



Contribution to the fourth session of the Universal Periodic Review (UPR) working group by the Office of the Commissioner for Human Rights of the Council of Europe

1. Conclusions and recommendations from the report of the Commissioner's visits to the Russian Federation [CommDH\(2005\)2](#)

Conclusions and recommendations

564. The changes and transformations that the Russian Federation has experienced over the last fifteen years have been profound. The Commissioner wishes to pay tribute to the efforts made, while pointing out that some reforms are incomplete, with many problems arising in respect of their implementation. In order to help the Russian authorities solve them as soon as possible, the Commissioner, in accordance with Article 8 of Resolution (99) 50, recommends that they:

1. Justice and the police

- Persist with the judicial reform under way and increase the financial and material resources for the legal professions and the courts; reduce the length of court proceedings, inter alia by recruiting additional judges; support the reform of the auxiliary legal professions, such as those of bailiff and lawyer, which make for a more effective judicial system;
- Strengthen the independence of the judiciary as a whole and of individual judges, in particular by introducing firm practical measures to establish a clear separation between the executive and the judiciary;
- Improve training for judicial personnel and provide Russian citizens with more comprehensive information about the reform in order to inspire confidence in the courts and change people's mentalities;
- Improve detention conditions in the various establishments where people are deprived of their liberty; meet the basic needs of detainees and prisoners by improving sanitation and the quality and quantity of food and providing an occupation for prisoners who want one; facilitate family visits for people held on remand in SIZOs; improve medical services in SIZOs and penal colonies, modernise them and provide them with the equipment needed to combat illnesses, in particular tuberculosis and AIDS;

- Renovate or rebuild dilapidated buildings housing prisoners and, in particular, the remand establishments (SIZOs);
- Improve procedures during police custody and detention in short-term detention centres (IVSs) and introduce a systematic medical examination when people enter and leave prisons and detention centres; encourage alternatives to detention on remand;
- Firmly combat police violence; ensure proper training for the police; increase police salaries; provide the police with the equipment essential for their task; improve their image in Russian society;
- Eliminate any risk of conflict between Act No. 144-FZ of 12 August 1995 on the conduct of inquiries and the Code of Criminal Procedure;
- Firmly and forcefully combat corruption, which is rife in several areas of public life.

2. Protecting national minorities and combating xenophobia

- Maintain efforts to safeguard minority rights; promote education in the national minority languages and, to this end, meet schools' needs for teaching materials, textbooks and teacher training;
- Consider the possibility of extending the legislation on the "Small Indigenous Peoples of the North" to communities with over 50,000 members, which are currently excluded because of their size;
- Ensure that the agreements signed between the representatives of the Small Indigenous Peoples of the North and oil companies are properly enforced;
- Step up efforts to combat xenophobia, anti-Semitism and all other forms of racism; introduce harsher penalties for those who commit xenophobic, anti-Semitic or racist crimes; punish politicians and the media for making racist, anti-Semitic and xenophobic statements; actively combat the practices of local government officers who discriminate against people belonging to certain categories (Caucasians, migrants, etc);
- Provide a legal and political solution to the situation of foreigners who have been present in Russia for years and are integrated in Russian society, so as to provide them with legal status and combat illegal labour;
- Respect the rights of asylum-seekers and in particular of those pending deportation; improve the detention conditions of foreigners held in administrative detention centres;
- Change the legislation in order to make it easier to obtain and regularise immigration cards;
- Take urgent steps to deal with the situation of former Soviet citizens who are now stateless and who are entitled to citizenship but were not granted it when the first

Nationality Act (1991) came into force; speed up and harmonise naturalisation processes; combat the practices of certain regional and local authorities that interpret the law in a biased way;

- Put an end to the practices of the authorities of the Region of Krasnodar in respect of Meskhetian Turks and apply the legislation currently in force; resolve the difficulties currently faced by the Meskhetian Turks in the region.

3. Situation in the Chechen Republic

- Actively combat crimes involving missing persons in the Chechen Republic; carry out effective investigations to elucidate these crimes, identify the perpetrators and prosecute them; put an end to the cleansing operations and night-time raids that perpetuate a climate of great insecurity;

- Set in motion and support the economic reconstruction process in order to establish peace and enable the ruined economy to develop; combat corruption in the Chechen Republic, in order to create confidence of the Chechen people in the local government;

- Encourage, as far as possible, the necessary reconciliation within Chechen society;

- Rehabilitate the image of Chechens, and Caucasians in general, in Russian society.

4. The effective respect for human rights in the armed forces

- Provide officers and soldiers with better living conditions; ensure that all units are supplied with sufficient food; modernise and adequately equip the medical services of the armed forces and arrange for systematic access to health care for all soldiers;

- Actively combat *dedovshchina* and the illegal exploitation of military labour; provide for severe sanctions for those who engage in such practices;

- Ensure the effective respect of the right to do alternative civilian service, as provided for in Article 59 of the Constitution.

5. Freedom of expression

- Guarantee media freedom and freedom of expression by maintaining the 1991 law on the mass media: efforts to counter terrorism should not be abused to restrict the media's freedom of expression.

6. Social sphere and protection of vulnerable groups

- Urgently solve the problems raised by the reform of the national health insurance system; ensure that the cost of medicines is refunded to a greater extent, so as to provide access to health care for the most disadvantaged sections of the population;

- Speed up the renovation and modernisation of hospitals, providing them with up to date equipment; combat the practices of certain hospitals that refuse to provide treatment free of charge though legally obliged to do so;

- Honour the commitments entered into in respect of the direct and indirect victims of the Chernobyl disaster; provide funding for the measures introduced to provide medical and practical help to the people affected; finance programmes to rehabilitate the damaged areas;
- Actively combat violence against women, in particular domestic violence; provide shelters for battered women, which could encourage the victims to report domestic violence to the prosecuting authorities; provide for greater training of the police and the representatives of the judiciary in this area;
- Continue the efforts under way to combat trafficking in human beings; pass a law governing the fight against such trafficking in order to make it more effective;
- Urgently address the problems raised by street children (*bezprizorniki*); complete the gaps between federal laws and regional laws, which prevents any progress in this area; clearly define the respective responsibilities and finance the programmes provided for by law;
- Urgently address the situation of pensioners, of which the social and economic conditions of many have deteriorated;
- Consider the accession of the Russian Federation to the Council of Europe Development Bank.

7. Institutions for the protection of human rights

- As part of the strategy of implanting the institution of regional Ombudsman throughout the country, adopt a federal framework law defining regional Ombudsmen's powers more clearly and homogenising the institutions;
- Continue and strengthen dialogue and co-operation with civil society and in particular non-governmental organisations.

In accordance with Article 3.f. of Resolution (99)50, this report is addressed to the Committee of Ministers and the Parliamentary Assembly.

2. Recommendations from the report of the Commissioner's visits to Germany **[CommDH\(2007\)14](#)**

RECOMMENDATIONS

The Commissioner, in accordance with Article 3, paragraphs b, c and e and with Article 8 of Resolution (99) 50 of the Committee of Ministers, recommends that the German authorities:

National system for human rights protection

1. Ratify Protocol No. 12 to the European Convention on Human Rights, the revised European Social Charter as well as the additional Protocols to the European Social Charter providing for additional rights and a collective complaint mechanism.
2. Consider the establishment of parliamentary human rights committees at Länder level.
3. Promote the independence of extrajudicial complaints bodies, when possible, and ensure that complaints are handled on the basis of clear procedures.
4. Provide to the general public easily accessible information on the available extrajudicial complaints bodies at federal and Länder levels, including about their mandates and procedures.
5. Strengthen the mandate of the German Institute for Human Rights with regard to structural and factual monitoring and in respect to its consultative role in the process of drafting legislation with human rights relevance.
6. Establish independent police monitoring and complaints mechanisms outside police and ministry structures and collect comprehensive data regarding allegations of ill-treatment or misconduct by the police in a centralised way.
7. Consult, in a systematic and regular manner, civil society organisations working in the field of human rights on legislation and policies which impact human rights.
8. Intensify and enhance the integration of human rights teaching methods in pre- and in-service training of school teachers and strengthen the institutionalisation of human rights education for other professions.
9. Develop the national action plan on human rights as a co-ordinated process for the continuous improvement of human rights protection in Germany by involving all stakeholders and setting out clear policy aims and strategies on how to reach them.

Prevention of discrimination

10. Remove or clarify the exceptions to the principle of equal treatment regarding access to rental housing from the General Equal Treatment Act (*Allgemeine Gleichbehandlungsgesetz*) and consider extending the time limit for claims based on the Act.
11. Screen relevant legal and administrative provisions at federal and Länder levels to establish whether they comply with the General Equal Treatment Act.
12. Ensure that the Anti-Discrimination Office is provided with the resources and independence necessary for the effective fulfilment of its mandate and that its functions are widely known among the general public.

13. Specify rules of procedure for applying the principle of equal pay for equal work of equal value between different employment sectors.

14. Consider the introduction of collective claims or class actions allowing groups of plaintiffs to challenge sector-related wage gaps between women and men.

15. Develop policy strategies to offer more effective protection to women and girls with disabilities against sexual violence and ensure that victim support and counselling services for women victims of violence adequately cater for women and girls with disabilities.

16. Increase the integration rate of children with disabilities into mainstream education and review procedures which are applied in the selection of pupils to special schools so that they do not unnecessarily hinder integration efforts.

Measures against xenophobia and racism

17. Develop policy responses to right-wing extremist and xenophobic attitudes which are targeted to address all parts of society such as human rights and democracy training as well as the promotion of civil society activities against anti-democratic tendencies.

18. Continue financing victim support organisations, mobile advisory teams and other grass-root initiatives which identify and respond to xenophobic and racist tendencies in local communities.

19. Provide for a penal law provision which would explicitly refer to racist motivation as an aggravating factor when determining sentences.

20. Consider the establishment of a centralised database on qualitative and quantitative data provided by victims or witnesses of racist or xenophobic incidents that have been reported to counselling institutions.

21. Avoid the stigmatisation of migrants, asylum-seekers and ethnic or religious groups living in Germany in the context of political discourse and the adoption of legislation related to naturalisation, immigration, asylum or counter-terrorism.

22. Address Germany's role as a country of immigration by explicitly acknowledging the positive contribution of immigrants to German society.

Protection of national minorities

23. Apply criteria for the personal scope of national minorities in a pragmatic and reasonable fashion in order not to create unnecessary inequalities especially as regards Roma/Sinti with or without German citizenship.

24. Improve data collection on the socio-economic situation of national minorities with due respect for the protection of privacy and in co-operation with the minority communities concerned.

25. Take special measures, including comprehensive strategies at both federal and Länder levels, to improve the situation of Roma and Sinti to overcome the disadvantages brought about persistent discrimination while ensuring an equal level of protection throughout the German territory.

26. Strengthen the involvement of the Sorbian minority in decision-making regarding the preservation of a viable Sorbian school network in the Länder of Saxony and Brandenburg.

Poverty

27. Develop comprehensive policy measures to tackle child poverty and to improve educational opportunities for children living under poverty.

28. Adopt policy measures in response to the emerging phenomenon of working poor and consider the introduction of minimum wages.

29. Ensure that care in dignity is provided to older people irrespective of their social status and provide clear guidelines on the provision of care in dignity.

Asylum and immigration

30. Implement EU Directives with relevance to asylum with the aim of improving the protection of refugees and in line with the Geneva Convention relating to the status of refugees as well as the European Convention on Human Rights.

31. Apply the grounds for providing protection to refugees to cover persecution on the account of outward manifestations of religion as well as sexual orientation.

32. Review current practice of revoking refugee status to ensure that revocations only take place when the circumstances related to the original decision to grant refugee status have undergone such a fundamental change as to clearly remove the basis for the fear of persecution in a sustainable manner.

33. Grant residence permits to rejected asylum-seekers, with special consideration to families with children, who have been subjected to a chain of tolerance permits over several years.

34. Treat asylum seekers between 16 and 18 years as minors and withdraw the German declaration to the Convention on the Rights of the Child.

35. Provide free legal aid to asylum seekers from the outset of the application process.

36. Consider alternative ways of accommodating asylum-seekers after their initial stay in the first reception centres which respect the privacy of asylum seekers and enable them to retain a substantial degree of personal autonomy.
37. Review the proportionality of the restrictions placed on the freedom of movement of asylum seekers especially in cases when they are applied over several years.
38. Provide health care for the essential treatment of illness for all asylum-seekers.
39. Prepare guidelines on minimum standards for accommodating asylum-seekers to ensure that all asylum-seekers are offered an adequate standard of living.
40. Restrict the use of pre-deportation detention to cases when it is thoroughly justified and when it is clear that the deportation can in fact take place in the immediate future so that the length of pre-deportation detention would not normally exceed a few weeks.
41. Provide free legal counselling to rejected asylum seekers who are in pre-deportation detention so that they can access a remedy to contest the grounds of their detention.
42. Review citizenship legislation in view of permitting double citizenship.
43. Grant family members of refugees the right to family reunification without restrictions regarding available accommodation or financial resources.
44. Ensure that irregular migrants can effectively access their rights to health care and education.

Counter-terrorism measures

45. Develop specific guidelines for intelligence services regarding the questioning of detainees abroad.
46. Ensure that evidence obtained under inhuman or degrading treatment or torture is not admissible in court proceedings.
47. Fully investigate alleged cases of extraordinary renditions that were carried out on German territory or that involved German nationals or long-term residents and adopt effective measures to prevent future unlawful renditions.
48. Apply strict rules of proportionality with regard to preventive investigative measures in order to avoid profiling on the sole basis of religious belief or ethnic origin.
49. Carry out an independent evaluation of counter-terrorism legislation.

50. Specify the criteria on the basis of which a person can be included in the counter-terrorism database and provide clear guidelines on the use of the database including the authorities who may access the data.

Penal system and detention

51. Ensure that the devolution of legislative powers in regard to prison administration does not lead to a lowering of prison standards and that the social reintegration of prisoners remains the principal aim of imprisonment.

52. Promote the accommodation of juvenile offenders in open prison facilities and continue providing adequate funding for alternative sanction measures including victim-offender mediation.

53. Provide for the possibility of appeal by juvenile offenders or other type of independent review against the scope of educational measures set out by a court decision.

54. Apply secured custody in an extremely considered manner and provide people kept under secured custody with adequate medical treatment or other care that addresses their specific situation.

55. Reconsider plans to implement the Optional Protocol to the Convention against Torture so that an effective preventive mechanism is established to regularly examine the treatment of persons deprived of their liberty in places of detention.

3. Recommendations from the report of the Commissioner's visits to Azerbaijan ***[CommDH\(2008\)2](#)***

SUMMARY OF RECOMMENDATIONS

Azerbaijan has experienced profound changes and improvements since its independence. The Commissioner wishes to pay tribute to the efforts made, while remaining concerned about a certain number of issues. Indeed, the reforms that have been undertaken, more particularly in the judicial domain and the efforts made for the IDPs must come to completion as quickly as possible. In addition, in the areas where legal reforms have taken place, the Commissioner underlines the necessity of bridging the gap between law and practice. The Commissioner is making the following recommendations keeping in line with the National Plan of Action:

The Judicial system, law enforcement agencies and penitentiary conditions

1. As a matter of priority address the issue of corruption with particular focus on the judiciary and the police;
2. Complete the reform of the judiciary so as to ensure its full independence, impartiality and effectiveness in line with European standards by:

- Continuing the efforts undertaken in the system of selection and appointment of judges, focusing on integrity of candidates, their practical abilities and knowledge of human rights standards;
- proceeding to the establishment of a National Academy for Judges;
- increasing funding of the judiciary and securing better conditions for proper administration of justice;
- encouraging the evolution of the Collegium of advocates into a professional bar association independent from the State; ensure the application of codes of ethics for legal professions and take measures to prevent undue pressure on advocates
- taking urgent measures to improve proper enforcement of judicial decisions;
- introduce a system of juvenile justice in accordance with international standards.

The Police

3. Address police violence by reinforcing appropriate training and control measures, systematically investigate all cases of abuses and bring the perpetrators to justice, to avoid impunity;
4. Ensure that the recruitment and promotion of the staff members of the Ministry of Internal Affairs is transparent; ensure proper training of police personnel including in human rights standards, provide the police personnel, with adequate working equipment, increase salaries for police officers ;
5. Ensure an effective enforcement of the right to legal counsel;
6. Ensure that the relatives of detained people are timely informed about the places of detention;
7. Provide further improvements to medical and sanitary conditions in pre-trial detention facilities;

The Penitentiary

8. Renovate dilapidated housing facilities for prisoners, allocate the necessary funds for the improvement of living conditions in penitentiary facilities and follow through the building plans of new premises;
9. Improve conditions of detention for juveniles, ensure that they are kept in separate centres, provide them with schooling and appropriate food throughout the country;
10. Provide occupational activities and efficient measures of re-socialisation;
11. Further improve medical capacities for the penitentiary.

The case of those sentenced to life imprisonment

12. Avoid the segregation and isolation of lifers from other categories of prisoners and carry out individual risk assessment of each inmate;
13. Organise purposeful activities and education, which allow the inmate to manage time and responsibilities;
14. Establish systematic training of all members of staff to ensure that they are fully prepared to deal with the specific cases of lifers and to handle the different incidents that might occur;
15. Establish a system of review of life sentences at an earlier stage and adopt legislation to that effect.

Fundamental freedoms

Freedom of expression

16. Review the composition and function of the NTRC by clearly defining the general legislative framework regulating the appointment of the members, and by ensuring a democratic and transparent appointment and full independence;
17. Secure that the granting of licences is decided in line with impartial criteria and that the monitoring of programmes takes place *a posteriori*;
18. Organise an open public debate to determine the appropriate public response for defamation, if needed with the participation of the Council of Europe experts;
19. Release those who have been criminally prosecuted under the criminal law on defamation;
20. Further encourage the work on a draft law to modify the current legislation on defamation, to take away the possibility of depriving anyone of his or her liberty on accounts of opinion.

Freedoms of association and peaceful assembly

21. Simplify the procedure for the registration of NGOs and deliver replies within the time prescribed by law;
22. Adopt without delay the amendments to the 1998 law on freedom of assembly and consider each application for a demonstration following precise and objective criteria;

Freedom of religion

23. Consider the registration of religious groups fairly without prejudice with regard to non-traditional groups;
24. Adopt a legislative framework for the establishment of an alternative civilian service.

Minorities

25. Develop the protection of minority rights by re-establishing an institutional framework in charge of minority issues, which would give minority representatives a voice in the decision-making process and draw greater attention to minority issues in the National Plan of Action;
26. In order to secure the Talysh education presently and in the future, allocate the necessary funds for the teaching of minority languages. Seriously consider the creation of a Talysh chair at the University of Lenkoran. Ratify the Charter for Regional and Minority Languages;
27. Allocate airspace and slots in the media to minority representatives and for the use of minority languages, in particular where minorities live compactly;
28. Deliver documents enabling Russian citizens of Chechen origin to exercise their social and economic right;
29. Raise awareness campaigns to avoid social stigma from being attached to Armenians living on Azerbaijani soil.

Discrimination and Vulnerable groups

30. Strengthen the measures already taken to prevent the occurrence of violence against women, raise awareness through campaigns and provide shelters for those victim of such violence;
31. Adopt legislation rendering 18 years of age the minimum age for marriage for both boys and girls;
32. Adopt robust measures to counter trafficking in human beings, establish educational awareness campaigns to inform the population of the threat, build shelters for the victims of trafficking and train personnel to supervise the psychological assistance to victims of human trafficking;
33. Encourage the deinstitutionalization of children living in orphanages and establish a family-based approach to their care;

IDPs and Prisoners of war

34. Ensure that there no longer remain tent camps and that the refugees living in *Goranboy* and the three tent camps are re-settled by the end of 2007;

35. Establish a registration mechanism that allows more flexibility than the current *propiska*, IDPs should have equal access to education and job opportunities; sufficient funds should be allocated for the provision of medical care in IDP settlements;

36. While confirming the right of IDPs to return or to voluntary permanent resettlement, initiatives should be taken to allow them to stay in touch with their cultural heritage in a regular basis;

37. Continue cooperation with the International Committee of the Red Cross to clarify the fate of those disappeared

