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HUMAN RIGHTS COMMITTEE

Fifty-fourth session

SUMMARY RECORD OF THE 1426th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 17 July 1995, at 10 a.m.

Chairman: Mr. AGUILAR URBINA

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GE.95-17603 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Fourth periodic report of the Russian Federation (CCPR/C/84/Add.2; HRI/CORE/1/Add.52)

1. At the invitation of the Chairman, Mr. V. Kovalev, Mr. Kolossovsky, Mrs. Zavadskaya, Mr. Chernikov, Mr. Chermenteev, Mr. Makazan, Mrs. Alehicheva, Mr. Maksimov, Mr. Otdelnov, Mr. Lebedev, Mr. Rogov, Mr. Malginov, Mr. A. Kovalev, Mr. Boitchenko, Mr. Okinin and Mr. Dolgoborodov (Russian Federation) took places at the Committee table.

2. Mr. V. KOVALEV (Russian Federation) said that the fourth periodic report of the Russian Federation (CCPR/C/84/Add.2) was the first report prepared by his country as an independent, democratic State. The highest importance was therefore attached to the forthcoming dialogue with the Human Rights Committee and a very high-level delegation had been sent to Geneva, including members of the Government, the Parliament, the Security Council, the Presidential Administration and representatives of a number of ministries and government departments with special responsibilities for the protection of human rights, in particular the Ministry of Justice, the Ministry of the Interior and the Ministry of Foreign Affairs.

3. Any transition to a new political and economic system was accompanied by the creation of new systems of rights. Unfortunately, the establishment of a State based on absolute respect for the rule of law was not proceeding in the Russian Federation as rapidly as was desired. The reform of the institutions of State was taking place concurrently with the reform of the institutions of civil society, a process that had taken decades and even centuries in other countries. The key prerequisite for a truly modern democratic State lay in citizens' awareness of their democratic responsibility to participate in the electoral process and in the work of public bodies with a view to defending their rights and interests. For the first time ever, they had the possibility of contesting the decisions of State officials and bodies, if necessary, in the courts.

4. In view of the relatively modest achievements of the reform process to date, his country was very keen to take advantage of the expertise of the Human Rights Committee. As Minister of Justice of the Russian Federation, he looked forward, together with his entire delegation, to a professional, objective and frank dialogue which would ensure that the international community obtained a true picture of the situation in his country. The fourth periodic report of the Russian Federation gave an accurate account of the existing system of guarantees of human rights and freedoms, which represented a major improvement on the previous state of affairs.

5. In addition, significant new legislation had been adopted since the publication of the report. The general part of a new Civil Code had come into force on 1 January 1995, laying the basis for the property rights and personal non-property rights of citizens. Three days previously, the State Duma had adopted an act establishing land ownership rights. On the whole, however, the

Russian Federation had only just begun to tackle the problem of legislating for the whole range of property relationships covered by article 17 of the Universal Declaration of Human Rights.

6. Electoral legislation had been further elaborated with the adoption of the federal acts "Basic Guarantees of the Electoral Rights of the Citizens of the Russian Federation", "Election of Deputies to the State Duma of the Federal Assembly of the Russian Federation" and "Election of the President of the Russian Federation". A bill on referendums in the Russian Federation was currently being debated in the State Duma. Care had been taken to ensure that all the legislation was in conformity with article 25 of the Covenant.

7. A Federal Act "Public Associations" designed to underpin the right to freedom of association had been signed into law on 19 May 1995, and a bill on political parties was under discussion.

8. With a view to consolidating existing legal provisions for freedom of information and the inadmissibility of censorship, the Federal Acts "Transparency of the Activities of Organs of State Authority in the State Mass Media" and "Information, Computerization and the Protection of Information" had been adopted.

9. In addition, machinery had been set in motion for the adoption before the end of 1995 of federal constitutional legislation on a Plenipotentiary for Human Rights and the judicial system of the Russian Federation, federal legislation on the legal status of foreigners and stateless persons, general principles for the organization of local self-government and the preventive detention of suspects and accused persons, and a whole series of codes on such matters as land, housing, labour and the family.

10. The country's penitentiary system was going through a crisis as a result of the adverse economic situation, which left insufficient financial resources available for the upkeep of the system. There were also shortcomings both in the relevant legislation and in the system of human rights protection for detainees, of whom there were currently 679,000 in the country as a whole. Strenuous efforts were being made to reform the system of enforcement of criminal justice. Existing legislation would have to be brought into line with the Standard Minimum Rules for the Treatment of Prisoners, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other international instruments. With that end in view, over 20 acts, presidential decrees and government ordinances had been adopted in the previous three years. A draft code of enforcement of criminal justice, which had been recognized by foreign experts as being in conformity with international standards, had been given a first reading in the State Duma. A draft criminal code and a draft code of criminal procedure were also being discussed.

11. He emphasized that his delegation was quite willing to discuss the issue of Chechnya with the Committee. There had certainly been violations of human rights in that context, both by the anti-constitutional regime of President Djokhar Dudaev and by federal forces. In the case of the Dudaev regime, however, the violations had occurred on two levels: that of standard-setting and that of application of the law. In the area of

standard-setting, the Dudaev regime had promulgated laws that violated basic human rights, in particular the annulment of the pension fund and the destruction of the education system by abolishing education for girls and reducing education for boys, as a potential fighting force, to three years. The health-care system had been destroyed. Almost all doctors, nurses and other medical personnel had been forced to leave the Republic and no vaccinations had been carried out for over three years, so that both Chechnya itself and neighbouring territories had been exposed to the risk of epidemics. In addition, President Dudaev had signed a decree authorizing preparations for military action aimed at the bombing of Russian cities. All those measures had been taken prior to the federal operation to disarm illegal groups.

12. When the decision had been taken at the highest State level to restore constitutional legality in Chechnya, President Yeltsin had issued a decree setting up a Temporary Commission, comprising representatives of the President's Office, the State Duma and the Federation Council, to protect human rights and fundamental freedoms. He (Mr. V. Kovalev) had chaired the Commission prior to taking up his ministerial responsibilities and, on becoming Minister of Justice, had released those persons who had been held in custody in Chechnya without sufficient justification. Where individual officials and public servants had been found to be involved in criminal activities, evidence thereof had been sent to the Office of the Procurator of the Russian Federation and legal proceedings had already been instituted in a number of cases. The Temporary Commission had concluded that while the Dudaev regime had been guilty of human rights violations in respect of both standard-setting and application of the law, federal public servants could only be held guilty of excesses in the application of the law and the implementation of legal rules. The whole matter was currently before the Constitutional Court.

13. There was no conflict between the Russian Federation and the Chechen Republic as such, because the Dudaev regime did not represent Chechnya and was not recognized either by the Russian Federation or by any other State. Neither was there an inter-ethnic conflict between Russians and Chechens but, rather, a conflict between those who had taken up arms in violation of the law and those who were restoring legality.

14. The CHAIRMAN invited the delegation of the Russian Federation to respond to the questions in section I of the list of issues, which read:

> "I. Constitutional and legal framework within which the Covenant is implemented; state of emergency; right to self-determination; and rights of persons belonging to minorities (arts. 1, 2, 4, 5 and 27)
>
> (a) Please clarify the legal and practical consequences of the dissolution of the Soviet Union and the establishment of the Russian Federation as an independent State on the procedure for the implementation in that country of the rights set forth in the Covenant and their enjoyment by individuals.

(b) In the light of paragraph 42 of the core document, please indicate whether, during the period under review, there were any cases in which the provisions of the Covenant were directly invoked before any State organs, including the courts, mentioned in judicial decisions, or applied in precedence of a conflicting provision of domestic law.

(c) What are the procedures for the implementation of any views adopted by the Committee under the Optional Protocol?

(d) What are the respective functions, powers and activities undertaken so far by the Commissioner for Human Rights (established in accordance with art. 103 (e) of the Constitution), by the Presidential Human Rights Commission (created by Presidential Decree 1798 of 1 November 1993) and by the Commonwealth of Independent States Commission for Human Rights? Please clarify the relationship of these bodies with each other and with other State organs (see paras. 35 and 43 of the core document and para. 40 of the report).

(e) Please provide information on the functions, powers, activities and measures guaranteeing the independence of the Constitutional Court, the Supreme Court and the judiciary in general with regard to the Covenant's rights (see paras. 32 and 34 of the core document).

(f) Has the adoption of the 'Legal Proceedings against Actions and Decisions that Infringe Civil Rights and Freedoms Act' of 27 April 1993 led to any significant progress in the implementation of Covenant rights within the Russian Federation (see para. 21 of the report)? Please provide examples.

(g) What has been the impact of the states of emergency proclaimed during the period under review on the exercise of the rights guaranteed under articles 2, 4 and 27 of the Covenant? Please clarify what safeguards and remedies were available to individuals during those periods, whether any derogations were made in practice to the exercise of the rights enumerated in article 56, paragraph 3, of the Constitution.

(h) What has been the impact of the events in Chechnya on the protection of human rights guaranteed under the Covenant?

(i) Has there been any formal derogation from the rights under the Covenant with regard to recent events in Chechnya and, if so, why has the Government of the Russian Federation not made use of the notification procedure laid down in article 4, paragraph 3, of the Covenant?

(j) Please clarify the impact of the establishment of trading organizations referred to in paragraph 62 of the report on the enjoyment of Covenant rights.

(k) Please clarify what steps have been taken to overcome the difficulties mentioned in paragraph 294 of the report relating to the

inadequate implementation of article 27 of the Covenant. What measures have been taken to protect the rights of persons belonging to the minorities referred to in Russia as 'peoples that are small in numbers' (see paras. 8 and 10 of the report)?

(l) Please clarify why foreigners and stateless persons are excluded under article 33 of the Constitution from petitioning State and local authorities and local self-governing authorities (see para. 35 of the report)."

15. Mr. V. KOVALEV (Russian Federation), replying to question (a), said that, in economic terms, the dissolution of the Soviet Union had led to a drastic fall in production and a decline in living standards in the Russian Federation.

16. The Russian Federation had taken over all international treaty obligations assumed by the Soviet Union, including those related to human rights. The transition from totalitarianism to democracy had paved the way for radical reforms, which had already begun to be implemented during the period of perestroika. The mass media, previously strictly controlled by the State, had been brought into line with democratic standards. In 1993, legislation on freedom of movement into and out of the Russian Federation had been enacted.

17. The adoption of a new Constitution had laid solid foundations for further progress in democracy and the rule of law. The institution of private property had been given legislative force, guaranteeing the independent status of the individual. There had been major improvements in electoral legislation, particularly with respect to the country's federal structure. The first free elections had been held in 1993.

18. Citizens of the former Soviet Union living beyond the borders of the Russian Federation could opt for citizenship under a simplified procedure and those living within the Russian Federation were automatically recognized as citizens.

19. The country had established integrated national machinery for the protection of human rights, with the President of the Russian Federation as guarantor.

20. The Constitutional Court of the Russian Federation, a relatively new institution, had an important role to play, as did the Ministry of Justice, which was responsible for the expert scrutiny of all draft laws put forward by the President and the Government. No statutory instrument with a bearing on human rights could be enacted without the Ministry's approval; all such instruments, as well as decisions adopted at ministerial or departmental levels, must be duly registered; the overall objective was to secure the fullest possible protection of the constitutional rights and freedoms and the legitimate interests of citizens.

21. Radically new legislation was being designed in many areas to promote up-to-date and democratic principles and institutions. In that connection, he had already alluded to the new draft code of enforcement of criminal justice. Briefly, machinery had been set in motion for the development and administration of laws that were in accordance with international standards.

22. From a juridical point of view, however, the Russian Federation was in a unique and not altogether comfortable position. Laws of the former Soviet Union, laws of the Russian Soviet Federative Socialist Republic adopted under the old regime, new laws of the Russian Federation and presidential decrees all rubbed shoulders in a single legal space. The result was a great deal of contradiction as well as a large amount of lacunae. Just to compile and collate existing, obsolete and obsolescent legislation created a headache for the Ministry of Justice.

23. A return to trial by jury was considered to be one highly desirable aspect of the reform of Russia's criminal justice system. For the first time in 70 years, attempts were being made to bring about such a change, but an insurmountable obstacle had been encountered in the form of the calculation that trial by jury would cost the State a currently unaffordable 6.5 times more than the present trial system to implement. A step in the right direction had, however, been taken with the experimental introduction of the jury system in 9 regions; it was hoped to extend the experiment to a further 12 regions before too long and then, progressively, throughout the Federation.

24. According to its article 15, the Constitution of the Russian Federation had supreme legal force and direct effect, and was applicable throughout the entire territory of the Federation. The same article stipulated that the commonly recognized principles and norms of international law and the international treaties to which the Russian Federation was a party should be a component part of its legal system. If an international treaty to which the Federation was a party stipulated other rules than those stipulated by the law, the rules of the international treaty were to apply. Those provisions were a matter of pride to the new State in its efforts to create a truly open society - efforts which the comments and criticisms of the Human Rights Committee would most certainly help to strengthen and render more effective.

25. Any transitional period in any society was accompanied by difficulties, and the case of the Russian Federation was no exception. The process of democratic reform was by no means complete, but it was considered that the blueprint had been prepared and the essential foundations laid. To his mind, as Minister of Justice, the most significant development to date had been the creation of a system of private, as opposed to public, rights and law - something which had been virtually unknown in Russia for 70 years. Now, the individual was placed on an equal footing with the State, and legally empowered to defend himself against abusive treatment by the State.

26. In response to question (b), he again quoted from article 15 of the Constitution, as well as from article 17, pointing out that, for the first time in the history of Russian legislation, the precedence of international law was acknowledged and that the basic rights and freedoms in conformity with the commonly recognized principles and norms of international law were recognized and guaranteed. Consolidated statistics were not available, but he

cited two specific examples of recent jurisprudence to demonstrate that decisions by the Constitutional Court and by other courts concerning a variety of citizen's complaints made explicit reference to standards enshrined in the Covenant. He added that citizens of the Russian Federation were able to invoke the provisions of the Covenant as well as those of other international instruments to which Russia was a party, before the courts, which were bound to acknowledge substantiated claims and to take them into account in their rulings.

27. Concerning question (c), the candid reply must be that no practical steps had as yet been taken in the Russian Federation to deal with the implementation of views adopted by the Human Rights Committee under the Optional Protocol, to which the Federation had acceded in 1991. Matters were somewhat complicated by the fact that, while the Ministry of Foreign Affairs was responsible for the implementation of international treaties, implementation of domestic legislation fell within the purview of the Ministry of Justice. Moreover, the channels of implementation of the Committee's views, and more specifically the methods of ensuring their accommodation in the country's laws, would vary according to the subject addressed. But numerous mechanisms were in place to make implementation possible. Thus, for example, recommendations on the rehabilitation of victims of repression or on compensation for abuse at the hands of the police would be implemented through the Procurator's Office; recommendations on material or moral damage suffered, through the civil courts; recommendations on the correction of abuse of rights resulting from a departmental instruction, through the Ministry of Justice; and recommendations on observed discrepancies between the provisions of the Covenant and federal legislation, jointly by the Ministries of Foreign Affairs and of Justice through the Russian Government. He added that, in accordance with article 125 of the Constitution, the Constitutional Court could be called upon to rule on the constitutionality of laws and other normative acts.

28. Turning to the questions raised in paragraph (d), he first pointed out that under article 103, paragraph 1 (e), of the Constitution, the State Duma was responsible for the appointment and dismissal of the Plenipotentiary for Human Rights acting in accordance with the Federal Constitutional Law. Such an institution, corresponding to that of the ombudsman in other countries, was unprecedented in the Russian Federation, which had thus looked to those countries for legal guidance in the matter. The Plenipotentiary had the right to request and receive information; to visit any State body without hindrance for the purpose of verifying its activities; to familiarize himself with all cases brought before the criminal and civil courts; to receive and verify complaints by citizens concerning violations of human rights; and to address to officials of the State such conclusions and recommendations as were deemed necessary in the light of the findings. The Plenipotentiary was also empowered to bring before the courts, including the Constitutional Court, any case involving the protection of the rights and freedoms of citizens; to address to State and local self-government authorities comments relating to the observance of human rights; and to take initiatives with respect to the amendment of laws at variance with universally recognized principles and standards of international law, as well as international treaties to which the Russian Federation was a party.

29. In the event of massive and flagrant violations of human rights, the Plenipotentiary was empowered to use all the means at his disposal to protect those rights. The law emphasized that the introduction of a state of emergency or martial law did not put an end to the activities of the Plenipotentiary and could under no circumstances result in restrictions on his powers. According to the relevant Federal Constitutional Law, the Plenipotentiary's activities were additional to and in no way replaced or called in question existing systems for the protection of human rights and freedoms.

30. The Presidential Human Rights Commission reported on both practical and theoretical human rights matters to the President in his constitutional capacity as guarantor of human and civil rights and freedoms. Its recommendations could serve as the basis for presidential legislative initiatives.

31. The Commission for Human Rights of the Commonwealth of Independent States (CIS) was a statutory body that would come into being with the entry into force of the CIS Convention on Human Rights and Fundamental Freedoms, drafted on the initiative of the Russian Federation and signed only recently. Its function was to monitor and make recommendations concerning observance of the CIS Convention and other human rights obligations entered into by members of the CIS. In no sense could it impede the transmission of statements or allegations relating to human rights abuses either to the competent bodies of the Russian Federation or directly to the Human Rights Committee. He added that Russia had sponsored the CIS Convention and the creation of the Commission with the aim of bringing into the sphere of human rights protection, first and foremost, States which were not yet parties to the Covenant or to other fundamental international human rights instruments.

32. Turning to question (e), he said that chapter 7 of the Constitution, relating to the country's judicial system and the functions and powers of its courts, fully reflected the requirements laid down by the Covenant with regard to the impartiality of courts. A draft federal constitutional law was being prepared on the judicial system of the Russian Federation; it would include the fundamental ideas enshrined in the Covenant and would reflect the highest achievements of international legal culture and practice as well as the experience and traditions of the Russian judicial system. In the Russian Federation, courts were established in accordance with the Constitution, and article 118, paragraph 3, of the Constitution prohibited the creation of extraordinary courts. Particular importance was attached to that point because of the long history of suffering in Russia, which had led to the creation of quasi-legal formations performing judicial functions and resulted in many violations of human rights. Article 118, paragraph 2, of the Constitution stated that judicial power should be exercised in respect of constitutional, civil, administrative and criminal proceedings. The law on the Constitutional Court of the Russian Federation had entered into force in July 1994, setting up the Constitutional Court as the judicial organ of constitutional control. It consisted of 19 judges, and was structured in two chambers. It had finally been established in 1995, and the Court had begun to function. Article 125 of the Constitution listed its powers; its purpose was to resolve cases about the constitutionality of federal laws, normative acts of the President of the Russian Federation, the Federation Council, the State

Duma and the Government; of republican constitutions, charters and laws and other normative acts of constituent entities of the Russian Federation on issues pertaining to the jurisdiction of bodies of State power of the Russian Federation and joint jurisdiction of those bodies and bodies of State power of constituent entities of the Russian Federation; of agreements between bodies of State power of the Russian Federation; and bodies of State power of constituent entities of the Russian Federation; and international agreements of the Russian Federation that had not entered into force. The Constitutional Court resolved disputes over jurisdiction between the federal State bodies of the Russian Federation; between State bodies of the Russian Federation and State bodies of constituent entities of the Russian Federation; and between supreme State bodies of constituent entities of the Russian Federation. The Constitutional Court, proceeding from complaints about violation of constitutional rights and freedoms of citizens and requests from courts, reviewed the constitutionality of the law applied or due to be applied in a specific case in accordance with the procedures established by federal law. It gave interpretations of the Constitution. At the request of the Federation Council, it ruled on compliance with established procedures when charging the President of the Russian Federation with State treason or any other grave crime. It was the body that ensured not only the constitutionality of normative acts of the federal bodies of State power and of the bodies of State power of constituent entities of the Federation but also the constitutionality of the application of the law in practice in the Russian Federation. Article 125, paragraph 6, stated that acts and their provisions deemed unconstitutional should lose their force.

33. In the context of the observance of rights enshrined in the Covenant, article 15, paragraph 4, of the Constitution was of particular significance in that it stated that the commonly recognized principles and norms of international law and the international treaties to which the Russian Federation was a party were to be a component part of its legal system, and that the rules stipulated by an international treaty took precedence in the event of a conflict between rules of law. That represented a considerable change in constitutional jurisdiction, and any of the powers of the Constitutional Court listed in article 125 of the Constitution had great significance for the observance of human rights. Article 125, paragraph 4, establishing that the Constitutional Court should review the constitutionality of the law applied or due to be applied in a specific case meant that individual citizens could challenge the law on an equal footing with the State itself. In fact, the Constitutional Court had considered a case which was of direct relevance to the human rights enshrined in the Covenant; it had taken a decision recognizing the unconstitutionality of the residence pass ("propiska") system. For many decades that system had both de facto and de jure infringed the fundamental rules of international law, and especially the civil right to housing; the ruling by the Constitutional Court excluded it from the legislative framework of the Russian Federation, and a number of articles of the Housing Code had also been deleted.

34. The Russian Federation was establishing the necessary material guarantees for the independence of the courts. Funding for that was provided under a special item in the State budget. Expenditure on the court system would not be reduced, and it would be for Parliament to decide if it were to be increased. The budget for 1996 was currently being prepared, and the Ministry

of Justice was making every effort to ensure that it included the necessary economic provision to bring the judicial system up to international levels, although there were of course difficulties due to economic factors.

35. Russia also had a Supreme Court, which was the highest judicial body on civil, criminal, administrative and other cases, as well as general jurisdiction cases; it exercised judicial supervision over the activity of the courts and provided clarification in matters of judicial practice. The Supreme Court of Arbitration was the highest judicial body for the resolution of economic disputes and other cases considered by arbitration courts over whose activity it exercised judicial supervision; it also provided clarification in matters of judicial practice.

36. Chapter 7 of the Constitution provided guarantees of the independence, impartiality, irremovability and inviolability of judges, which was a direct reflection of the requirements of the Covenant. Article 10 of the Constitution stated that the judiciary should be independent. Economic and other efforts were being made to ensure that the judiciary was really a separate power, as the Russian Federation tried to draw lessons from its own and from world history. Totalitarianism had not heeded judicial authority, and in past decades judicial power in Russia had played a subsidiary role. President Yeltsin had stated that 1995 would be the year for enhancing judicial power in the Russian Federation. Without a strong, impartial judiciary it was impossible to contemplate democratic developments in Russia, and efforts were being focused on the establishment of a democratic court system. Article 120, paragraph 1, of the Constitution stated that judges should be independent and should obey only the Constitution and the federal law. The mechanism for appointing them precluded their being dependent on any State body. Article 102 of the Constitution stated that the Federation Council should appoint judges of the Constitutional Court, the Supreme Court and the Supreme Court of Arbitration on the proposal of the President of the Russian Federation, appointments which were based in turn on advice from peer groups of judges and other subjects. The Constitution did not give the President or the Federation Council the right to dismiss judges on their own initiative. In accordance with article 6 of the new draft law on the status of judges in the Russian Federation, judges of the federal courts of general jurisdiction and the courts of arbitration were appointed by the President on the proposal respectively of the Presidents of the Supreme Court and of the Supreme Court of Arbitration; article 6, paragraph 3, of the new draft law stated that for particular appointments the views of the legislative body of the corresponding constituent entities of the Russian Federation should also be taken into account. Judges could be removed only by procedures set down in federal law, and they were not limited to a particular term, except in circumstances envisaged by federal law. In accordance with article 122 of the Constitution, judges possessed immunity. They could not be made the subject of criminal proceedings, arrested, or detained without the consent of the relevant judicial bodies; the immunity of judges was regulated by federal law. On 20 April 1995, for the first time in Russian legal practice, a federal law had been adopted on the State protection of judges; the law established a system of measures to ensure their legal and social protection in the exercise of their functions. The measures were also applicable to close relatives, and in exceptional circumstances to other people as well. The judicial reform being carried out in Russia was directed at meeting the requirements of the

Covenant; the importance of such matters was underlined by the establishment by the President of the Russian Federation of a Council on Judicial Reform and the preparation of a draft law on the reform of the entire judicial system.

37. Turning to question (f), he said that with the adoption on 27 April 1993 of the Act "Legal Proceedings against Actions and Decisions that Infringe Civil Rights and Freedoms", the number of complaints by citizens with regard to failure to act by officials and public bodies had increased sharply. In the first half of 1993, before the Act had been adopted, there had been 8,772 complaints from citizens regarding infringements of their rights by State bodies, local authorities and officials. In the first half of 1994, there had been 13,541 complaints, an increase of 54 per cent. More than 70 per cent of the complaints had resulted in rights that had been infringed being restored. For the purposes of comparison, the number of civil cases considered by the courts in the same period had gone up by only 3 per cent. In late 1993 and early 1994 elections had been held to federal State bodies and State bodies of constituent entities of the Russian Federation, as well as to elective bodies of local self-government. Before that, the courts of the Russian Federation had considered almost no cases relating to infringement of the rights of citizens to elect and be elected, but in 1994 and in the first half of 1995 more than 100 such cases had come before regional, district and local courts. The majority of citizens complaints were partially or fully satisfied.

38. Turning to question (g), he said that in individual areas of the Russian Federation a state of emergency had been introduced in accordance with article 56 of the Constitution and on the basis of the provisions of the "States of Emergency" Act. In accordance with its obligations under article 4, paragraph 3, of the Covenant, the Government of the Russian Federation had informed the Secretary-General of the United Nations of the provisions from which it had derogated and of the reasons for which it had done so. The requirement to inform the Secretary-General was contained in article 41 of the "States of Emergency" Act. Article 56, paragraph 3, of the Constitution and articles 22, 23, 24, 26 and 27 of the "States of Emergency" Act related to restrictions of human rights and complied with the requirements of article 4 of the Covenant. From the legal point of view it was possible to state that the decrees of the President of the Russian Federation regarding the introduction of a state of emergency did not go beyond the restrictions of rights and freedoms permitted by national legislation and by the Covenant, including those guaranteed by articles 2, 4 and 27 of the Covenant. As for article 27 of the Covenant, it was directly stated in article 26 of the "States of Emergency" Act that measures implemented in conditions of a state of emergency should not involve discrimination against individuals or groups of the population exclusively on grounds of race, nationality, sex, language, religion, political beliefs and social origin. It should, however, be recognized that in practice there were cases of violations of human rights. In the period from 3 to 10 October 1993, when a state of emergency had been introduced in Moscow, a number of abuses on the part of members of the forces responsible for enforcing it had been recorded. On 16 October 1993, the President of the Russian Federation had ordered an investigation of cases of abuse of power by officials of the Ministry of Internal Affairs, the Ministry of Security and the Ministry of Defence, and verification of all acts issued by the Moscow Administration in the same period in terms of their compliance

with the legislation of the Russian Federation. According to information from the Moscow Procurator's Office, there had been 115 communications from citizens and organizations regarding illegal activities by members of the internal affairs organs during the state of emergency, 36 of them leading to criminal proceedings.

39. Turning to question (h), he said that in Russia the expression "the events in Chechnya" referred to the period starting in mid-1991 when Djokhar Dudaev had come to power and massive and systematic violations of human rights had begun in that Republic, which was a constituent part of the Russian Federation. The provisions of the Covenant had been violated in the following way. Article 6 had been violated because throughout the period of Dudaev's rule, from his coming to power to the operations to re-establish constitutional rule, more than 6,000 Russians had been slaughtered on the basis of their racial origin; several dozen opponents of the Dudaev regime were eliminated every month. Terrorism was practised widely: in 1993 and 1994 supporters of Dudaev had undertaken five attempts to hijack aircraft, including hostage-taking and loss of life. As for article 8 of the Covenant, Dudaev's rule had seen cases of Russian citizens being kidnapped and compelled to do hard labour in Chechnya. There were also cases of criminal groups linked to Dudaev forcing women into prostitution in the countries of eastern and western Europe. There were violations of article 11 of the Covenant, with criminal groups under Dudaev's control widely practising racketeering and extortion, accompanied by the kidnapping and seizure of people. Article 9 of the Covenant was also violated, with arbitrary arrests and enforced disappearances of people. As for article 20, the Dudaev regime had created the conditions for whipping up separatist, anti-Russian and racist feelings, and had issued a special order to prepare for the bombing of Russian cities by the Chechnya air force. There was evidence of murder, robbery and ethnic cleansing on the territory of the Chechen Republic, with 38,000 people - 30,000 of them Russians - leaving the territory in 1992 immediately after Dudaev had come to power, three times more than in 1991; overall, more than 300,000 people had been forced to leave the territory of Chechnya under the Dudaev regime. The Government and President of the Russian Federation had been compelled to resort to the enforced disarming of illegal armed groups in Chechnya; State coercion was not the most desirable way of disarming people, but in the case of the events in Chechnya it had been used as a last resort, after all other attempts, including negotiation, had failed. The armed forces had undertaken the disarming of the illegal groups in Chechnya on the basis of legislation in force in the country.

40. Replying to question (i) on the list of issues, he said that the notification procedure had not been invoked because no state of emergency had in fact been declared in the Chechen Republic. There were several fundamental reasons why not. The crisis in Chechnya was of unprecedented proportions, and existing national legislation providing for the declaration of states of emergency did not confer on the federal authorities an adequate means of response. A state of emergency was of course the most desirable and legally defensible course of action. The Act indeed envisaged measures by which the Federal Government could, under normal circumstances, immediately restore order. That Act also, however, established a number of conditions, both legislative and circumstantial, on the basis of which it could be invoked; the situation obtaining in Chechnya did not by any means meet those conditions.

Among them was the stipulation that a state of emergency should be enforced by local authorities. In Chechnya, however, the Dudaev regime had dissolved all such authorities including the Parliament, at a considerable cost in human lives. Those authorities had been supplanted by armed bands, whose existence in fact violated the terms of the Constitution of the Russian Federation, and which had at their disposal a dramatic array of weaponry: massive quantities of arms, dozens of military aircraft, rocket-launching systems, heavy artillery, anti-tank devices, anti-aircraft missile systems and military electronic systems (some state-of-the-art) had been sighted. The nature and scale of the activities of those bands was such that a local militia or police force could not conceivably have responded. Under such circumstances, the country was in a situation of danger and a response was vital if the continuity of its governmental structures was to be protected. Those were emphatically objective reasons. Furthermore, the Act "States of Emergency" was still fledgling, and contained no provisions for the use of armed forces to restore order. It had consequently been necessary for the Russian Federation to invoke other legislative mechanisms. The Constitution of that country in fact accorded the State other means of action; he could describe those in detail to the Committee if it so desired. He wished above all to emphasize that the response of the Russian Federation to the crisis in Chechnya entailed no derogation whatever from the terms of existing legislation.

41. Turning to question (j), he said that, during the Soviet period, local governmental agencies had been heavily bureaucratized, and obtaining simple certificates of registration had been an immensely cumbersome and time-consuming process. Trading organizations had sprung up, taking advantage of loopholes in legal regulations, and had captured the market in such services. It was unquestionably a grave problem if citizens were obliged to pay commercial enterprises for the arrangement of routine legal affairs. Various measures were currently being undertaken to establish controls over the activities of such businesses. One such was a draft law which envisaged converting the entire Russian notarial system to the "Latin" notarial system in use throughout Europe. That system would function under the supervision of the Ministry of Justice. In addition, the federal law on public service foundations, adopted by the State Duma on 26 June 1995, set out restrictions on the public activities of civil servants. Other laws currently in the drafting stage included one on federal executive authorities and one on local self-governing bodies. Efforts were also being made to supervise the activities of commercial enterprises. While the problem had not yet been fully resolved, much progress had been made in both law and practice.

42. Turning to question (k), he said that the successful implementation of article 27 of the Covenant was a matter of great importance to the Government of the Russian Federation. It should be pointed out that the ethnic problem had become especially pronounced under Stalin's nationality policy, which had fostered the development of ethnic stereotypes; such notions of ethnicity currently permeated Russian life. Particular significance was attached to providing in equal measure to all ethnic groups the opportunity to establish developmental structures which they deemed to be optimal for them. It should be noted that among the many ethnic groups working towards a resolution of those cultural and linguistic issues were 62 indigenous peoples whose numbers were small.

43. Considerable efforts were currently being made to define a common concept for the defence of the rights of ethnic groups (which would take into account the interests of each as well as the mutual interests of all) and for the preservation of national harmony. In a country like the Russian Federation, that was a complex and challenging task involving delicate issues of a national, political, economic and social nature: inter alia, the formation of governmental structures, the prevention of ethnic conflict, the distribution of regional resources, the use of the means of production, the quality of life, and social security. Under the common concept, each ethnic group would declare its own line of policy. Subsequent legislation would of course determine how that common concept would in practical terms affect the status of minorities and of indigenous peoples whose numbers were small.

44. A number of the legal aspects of that issue were currently being addressed. The State Duma had recently adopted a draft federal law on national cultural entities; that law would be given its second reading in two days' time. The Government attached great importance to that law and was endeavouring to steer it through Parliament; an agreement seemed to have been reached at last. Work was also near completion on two draft laws, one concerning intercultural autonomy and the other addressing the legal status of indigenous peoples whose numbers were small; both had been formulated taking into consideration the views of ethnic communities.

45. It should be added that the Russian Federation was striving to eliminate any discrepancies between international agreements and federal draft laws concerning such rights; in the view of the Government, those laws must meet international standards. Finally, the Russian Federation was designing a federal policy that would recognize the particular rights and interests of indigenous peoples whose numbers were small; the terms of that policy would ideally be introduced into existing legislation.

46. In reply to question (l), he stated that article 33 of the Constitution in no way and under no circumstances deprived foreigners or stateless persons of their right to have recourse to State authorities and local self-governing authorities. Paragraph 34 of the report described the legal basis upon which the rights of such persons were protected. The Russian Federation had no federal legislation limiting the rights of such persons to have recourse to State or local self-governing authorities. Paragraph 35 of the report described federal legislation concerning the status of foreigners. The rights of foreigners and stateless persons were indeed guaranteed by law: article 45 of the Constitution entitled such persons to defend their rights and freedoms by all lawful means; article 46 empowered them to defend those rights before a court of law. Furthermore, domestic legislation provided for the review of applications from foreigners and stateless persons; in practice, those applications were reviewed and implemented at the corresponding governmental levels.

47. Mr. BÁN commended the report of the Russian Federation for its full description of the current Russian scene. The report was in essence not a fourth but an initial report, since the country was in full transition to an utterly new constitutional and legal system. Therefore, although it was not customary to pose basic questions at that stage, he had several concerns to raise. Firstly, article 5 of the Constitution of the Russian Federation

stated that the peoples of the Russian Federation enjoyed equality and self-determination; the same article, however, spoke of the integrity of the State. Article 4 again mentioned the notion of State integrity. He was confused by remarks formulated by the President of the Russian Federation on 24 February 1994 to the effect that no one ethnic group might have exclusive control over a given territory, and in particular over the use of its resources. What was the real meaning of that message?

48. Furthermore, article 65, paragraph 1 of the Constitution set forth the composition of the Federation, listing republics, territories, regions and areas. Article 65, paragraph 2, stipulated that accession to the Russian Federation would be carried out as envisaged by federal constitutional law. But no mention was made of departure from the Federation. Did that suggest that departure from the Federation required an amendment to the Constitution? The Constitution, however, set out difficult conditions for its amendment, and furthermore asserted that certain provisions could categorically not be amended. In order to propose an amendment to some sections a three-fifths majority was required. In practice, and under current political circumstances, such a step was unlikely to be achieved. To his mind, the stability of the Federation was a consideration of permanent importance; he fully understood the desire of that country to preserve its unity. And yet, in practical terms, what did the right to self-determination mean? That idea, which could be read as meaning the right to determine one's own destiny, was enshrined in article 1 of the Covenant; the Constitution of the Russian Federation did not seem to reflect that essential notion. Although such concerns might seem to deviate from the central preoccupations of the Committee, he suspected that many of the issues that would arise in the ensuing discussion would have their origin in the constitutional ambiguity surrounding the self-determination of peoples in that country.

49. Secondly, the Constitution suffered from a number of apparent discrepancies. Article 15, paragraph 4, stated that the Russian Federation accorded precedence to its international obligations. But article 125, paragraph 6, stipulated that no international agreement could contradict the terms of the Constitution. Comparing the Constitution with the Covenant, he had found many similarities but also many discrepancies. Had the Russian authorities undertaken a study of the ways in which its Constitution reflected the provisions of the Covenant? Their country was apparently prepared to sign the European Convention on Human Rights, a step which to his mind called for a similar process of scrutiny. It was of course superfluous to refer, in the presence of eminent Russian lawyers, to the Vienna Convention on the Law of Treaties, under whose provisions States were prohibited from favouring domestic legislation over international obligations.

50. He was particularly concerned by the inability of the Constitutional Court to settle disagreements between international treaties and domestic legislation. That court was apparently not empowered to hear individual human rights complaints; it seemed only to have the competence to declare constitutional or unconstitutional domestic legislation on which a sentence was based. Significantly, he saw no provisions in the Russian legislative framework that reflected the terms of article 2, paragraph 3, of the Covenant,

which envisaged that individuals should be entitled to invoke that instrument on their behalf before the courts and other authorities. The Russian Federation should provide the Committee with clarifications in that important matter. Furthermore, while much mention had been made of compensation, he had heard little about the intentions of the Russian Federation to prosecute and punish those who committed human rights violations under the former regime, in accordance with its obligations under the Covenant.

51. Lastly, the reservation entered by the Soviet Union upon signing and ratifying the Covenant was apparently still in force. Did the Russian Federation plan to withdraw it?

The meeting rose at 1.05 p.m.