in preparation, to supplement the existing legislation on the rights of ethnic minorities; it provides for the establishment of a parliamentary body to supplement existing non-judicial institutions for the protection of human and civil rights and liberties. A bill on the prevention of inter-ethnic conflict in the Russian Federation is also under development.

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