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SPECIAL REPORT ON CIVIL RIGHTS VIOLATIONS BY THE OFFICERS OF THE MINISTRY OF INTERIOR AFFAIRS OF THE RUSSIAN FEDERATION AND THE CORRECTION SYSTEM OF THE MINISTRY OF JUSTICE OF THE RUSSIAN FEDERATION



*Специальный доклад
Уполномоченного по правам человека
в Российской Федерации*

**О НАРУШЕНИЯХ ПРАВ ГРАЖДАН СОТРУДНИКАМИ
МИНИСТЕРСТВА ВНУТРЕННИХ ДЕЛ РОССИЙСКОЙ
ФЕДЕРАЦИИ И УГОЛОВНО-ИСПОЛНИТЕЛЬНОЙ
СИСТЕМЫ МИНИСТЕРСТВА ЮСТИЦИИ
РОССИЙСКОЙ ФЕДЕРАЦИИ**

*Special Report
of the Commissioner on Human Rights
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of the Ministry of Interior Affairs of the Russian
Federation and the Correction System of the
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Москва
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Special Report
of the Commissioner on Human Rights
of the Russian Federation

**On Civil Rights Violations by the Officers
of the Ministry of Interior Affairs
of the Russian Federation and
the Correction System of the Ministry
of Justice of the Russian Federation**

The present report was made pursuant to clause 2 of Article 33 of the Federal Constitutional Law «On the Commissioner on Human Rights of the Russian Federation» and sent to the State Duma of the Russian Federation Federal Assembly.

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The level of society democratization is determined not only by the recognition of human rights and freedoms by the authorities, including the ratification of relevant international legal documents, but by the existence of an effective government mechanism to consummate and protect the same. Law-enforcement agencies, including interior authorities and correction system, play a significant role in such a mechanism. Their officers, being exposed to the direct dangers, do a lot to protect human rights and freedoms, ensuring personal security of Russian citizens. There are a lot of examples of such operations as liberation of hostages, apprehensions, life- and property-saving in natural disasters, anti-terrorism actions, rendering of help to individuals under any difficult or extraordinary circumstances, etc.

However, methods of work used by the said agencies are often inadequate to the actual requirements of human rights security, and in some cases inconsistent with normative requirements. Sometimes officers cause harm to people, violate their rights and freedoms, using force as the main way to discharge duties.

A significant number of complaints addressed to the Commissioner on Human Rights, and numerous facts reported in the media, by human rights organizations, including international ones, indicate that the scope of the problem has become all-Russian. All the appeals by the Commissioner on Human Rights to various departments, including the Ministry of Interior Affairs and the Ministry of Justice, the General Pro-

ector General's Office, caused no positive changes. Cardinal measures should be taken to prevent numerous violations of human rights and freedoms by militia officers and officers of the correction system.

Securing of human rights and freedoms is one of the most actual and complicated problems. The twentieth century became a historical phase of internationalization of human rights, establishment of wide interaction of states and nations in this sphere. One of the objectives of the United Nations is the stimulation and development of deference to human rights and fundamental freedoms for everyone without distinction as to race, sex, language and religion. The Declaration of Human Rights approved by the UN General Assembly on December 10, 1948, states that recognition of dignity incidental to all the members of the human family and their equal and inherent rights constitutes the basis of liberty, equity and universal peace.

In 1966, the UN General Assembly approved two momentous documents – the International Covenant on Civil and Political Rights and the International Covenant on Economical, Social, and Cultural Rights (including relevant facultative protocols thereto). These documents have a binding force for the parties thereto and constitute the main standard in the sphere of legal regulation of an individual's position.

The majority of international acts regarding human rights specify directives to the governments to adjust their national legislation to conform to the norms of international law, on the basis of acknowledging the universal character of human rights. This concept was depicted in the Vienna Declaration and the Course of Actions approved in 1993 at the Second International (World) Conference for Human Rights. The document reads as follows: «All human rights are universal, integral, interdependent. The world society should treat human rights globally, on an equitable and equal basis, with the same approach and attention. Although one should take into account the significance of national and regional specificity, states, regardless of their political, economical and cultural systems, are obliged to stimulate and protect all human rights and main freedoms».

Russian Federation is party to the most international agreements aimed at protecting human rights. After becoming member of the Council of

Europe, Russia ratified the European Convention on the Protection of Human Rights and Fundamental Freedoms and the Convention on the Prevention of Torture and Inhuman Treatment or Punishment.

However, violation of human rights by the law-enforcement agencies, in particular, interior agencies and correction system, still remains one of the main problems of our society. The problem did not appear yesterday, but at present its resolving is hampered by the social and economic circumstances in the country.

Low level of general knowledge of law in the country, forfeiture of moral values, and mentality of some people engaged in interior agencies and correction system, are the main reasons of violation of human rights, disparagement of those who either willfully or circumstantially came under the operation of criminal law.

On the one hand, there is an extremely insufficient funding of interior agencies and correction system; hence expert officers prefer to work in various commercial entities, where remuneration incommensurable with the salaries attached to the relevant positions in governmental agencies. As a result professional level of the officers of the said agencies is rather low, and hence service quality is low as well.

On the other hand, insufficient financing inevitably causes bad condition of correctional facilities, so that it is absolutely impossible to abide to even minimal sanitary standards, let alone international requirements for detention.

The situation is substantially worsened by the absence of relevant control over the observing of human rights by the officers and management of relevant departments. The data presented by the law-enforcing agencies is an evidence of the extremely troubled situation regarding human rights securing.

In accordance with the data of the Ministry of Interior Affairs of Russia, in 1999, the total number of officers brought to account for perpetration of crimes and law violation amounted to 13 833 persons, i.e. by 3,8% larger than in 1998. 3579 officers from the above number were nailed on charge for perpetration of crimes.

During the first half of 2000, 6 250 officers were brought to account

for violation of law and perpetration of crimes, 1656 of them - for perpetration of crimes. The said crimes include most of all offences against public justice - 902, thefts - 102, murders - 33, robberies - 34, banditry - 22 and other crimes.

The most alarming is the situation with the protection of human rights during the prejudicial inquiry.

The number of complaints and applications submitted to the prosecutor's offices in 1999 regarding examination and inquest performed by the divisions of the Ministry of Interior Affairs, amounts to 263645, including 1882 actions of interior agencies performing crime detection. 66293 complaints (every fourth) were sustained. Prosecutor's offices issued 32469 presentations requesting to remove abuse of law caused by activity of interior agencies during investigation, 19752 guilty officers of interior agencies were made disciplinary accountable.

In the course of supervision of lawfulness of execution of criminal penalties in 1999, performed by officers of prosecutor's offices of the Russian Federation, 14612 inspections were performed in the agencies under supervision, 5811 presentations requesting to remove abuse of law were issued, pursuant to which 3583 officers of the system of execution of punishment for criminal offences were summarily punished. 106 officers of the correction system were brought to account.

During 1999, prosecutor's offices settled 2274 complaints regarding unallowed measures of influence in respect of convicted and apprehended persons (9,2% of the total number of complaints regarding execution of punishment), 110 of which were found proven.

The number of complaints regarding human rights violation by the said law-enforcement agencies is large and still increasing.

The Commissioner on Human Rights receives also a lot of complaints regarding violation of human rights by militia officers in the course of their duties to fight against crime and to protect public order.

Thus, during the whole 1999, the Commissioner on Human Rights of the Russian Federation received 4103 complaints, whereas for 9 months of the current year the figure is already 4630 (+12.8%).

Complaints regarding unallowed measures of influence and procedural

defects during investigation or prejudicial inquiry amount to approximately 22% of the total number of complaints connected with actions of law enforcing officers, received by the Commissioner on Human Rights of the Russian Federation.

Such complaints can be divided into two groups: complaints regarding unallowed measures of influence used by militia offices in respect of individuals and complaints regarding militia offices procedural misconduct (for example, complaints regarding unlawful commencing of criminal suits, or orders to dismiss an action, or unlawful seizure of things during search, etc.). Rather often both types of offences take place: for example, confessions are compelled using force in respect of a suspect, and then a transcript of interrogation is executed with enforced admission of offense by the individual, received as a result of beating or other unallowed measures of influence (which offence such individual never committed). In such cases double violation of rights is in evidence: i) physical or psychic violence to the subject and ii) unfounded conviction of guilt.

Besides, overwhelming majority of complaints regarding court sentences (70%) received by the Commissioner on Human Rights, contain information that, at the phase of investigation and prejudicial inquiry, physical and psychic coercion was applied in order to obtain pleas of guilty; militia offices violated due process while investigating criminal cases, thus causing unjust sentence.

The problem of human rights is still severe in institutions of forced custody.

Thus, as of June 1, 2000, 1092 thousand persons were in custody, including 273.5 thousand persons - in 195 investigative isolation wards and prisons. The rate of occupation of investigative isolation wards and prisons amounted to 226.3% taking into account that the norm fixed by the law amounts to 4 square meters per one person. 90.8 thousand prisoners suffer from tuberculosis and more than 5 thousand are AIDS infected («Russian Justice» No 9, 2000, pp. 61, 62). Nearly 85 thousand suspects and criminated persons that are in investigative isolation wards have no sleeping accommodation. (Prison Library, issue No 3, 1999, «Problems of Russian System of Punishment Execution», page 5).

Inspectors of the Council of Europe, for the second year, consider investigative isolation wards of Russia to be places equating torture.

The situation with investigative isolation wards of Khabarovsk-Mansi autonomous area is the most serious; the wards are more than four-fold congested, in Tyver and Tula Oblast the rate of ward overcrowding is 3.5 times.

According to the information of the Ministry of Justice of Russia, more than 2 mln prisoners come through investigative isolation wards annually, the figure is twice as large as the number of persons being in institutions of confinement. According to the minister's opinion, one of the reasons for this is unjustified application of such a measure as confinement in respect of defendants and suspected on the part of investigating agencies, because one fourth of such persons are annually discharged from custody due to change of restraining measures, discharge or conviction other than custodial coercion («State Duma. Session Transcript», No 26, 2000).

Description of some particular cases of violence on the part of militia offices demonstrate how unprotected are individuals from despotism of officers of interior agencies, and how honor, dignity and health of persons can suffer.

For example, Mrs. Sh (accession ref. No C-413) in the complaint regarding actions of the officers of the Kirovsky Ward of Temporary Detention in the Custody of the Administration for Home Affairs of the City of Saratov, addressed to the Commissioner on Human Rights, informed that her son, S, was beaten and hanged to the ceiling using handcuffs. Any food that the applicant transferred for her son was thrown straight on the dirty floor of the cell or simply discarded.

Applicant B (accession ref. No B-188) in his complaint notifies that he, a pensioner, was badly beaten by militia officers of the West District of the City of Krasnodar. His four ribs were fractured, a tooth was extracted, his soft tissues were multiply injured. As a result, B was admitted to a hospital, where he was treated for a long time. Such cruel beating was caused by his shooting a gas pistol into the air in order to terminate a conflict between drivers.

Officers of the Department of Home Affairs of Karasunski District of the City of Krasnodar, V and I, on June 25, 1999, while on duty, using a false pretence, captured Mr. M, got him by the throat, then hit him several times in the stomach. The said officers stole a large sum of money from the victim's pocket.

On June 21, 1998, K, the precinct inspector of the Chkalovski militia office of Spassk District Division of Home Affairs of Primorski Krai and B, the militiaman of patrol and point duty of the same Division unlawfully captured minor P, hitting him with a rubber truncheon. Then, holding the victim's feet, they trailed him along the porch stairs and several meters of pavement. Those actions were made in the presence of other persons, demanding to stop the torture, but the militiamen ignored the demands.

M, the officer of Detection Department of the Line Division of Home Affairs for Berezniki station of Perm Oblast, came to minor sisters M, 14 and 9 years old, and asked them to follow him to the militia office, where he stripped them to the skin and performed violent acts of sexual nature. He stopped the actions only when the militia officer for the railway station Berezniki appeared.

This and the other two preceding examples of acts of crime were ascertained by final court sentences. (Sentence of the Sovetski District Court of Krasnodarski Krai dated 29.11.99 on the case No 1-1375/99; sentence of the Spassk District Court of Primorski Krai dated 16.12.98 on the case No 1-452/98; sentence of the Perm Oblast Court dated 11.03.99 on the case No 2-69).

Another example of lawlessness on the part of militia officers is an appeal of B (accession ref. No V-79) to the Russian Federal Commissioner on Human Rights, in which he describes the methods used by law enforcement agencies during search. During a search in the «Habbard's Humanitarian Center» situated in Moscow, militiamen and officers of the prosecutor's office in answering to the comments of the employees of the Center used threats, unprintable abuses and rudeness. One of such searches began at 10 a.m. and lasted till 2 past midnight, and the employees were locked in, and were even unable to go to lavatory. After such actions the public organization «Habbard's Humanitarian Center» was unable to

work for several months. Notwithstanding lawfulness of grounds for searching, such behavior of law enforcement agencies is insufferable; it dishonors people and amounts to psychic violence.

We can provide a lot of such examples. Besides, there are not only guilty persons among the sufferers, but in some cases, the persons who were wrongly suspected of committing crime, and sometimes even knowingly innocent.

We should most of all worry about those actions of militia officers which are similar to torture.

Pursuant to article 1 of the UN Convention Against Torture and Other Cruel, Inhuman and Degrading Treating and Punishment, approved by the UN General Assembly on December 10, 1984, «torture means any act, by which distress or sufferings are caused to any person, either physical or moral, in order to receive from him or any third person any information or confession, or to punish him (her) for any actions made by him (her) or by any third person, or by any other reason based on discrimination of any nature, when such distress or sufferings are caused by officials acting in such a capacity, or pursuant to instigation of the latter, or with their knowledge of acquiescence. This definition does not include pain and sufferings that can occur only as a result of lawful sanctions, inseparable from such sanctions and caused by them occasionally».

International community considers that there are no excuses for tortures and violence. The Declaration Against Torture approved by the UN General Assembly in 1975, specifies as follows: «No state can allow or support tortures or other cruel, inhuman or degrading treatment or punishment. No extraordinary circumstances, such as war, internal political instability or other extreme social necessity can excuse torture or other cruel, inhuman or degrading treatment or punishment».

The uncompromising wording of the above principle is still in force at present. Article 3 of the European Convention on the Protection of Human Rights and Fundamental Freedoms, adopted on November 4, 1950, specifies that «nobody can be tortured or suffer from degrading treatment or punishment».

In actual fact no country is absolutely free from actions similar to torture and violence. But the frequency and the degree of such abuses and response of governmental agencies to them are different in various countries. Violations can be singular or systematic, they can be made by some particular persons or as a result of the negligence of relevant institutions. In any case the rules of international law consider such violations impermissible.

However in Russia, where such violations are widely spread, such term as «torture» is absent in official documents. In such documents it is substituted by the term «physical and psychic violence». This indicates that, notwithstanding the recommendations of international organizations, information in mass media and numerous complaints and applications of people, who have actually suffered from tortures, officials of the Russian state do not recognize the real existence of the problem of torture in our country.

As a result, we have an increasing number of gross violations of human rights and freedoms by the officers of governmental agencies, who, pursuant to the law, should protect and defend people.

We should give several examples of torture applied in respect of persons suspected of having committed a crime, fixed in the final sentences of courts.

Thus, Kh, the chief of militia detection, Kataev-Ivanovski City Division of Home Affairs, Chelyabinskaya Oblast and R and T, officers of militia detection, Kataev-Ivanovski City Division of Home Affairs, tortured Kh, who had been administratively arrested, forcing him into confession of murder of his cohabitant, beat him with their feet, and then chained him with handcuffs to the back of the chair and twisted his arms thus causing great physical distress, gagged his mouth with tissue smothering the victim. The victim couldn't bear the tortures and confessed of the crime he hadn't committed. (Sentence of the Zlatoustovsky City Court, Chelyabinskaya Oblast, dated 05.07.99, case No 1-992).

D, officer of the division of crime detection of the Vichugski City Department of Home Affairs, Ivanovskaya Oblast, jointly with another militia officer unascertained by the court, forcing a confession that U

had stolen a tape recorder, hit him with fists across the face and with a wooden stick on the head and the body. Then, he was dropped on the ground and the beating with fists and feet continued, thus causing a lot of bruises and nasal bone fracture. (Sentence of the Vichugski City Court, Ivanovskaya Oblast, dated 04.08.99, case No 1-85/99).

O, the precinct inspector of the Abakan District, Krasnoyarski Krai, and V, the on-duty officer assistant of the same district interior division, for the purpose of uncovering a crime, applied cruel violence in respect of C that was followed by the death of the victim. (Information of the Deputy Procurator General of the Russian Federation set forth in the letter to the Commissioner on Human Rights of the Russian Federation No 36/31-128.00 dated 15.02.2000).

In all the cases set forth above, the offenders were punished. But this is in most cases an unusual outcome.

The complaints addressed to the Commissioner on Human Rights describe a lot of different kinds of torture, which militia offices apply to suspected of having committed the crime and the members of their families.

Tortures with acts of force as usual always are used by militia officers in conjunction with psychic influence on the subject – rudeness, insults, threats in respect of the person arrested, or in respect of his relatives.

Information on numerous violation of people's rights by militia officers in Russia is contained in the investigation of the international organization «Human Rights Watch», carried out for the period from 1995 till 1999, entitled «Confession at any Cost. Torture in the Russian Militia». The authors of the report came to the following conclusion: «The dimension of application of the tortures and impermissible methods in respect of apprehended persons during seizing have become an outstanding problem in today's Russia... In contempt of numerous absolute evidences of the fact that torture became an essential part of militia activity, Russian government and law enforcement agencies deny (with some exceptions), existence of the problem of tortures and impermissible methods, and make no moves to nip such malpractices in the bud».

Analysis of information regarding violation of human rights in Russia, published in the press, allows to make the conclusion that acts of violence

of militia officers in respect of apprehended, suspected and accused persons are commonly used.

Thus, «Rossiyskaya Gazeta» published an article entitled «Thrashed within the Inch of Life» («Rossiyskaya Gazeta» No 23, February 16, 2000) about torture by the militia. The article states that «it is practically impossible to punish a militia officer for violence today... The dimensions of the problem are so huge that it is a real national calamity».

«Parlamentskaya Gazeta» (No 95, May 24, 2000) in the article entitled «They Beat Him to Death Playfully» told its readers about a frightful incident: beating of Mr. Kalyagin by the officers of the Department of the Interior Affairs of the Sovetsky and the Promyshlenny Districts of the City of Samara. As a result of this crime, the victim died. In the past, 7 months neither investigative actions nor detective measures have been taken on this case. The author of the said article stresses: «It seems that the problem is not only professional incompetence, although this should be taken into account as well..., but a sort of fraternity pledge, which prompts not to divulge information regarding fellow employees. Today the problem is with you, and tomorrow – with me...»

The work of the Commissioner on Human Rights in the Russian Federation with complaints regarding unlawful acts of militia officers is rather complicated, and it is often difficult to achieve positive results. In majority of the appeals, the applicant considers that his main purpose is to reverse the final sentence and get out of a penitentiary facility whereas he rarely demands to bring the militia officers to account.

In some cases a lot of time passes from the time of beating or other violence till validation of the sentence, and complaints against militia officers are aimless by the reason of impossibility to gather necessary evidence. So, the applicant applies for his rehabilitation after unlawful conviction. But even just conviction for a crime should not release militia officers from responsibility, where they contravened the law and used violence against someone, even if such person has been convicted by a court.

As for complaints that directly require to bring militia officers to account by the reason of use of unlawful methods of influence in respect

of apprehended and confined, it should be mentioned that the practice of the Commissioner's Office classifies such applications as «to be responded to immediately», and, pursuant to sub-clause 3 of clause 1, article 20 of the Federal Constitutional Law «On the Commissioner on Human Rights in the Russian Federation», such complaints are forthwith directed to the relevant prosecutor's offices for settling. This process is placed under strict control.

Rather often, a prosecutor's office inspection regarding circumstances of impermissible behavior of militia officers towards persons brought to account is rather formal, and the reply usually ends with the words: «no grounds for initiation of proceedings were found», or «facts haven't been confirmed». In 1999, only 32.7% of complaints were satisfied (61 complaints), including only 7 complaints regarding unlawful methods of influence. Only in respect of 4 of them proceedings were initiated, in other cases prosecutor's offices confined themselves to simply additional examination.

It is apparent that impartial approach on the part of prosecutor's offices is prevented by the fact that Prosecutor's Office of Russia, while supervising over lawfulness, also performs state prosecution in respect of criminal cases in court at the same time. That is why this agency is not interested to find any facts of violence in respect of accused or defendant persons, because in case of confirmation of use of any impermissible methods of inquiry, the evidence that constitute grounds for prosecution would be discredited. As a result the applicants that require to bring officers of law enforcement agencies to account repeatedly appeal to various agencies trying to re-establish lawfulness and justice.

For example, Mr. Ch (accession ref. No Ch-77) was unlawfully apprehended and beaten by the officers of the Department for Fighting against Organized Crime. Appeal of the victim to the Prosecutor's office of the City of Magadan was not satisfied, and only after interference of the Commissioner on Human Rights, the rights of Ch were re-established, the prosecution was initiated against the persons that caused harm to his health.

In case of settling any complaints regarding violation of law of procedure by officers of investigative organizations, such complaints are also directed

to a relevant prosecutor's office. For this category of complaints, approximately in 25-30% of cases prosecutor's offices positively reply to the appeals of the Commissioner on Human Rights: perform additional examinations, cancel unlawful decrees of investigators and investigative agencies, officers violating the law are often brought to disciplinary account.

Thus, in January 2000, the Prosecutor General's Office of the Russian Federation, pursuant to the joint appeal of the employees of the Closed Joint Stock Company «Alexandrovski Trikotazh» (accession ref. No KL-115), canceled the decree on discontinuance of the prosecution against K, and the case was returned for additional investigation to the investigative division of the Alexandrovski Department of Interior Affairs, Yadrinskaya Oblast.

Analysis of replies by the prosecutor's offices reveals that, usually, complaints of persons that suffered acts of crime are more often positively settled than appeals regarding unlawful bringing to account.

Violations of human rights by militia officers were revealed not only by investigation of citizens' complaints.

On March 18, 1999, the Commissioner on Human Rights of the Russian Federation visited the on-duty division of interior affairs «Sokolniki» (the City of Moscow) and the temporary isolation ward to control observation of rights of people in the event of their apprehension. Apart from real virtues of the activities of the Department of Home Affairs, some cases were revealed when several apprehended persons (pursuant to Article 122 of the Law of Criminal Procedure) had not been directed to the temporary isolation ward, but remained in the militia office. Such violations are good reason to perform night interrogations and apply violence by the detectives, because the on-duty division does not have to provide any information regarding interrogations and conversations with apprehended persons.

On 28 December 1998, the Commissioner on Human Rights of the Russian Federation wrote a letter to S. V. Stepashin, the Minister of Interior Affairs, specifying that appeals of people received by him contain information regarding numerous facts of violence in respect of persons

under investigation, and unreasoned use of force against participants of political and economical actions, thus evidencing the violation of constitutional norms and European Convention on the Protection of Human Rights and Fundamental Freedoms by the officers of the Ministry of Interior Affairs of Russia, who are duty-bound to secure the rights of people.

In reply to the said appeal, I.N. Kozhevnikov, Deputy Minister of the Interior Affairs, advised the Commissioner on Human Rights of the measures taken on the points set forth in the appeal, and notified that «legalism and provision of rights of people in reorganization of activity of law enforcing agencies are under the control of the chiefs of Main Administrations and Departments of the Ministry of Interior Affairs of Russia». «The Ministry has approved a number of normative documents for the purpose of advancing work with the staff, prevention of offences on the part of officers; relevant efforts are made to implement the said documents». Nonetheless, complaints are still received by the Commissioner on Human Rights, thus evidencing that the situation regarding violation of rights of people by the officers of the Ministry of Interior Affairs hasn't changed substantially.

Despite the efforts of the Commissioner on Human Rights to render help to the applicants, justice not always wins. This causes losing of belief in possibility of legalism, principles of personal immunity and protection of honor and dignity of people by officers of governmental agencies and, first of all, law enforcement agencies. Besides, unconscious militia officers become convinced in their impunity and permissiveness. As a result violation of rights and freedoms of people by the officers of the Ministry of Interior Affairs becomes widespread.

We can't also say that the situation existing now in the penitentiary system is satisfactory. Among the complaints addressed to the Commissioner on Human Rights of the Russian Federation the share of applications regarding violation of human rights by officers of the said system is about 20-25%.

Securing of personal liberty is considered by the international community as the key point in the protection of human rights. International legal acts

– the Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the European Convention on the protection of Human Rights and Fundamental Freedoms – fixed the most significant provisions, which the countries must follow in this regard. In the event of inviolate observance of presumption of innocence principle, any voluntary incarceration is prohibited. Besides a requirement is fixed that each citizen apprehended on suspicion of perpetration of crime should forthwith appear in court or before a judge authorized to give sanction to commitment.

The UN Convention Against Torture and other Cruel, Inhuman or Degrading Kinds of Treatment and Punishment, and the similar European Convention are of great significance as well. Pursuant to the European Convention, all the states-members allow the European Committee for the Prevention of Torture to visit institutions of confinement.

The UN Minimal Standard Rules of Confined Treatment (1955), The Code of Principles of Protection of all the Persons Undergoing Apprehension or Ward in any Form, UN Regulations Regarding Protection of Confined Minors (1990), European Prison Regulations (1987) and other documents were adopted.

International standards stipulate that for the purpose of crime prevention some limitation of liberty can be allowed. But, if, for example, handicapped person is apprehended, he should be provided with relevant conditions of living. Such person should be treated with full prohibition of torture and other cruel, inhuman and degrading treatment and punishment. All the persons apprehended are entitled to human attitude and regard to their dignity.

International standards prohibit residence of people in custody in overcrowded premises and with lack of bedding and food, undue medical service, inability to do physical exercises and have a rest, bad sanitary condition of premises, insufficient protection from bad weather conditions. It is necessary to provide separate premises for various categories of persons. Keepers in institutions of confinement should be specially trained for performing their duties.

At present, Russia occupies the first place in the world as having the

largest number of confined per capita: 750 confined persons per 100 thousand Russian Citizens.

In the USSR, workplaces were as a rule provided for the persons in custody, and these people actually supported themselves; now the state has to support them at the expense of its own funds. Budgetary funds allotted for this purpose are insufficient. Persons being in isolation wards and work-farms freeze and go hungry. As a result – a high level of disease incidence.

Overcrowded institutions of confinement is one of the most touchy issues in Russia. In such circumstances it is impossible to observe international requirements of humanism.

Pursuant to a resolution of European Committee for the Prevention of Torture, cells with floor-space of 4 square meters and less are insufficient for custody of even a single person, and cells of six or seven square meters are sufficient for keeping of only one person. However, conditions of confinement in Russian investigative isolation wards are so horrible, that special UN rapporteur for torture considered such cells to be the «cells of torture». In many investigative isolation wards prisoners sleep in turn, there is no fresh air, lack of lighting, and bad sanitary conditions, so the cells become a source of disease.

One of the reasons of such situation is the penal policy of the state in the sphere of prosecution and the relevant approach of officers – judges, detectives and prosecutors – to resolving the problem of imprisonment of persons being brought to criminal account. As usual the principle «let him better be boxed» prevails. It is easier for an investigator to talk to such a person, the latter has less possibilities to use the right of defense, and hence it is easier to obtain needed evidence from such persons. It is expedient to imprison a person, because such a person shall not jump bail.

As usual, judges after noting a claim seldom change the measure of restraint elected by the investigator. Besides, in many cases, the court awards a punishment that equals to the term already served. Such a situation often takes place when, taking into account all the circumstances of the case, punishment other than confinement can be appointed.

Among the reasons conducive to violation of rights of convicts, suspects and defendants, one should mention traditional snub in respect of convicts on the part of personnel of isolation wards and institutions of correction system. As usual complaints contain the same wording: «We are regarded here as people without identity». There is some difference between the content of complaints about unlawful acts of officers of isolation wards and complaints of already convicted persons, lodged to the Commissioner on Human Rights of the Russian Federation. But the great majority of complaints of both categories state that the conditions of confinement are inadmissible. In some complaints people inform about omission on the part of administration of institutions of correction system to restrain beating and systematic insults of the applicants on the part of the cellmates, and about unreasoned infliction of punishment.

There are some complaints regarding absence of due medical service. According to the information of the Main Administration for Punishment Execution of the Ministry of Justice of the Russian Federation, the situation with rendering medical service to convicts, suspects and defendants is quite difficult and tends to worsen. The number of persons suffering tuberculosis steadily increases, and exceeds 96 thousand people (A.I. Zubkov, «The Penal Policy in Russia on the Edge of the Millennium», Moscow, 2000, p.5).

Crowded conditions in cells, lack of individual sleeping accommodation, violation of other sanitary and epidemiological standards causes propagation of this dangerous disease. Insufficient food worsens the situation. More than 34 thousand convicts in the institutions of correctional system have insufficient weight, and more than one and a half thousand persons have signs of dystrophy. Some cases of death from dystrophy were registered.

By the reason of lack of places in specialized TB institutions, approximately 15 thousand consumptives were housed in isolated premises of correctional institutions, and about 2 thousand – among healthy convicts.

Medical instrumentation is insufficient and does not exceed 15% of the needed. Budgetary resources for financing acquisition of medical

drugs is less than 20-30% of the demand.

Under the conditions when the state can not provide normal housing of suspects, accused and convicts, the existing practice of violation of human rights, disparagement and even victimization on the part of officers of institutions of correctional system is especially intolerable.

The existence of such practice is evidenced by both individual and blanket complaints of convicts and prisoners received by the Commissioner on Human Rights, regarding conditions of housing in institutions of confinement.

The blanket complaint of the convicts (accession ref. No KL-1205), serving sentence in the institution OYu-241/23 of the Murmansk Oblast, notifies about violation of conditions of housing in the said correction institution. The ration contains less than the tenth part of the products due - nearly pure water, during 10 days only 150 g of bread a day were given, sugar was not included in the ration during three months. The colony suffers from scorbustus, dystrophy, some convicts lose consciousness due to hunger. Medical staff refuses to treat the convicts. Manufacturing capabilities are insufficient. Only 100 persons of 1200 are working, their remuneration does not exceed 15-40 roubles per month. When a convict arrives in the institution, the administration withdraws his (her) own clothes, at the same time failing to provide them with standard clothes and footwear.

In the course of administration of the appeal of the Commissioner on Human Rights regarding the said complaint by the Department of Punishment Execution of the Ministry of Justice of Russia for the Murmansk Oblast, the facts set forth in the complaint were affirmed.

The complaint of minor convicts (accession ref. No E-1343; accession ref. No K-1357; accession ref. No C-823; accession ref. No B-318; accession ref. No Ya-89; accession ref. No M-664; accession ref. No K-923; accession ref. No Ya-942; accession ref. No M-943) regarding conditions of confinement in the investigative isolation ward 68/1 of the City of Tyumen contains the facts that in the cell of the total floor-space 20 square meters up to 10 persons are constantly kept. Repeated failing of the water supplying system caused numerous skin diseases. Healthy

people live in the same cell with the persons suffering from tuberculosis, hepatitis and other diseases. Officers of the isolation ward beat and offend the confined, walk over their beds in dirty footwear.

Complaints regarding housing conditions and violation of human rights in the therapeutic correctional institution (LIU-1) of the City of Svobodny, Amurskaya Oblast (accession ref. No A-413; accession ref. No A-414; accession ref. No B-663, etc.) were lodged to the Commissioner on Human Rights of the Russian Federation by 20 convicts suffering tuberculosis. The LIU as usual is immediately converted into a strict-security camp forthwith after any commission leaves it, in spite of the fact that it has a status of a therapeutic institution. For a minute fault the guilty persons are put into the penal ward, in which during winter time the room temperature is subzero, and in such circumstances the officers take away all their warm clothes. As the applicants mention «not only those who suffer the said serious disease but even healthy person can hardly survive in such environment». The convicts are beaten with feet and rubber truncheons. The claims were made in respect of quantity and quality of food, absence of due clothes, work of the shop situated in the territory of the colony.

The inspection performed by the prosecutor's office of Amurskaya Oblast in accordance with the appeal of the Commissioner on Human Rights confirmed violence of the mode of detention in the therapeutic correction institution No 1. Pursuant to the results of the inspection, a strict reprimand was filed to the Chief of the Department of Punishment Execution of the Ministry of Justice of Russia for Amurskaya Oblast.

A lot of materials regarding violation of human rights in correction institutions are published in mass media.

Thus, on May 20, 2000, «Parlamentnaya Gazeta» No 93, published the article entitled «Correction System Needs Correction». The article says that «for the last ten years, 10 million persons have passed through the investigative isolation wards, and this is twice as large as they can contain. Nearly 140 thousand of suspects and accused have no sleeping accommodations. People sleep in rotation».

«Argumenty i Fakty» (21 May 2000, No 1022) in its article «Russia in

Handcuffs» told that at present there are 780 thousand convicts in Russia, and 737 correction colonies. «According to the norms, the convicts must be fed at 16 roubles 40 kopecks a day. Actually, the average cost of daily allowance in Russia amounts to 12 roubles, and in some colonies only 5.5 roubles! ... Stress and insufficiency of food cause heart and stomach diseases and worsen the condition of health of the consumptives».

On 27 May 2000 «Rossiyskaya Gazeta» No 21, in the article «The Act of Grace: the Cells Shall Become More Crowded?» quotes the words of B. L. Gromnik, lieutenant-general, Chief of the Main Department of Punishment Execution of the Ministry of Justice of Russia for the Irkutsk Oblast, who characterized the situation in investigative isolation wards in short as «hell». «Congestion of people, tuberculosis, AIDS and consequences thereof are there. The real money for feeding amounts to 5 roubles with some kopecks a day. There is a lack of even this money, so the sum actually amounts to 4 roubles. Uniform is issued for 150 roubles a year».

Applications on violation of human rights by officers of correction system are directed to the agencies competent to pass relevant resolutions. The investigations are under control. But it is rather difficult to achieve positive results. The replies of departments of punishment execution of the Ministry of Justice of the Russian Federation and from regional prosecutor's offices overseeing observation of law in institutions of confinement, almost all inform that the facts are not confirmed (approximately in 65% of replies). In other cases the complaints are recognized as justified. But this does not mean that the rights of the applicants are re-established, as the lack of funds for supporting colonies and investigative isolation wards makes improvement of the conditions in the institutions of confinement still impossible.

Let us mention as an example administration of the complaint of the confined M regarding violation of rights of suspects and accused, kept in the investigative isolation ward IZ-35/1 of the Kaliningrad oblast, addressed to the Commissioner on Human Rights (accession ref. No M-255). The Oblast Prosecutor's Office ascertained that during a long period budgetary

financing of the correction system of the Kaliningrad Oblast was extremely uneven and insufficient. Thus, in 1999 – 2000 the utility needs of the institution IZ-35/1 were financed only at a level of 42% of the minimally needed amount. The habitation limit for this institution is 635 persons, but as of 19 April 2000, 1831 confined were kept there. The complaint of the applicant regarding overcrowding of the cells, lack of sleeping accommodations, dreary diet, absence of soap was recognized as justified. But, by the reason of lack of resources incoming from the budget for support of the correction colony, such violations can't be completely resolved.

It seems that real changes can occur only as a result of the joint efforts of the President of the Russian Federation, the Federal Assembly of the Russian Federation, the Government of the Russian Federation, the General Prosecutor's Office, the Ministry of Justice, the Ministry of Interior Affairs of the Russian Federation. Otherwise the Office of the Commissioner on Human Rights shall continue receiving usual replies like the following: «During the inspection performed, the management of the investigative isolation ward and representatives of the Department of Punishment Execution of the Ministry of Justice of Russia for the Kaliningrad Oblast had a conversation with confined M, during which he once again was informed of the conditions of confinement and objective difficulties to provide adequate conditions... M was satisfied with the conversation and holds nothing against the administration of the institution IZ-35/1, in faith whereof he made a written statement».

Satisfactory results can be achieved in respect of complaints regarding unreasonable transiting or in respect of an application for transferring to another colony, as well as in respect of particular violations of the law made by the officers of the correction system. In such events, positive resolutions are passed in reply to the letters of the Commissioner on Human Rights in the Russian Federation.

Thus, the Moscow State Administration for Punishment Execution of the Ministry of Justice of Russia satisfied a petition of M on transferring him to an institution in another region (accession ref. No M-622). Krasnoyarsk Administration for Forestry Correctional Institutions of

the Department of Punishment Execution of the Ministry of Justice of Russia for the Krasnoyarsk Territory made an inquest on a complaint of N and application of the Commissioner on Human Rights. Information set forth in the complaint was confirmed. Persons that violated the law were brought to disciplinary account. The applicant was granted a leave for 1998. Positive resolution was passed in respect of granting of parole to N (accession ref. No N-4).

The chief of the institution K-231 of Verhnekamsk Region, Kirov Oblast, made an investigation in respect of the appeal of the Commissioner on Human Rights on a complaint of Sh regarding the unlawful acts of institution officers. The investigation revealed that major P, officer of the institution, acted brutally in respect of convicts, and he was brought to disciplinary account and warned on the impermissibility of such acts. (accession ref. No Sh-46).

The Prosecutor's Office of the Republic of Adygei considered the letter of the Commissioner on Human Rights connected with the complaint of convicted Z regarding acts of administration of the correction colony UO-68/6, which was directed to send convict Z to TB hospital, and pursuant to the results of medical examination resolve the problem connected with his transfer to another colony (accession ref. No Z-8).

The headquarters of the Department of Punishment Execution of Russia for the Orel Oblast notified that according to an appeal of the Commissioner on Human Rights in the Russian Federation and R., pursuant to article 97 of the Criminal Code the Russian Federation, condemned A was granted a leave with departure from the colony from 16 to 29 March 2000 (accession ref. No A-5).

The Commissioner on Human Rights in the Russian Federation and the employees of his Office repeatedly visited institutions of confinement to verify the facts set forth in complaints of the confined.

Thus, on 1 June 1999, the Commissioner on Human Rights visited the institution UJ-163/5 of the Moscow Oblast, in which confined women are kept, including pregnant women and mothers with children. The purpose of the visit was to examine the functioning of the colony and the conditions of confinement of the persons of the said category, as well as condition of

domestic services and social security of children.

Particular attention was paid to the conditions of living of the children. Employees of the colony told that neither clothes nor playthings are given to the children. More or less normal functioning of the institution is supported due to welfare organizations and particular people.

In Russia, there are no standard Regulations of Child's Home situated in the Territory of Correction Colonies, although there are ten such homes in the correction system, where about 480 infants are living («Russian Justice» N 9, 2000). The necessity of developing and adoption of such Regulations by the Ministry of Justice of the Russian Federation is indubitable.

By the reason that the most severe problem of the current correction system of Russia is increase of morbidity rate among confined persons (in particular with TB), in September 1999, examination of medical and sanitary service of convicts was performed while visiting the Volgograd Oblast. During the visit, the employees of the Office of the Commissioner on Human Rights accessed two correction institutions, therapeutic correction institutions No 23 and No 15, that perform anti TB therapy of the convicts, and investigative isolation ward No 1 of the City of Volgograd.

The Volgograd Oblast is one of the most «troublesome» from the point of view of the TB morbidity in the institutions of confinement. Practically each sixth confined or condemned suffers from this dangerous disease. Spreading of tuberculosis is facilitated by crowded conditions, insufficiency of financing for therapy, absence of necessary sanitary and anti-epidemic measures.

In May 2000, the Commissioner on Human Rights visited the correction colony No 23 of the Krasnoarmeisk Region of the Saratov Oblast, Regional TB Hospital, formed on the basis of correction colony No 1 of the Department of Punishment Execution of the Ministry of Justice of Russia for the Saratov Oblast. Creation of the largest TB hospital in the system of the Department of Punishment Execution of the Ministry of Justice of Russia for 1100 beds is no doubt a positive fact in the activity of the correction system, but there are some problems with

the supply of modern medical equipment and medicines.

The unsatisfactory situation with the securing of human rights in the correction system is evidenced not only by the facts of abuse and despotism in respect of suspects, convicts and confined, but also by violation by the administrations of institutions of confinement of the provisions of the Federal Constitutional Law «On the Commissioner on Human Rights in the Russian Federation».

Thus, in November 1998, an appeal was sent to the Deputy Minister of Justice of the Russian Federation, regarding violation of Article 19 of the Federal Constitutional Law «On the Commissioner on Human Rights of the Russian Federation» by the administration of investigative isolation wards and correction colonies. The provision stipulates that complaints should be sent to the Commissioner on Human Rights within 24 hours and not be inspected by the administration of confinement institutions. But in the institutions OX-30/2 and OX-30/3 of the City of Kursk, Ya V-48/24 of the City of Ozyorsk and Ya V-48/18 of the City of Magnitogorsk, Chelyabinsk Oblast, Ush-349/51 Ushch-349/13 of Nizhni Tagil, AB-239/5 of Gagarin Region, Sverdlov Oblast, Uch-398/2 of Rostov-na-Donu, OS-34/18 of the City of Ukhta, the Republic of Komi, IR-99/15 of Khanty-Mansi Autonomous Area, IZ-49/7 of the City of Egorievsk, Moscow Oblast, IZ-51/1 of the City of Nizhni Novgorod, IZ-11/1 of the City of Kazan, the Republic of Tatarstan, IZ-75/5 of the City of Nizhnevartovsk, Tyumen Oblast, IZ-70/1 of the City of Chelyabinsk and some others, such requirements were not met.

Information received from the commissioners, committees and commissions for human rights in the federal subjects of the Russian Federation also evidences violation of human rights of people by officers of the Ministry of Interior Affairs and the correction system.

For example, Mashkov V.V., the Commissioner on Human Rights of the Sverdlov Oblast informs that the largest number of complaints (about 70%) regarding violation of rights and freedoms of the residents of the Oblast, are connected with actions of the officers of law-enforcement agencies. Most of the complaints are connected with looking for protection against the despotism of the officers of the Ministry of Interior Affairs. The analysis of the crimes committed in the Sverdlov Oblast by

representatives of authorities in connection with their official duties in 1997-1999 shows that 63% of such crimes are committed with abuse of power and violence or causing bodily harm to people.

In all such cases, according to the information of the Commissioner on Human Rights in the Sverdlov Oblast, the defiance of laws on the part of the officers of the law-enforcement agencies is shocking, they actually spit in the eye of society.

The information of M.M. Chulaki, the chairman of the Commission on Human Rights in the City of Saint-Petersburg, shows that «there are a lot of complaints regarding beating in militia offices. Efforts of the headquarters of the Department of Interior Affairs and the Prosecutor's Office to terminate the evil can be hardly mentioned, but inversely, the efforts are aimed to protect the so called «esprit de corps».

The facts of unlawful acts of force, beating, disparagement during apprehending and at the beginning of preliminary examination are set forth in the report of the Commission for Human Rights working under the auspice of the the Governor of the Irkutsk Oblast (the chairman of the commission Khoroshikh). «In April 1999, in Kuibyshev Regional Division of Interior Affairs of the City of Irkutsk, the detectives fastened Mr. V. to the radiator with handcuffs. Visitors and officers passed by him, but nobody paid attention to this outstanding breach of law. Violators (upon appeal of the Committee for Human Rights to the Prosecutor's Office) were simply disciplinary punished, although an action against them should have been brought in courts.

Mr. F was beaten by officers of ROVD of the City of Irkutsk to enforce particular testifying.

The defendant P was beaten for the purpose of definite testifying on his part.

Unfortunately, it is very difficult for the victims to prove the fact of beating: there are no witnesses as usual, and many victims are afraid to complain. As a result of torture a person under investigation usually signs all transcripts of interrogation, and later on withdraw their evidence, thus «moldering» the case, or causing wiggery».

V.A. Dmitriev, the chairman of the Commission for Human Rights under the head of the Administration of the Chita Oblast, informed in his

report on the work of the Commission for 1999, that the number of complaints of people lodged to the Commission is increasing. He wrote, that «such complaints were lodged in respect of militia officers of Ingodinski, Priargunski, Krasnokamenni, Zheleznodorozhni, Olovyanninski, Shilkinski, Petrovsk-Zabaikalski Regional Departments of Interior Affairs».

Considerable increase of the number of complaints regarding unlawful acts of the officers of law-enforcement agencies, namely victimization, torture, disparagement, is mentioned in the reports on the results of work in 1999 by the chairman of the commission on human rights of the Republic of Kalmykia – V.A. Savisko, the Kursk Oblast – A.M. Zaruba, the chairman of the Samara Regional Public Center of Human rights V.I. Indiryakov, the Saratov Oblast Commissioner on Human Rights A.S. Lando.

For instance, the Saratov Oblast Commissioner is much disturbed by the situation regarding violation of the norms of the law of criminal procedure by militia officers. In his report he marked that the events of beating of apprehended persons, use of other impermissible measures of influence at the time of apprehending and till transferring them to an isolation ward still happen. Thus, pursuant to the facts set forth in the application of Kh and G on violation of their rights by the officers of the Oktyabrski ROVD of the City of Saratov, the Commissioner on Human Rights for the Saratov Oblast appealed to the Oblast Prosecutor's Office for verifying the said facts and taking necessary measures. As a result a suit was commenced against the guilty officers of the Oktyabrski ROVD.

Pursuant to the letter of the Commissioner on Human Rights for the Saratov Oblast in respect of a complaint of K, the prosecutor's office also commenced a suit on unlawful acts of the officers of Leninski ROVD of the City of Saratov.

The state authorities of the Russian Federation should resolve the problem of reforming the structure and activity of law-enforcement agencies, legal basis that should provide observation of human rights by officers of the interior agencies and institutions of the correction system.

It is necessary to take measures for increasing the cultural level and

professional training of officers of interior agencies and institutions of the correction system. Such agencies should employ people for whom violence in respect of a person in a cell is impossible. Officers of investigation institutions should be experienced in various methods of detection and inquest that allow to establish the issue not only by the confession of a person, but most of all with the help of independent proofs. The limits of physical enforcing during apprehension should be detailed, because some interior officers falsely interpret the provisions of articles 13 and 14 of the Law of the Russian Federation «On Militia», stipulating the grounds and the procedure of physical force and special measures use in respect of people.

The internal departmental control over the activity of militia officers and officers of the correction system and the prosecuting attorney's supervision over provision of rights of suspects, accused and convicts are the efficient tools for violence prevention. At present, the internal control is considerably weak. Among criminal cases of abuse of powers by militia officers, that are annually investigated by prosecutor's offices of Moscow, only 20% are commenced pursuant to the materials of the service of internal security of the interior agencies. The remaining cases are commenced pursuant to complaints of people («Violence in Respect of Apprehended: Reality and Perspectives» – Zakonnost, No 1, 2000, pp. 10-13).

The following proposals of the human rights NGOs should be supported, namely: it is necessary to develop the normative acts regulating the procedure of work of an on-duty advocate (defender) or defenders from human rights NGOs in militia offices, department of interior affairs, isolation wards of temporal custody, it is necessary to implement obligatory buttons with personal numbers for all officers of the militia, isolation wards, penitentiary institutions; to provide all apprehended with the card stipulating their rights; implement reduced proceedings for evident (proved) cases.

In order to exclude violence and torture in the places of forced custody of people, it is necessary to consider the problem of creation of an independent (not included into the Ministry of Interior Affairs and the Ministry of Justice) special medical service.

The objective of the said service should be medical supervision and examination of persons arriving and staying in isolation wards and temporary custody and investigation isolation wards. At a request of an apprehended person, such a medical officer should perform his medical examination in the militia office as well.

In the event of transferring of any person from an isolation ward of temporal custody to an investigation isolation ward or to institutions of the correction system, medical examination should be performed with drawing up and keeping necessary documents in respect of each person.

Such institutions, together with enhancing prosecutor's supervision, could improve the situation in institutions of confinement.

It is necessary to change the mentality and behavior of investigators, employees of the prosecutor's offices and judges.

Arrest, custody, confinement are extremes, which can be applied only when, taking into account the identity of the suspect, accused or defendant, other measures can not be undertaken. Underwriting not to leave the place of residence, bail, bond should be used more widely than arrest.

Courts are to use all kinds of punishments stipulated in the Criminal Code of the Russian Federation, but not primarily confinement. It is impossible to develop a civil democratic society, if a considerable part of it (most of all young people) is acquainted with investigative isolation wards, colonies and prisons.

The State Duma of the Federal Assembly of the Russian Federation should return to the consideration of the draft federal law on public control over institutions of confinement. The attempt to exclude from the consideration by the Parliament of the said draft law may cause continuation of violence and victimization in respect of persons in the penitentiary system.

Prior to the adoption of the New Code of Criminal Procedure, it is necessary to implement the norm of part two of article 22 of the Constitution of the Russian Federation, specifying that arrest, confinement and custody should be applied only pursuant to a court decision; prior to this judgement, no person can be apprehended for more than 48 hours.

Such democratic norms are included into the Constitution of the country of 1993. It is the obligation of the parliamentarians to implement the said constitutional norms.

The society needs a new statute on advocateship and a new Code of Criminal Procedure. But prior to the adoption of the Code, amendments should be entered into article 96 of the Code of Criminal Procedure of the RSFSR, allowing to apply confinement for any crimes in respect of which the law stipulates punishment in the form of custody for more than 3 years (in the current wording — more than 1 year). In respect of other persons such restraint can be applied only under extraordinary circumstances (provided his identity is not proved, he has no residence or violated the selected measure of restraint).

It is advisable to shorten the term of confinement during examination of any crimes stipulated by article 97 of the Code of Criminal Procedure of the RSFSR, limiting it to one year (in contraposition to the present 1.5 years according to the current Code of Criminal Procedure of the RSFSR).

The Code of Criminal Procedure of the RSFSR needs to be supplemented by a norm fixing and limiting the term of confinement of the defendant after the case is sent to court. The Commissioner on Human Rights of the Russian Federation repeatedly addressed the State Duma with such a proposal. It is impossible to abide with the situation when, upon completion of preliminary examination of a criminal case, a person waits for one, two or more years for the beginning of proceedings. Such a practice grossly contravenes the European Convention for the Protection of Human Rights and Fundamental Freedoms, the 50th anniversary of which is celebrated by the world community this year. The Convention stipulates the rights for the proceedings to be performed within a reasonable term or the release prior to trial (article 5, part 3).

At present, the State Duma of the Federal Assembly of the Russian Federation begins to consider this issue.

There is every chance to review sanctions of various articles of the Criminal Code of the Russian Federation. In particular, reduction of the maximum term of confinement in respect of

Part 2 of Article 158 of the Criminal Code of the Russian Federation from 6 years to five years, thus transferring such crimes from the category of grave offenses to the category of middle gravity. The Commissioner on Human Rights appealed to the State Duma with such a proposal as well.

Taking into account the social and economic situation in the country, some provisions of the Code of Criminal Punishment of the Russian Federation need to be revised. In particular, limitations should be removed in respect of receiving parcels by the women and minors; it is necessary to remove or considerably decrease limitations regarding use of money on personal accounts by convicts for acquisition of foodstuffs and essentials, to enter amendments into Part 10 of Article 75 of the Code of Criminal Punishment of the Russian Federation stipulating parole only in the cases when convicts are transferred to less restrictive custody, by excluding this additional condition, and to increase the child's age in the event of remission of women from eight to fourteen years.

Many of the said innovations are stipulated in the draft Code of Criminal Procedure of the Russian Federation, which passed the first reading in the State Duma, but has not been adopted yet up to now.

The draft Federal Law «On Amending and Supplementing Regarding Correction System into Some Statutes of the Russian Federation» should be considered at the earliest possible date. In particular, the draft law stipulates the following measures: reduction of mass transportation of condemned about the country; organization of detention of condemned of various categories in one colony, arranging for this purpose isolated areas with various types of security; increasing the number of dwelling colonies; widening of the range of procedural enforcement that is not connected with confinement, and other measures for attenuation of penal practice. This draft law serves interests of the society and makes Russia closer to performing recommendations of the Council of Europe and international legal acts in the sphere of justice and custody.

The Russian Federation Government should plan and allot resources necessary for keeping people in isolation wards and institutions of

confinement, that correspond to European norms.

The problem of manpower deployment that have professional and moral qualities necessary to perform functions vested in them can not be resolved without additional financing.

Financial resources are needed to repair and construct buildings of correction system. For instance, in the territory of the Chukot Autonomous Area there are no premises for an investigative isolation ward. Arrested persons have to be kept in the isolation wards of Magadan and Khabarovsk, causing additional expenses to the state.

In order to resolve the problems mentioned in the report, it is necessary to undertake economical, legislative, organizational and other measures.

The intent of the interior and justice agencies is to fight lawlessness, provide public order and protect lawful human rights and interests. All the necessary measures should be taken to resolve those problems.

I recommend to consider the present special report, the problems outlined in it, at the Boards of the Ministry of Interior Affairs, Ministry of Justice, General Prosecutor's Office of the Russian Federation and take the necessary measures for preventing the violation of human rights by officers of the Ministry of Interior Affairs and the institutions of the correctional system.

Commissioner on Human Rights
in the Russian Federation

Oleg Mironov