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**Response of the Russian Government  
to the report of the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)  
on the visit to the Russian Federation**

**from 2 to 17 December 2001**

The Government of the Russian Federation has requested the publication of the report on the CPT's visit to Russia in December 2001 (see CPT/Inf (2003) 30) and of its response. The Government's response is set out in this document.

Strasbourg, 30 June 2003



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## **Explanations**

*of the Russian Federation to observations presented in the report for the Government of the Russian Federation on visit to Russia of representatives of the European committee on prevention of torture and inhuman or degrading treatment or punishment  
2-17.12.2001*

## **II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED**

### **A. Establishments under the authority of the Ministry of Internal Affairs of the Russian Federation**

#### **1. Torture and other forms of ill-treatment**

##### Russian side's opinion on para. 15 of the CPT Report:

Continuous prosecutor's oversight and official control haven't uncovered facts of torture and physical pressure on inmates exerted by personnel of the temporary detention centers (IVS ). Suspects and accused haven't complained on these aspects.

However legislative measures have been taken to prevent such cases.

The new Code of Criminal Procedure of the Russian Federation was recently put into effect (18.12.2001 № 174-Ф3) under which information about a crime being committed or prepared is presented in a report on detection of signs of a crime (Article 143). Investigator, inquiry body, detective or prosecutor are obliged to receive, verify information about any committed or prepared crime and within their competence take a corresponding decision no later than 3 days from the receipt of the above information (Article 144, para. 1).

##### Russian side's opinion on para. 16 of the CPT Report:

See Russian side's opinion on para. 15 of the CPT Report

##### Russian side's opinion on para. 17 of the CPT Report:

Continuous prosecutor's oversight and official control haven't uncovered facts of torture and physical pressure on inmates exerted by personnel of the temporary detention centers (IVS ). Suspects and accused haven't complained on these aspects.

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In order to meet this requirement the order was prepared and approved by the Main Directorate for Execution of Punishments (GUIN) of Russia's Ministry of Justice (27.07.2002 N 170) on "approval of the Instruction on the procedure to receive, register, record and settle in agencies and bodies of the criminal execution system of Russia's Ministry of Justice statements, acknowledgements of guilt, information about committed or prepared crime and information about other incidents.

According to this order before the establishment of investigators' posts their functions are performed by personnel of operations and regulations services of investigation centers and correctional institutions.

Statements and reports about crimes giving grounds for criminal prosecution also include now reports about crimes published and disseminated by media and information about committed or prepared crime received from other sources (para.1.3).

Information about incidents that requires verification of the signs of an offence or their absence includes, among other things, reports by medical personnel on accused citizens with bodily injuries of a possible criminal origin (para. 1.4).

Organization of work to receive, fully register and record, provide for observation of laws while considering information about crimes and incidents, and control thereof fall within the competence of the heads of establishments and bodies of the UIS (para. 1.6).

When a UIS officer detects signs of a crime he takes measures to prevent the crime and subsequently reports (via phone or other means of communication) the events to a duty officer of the penal system establishment or body (para. 24).

All personnel of the UIS establishments or bodies, from rank and file to officer ranks, are obliged to receive the information about crimes and incidents. They have no right to decline to receive it under the pretext that the data is insufficient to decide whether signs of a crime are present, or under any other reason (para. 2.7).

Statements and reports are entered into the Registry of statements and reports of crimes, and information about incidents – into the Log of incident information (para. 3.2).

In case of crimes against the established order of service committed by personnel of respective UIS establishments and bodies, and crimes committed by other persons within the territory of these UIS establishments or bodies, heads of the UIS establishments and bodies of Russia's Ministry of Justice initiate criminal proceedings and undertake urgent investigations.

The criminal case shall be referred to the prosecutor (para. 4.1) after urgent investigations and within 10 days from the date of the criminal case.

Once the information about incidents is received the officer on duty in the UIS establishment or body shall take urgent measures to verify it. A respective decision, based on verification results, is taken in due order. When inspection, medical or other special studies are required, the decision is taken upon their completion (para. 4.2).

With regard to each statement or report about crimes and incidents chief of the UIS establishment or body (or his replacing officer) is required to give written orders to specific implementing official concerning their consideration in accordance with the requirements of the criminal procedure legislation and present instruction (para. 4.5).

The GUIN of Russia's Ministry of Justice order (09.12.2002. 18/1/4-96) about strict observance of the above requirements was sent to territorial UIS bodies.

Russian side's opinion on para. 18 of the CPT Report:

Continuous prosecutor's oversight and official control haven't uncovered facts of torture and physical pressure on inmates exerted by personnel of the temporary detention centers (IVS ). Suspects and accused haven't complained on these aspects.

Russian side's opinion on para. 19 of the CPT Report:

See Russian side's opinion on para. 15 of the CPT Report

Russian side's opinion on para. 20 of the CPT report:

Pursuant to the requirements of para. 6.2 of the Internal Regulations of Temporary Detention Centers of Internal Affairs for Suspects and Accused approved by Russia's MVD Order (26.01.1996 № 41 дсп) (registered by Russia's Ministry of Justice 31.01.1996 N 1022) suspects and accused when escorted must keep their hands behind their backs.

In order to respect the rights of suspects and accused in the system of official training the IVS personnel underwent additional training to study the requirements of the Federal Law (15.07.1995 N Ф3-103) on Custody of Persons Suspected and Accused of Committing a Crime and the order of Russia's MVD (26.01.1996 N 41 дсп).

Russian side's opinion on para. 20 of the CPT Report:

In accordance with para. 4, Article 15, of the Russian Federation Constitution the universally accepted principles and norms of international law and international treaties, to which the Russian Federation is a party, were integrated into its domestic law. If an international treaty to which the Russian Federation is a party establishes other rules as compared to domestic law then the rules of the international treaty are applied.

As is known, such international acts include the Code of Conduct for Law-Enforcement Officials adopted 17.12.1979 by the UN General Assembly resolution 34/169 at the 106th plenary meeting. The requirements of this Code apply to law-enforcement bodies of the Russian Federation.

Moreover, a set of measures is being taken in the Russian Federation aimed at improving the activities of public officials.

A Presidential decree was issued (19.11.2002 № 1336) on the Federal Reform Program of the Public Service of the Russian Federation (2003-2005).

The State Duma of the Federal Assembly of Russia is considering now a bill on the system of public service in the Russian Federation.

It is planned to approve the basic guidelines of the public official conduct in a decree of the President of the Russian Federation.

Russian side's opinion on para. 22 of the CPT Report:

The new Code of Criminal Procedure of the Russian Federation (18.12.2002 № 174-Ф3) was put into effect under which any information about committed or prepared crime is presented in a report on detecting signs of a crime (Article 143). Investigator, inquiry body, detective or prosecutor are obliged to receive, verify the information about any committed or prepared crime and within their competence take a corresponding decision no later than 3 days from the receipt of the above information (Article 144, para. 1).

The requirements of this normative legal act are communicated to personnel through the official training exercise.

Russian side's opinion on para. 23 of the CPT Report:

See Russian side's opinion on para. 21 of the CPT Report

Russian side's opinion on para. 24 of the CPT Report:

In December 2001 in the IVS of the city of Komsomolsk-on-Amur chairs in investigation rooms were replaced, metal-grid chamber was removed, and the space is now transformed into the room for non-contact identification.

## **2. Conditions of custody**

### a. Chambers for persons under administrative detention

Russian side's opinion on para. 25 of the CPT Report:

Resolution of the Government of the Russian Federation was adopted (02.10.2002 № 726) on Approval of the Conditions of Administrative Arrest.

### b. Temporary detention centers for suspects and accused of committing a crime (IVS)

Russian side's opinion on para. 26 of the CPT Report:

Requirements of the Federal Law (15.07.1995 № Ф3-103) on the Custody of Persons Suspected and Accused of Committing a Crime apply to all temporary detention centers for suspects and accused of the bodies of internal affairs.

Russian side's opinion on para. 27 of the CPT Report:

In 2002 seven temporary detention centers were closed because of their failure to comply with the requirements of the Federal Law on the Custody of Suspects and Accused of Committing a Crime, as well as because of unavailability of financial resources necessary for reconstruction and supply provision. Among them, OVD IVSs of districts "Aeroport" OAO and "Filevsky Park" ZAO.

Practical implementation of the planned construction of new and renovation of existing IVSs is very difficult due to inadequate financing by federal bodies of necessary building operations. The project of the Federal program of construction and renovation of temporary detention centers of the OVD developed by Russia's MVD in 1999 is still pending approval.

However, Moscow's government and administrative districts' prefects financed during recent years renovation of GUV D IVS buildings and seven IVSs of district UVD. At the end of 2001 UVD IVSs of the North-Eastern and South-Western administrative districts were commissioned. Moreover, with the support of local self-government bodies project estimates are being developed for the construction of UVD IVSs of the Central and Western administrative districts. Necessary institutional and practical steps are being taken to plan development of these special militia bodies for up to 2010. Major overhaul of OVD IVSs of the district "Zamoskvorechye" is nearing completion.

UVD IVS of Vladivostok is located in 1953 building, which is against the model project. Maintenance repair of all chambers has been made now, individual sleeping facilities have been equipped, and wash basins with water supply have been installed in 5 of 11 chambers.

At the same time design features of IVSs prevent outfitting them with an exercise yard, a storage room for bedding, bathing facility, disinfestation post, and a number of other rooms provided for in normative documents governing special establishments.

Food for inmates is provided according to norms approved by the Resolution of the government of the Russian Federation (01.12.1992 № 935) and is cooked in the messroom of Primorsky krai UVD.

In 1999 Vladivostok Directorate of Internal Affairs started construction of a new temporary detention center that meets the requirements of the Federal Law but due to financial constraints the construction was suspended. Khabarovsk krai UVD IVS undertook technical reconstruction of an exercise yard. As of 20.03.2002 suspected and accused of committing a crime are granted a daily walk of at least one hour. The order of inmates' walk was determined, and their strengthened guard was secured. Installation of individual sleeping facilities and acquisition of bedding for IVSs are planned in the first quarter 2003.

In December 2001 IVS of Komsomolsk-on-Amur replaced chairs in investigation rooms, removed metal-grid chamber from it and the space is now transformed into the room for non-contact identification.

Daily rations for suspects and accused are provided according to Norm № 3 of daily rations for persons in investigation centers approved by the Resolution of the Government of the Russian Federation (01.12.1992 № 935) on the norm of daily ration for convicted to confinement and persons in investigation, therapeutic, educational and labor therapy centers of the Ministry of Internal Affairs of the Russian Federation.

Under the established norms and according to the number of suspects and accused in custody chambers receive, for communal use, soap, detergent, toilet paper, board games and cleaning utensils.

Detained are provided with needles, scissors and other daily life stinging and carving items only under the control of IVS administration.

At the same time shortcomings observed by the CPT representatives as regards dimness and unsatisfactory sanitary and hygienic conditions in chambers of the IVS and UVD of the krai are baseless since the center is examined quarterly by sanitary doctors and epidemiologists from the Center of state sanitary control under the medical division of the UVD of the krai, using special technical means. No observations on the above shortcomings were expressed by them. The supply of fresh air in IVS chambers is secured by mechanical exhaust-duct ventilation, which is fully operational.

In examining duty units of territorial and district UVD, including OVD "Aeroport" UVD CAO, "Filevsky park" UVD ZAO, "Khamovniki" and "Lefortovo" UVD TSAO, "Sokolniki" UVD VAO and special centers No. 1 and 2 the Moscow GUVd didn't find any violations of the rights of the detained.

Russian side's opinion on para. 28 of the CPT Report:

See Russian side's opinion on para. 27 of the CPT Report.

Russian side's opinion on para. 29 of the CPT Report:

No comment.

Russian side's opinion on para. 30 of the CPT Report:

A cosmetic repair was made in chambers of the First and Second admission and distribution centers of the Moscow GUVd. In order to bring chamber space into line with the sanitary norms (4 sq. m. per inmate) double-decker beds were dismantled and replaced with single-decker beds. Bedding is distributed among inmates (mattresses, pillows and blankets). Once in admission and distribution center those detained take a shower and undergo sanitary treatment, which continues once a week throughout their detention period, fresh bed linen is given to them. As a means of

personal hygiene they receive soap, women's hygienic pads and toothpaste.

Inmates in admission and distribution centers take a daily one-hour walk with exception of those who reject the walk, in which case a corresponding entry is made in respective log.

Inmates in admission and distribution centers are allowed to receive parcels with food, clothes, newspapers and magazines, perishable foodstuffs are excluded.

In the Second admission and distribution center those detained are escorted to toilets under internal regime rules from 6.00 to 22.00 every 1,5-2 hours and individually upon request, including during night-time.

In order to provide for recreation, newspapers, magazines and books are distributed among detained which are mainly received from population and charitable organizations since they are not foreseen in normative documents.

Rulings on prolongation of detention in an admission and distribution center and other information about their detention in a militia special establishment are timely communicated to detained foreigners under signature by inspector staff of the unit who maintain continuous contact with the Passport and Visa Service of Moscow. All detained are allowed telephone communication, including in cases when there is a need to contact embassies, consular and other offices to identify a person or buy tickets. Foreigners are allowed to meet visitors (relatives, friends, embassy and consular officials, representatives of the UNHCR, etc.).

However, outfitting a room for daily pastime, provide to access to radio, TV and board games is not possible at the moment due to the lack of free space; besides chambers don't have AC outlets and TV antennas outlets which were not foreseen in project documentation at the time of construction.

Time of detention in the admission and distribution centers of foreigners subject to expulsion from the Russian Federation is determined by a court decision under the Federal Law on Legal Status of Foreigners in the Russian Federation. The reason for prolonged detention of foreigners in the admission and distribution centers is untimely submission of necessary documents by their respective embassies. Russia's MFA is kept informed about the situation.

Russian side's opinion on para.31 of the CPT Report:

See Russian side's opinion on para.30 of the CPT Report.

Russian side's opinion on para.32 of the CPT Report:

The inspectors' unit maintaining continuous contacts with Moscow Passport and Visa Service divisions timely inform detained foreigners - "against their signature" - about court rulings on the extension of their detention in the admission and distribution centre as well as about other developments concerning their stay in the special militia establishment. All detainees are allowed to use telephone, including when they need to contact their embassies, consulates or other institutions to settle the issues of personal identification or purchase of tickets. Foreigners are allowed to have visitors (relatives, friends and embassy, consulate or UNHCR representatives).

However, today it is impossible to provide detainees with a day recreation room and the access to radio, TV and table games because of lack of vacant rooms and electric sockets and TV antenna outlets, as they are not part of the building design.

Court determines the period of detention of foreign nationals who are subject to expulsion from the Russian Federation in accordance with the Federal Law on Legal Status of Foreigners in the Russian Federation. The lengthy detention in admission and detention centres is caused by untimely submission of documentation proving the identity of detainees by their respective embassies. The Ministry of Foreign Affairs of Russia is kept informed about the situation.

Russian side's opinion on para.33 of the CPT Report:

See Russian side's opinion on para.30 of the CPT Report.

### **3. Safeguards against the ill-treatment of persons deprived of their liberty**

Russian side's opinion on para.34 of the CPT Report:

According to the Constitution of the Russian Federation man and his rights and freedoms are the supreme value. The recognition, observance and protection of human and civil rights and freedoms are an obligation of the State.

To enhance human rights protection in pre-trial centres and correctional institutions of the penal system (UIS) of the Ministry of Justice Y.Chaika, Minister of Justice of the Russian Federation, decided to establish a vertical structure within this system for managing the process of promotion of rights and legitimate interests of detainees in correctional institutions and pre-trial centres, as well as those of all UIS officers and civil personnel with the aim to coordinate the efforts of all system services in fulfilling the obligations taken by the State.

By its Orders 1652-k and 1650-k of 25 October 2001 and 675-k of 7 May 2002 the Ministry of Justice created the Human Rights Division within the GUIN Directorate for Pre-trial Centres and Prisons which has been then transferred to the Operations and Inspections Directorate of the Head Office and established posts of assistant chiefs for human rights protection within the penal system in territorial bodies.

By its Orders 45 of 22 February 2002 and 154 of 12 July 2002 the GUIN adopted the Standard Job Description for an Assistant Chief of a Territorial Body for Human Rights Protection in the Penal System of the Ministry of Justice of the Russian Federation and the Statute of the Division on Human Rights Protection in the Penal System within the GUIN Operations and Inspections Directorate of the Ministry of Justice.

In accordance with para.2 of the Statute of the Human Rights Division all 84 assistant chiefs for human rights protection in the penal system operate under the supervision of this Division.

Also, by its Order 74 of 18 March 2002 the Ministry of Justice adopted the Statute of the Directorate for Control over Law Enforcement and Human Rights Protection within the Institutions and Bodies of the Penal System of the Ministry of Justice of the Russian Federation established on the basis of the former Inspectorate which had performed supervising functions in respect of the penal system as it was provided by Article 38, para.2, of Law 5473-I of 21 July 1993 on Institutions and Bodies Executing Penal Punishments in the Form of Deprivation of Freedom.

The respective divisions created within federal directorates of the Ministry of Justice for federal districts, which under Ministry's Order 287 of 24 October 2002 on Adoption of the Statute of a Federal Directorate of the Ministry of Justice of the Russian Federation for a Federal District should cooperate with appropriate UIS units in exercising control over law enforcement and human rights protection within the institutions and bodies of the penal system, make proposals on the elimination of detected violations in accordance with the established procedure and assist in performing control over the activities of punishment execution bodies and pre-trial centres.

In accordance with Ministry's Order 56 of 24 March 1999 the Main Directorate for Execution of Punishments exercises similar control functions by means of its chief inspectors for a while now.

Ministry's Order 59 of 30 March 1999 on Organizing Inspections of Territorial Bodies and Institutions of the Penal System of the Ministry of Justice of the Russian Federation issued to enhance ministerial control over the activities of territorial bodies and institutions has allotted the task of organizing inspections of the UIS territorial bodies to the OIU Main Regional Inspectorate and that of the UIS institutions – to the component units of the territorial bodies.

Moreover, the respective prosecutors supervise the law compliance by personnel of punishment execution institutions and bodies as well as pre-trial centres in the subjects of the Russian Federation.

As to informing persons suspected or accused of committing a crime about their rights, according to para.13 of the Internal Regulations of Pre-trial Centres of the Penal System of the Ministry of Justice of the Russian Federation of 12 May 2000 the suspects and accused should be provided with the information on their rights and duties, detention regime, disciplinary standards and procedure for lodging a complaint, application or proposal at their admittance to SIZOs.

The above-mentioned information can be provided either in writing or orally.

Subsequently such information is provided to suspects and accused on a regular basis through radio, during visits of personnel to cells, at personal meetings with a SIZO chief or his representatives. A SIZO library should issue copies of Federal Law FZ-103 of 15 July 1995 on the Custody of Persons Suspected and Accused of Committing a Crime and of the Internal Regulations of the Pre-trial Centres of the Penal System of the Ministry of Justice of the Russian Federation to suspects and accused upon their request for familiarization.

The information on basic rights and duties of the suspects and accused staying in SIZOs is wall posted in each SIZO cell.

In accordance with the provisions of para.2.13 of the Internal Regulations of Temporary Detention Centers of Internal Affairs for Suspects and Accused adopted by MVD Order 41dsp of 26 January 1996 (registered 31 January 1996 in the Ministry of Justice under No.1022) an officer on duty should advise suspects and accused on the IVS Internal Regulations after each personal search, interrogation or sanitation action.

Russian side's opinion on para.35 of the CPT Report:

The issues concerned are fully regulated by the Code of Criminal Procedure of the Russian Federation of 18 December 2001 (Federal Law 174-FZ).

Russian side's opinion on para.36 of the CPT Report:

No comment.

Russian side's opinion on para.37 of the CPT Report:

No comment.

Russian side's opinion on para.38 of the CPT Report:

No comment.

Russian side's opinion on para.39 of the CPT Report:

No comment.

Russian side's opinion on para.40 of the CPT Report:

No comment.

Russian side's opinion on para.41 of the CPT Report:

The persons admitted to the pre-trial centres of the Ministry of Justice which fall under the category of detention establishments should be registered in accordance with the provisions of Ministry's Order 148-dsp of 18 May 2001 on the Adoption of the Instruction on Functioning of Special Record Keeping Divisions (Units) of the Pre-trial Centres and Prisons of the Penal System of the Ministry of Justice of the Russian Federation.

The CPT's delegation did not discover any infringement of the procedure of registration of the persons suspected or accused of committing a crime established by the above-mentioned Order.

Russian side's opinion on para.42 of the CPT Report:

No comment.

Russian side's opinion on para.43 of the CPT Report:

No comment.

**B. Establishments under the authority of the Ministry of Justice of the Russian Federation**

**1. Preliminary remarks**

Russian side's opinion on para.44 of the CPT Report:

To advise all UIS personnel on the CPT's recommendations the article entitled *The Recommendations of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment to the Russian Federation* which included the extracts from the revised report to the Russian Federation prepared by the CPT on the outcome of its visit to the Russian Federation from 2 to 17 December 2001 was published in the Penal System Bulletin No.8 and *Crime and Punishment* magazine No.12 (special issue) in 2002.

Moreover, the GUIN of the Ministry of Justice issued its directive 18/1/4-97 of 9 December 2002 for the chiefs of the UIS territorial bodies concerning the implementation of the CPT's recommendations and distributed the text of the CPT report to the Russian Government on the CPT's visit to the Russian Federation from 2 to 17 December 2001 among them.

Russian side's opinion on para.45 of the CPT Report:

The practice of detention as a measure of restraint has been cut down considerably due to the adoption of a new Code of Criminal Procedure (CCP) of the Russian Federation on 18 December 2001 (Federal Law 174-FZ) which entered into force 1 July 2002. Today this measure is applied mainly to persons who committed grave offence or felony. The remand prison population decreased by 43,500 in the first four months of 2002 alone, i.e. after the entry into force of the new CCP. In general, the total population of the establishments of the Directorate for Execution of Punishments has decreased by more than 200,000 and that of pre-trial centres – by 138,000 in two and a half years as a result of the governmental measures to humanize the penal policy and the punishment execution system and of the adoption of new federal laws.

This development has been instrumental in improving the living conditions in UIS institutions and implementing the rights of the citizens deprived of their liberty in a more effective way.

Moreover, a special Federal Programme on the "Reform of the penal system of the Ministry of Justice in the years 2002-2006" adopted by Governmental Resolution 636 of 29 August 2001 provides for the final solution of the issue of the improvement of accommodation for suspects and accused as well as the creation of additional working places for convicted prisoners.

The implementation of its Subprogramme on "Construction and reconstruction of pre-trial centres and prisons and construction of accommodation for the personnel of such establishments in the years of 2002-2006" will enable the penal system to construct 37 new SIZOs and prisons and to reconstruct 97 existing ones for 46,000 places to ensure the compliance of occupancy rates to the applicable sanitary standards.

This Subprogramme is a follow-up of the similar MVD Programme on "Construction and reconstruction of pre-trial centres and prisons and construction of accommodation for the personnel of such establishments in the period up to 2000" adopted by Governmental Resolution 1231 of 3 November 1994, the implementation of which had been hindered by lack of budgetary provisions.

The implementation of the other Subprogramme on "Reform of the production sector of the penal system and improvement of gainful employment among inmates in the years 2002-2006" will enable to ensure sustainable functioning of the penal system production sector in the market environment, to gainfully employ extra 40,000 inmates, to increase the production output by 5-7 per cent a year, to increase the system's internal consumption up to 35-37 per cent of its production output, to ensure self production of foodstuffs, clothing and construction materials to meet its needs, to relieve pressure on the budget by receiving an extra income in the amount of 300 million rubles owing to the gainful employment of extra number of inmates and by partially offsetting the expenses on inmates in the amount of 700 million rubles a year.

Russian side's opinion on para.46 of the CPT Report:

No comment.

## **2. Torture and other forms of ill-treatment**

Russian side's opinion on para.47 of the CPT Report:

In accordance with the provisions of Article 12 (Basic rights of the convicted) of the Penal Enforcement Code of 8 January 1997 (Federal Law 1-FZ) the convicted prisoners have a right to be treated politely by the personnel of a punishment execution institution. They should not be subject to ill-treatment or degrading treatment. Law strictly regulates the use of the measures of restraint against inmates.

According to Article 17 (Rights of suspected and accused persons) of Federal Law FZ-103 of 15 July 1995 on the Custody of Persons Suspected and Accused of Committing a Crime suspects and accused also have a right to be treated politely by the personnel of a detention center.

Today the design features and uniform requirements make it impossible for the personnel of pre-trial centres and correctional institutions to carry truncheons in an inconspicuous manner.

Moreover, Law 5473-1 of 21 July 1993 on Establishments and Bodies Executing Penal Punishments in the Form of Deprivation of Liberty and Federal Law FZ-103 of 15 July 1995 on Custody of Persons Suspected and Accused of Committing a Crime which regulate the use of physical strength, special means or weapon in correctional institutions and pre-trial centres do not provide any restrictions on carrying special means or weapon.

As a result, para.1.8 of the Ministry's Order 83 of 7 March 2000 on "Adoption of the Instruction on supervision over convicted prisoners in correctional institutions" does not provide for carrying special means in an inconspicuous manner. The same applies to carrying special means in pre-trial centres.

However, Y.Kalinin, the Deputy Minister of Justice, issued directives 18/6/2-621t of 25 November 2002 and 18/5/4-145 of 6 December 2002 on rules of carrying special means to ensure full implementation of the CPT recommendations in all UIS institutions.

Since then continuous carrying of such special means as rubber truncheons is allowed to UIS officers on duty only when they execute their official duties in lockable premises of SIZOs, cell-type units (PKT) and joint cell-type units (EPKT) or when a special or prison regime is introduced (in which case a rubber truncheon should be covered and clipped to a waist belt) as well as in case of aggravation of a situation in the establishment or pursuant to a decision of the establishment's chief with a subsequent report to the chief of a respective UIS territorial body.

Russian side's opinion on para.48 of the CPT Report:

See Russian side's opinion on para.47 of the CPT Report.

The Ministry's UIN for Khabarovskiy krai has developed and forwarded to all correctional institutions and pre-trial centres the instruction pamphlet on searches reflecting search practice and procedures and rules of polite treatment of inmates. Each time before a tour of duty officers are briefed accordingly.

Russian Side's opinion on para. No. 49 of the CPT Report:

The use of physical force, special means and arms in penitentiary establishments and SIZO is fully regulated by the Russian Federation's laws.

In accordance with Article 30 of the Law of the Russian Federation of 21.07.1993 No. 5473-1 on Establishments and Bodies Executing Criminal Sentences in the Form of Deprivation of Liberty, officers of the penal system use special means in the following cases:

- 1) to repel an assault against officers of the penal system, sentenced, imprisoned and other persons (in the version of the Federal Law of 21.07.1998, No. 117-FZ);
- 2) to suppress mass riots, group violations of public order by sentenced and imprisoned persons as well as to apprehend offenders showing malicious disobedience or resistance to the personnel (in the version of the Federal Law of 21.07.1998, No. 117-FZ).
- 3) to free hostages, seized buildings, facilities, premises or transportation vehicles;
- 4) to convoy and guard the sentenced and imprisoned persons when their conduct suggests that they could escape from prison or inflict injury to those around them or themselves;
- 5) to apprehend and return the sentenced or imprisoned persons escaped from custody or penal facility.

The following special means can be used:

- rubber truncheons - in cases provided for by paras 1 and 2 of this Article;
- handcuffs - in cases provided for by paras 2 and 4 of this Article. In the absence of handcuffs officers of the penal system have the right to use improvised means of tying;
- light and sound means of distraction - in cases provided for by paras 1 to 3 and 5 of this Article;

- means of destruction of barriers - in cases provided for by paras 3 and 5 of this Article;
- water-jets and armed vehicles - in cases provided for by paras 2, 3 and 5 of this Article and this exclusively by order of the head or deputy head of the penal facility and SIZO with subsequent notification of a prosecutor within 24 hours from the moment of their use;
- patrol dogs - in cases provided for by paras 1 to 3 and 5 of this Article.

Gas weapon can be used in cases provided for by paras. 1 to 3 and 5 of this Article.

Types of special means and gas weapon, as well as the degree of their use are determined by the prevailing situation, nature of offence and the personality of the offender. Use of special means and gas weapon should bring minimum harm to the sentenced, imprisoned and other persons.

It is prohibited to use special means and gas weapon against women with visible signs of pregnancy, persons with evident signs of disability and juveniles when their age is evident or known except for cases when they offer armed resistance, commit group or other assault threatening life and health of population as well as in cases when innocent persons could suffer from the use of such means.

In accordance with Article 45 of the Federal Law of 15.07.1995, No. FZ-103 on the Custody of Persons Suspected and Accused of Committing a Crime, special means in detention centers can be used in the following cases:

- 1) to repel an assault by a suspected or accused person against officers of detention centers or other persons;
- 2) to suppress mass riots or group violations of the established detention regime;
- 3) to suppress unlawful actions by a suspected or accused person disobeying lawful demands by officers of detention centers or other officers of facilities and bodies of the penal system as well as of bodies if the interior involved in maintaining law and order (in accordance with the Federal Law of 21.07.1998, No. 117-FZ).
- 4) to free hostages, seized buildings, premises, facilities and transportation vehicles;
- 5) to suppress attempts by a suspected or accused person to escape from the detention center or convoy;
- 6) to suppress attempts by a suspected or accused person to inflict injuries to those around him;
- 7) to suppress attempts by a suspected or accused person to inflict self-injury.

The following special means can be used:

- rubber truncheons - in cases provided for by paras 1-6, Part 1 of this Article;
- handcuffs - in cases provided for by paras 3, 5 to 7, Part 1 of this Article; in the absence of handcuffs officers of detention centers have the right to use improvised means of tying;
- light and sound means of distraction in cases provided for by paras 1 to 4, 6, Part 1 of this Article;
- means of destruction of barriers - in cases provided for by para. 4, Part 1 of this Article;
- water-jets and armored vehicles - in cases provided for by paras 2 and 4, Part 1 of this Article;
- patrol dogs - in cases provided for by paras 1 to 6, Part 1 of this Article.

At the same time the Russian Federation is of the opinion that the procedure of the use of physical force, special means and weapons should be established exclusively by federal laws. We believe that the regulation of the procedure of the use of physical force, special means and weapons by departmental instructions, as proposed by the CPT, is inadmissible.

However the procedure of registration of each particular case of the use of physical force, special means and weapons is regulated by departmental instructions. In addition to the registration, a head of a penal facility should investigate every such case and the findings of this investigation must be approved by an appropriate act.

As for investigatory isolation wards and prisons, this practice is regulated by Chapter XXI "Security measures, grounds for and rules of the use of physical force, special means, gas weapon and fire-arms" of the Instruction for performing the duties in pre-trial centers and prisons of the penal system of the Ministry of Justice of the Russian Federation approved by the order of the Minister of Justice of the Russian Federation of 30.07.2001, No. 225 (confidential).

Similar requirements are provided for by the Instruction for supervision of the sentenced persons detained in correction facilities which was approved by order of Russian Minister of Justice of 07.03.2000, No. 83.

If necessary the lawfulness of the use of physical force, special means and arms is verified by public prosecutor's offices.

Penal system officers committing unlawful actions are punishable in accordance with laws.

Moreover in order to ensure that all penal system facilities take into account this CPT's recommendation to the fullest extent Yu.I.Kalinin, the Deputy Minister of Justice of the Russian Federation, issued orders of 25.11.2002, No.18/6/2-621 T and of 06.12.2002, No. 18/5/4-145 on rules of carrying special means.

Since then only orderly personnel of penal system facilities are allowed to carry permanently such special means as "rubber truncheon" when performing their duties in lock-up SIZO, PKT, EPKT, as well as on a special or prison regime (the rubber truncheon should be covered in special fastenings attached to belts) and in case of a complicated operational situation within a facility, by order of a head of a facility with subsequent reporting to a head of a penal system territorial body.

### **3. SIZO No.1 in Vladivostok**

Russian Side's opinion on para. 50 of the CPT Report:

See Russian Side's opinion on para. 51 of the CPT Report.

#### **a. Material Conditions**

Russian Side's opinion on para. 51 of the CPT Report:

By November 27, 2002, pre-trial center No. 1 of GUIN of Russia's Ministry of Justice for Primorie (SIZO-1) have been holding 1666 inmates with a maximum capacity of 1570. Since December 2001, a number of prisoners in SIZO-1 have reduced by 39 per cent. This is primarily connected with the coming into force on July 1, 2002, of a new Code of Criminal Procedure of the Russian Federation which substantially changed the procedure of detention of persons suspected of crimes. As a result of efforts that have been undertaken, at present living space per suspected, accused or sentenced person detained in SIZO-1 is 3.8 m<sup>2</sup>.

Measures have been taken to bring the conditions of detention in conformity with the provisions of article 23 of the Federal Law of 15.07.1995, No. FZ-103 on the Custody of Persons Suspected and Accused of Committing a Crime.

All inmates in SIZO-1 are provided with individual beds.

A cosmetic renovation of cells have been carried out. Metal blinds of the windows are being removed. Cells of a mixed unit have been equipped with additional benches and heaters.

Windows in the quarantine unit have been glazed. The ventilators have been installed in cells where juveniles and women are accommodated. The temperature regime and level of lighting in cells have been brought in conformity with the established norms.

Those suspected or accused have been provided with hygienic means and equipment for cleaning cells in accordance with the established norms.

Suspected or accused persons can launder their belongings according to their wish on a centralized basis at a bath-and-laundering facility of SIZO.

In order to ensure the departmental supervision of compliance with the sanitary requirements of detention of suspected, accused and sentenced persons an internal sanitary and epidemiological supervision service has been established at the penal facilities of the Ministry of Justice of the Russian Federation.

In pursuance of the Law of the Russian Federation on Sanitary and Epidemiological Well-Being of Population, resolution by the Government of the Russian Federation of 24.07.2000, No. 554, on approval of a Statute of the State Sanitary and Epidemiological Service of the Russian Federation and a Statute of the State Sanitary and Epidemiological Regulation and of order of Russia's Ministry of Health of 17.07.2002, No. 228, on the Procedure of Control Measures in the Process of the State Sanitary and Epidemiological Supervision, activities of the above mentioned service are regulated by orders of Russia's Ministry of Justice of 17.07.2001, No. 218, on approval of the Statute of Rules of Implementation of the State Sanitary and Epidemiological Supervision over Penal System Facilities of the Ministry of Justice of the Russian Federation, and of 10.09.2002, No. 241, on Introduction of Amendments and Additions to Normative Acts of the Ministry of Justice of the Russian Federation concerning sanitary and epidemiological well-being of the population in accordance with the Code of the Russian Federation of Administrative Violations of 30.12.2001, No. 195-FZ.

In order to strengthen measures related to sanitary and epidemiological supervision at the penal system facilities an Instruction of Yu.I.Kalinin, deputy Minister of Justice of the Russian Federation, of 02.12.2002, No. 18/11296-YuK, was sent to heads of UIS units.

Russian side's opinion on para. 52 of the CPT Report:

Detained persons are evenly distributed in cells in accordance with Article 33 of the Federal Law of 21.07.1998, No. 117-FZ, on Custody of Persons Suspected and Accused of Committing a Crime on the basis of separate accommodation of different categories of the suspected and accused.

Cosmetic renovations of cells is being carried out on a step-by-step basis subject to the availability of appropriate budget allocations.

In accordance with Article 23 "Material conditions" of the Federal Law of 15.07.1995, No. FZ-103, on the Custody of Persons Suspected and Accused of Committing a Crime material conditions meeting hygienic, sanitary and fire prevention requirements are ensured. The suspected and accused persons are provided with individual beds, bedding, dishes and covers.

All cells are equipped with radio. Prisoners receive books and periodicals from the detention center library or acquired by its administration through trade shops, as well as table games. A sanitary norm of living space is 4 m<sup>2</sup> per inmate. However cells are equipped with TV-sets, refrigerators and ventilators subject to financial resources available to the detention center.

In the absence of such resources cells can be equipped with TV-sets, refrigerators and ventilators received as voluntary donations or belonging to inmates.

Russian side's opinion on para. 53 of the CPT Report:

Measures have been taken for the timely transfer of the sentenced persons from SIZO to correction facilities. By November 27, 2002, SIZO-1 have not accommodated sentenced persons detained for more than ten days after the sentence becomes legally effective.

As a result of improved interaction with judicial bodies a number persons awaiting appearance at courts for more than six months more than halved to 53 persons. The SIZO-1 does not hold defendants awaiting trial for more than 9 months.

Russian side's opinion on para. 54 of the CPT Report:

See the Russian side's opinion on para. 51 of the CPT Report.

Russian side's opinion on para. 55 of the CPT Report:

See the Russian side's opinion on para. 51 of the CPT Report.

Russian side's opinion on para. 56 of the CPT Report:

In accordance with requirements of such common international standards as United Nations Rules for the Protection of Juveniles Deprived of their Liberty (adopted on 14.12.1990 by Resolution 45/113 of the UN General Assembly), United Nations Guidelines for the Prevention of juvenile Delinquency (The Riyadh Guidelines, adopted on 14.12.1990 by Resolution 45/112 at the 68th plenary meeting of the UN General Assembly), Minimal Standard Rules of the United Nation Organization on the Administration of Justice Regarding Juveniles (Beijing Rules, adopted on 29.11.1985 by Resolution 40/33 at the 96th plenary meeting of the UN General Assembly) conditions of detention of juveniles must radically differ from detention conditions for adults.

Moreover, different detention conditions for women are provided by Resolution 48/104 of the UN General Assembly, Declaration on the Elimination of Violence against Women (adopted on 20.12.1993) and Resolution 52/86 of the United Nations Organization, Measures in the Field of Crime Prevention and Criminal Justice for Elimination of Violence against Women (adopted on 12.12.1997 together with Modal Strategies and Practical Measures on Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice).

In accordance with the provisions of Article 31, Special Conditions for Detention of Juveniles, the Federal Law of 15.07.1995, No. FZ-103, on the Custody of Persons Suspected and Accused of Committing a Crime, suspected and accused juvenile persons should be provided with better living conditions and better food allowances being established by the Government of the Russian Federation.

Article 30, Special Conditions of Detention of Women, states that pregnant women in custody and women with children in custody must be provided with better living conditions, special medical treatment and better food and clothe allowances being established by the Government of the Russian Federation.

Article 99, Living Conditions for Persons Sentenced to Imprisonment, of the Penal Enforcement Code of the Russian Federation of 08.01.1997, No. 1-FZ states that sentenced pregnant women, sentenced nursing mothers, sentenced juveniles, and ill sentenced persons, as well as disabled persons of the first or the second grade of disability should be provided with better living conditions and better food allowances.

Response of the Russian Side to CPT comment No. 57:

See response of the Russian Side to CPT comment No.51.

In accordance with the provisions of Chapter V, Living Conditions for Suspected and Accused, of the Internal Rules for Investigatory Isolation Wards of Penal Enforcement System of the Ministry of Justice of the Russian Federation adopted by Decree No. 148 of 12.05.2000 of the Ministry of Justice of Russia, suspected and accused persons must be provided with individual bed linen: two bed sheets, pillow-case. This stuff should be provided free of charge for short time use during detention period.

Prisoners in cells are provided with laundry soap for joint use in accordance with established norms and number of prisoners in a cell. Women with children are provided with necessary facilities to take care for their children.

SIZO cells are provided with basins for hygienic purposes and for laundry.

If a cell is not equipped with water-heating systems or is not supplied with hot water hot water for laundry and hygienic purposes and boiled water for drinking are supplied daily in due time in accordance with current needs.

Not less than once a week both suspected and accused persons are provided with a possibility to have shower for not less than 15 minutes. Bed linen is changed every week after taking a shower.

In accordance with article 22, Meals, Purchase of Foodstuff and Living Essentials, of Federal Law of 15.07.1995, No. FZ-103 On Detention of Persons Suspected and Accused of a Crime, both suspected and accused persons have the right to purchase foodstuff, living essentials and other consumer goods.

Response of the Russian Side to CPT comment No. 58:

Due to a large number of suspected and accused persons through detained in investigatory wards law enforcement bodies believe that practice of using single-seated cells should continue.

In accordance with para.14 of the Internal Rules for Investigatory Wards of the Penal Enforcement system of the Ministry of Justice of the Russian Federation adopted by Decree of the Ministry of Justice of the Russian Federation of 12.05.2000, No. 148, in consultation with the General Office of Public Prosecutor (registered by the Ministry of Justice of Russia on 31.05.2000, No. 2243) both suspected and accused must be kept for not more than two hours in single-seated cells with benches and lighting in order to process their registry documents.

In this case administration of an investigatory ward should be responsible for keeping due time of detention in such cells.

Technical dimensions for such cells are regulated by Decree of the Ministry of Justice No. 161 of 28.05.2001, On establishing norms for Engineering of Investigatory Wards and Prisons of the Ministry of Justice of the Russian Federation (SP 15-01, the Ministry of Justice of Russia).

Response of the Russian side to CPT comment No. 59:

Possibility, but not necessity to fix shutters to cell windows is established by Decree No. 60 of the Ministry of Justice of Russia of 01.04.1999, On Approval of the Guidelines on Installation of Protection and Surveillance Facilities in Establishments of Penal Enforcement System of the Ministry of Justice of the Russian Federation, (in accordance with its para. 1.1.4.3 shutters relate to engineering facilities for protection and surveillance from among facilities and installations in special (regime) buildings and premises; para 2.1.4.10 windows of PKT, SHIZO, punishment cells, IMN cells and, if necessary, windows in other premises of regime buildings must be equipped with shutters from outside. Decree No. 161 of 28.05.2001, On Approval of Norms for Engineering of Investigatory Cells and Prisons of the Ministry of Justice of Russia, (para 8.90 (SP 15-01) of the Ministry of Justice of Russia) states that during reconstruction of SHIZO and prisons, when it is impossible to prevent visual and other connection between cells in one building, cell premises of nearby buildings, cell premises and territory adjacent to regime and economy zones by means of engineering and planning and technological decisions windows of cells may be fitted with white shutters from outside).

At present time in order to remove technical restrictions on natural lighting and fresh air in all investigatory wards of UIS of the Ministry of Justice of Russia. Deputy Minister of Justice of the Russian Federation, Y.I. Kalinin, sent instruction to heads of territorial organs of UIS of 25.11.2002, No. 18/6/2-617t, on removal of all shutters and installation of protection bars.

Response of the Russian Side to CPT comment No. 60:

See response of the Russian Side to CPT comment No. 51.

b. Exercises

Response of the Russian Side to CPT comment No. 61:

In compliance with the provisions of article 23 of Federal Law of 15.07.1995, No. FZ-103, On Detention of Persons Suspected and Accused of a Crime, all cells must be equipped with radio broadcasting devices, and, if possible, with television sets, refrigerators and ventilation facilities. Cells are provided with literature and the periodical press which are borrowed from the prison library or purchased by the prison administration, as well as table games.

The budget of the Russian Federation doesn't provide necessary resources for regular updating of library books of investigatory and correction establishments. Therefore SIZO-1 is not able to purchase with necessary literature. However UIS establishments have the right to seek support of charity organizations for this purpose.

In accordance with the provisions of para. 44 of the Internal Rules of Investigatory Establishments of the Penal Enforcement System of the Ministry of Justice of the Russian Federation, approved by Decree No. 148 of 12.05.2000 of the Ministry of Justice of Russia SIZO must be equipped with radio sets for broadcasting of a nation-wide radio programme.

Response of the Russian Side to CPT comment No. 62:

In accordance with the provisions of article 31, Special Conditions for Juveniles Persons Detention, Federal Law of 15.07.1995, No. FZ-103, On Detention of Persons Suspected and Accused of a Crime, suspected and accused persons from among juveniles are allowed to purchase and receive text-books and writing materials, as well as to receive them in parcels on top of the standards established by legislation.

Moreover, in accordance with the List of foodstuff, living essentials, clothes and other goods which suspected and accused persons may have, store, receive in parcels and purchase under clearing conditions (Decree of the Ministry of Justice of Russia of 21.02.2002, No. 55) suspected and accused persons may have and store fiction and other literature as well as periodical press borrowed from the SIZO library or purchased by the administration.

Response of the Russian Side to CPT comment No. 63:

In accordance with provision of article 17, of Federal Law of 15.07.1995, No. FZ-103, On Detention of Persons Suspected and Accused of a Crime, both suspected and accused persons shall have the right to everyday outside walk for not less than one hour.

Moreover, suspected and accused from among juvenile persons enjoy certain benefits which are not provided for adults.

Article 31 of the said Law, Special Conditions for Detention of Juvenile Persons, states that everyday walks of suspected and accused from among juvenile persons must be not less than two hours long. During their walks juveniles are allowed to practice physical exercises and sport games.

If conditions so permit, movies, TV programmes, sport games and other recreation activities including those in the open air are organized for suspected and accused persons from among juveniles.

Response of the Russian Side to CPT comment No. 64:

See response of the Russian Side to CPT comment No. 51.

Existing legislation of the Russian Federation doesn't provide for access to sport rooms for adult persons suspected and accused of a crime.

Moreover, the said comment is in contradiction with the principle of isolation of suspected and accused persons from each other and therefore is in contradiction with the provisions of article 15, Regime of Detention, Federal Law of 15.07.1995, No. FZ-103, On Detention of Person Suspected and Accused of a Crime, which states that regime of detention in prisons must guarantee observance of human rights of those suspected and accused, provide for realization of their obligations, their isolation, as well as implementation of tasks laid down by the Criminal Proceedings Code of the Russian Federation.

The responsibilities on the regime observance are assigned to the administration and also to employees of detention establishments which bear the statutory responsibilities for inadequate fulfillment or unfulfillment of their official duties.

#### **4. Colony No. 8 in the village of Start**

##### Response of the Russian Side to CPT comment No. 65:

General regime Colony No. 8 in the village of Start has been reorganized into a Colony of a strict regime (for adult men). The block for convicted persons from among drug abuses is closed. As of 09.12.2002 there were 620 inmates in the Colony with standard accommodation of 15150 persons. The standard of an accommodation per one inmate meets the requirement of para. 1, article 99, Living Conditions of Inmates, of Penal Enforcement Code of the Russian Federation, 08.01.1997 No. 1-FZ (in colonies such standard cannot be less than two square metres).

##### Response of the Russian Side to CPT comment No. 66:

See response of the Russian Side to CPT comment No. 65.

For providing adequate temperature regime in dormitories in Colony No. 8 an additional steam-boiler was installed in 2002. In squads and in the dining facility the repair of roof and major repair of the central bathroom and laundry were conducted. In SIZO and PKT cells the replacement of the electrical equipment and the finishing works were conducted. According to monitoring measurements the lighting intensity in the cells meets the sanitary and hygienic standards.

##### a. Material conditions

##### Response of the Russian Side to CPT comment No. 67:

A repair of sewerage systems was conducted by the administration of Colony No.8. In this Colony the following works were conducted: major repairs of the central bathroom, repair of roof, floor and walls were covered by glaze bricks, 10 shower heads were installed, doors and window-frames were changed, the central bathroom and laundry facilities were repaired.

In accordance with article 99, Living Conditions for Inmates, Penal Enforcement Code of the Russian Federation, of 08.01.1997, No. 1-FZ, the inmates are provided with clothes according to a season and taking into consideration the gender and climate conditions.

The minimal standards for living conditions of inmates are established by the Government of the Russian Federation. The standards of clothes supplies for inmates are established by the Ministry of Justice of the Russian Federation. The inmates who don't work for various reasons and the inmates who don't get pensions are provided with foodstuff and living essentials from the Government budget (Federal Law of 21.07.1998, No. 117-FZ).

The inmates who receive salary and the inmates who receive pensions should reimburse food costs, clothes costs and costs for communal-general services except the costs of special foodstuff and special clothes. In case of inmates who evade from work the said costs are retained from resources available on their personal accounts. The reimbursement of foodstuff costs, clothes costs and communal-general services costs is conducted on monthly basis in accordance with actual costs for the current month.

Convicted persons may purchase clothes at their own expenses, clothes which are allowed for use in correction establishments including sport clothes and cover additional medical, preventive and other services established by the Internal Rules for correction establishments.

Response of the Russian Side to CPT comment No. 68:

Food intake for convicted, suspected and accused persons is organized in accordance with Decrees of the Government of the Russian Federation of 01.12.1992, No. 935, 20.06.1994, No. 409, and 08.07.1997, No. 833.

The Government of the Russian Federation has established the following standards for daily nutrition:

- minimal (basic standard);
- for persons in investigatory wards;
- for persons evading work, placed in disciplinary cells, placed in cells, or solitary confinement cells; for inmates in correction colonies;
- three standards for ill persons, for persons under the treatment in medical establishments and medical units of correctional colonies, prisons and investigatory wards, as well as for pregnant women and women with children.

Higher standards of food intake are provided for the convicted persons who are engaged in hard works, specially hard works, hazardous and extremely hazardous works, as well as for juveniles suspected and accused of a crime, convicted pregnant women and women with children.

For example, inmates who are detained in correctional establishments should be provided with fresh and dried fruits, juice, confectionery, coffee, cocoa, sausages, five kinds of milk products and eggs on top of regular foodstuff established by minimal norms.

These norms have been developed jointly by NII of Nutrition of the Russian Academy of Sciences with due regard as to detention conditions of suspected and accused persons, their age, their health condition and some other factors and completely meet their physical requirements.

During the current year the volume of the budget financing of the penal enforcement system has been considerably increased. Financial resources for meals for one inmate are provided from federal budget and amount to 24 rubles per day per person.

Budget deficit is being compensated by production produced by subsidiary plots and agricultural establishments of the penal enforcement system. For the past eleven months of the current year food production for inmates has amounted to 745 mln. rubles.

Russian side's opinion on para. 69 of the CPT Report:

Male correctional facilities of Khabarovsk Territory provide the actual living space of 2.0 m<sup>2</sup> per prisoner, with a standard of 2 m<sup>2</sup> and an average national norm of 2.38 m<sup>2</sup>. Female facilities of the Territory provide 3.0 m<sup>2</sup> per prisoner, with a standard of 3.0 m<sup>2</sup> and an average national norm of 3.42 m<sup>2</sup>.

In 2002, based on a current funding level, an appropriation of 2,275 thousand rubles was made for the overhaul of UIS facilities in Khabarovsk Territory, including the sum of 1,970 thousand rubles for the accommodation, support and storage facilities. Actual allocations amount to 7,875 thousand rubles (346 per cent of the annual limit), including 300,000 rubles in reserve funds and 5,605 thousand rubles transferred from the food-related budgetary line.

In order to implement the CPT recommendations, the UIN Office for Khabarovsk Territory has drawn up and approved a plan, according to which the following activities have been undertaken.

The administration of Colony No. 8 overhauled the building that housed SIZO and PKT; the work done included winterizing the roof; the installation of double doors and double glazing; merging Cells No. 18 and 19; and overhauling the heat and water supply systems of the building.

Routine maintenance works were performed at the residential block for brigades, with sanitary and toilet facilities now meeting the established standards. In addition, the sewage networks were repaired.

The activities also included overhauling the bathroom; repairing the roof; tiling the walls and the ceiling; the installation of ten shower fixtures; replacing doors and window frames; and repairing the bathroom and laundry equipment.

For comments on improving the quality and quantity of food provided to prisoners, see the Russian side's opinion on paras. 68 and 80 of the CPT Report.

In 2003, there are plans to increase the supply of clothing adapted to the season by 50 to 100 per cent through increased funding, maximizing the use of money earned by Ministry-controlled factories, as well as their own operating funds.

b. Employment

Russian side's opinion on para. 70 of the CPT Report:

The Russian Ministry of Justice UIN Office for Khabarovsk Territory has drawn up a plan of activities to increase the employment of prisoners at Colony No. 8, containing a package of measures to boost the production and widen the range of goods, set up new work stations, introduce new equipment, and sign more vendor contracts. To boost the production volume, Colony No. 8 took steps to attract investments into the production sector, which made it possible to increase the level of gainful employment from 19.23 per cent to 26.9 per cent in the first half of the year. Priority is given to the employment of prisoners who are subject to enforcement orders. The number of unemployed due to the lack of jobs decreased from 36.7 per cent to 17.6 per cent. The production of sewing goods saw a 70-percent increase, while timber extraction and processing rose by 50 per cent. Compared to the same period in 2001, total marketable output increased by 78.4 per cent within eleven months of 2002.

Russian side's opinion on para. 71 of the CPT Report:

At Colony No. 8, 240 inmates are enrolled in the vocational training school to acquire job-related skills. In addition, 87 prisoners attend the general evening school. The current law of the Russian Federation provides that each and every prisoner capable of learning should be enrolled in the above-mentioned schools.

Russian side's opinion on para. 72 of the CPT Report:

In accordance with the provision of Article 103 of the Penal Code of the Russian Federation of 8 January 1997 (No 1-Φ3), on Employment of Persons Serving Imprisonment, every prisoner is supposed to work at a place and in the way determined by the correctional facility. The latter's administration must involve prisoners in the productive labor based on their gender, age, ability to work, health and former occupation, if possible. The sentenced persons are employed either at the correctional facilities' factories, State-owned factories, or non-State businesses provided that they are adequately guarded and restrained. Prisoners may engage in self-employment as well.

Male prisoners over 60 and female prisoners over 55 as well as inmates with 1<sup>st</sup> or 2<sup>nd</sup> degree disabilities are employed on a voluntary basis, in keeping with the labor code of the Russian Federation and a law providing social welfare for the disabled. The work of minors is regulated by the Labor Code of the Russian Federation.

Persons serving their term in prison may be employed inside the prison compound only. Their productive activity, however, must not interfere with the correctional facilities' primary goal

to rehabilitate the convicts.

Russian side's opinion on para. 73 of the CPT Report:

The colony possesses a library for inmates, currently having 6,000 copies in stock. The administration strives to refresh and enrich the stock; 630 fiction and law books have been added since July 2002.

Russian side's opinion on para. 74 of the CPT Report:

No comment.

**5. Colony No. 12 for women in the village of Zaozernyi**

Russian side's opinion on para. 75 of the CPT Report:

There has been a drop in the total number of prisoners at Colony No. 12 administered by the Ministry of Justice GUIN for Khabarovsk Territory. With an official capacity of 1,207, the facility currently accommodates 977 sentenced women. The reduction of inmate population resulted in better living conditions.

a. Material conditions

Russian side's opinion on para. 76 of the CPT Report:

No comment.

Russian side's opinion on para. 77 of the CPT Report:

No comment.

Russian side's opinion on para. 78 of the CPT Report:

The administration of Colony No. 12 overhauled the heat and water supply systems in the facility. In addition, routine maintenance works were performed at the residential block for inmates.

Russian side's opinion on para. 79 of the CPT Report:

The administration of the colony installed two water purification systems yielding 2 litres of water per prisoner daily, as well as a washing machine. Routine maintenance of the bathroom was completed as well.

Russian side's opinion on para. 80 of the CPT Report:

In order to diversify and enhance the quality of food and enrich it with vitamins, as well as to optimize the chemical composition of rations, the Russian Ministry of Justice GUIN in cooperation with the Institute of Nutrition of the Russian Academy of Medical Sciences have identified and implemented measures to enrich the food supply of prisoners by adding new products such as soybean foods, corn and seaweeds.

In terms of quality, soybean products perfectly match animal protein-based foods, which are much more costly; moreover, soy foods are healthy and help prevent diseases. Their use helps to cut purchase prices, thereby releasing funds for purchasing necessary foods, and to keep prisoners healthy.

In recent years, UIS facilities were equipped with soy-processing plants. Altogether, 138 plants operated by those facilities during the last year have produced 5.2 million litres of soy milk, 1,016 tons of okara, and 155,3 tons of tofu. In addition, the Ministry of Justice GUIN

purchases raw soy protein on a yearly basis to distribute it among UIS facilities, this being an ongoing activity. Today UIS facilities produce the whole line of staple foods, with few exceptions.

Russian side's opinion on para. 81 of the CPT Report:

The administration of Colony No. 12 overhauled the heat and water supply systems in the facility, installed two water purification systems yielding 2 litres of water per prisoner daily, and a washing machine. In addition, routine maintenance works were performed at the residential block for inmates and the bathroom.

For comments on improving the quality and quantity of food provided to prisoners, see the Russian side's opinion on paras. 68 and 80 of the CPT Report.

b. Activities

Russian side's opinion on para. 82 of the CPT Report:

The factory at Colony No. 12 (ЯБ-257/12) administered by the Russian Ministry of Justice VIN Office for Khabarovsk Territory operates on a two-shift work schedule, from 8 am to 4:30 pm and from 5:30 pm to 1 am. Occasionally, there is a need to work overtime due to the nature of production process. Prisoners working overtime are granted compensatory leave, subject to applicable regulations. The factory makes sure to prevent any cases of labor law violations with regard to working hours.

Russian side's opinion on para. 83 of the CPT Report:

No comment.

Russian side's opinion on para. 84 of the CPT Report:

No comment.

Russian side's opinion on para. 85 of the CPT Report:

No comment.

Russian side's opinion on para. 86 of the CPT Report:

No comment.

Russian side's opinion on para. 87 of the CPT Report:

The current Guidelines on the Health Care for Inmates of Detention and Correctional Facilities Administered by the Ministry of Interior Affairs of the USSR, issued by virtue of Ministerial Decree No. 285 of 17 November 1989, provide in their para. 9.10 that obstetric services to pregnant female inmates of detention facilities should be provided in maternity homes run by the Ministry of Health.

Maternity units are also being set up at those female correctional facilities which have their own childcare centers; moreover, they are integrated into existing medical units or set up at correctional facility hospitals as separate units.

The List of Health Establishments of the Penal System Administered by the Ministry of Justice of the Russian Federation, issued by virtue of Joint Ministerial Decree No. 310/241 of 9 August 2001 by the Ministries of Health and Justice, provides for setting up childcare centers, maternity units and milk-dispensing stations within UIS maternity and childcare establishments.

As for the members of the colony's staff present in the city hospital's delivery room, the Security Guidelines for the Correctional Facilities of the Penal System Administered by the Ministry of Justice of the Russian Federation, issued by virtue of Ministerial Decree No.236-дсп of 6 August 1999, provide in their para. 14.2 for the formation of temporary guard details to escort sick prisoners in case of emergency and to guard them while in a civilian health establishment.

Paras. 19.33 and 19.34 of the above Guidelines provide that sick prisoners should be escorted to health establishments on an exceptional basis, unless there is another way of rendering them necessary services. Temporary details are formed to escort prisoners and to guard them while in a health establishment. Prisoners admitted to health establishments run by the Ministry of Health are supervised by a group of junior superintendents assigned by the security division of the establishment concerned. Guarding and supervision services are provided in coordination with the administration of the health establishment.

Russian side's opinion on para. 88 of the CPT Report:

Nursing mothers are allowed to regularly visit their babies and breastfeed them. Their access to the colony's childcare center is restricted only at times when the latter is quarantined.

Russian side's opinion on para. 89 of the CPT Report:

No comment.

**6. Medical-correctional establishment (LIU) No 23 for drug addicts, Ussuryisk**

Russian side's opinion on para. 90 of the CPT Report:

No comment.

a. Material conditions

Russian side's opinion on para. 91 of the CPT Report:

Recently, there has been a drop in the number of prisoners at LIU No. 23 administered by the Ministry of Justice GUIN for Primorie Territory. With an official capacity of 1,250, the facility accommodates 949 inmates. This resulted in the improvement of living conditions for prisoners.

See the Russian side's opinion on para. 93 of the CPT Report.

Russian side's opinion on para. 92 of the CPT Report:

To render measures to fight tuberculosis more effective and to prevent spreading of HIV across the Territory's facilities, a special program has been formulated, which is now under consideration by the Khabarovsk Territory government.

In 2003, there are plans to increase the supply of bedding and blankets to prisoners by 50 to 100% through increased funding, maximizing the use of money earned by Ministry-controlled factories, as well as their own operating funds.

For comments on improving the quality and quantity of food provided to prisoners, see the Russian side's opinion on paras 68 and 80 of the CPT Report.

Russian side's opinion on para. 93 of the CPT Report:

As indicated in the Penal Code of the Russian Federation (No.1-FZ) of 8 January 1997, article 99 On Physical and Social Services to Persons Serving Imprisonment, para. 1, the standard living space per prisoner at medical-correctional facilities must be no less than 3 m<sup>2</sup>.

The approved federal budget and the cost estimate for the penal system for 2002 include funds for the overhaul of UIS facilities on a nation-wide basis amounting to 350 million roubles, or 33.3 per cent of total requirements standing at 1,050 million roubles.

In 2002, based on a current funding level, an appropriation of 2,555 thousand roubles was made for the overhaul of UIS facilities in Primorie Territory, including the sum of 2,155 thousand roubles for the accommodation, support and storage facilities. Actual allocations amount to 5,055 thousand roubles (198 per cent of the annual limit), including 300,000 roubles in reserve funds and 2,200 thousand roubles transferred from the food-related budgetary line.

In order to implement the CPT recommendations, the GUIN Office for Primorie Territory has undertaken the following activities.

The administration of LIU No. 23 took steps to streamline the way prisoners are grouped into brigades. With a view to meeting the current living space standard of 3 m<sup>2</sup> per prisoner, necessary materials were prepared to decrease occupancy level from 1,250 to 850.

The medical unit's sanitary facilities have been repaired.

All prisoners were supplied with cleaning materials and bedding.

In 2003, there are plans to increase the supply of bedding and blankets to prisoners by 50 to 100 per cent through increased funding, maximizing the use of money earned by Ministry-controlled factories, as well as their own operating funds.

For comments on improving the quality and quantity of food provided to prisoners, see the Russian side's opinion on paras. 68 and 80 of the CPT Report.

b. Activities

Russian side's opinion on para. 94 of the CPT Report:

LIU No 23 administered by the Russian Ministry of Justice GUIN Office for Primorie Territory took the following steps to remedy the deficiencies identified by the CPT representatives.

During eleven months of 2002, total marketable output amounted to 11.9 million roubles, having increased by 155.2% in comparable prices since the same period in the past.

Increased production volume as well as streamlined production process gave a boost to the following indicators:

- the prisoners' average daily wage increased from 17.81 to 32.92 roubles, or by 84%;
- the number of workers meeting productivity standards rose from 65.3% to 71.3%, or by 9.2%;
- the number of piece workers falling short of productivity standards decreased from 61.7% to 56.8%, or by 7.9%.

The factory's main production activity is sewing, oriented at making clothing for prisoners, uniforms, bed linen etc. During the reporting period, the factory processed some 130 thousand running meters of cloth and utilized 151 thousand pieces of old-type military uniforms.

In 2002, the factory started producing uniforms for students of a State-owned naval university as well as the whole line of items needed by the special units of the Ministry of Justice penal system. Altogether, 11 new items were introduced, with a turnover of 537.7 thousand roubles.

The factory embarked on a program of retooling the sewing production in 2001-2003. To implement the program, 17 units of sewing equipment valued at 410 thousand roubles were purchased; arrangements are being made for purchasing more sewing and footwear-producing machines, making it possible to create about thirty new jobs for prisoners.

About 38% of prisoners are employed, based on the number of available jobs. In fact, building extra production facilities is beyond the capacity of the establishment's compound. Therefore, the employment policy is based on increasing the production volume and switching on the production of more labor-intensive processes.

At the vocational training school, prisoners attend courses for sewers and sewing-machine mechanics, the graduation rate being 62 people per year.

Upon the completion of a six-month long treatment, prisoners are escorted to other establishments.

The current construction of an administrative building has provided jobs for 16 inmates; in addition, 24 prisoners are engaged in improvement works for the establishment's facilities at a designated site within the colony.

Russian side's opinion on para. 95 of the CPT Report:

HIV-positive prisoners are grouped into brigades. In terms of employment, inmates belonging to this category are subject to general regulations.

The Russian side's opinion on para. 96 of the CPT Report:

See the Russian side's opinion on paras. 94 and 95 of the CPT Report.

## 7. Health care issues

The Russian side's opinion on para. 97 of the CPT Report:

No comments.

### a. Staff and facilities

The Russian side's opinion on para. 98 of the CPT Report:

No comments.

The Russian side's opinion on para. 99 of the CPT Report:

The strength of medical staff of UIS, Ministry of Justice of the Russian Federation, is set forth by provisions of the GUIN Order, Ministry of Justice of the Russian Federation, No. 41 on the Approval of model Structures and Staff of the Unites of the Penal System, Ministry of Justice of the Russian Federation of 30 March 2000.

In view of the absence of candidates to feel vacant posts of medical staff the situation in GUIN for Primorskiy Territory, Ministry of Justice of the Russian Federation, is as follows:

DOCTORS			PARAMEDICAL STAFF		
number due	actual number	shortfall	number due	actual number	shortfall
402,5	242	160,5 (40%)	652	317	335 (51%)

Staffing issues fall within the purview of senior officials of the Ministry of Justice of the Russian Federation.

The Russian side's opinion on para. 100 of the CPT Report:

Due to the fact that the normative and legal acts of the Ministry of Justice of the Russian Federation and its penal system do not stipulate the provision of prisoners with health care through such protective screens as, for example bars, the senior officials of GUIN for Primorskiy Territory, Ministry of Justice of the Russian Federation, have been instructed to eliminate the violations identified in the CPT Report.

Presently prisoners in SIZO No. 1 (Vladivostok) of GUIN for Primorskiy Territory, Ministry of Justice of the Russian Federation, undergoing medical examinations or treatment are not separated from medical personnel with iron bars.

b. Transmissible diseases

The Russian side's opinion on para. 101 of the CPT Report:

Bacteriological tests of TB prisoners are performed only by direct bacterioscopy method. A letter was sent to the Ministry of Proprietary Relations of Khabarovsk Territory requesting to provide premises for accommodation of a bacteriological laboratory. The share of fluorographic examination coverage among the inmates in Khabarovsk Territory is 96 per cent and over. In 2001 two penitentiary establishments were equipped with stationary fluorographic equipment. In November 2002 one more set of stationary fluorographic equipment was received and is planned to be installed in a special regime penitentiary establishment.

The Russian side's opinion on para. 102 of the CPT Report:

The suspects and accused are transferred from SIZO to IVS facilities for the purposes of investigation and participation in the court proceedings on the basis of a written order issued by an attorney, investigator or agency of inquiry or on the basis of a ruling of the court considering the respective criminal case. Since TB is a disease requiring a long-term treatment, elimination of the practice of transferring the suspects and accused suffering from TB to IVS for the period of the necessary treatment would lead to the frustration of the time- limits set for preliminary investigation and consideration of criminal cases in the court which the law enforcement bodies cannot tolerate in the interests of combating the crime.

The Russian side's opinion on para. 103 of the CPT Report:

Presently at all penitentiary establishments of Primorskiy Territory including at SIZO No. 1 in Vladivostok and LIU-23 in Ussuryisk, HIV-positive prisoners are accommodated on common grounds together with healthy prisoners.

The Russian side's opinion on para. 104 of the CPT Report:

The cells at SIZO No. 1 in Vladivostok were whitewashed and painted, central heating batteries were installed and benches added. Windows in the cells of the quarantine department were glazed. The temperature regime in the cells corresponds to the existing norms. 30 ventilators were installed in the cells. Artificial lighting in the cells was adjusted to correspond to the lighting standard established by SNP "Natural and Artificial Lighting" of 23 May 1995. Washing of bedding is centralized, linen is changed according to the schedule - once a week.

Exercise yards for one prisoner in LIU-23 establishments were reconstructed into a common yard; the bars separating exercise yards were dismantled.

The Russian side's opinion on para. 105 of the CPT Report:

In accordance with article 3 of Federal Law No. 25-FZ of 9 March 2001 on Changes and Amendments to the Penal Code of the Russian Federation and Other Legal Acts, HIV-positive prisoners no longer need to be held in separate medical-correctional establishments (respective amendments were made to article 101, part 2 of the Penal Code of the Russian Federation); now they are allowed to be transferred together with other categories of convicts (respective amendments were made to article 77, part 2 of Penal Code of the Russian Federation).

However in view of the fact that article 80, part 5 of the Penal Code provides for accommodation of prisoners suffering from various transmissible diseases separately from healthy ones, HIV-positive prisoners are held in separate cells and teams (sites) and consequently are taken for out-door exercise also separately. A similar provision concerning persons suspected of and accused of committing a crime is set forth in article 33 of Federal Law No. 103-FZ of 15 June 1995 on Detention of Persons Suspected and Accused of Having Committed a Crime.

Extensive health education activities aimed at preventing HIV are carried out among the staff, detainees and prisoners in Primorskiy Territory establishments. There are information materials for the staff and pamphlets for inmates.

In 2002 the Territorial center for preventing and combating AIDS undertook jointly with the public youth organization "Life" an assessment of the risky behaviour among minors held in penitentiary establishments. The results of this assessment were used to prepare pamphlets for minors.

The Medical department interacts with the non-governmental public organization "Doctors without frontiers". Pamphlets, booklets and videomaterials on the subject has been received.

Medical personnel responsible for work with HIV-positive prisoners has received relevant training at the Territorial center for preventing and combating AIDS and the Vladivostok State medical university - on HIV infection.

The Territorial center for preventing HIV infection has provided medical staff of the establishments with antivirus preparations to be used if an incident during medical manipulations occurs.

The Russian side's opinion on para. 106 of the CPT Report:

Medical personnel of UIS closely interacts with the territorial center for preventing and combating AIDS. For the period under review 22 persons underwent special antivirus treatment. Penitentiary establishments of Khabarovsk Territory have sufficient supplies of drugs for the treatment of TB patients.

c. Psychiatric and psychological care

The Russian side's opinion on para. 107 of the CPT Report:

Presently a manual is developed for non-medical staff of UIS establishments on dealing with persons showing signs of mental disturbance. According to this manual when a convict is suspected of being mentally disturbed he should be examined by a psychologist working in the medical department of the establishment. After consultation the convict showing signs of mental disturbance is transferred, if necessary, to the mental department or hospital of UIS according to the list of regional attachment.

The Russian side's opinion on para. 108 of the CPT Report:

In order to develop these activities the Ministry of Justice of the Russian Federation issued Ordinance No. 251 of 9 June 1999 on Improvement of Legal Regulation of the Activities of UIS psychological service, Ministry of Justice of the Russian Federation" and Order No. 14 of 26 January 2000 on Improvement of the Structure and Operation of UIS psychological service, Ministry of Justice of the Russian Federation".

In pursuance of the plan of actions to implement the concept of UIS psychological service development for the period up to 2005, purpose-oriented activities have been undertaken to establish posts of psychologists in each UIS establishment (minimum 2 posts in each establishment) and their filling with qualified specialists.

d. Prisoners undergoing compulsory treatment for drug or alcohol addiction

The Russian side's opinion on para. 109 of the CPT Report:

UIS complies with the provisions of the Ministry of Justice Order No. 229 of 3 August 2001 on Approval of Instruction on Organization of Compulsory Ambulatory Treatment for alcoholism and drug addiction of convicts serving the sentence in the UIS establishments, Ministry of Justice of the Russian Federation. (Registered in the Ministry of Justice of the Russian Federation on 27 August 2001, No. 2899.)

The Russian side's opinion on para. 110 of the CPT Report:

According to the requirements of paras. 5 and 22 of the Instruction on organization of compulsory ambulatory treatment for alcoholism and drug addiction of convicts serving the sentences in UIS establishments, Ministry of Justice of the Russian Federation, endorsed by Order of the Ministry of the Russian Federation No. 299 of 3 August 2001, medical personnel should transmit after release of a convict the necessary medical documents to healthcare institutions closest to the place of residence of the person that had followed a course of treatment. Presently improvement of exchange of information on rehabilitation of such persons is being considered together with the Ministry of Health of the Russian Federation.

The Russian side's opinion on para. 111 of the CPT Report:

See the Russian side's opinion on para. 99 of the CPT Report.

For the purpose of upgrading the professional level of UIS psychiatrists and narcologists including those at LIU-23 of GUIN for Primorskiy Territory, Ministry of Justice of the Russian Federation, regular professional training and certification of doctors specializing in "psychiatry and narcology" has been organized on the basis of educational institutions of the Ministry of Health of the Russian Federation, in particular on the basis of the State Scientific Center of Social and Criminal Psychiatry after V.Serbkiy and upgrading institute of the Vladivostok State Medical University. Chief psychiatrist-narcologist of the medical unit of GUIN for Primorskiy Territory of the Ministry of Justice of the Russian Federation followed this training course in October-November 2002.

The Russian side's opinion on para. 112 of the CPT Report:

See the Russian side's opinion on para. 99 of the CPT Report:

The Russian side's opinion on para. 113 of the CPT Report:

Compulsory treatment of patients suffering from drug addiction and alcoholism is carried out according to the methodological recommendations of the Ministry of Health of the Russian Federation of which all establishments were informed by a methodological letter sent by the medical department of GUIN, Ministry of Justice of the Russian Federation, and consists of elimination of the abstinence syndrome, suppression of craving for psychoactive substances, prevention of mental disorders, rehabilitative therapy, psycho-therapeutic and psychological correction. In order to promote the efficiency of these methods implementation at the abovementioned establishments in October-November 2002 an upgrading course was taken by the chief psychiatrist-narcologist of the medical department of GUIN for Primorskiy Territory, Ministry of Justice of the Russian Federation.

Specialized psychological service has been established in the framework of UIS whose staff encourages treatment and reintegration after release.

Monitoring of persons after release is an issue that does not fall under the purview of the penal system or the CPT mandate.

## **8. Other issues of relevance to the CPT mandate**

The Russian side's opinion on para. 114 of the CPT Report:

These CPT findings are due to insufficient information about the activities of the penal system, in particular about its activities of normative and legal character.

In this connection the Russian side will continue to keep the CPT informed about the requirements of the penal legislation of the Russian Federation including measures taken by the Ministry of Justice of the Russian Federation to ensure compliance with these requirements.

Thus in accordance with the provisions of article 111 of Penal Code of the Russian Federation of 1 August 1997 No. 1-FZ concerning self-run organizations of persons sentenced to deprivation of liberty, such self-run prisoners organizations may be formed at penitentiary establishments and operate under control of these establishments administration.

Participation of prisoners in the activities of self-run prisoners organizations is encouraged and taken into account in assessing the extent of correction.

The main tasks of self-run prisoners organizations are as follows: assisting prisoners in moral, professional and physical development; promoting useful prisoners initiatives; exerting positive influence on prisoners correctional process; participating in decision-making on organization of prisoners labor, day to day life and leisure; extending assistance to penitentiary establishments administration in maintaining discipline and order, establishing healthy relations between prisoners; rendering social assistance to prisoners and their families. Self-run prisoners organizations may pursue other objectives that are not inconsistent with the objectives, procedure and conditions of serving the sentence.

Members of self-run prisoners organizations do not enjoy any additional privileges. Self-run prisoners organizations and their members cannot have the powers granted to penitentiary establishment administration. Procedure of self-run prisoners organizations establishment and activities is determined by the Ministry of Justice of the Russian Federation (Federal Law No. 117-FZ of 21 June 1998).

Penitentiary establishment collective councils may be established consisting of prisoners with a good reputation. Also, other self-run prisoners organizations may be formed at penitentiary establishments.

Self-run organizations may not be established in prisons or consist of convicts held in cell-type wards or joint cell-type wards.

The Russian side's opinion on para. 115 of the CPT Report:

The Ordinance of the government of the Russian Federation No. 922 of 12 August 1994 on approval of the ratios of custodial staff of establishments executing criminal punishments in the form of deprivation of liberty and establishments executing criminal punishments in the form of deprivation of liberty with special economic modalities, as well as that of SIZO of the Ministry of Internal Affairs of the Russian Federation, sets the ratio of custodial staff to average annual number of convicts (prisoners) as follows: at SIZO - up to 25 per cent by 2000, at ITK with all types of regime including ITK settlements - 17 per cent, at VTK - 48 per cent, at ITK with special economic modalities - 17,5 per cent).

However in view of the lack of budgetary funds these ratios are not fully met.

The Russian side's opinion on para. 116 of the CPT Report:

The penal legislation of the Russian Federation contains the necessary requirements to be met in carrying out educational work with prisoners including oral hearing in considering the circumstances of the offence, personal characteristics of the convict and his previous behavior.

According to chapter 15 concerning education of persons sentenced to deprivation of liberty of the Penal Code of the Russian Federation No. 1-FZ of 8 January 1997, education of convicts takes into account their individual features and character, as well as circumstances of crimes committed by them (para. 4, art. 109).

Article 117 concerning imposition of penalties on persons sentenced to deprivation of liberty stipulates that in imposing a penalty on a person sentenced to deprivation of liberty circumstances of offence, personality of the convict and his previous behavior should be taken into account. The penalty imposed should be commensurate with the gravity and character of the offence. A penalty should be imposed within 10 days from the date when the offence was revealed and if an investigation of the offence is conducted - from the date of its completion but no later than three months after the date when the offence was committed. The penalty is executed immediately and in exceptional cases not later than 30 days after the date of its imposition. It is forbidden to impose several penalties for the same offence.

A reprimand is administered orally or in written form while other penalties are imposed only in written form. Penalty is imposed by order of the chief of the penitentiary establishment or by its acting chief.

A disciplinary fine is only imposed for violations of the established procedure of serving the sentence listed in part one of article 116 of the Penal Code. The amount of the disciplinary fine is transferred to the federal budget.

Convicted persons are transferred to cell-type wards, joint cell-type wards and cells for solitary confinement for a certain period which should be clearly indicated.

Convicted women with babies held in a penitentiary establishment kindergarten and convicted women released from work for maternity reasons are not transferred to a disciplinary cell for solitary confinement or cell-type wards.

If during one year upon servicing a disciplinary penalty another penalty is not imposed the convict concerned he is considered to be remised of penalty.

There are relevant units in the structure of penitentiary establishment and territorial and central UIS bodies that are responsible for correctional education of convicts.

Russian side's opinion on para. 117 of the CPT Report:

The said issues have been examined by the leaders of the GUIN of the Ministry of Justice of Russia, instructions № 18/1/4-96, 97 of December 9, 2002 to eliminate such shortcomings have been sent to the chiefs of UIS territorial bodies.

In this regard we inform the CPT of the practice existing in the UIS of placing persons suspected of committing crimes in a solitary cell or a disciplinary isolation cell which we consider it unreasonable to change.

The sanction of placement in disciplinary isolation cells is imposed on the basis of articles 38, 39, 40 of the Federal Law on the Remand in Custody of Persons Suspected of and Accused of Committing Crimes for a period up to 15 days, and juvenile suspected and accused persons - for a period up to 7 days. A decision to place in a disciplinary isolation cell is taken by the chief of the place of detention considering the gravity of the offence committed by the suspected or accused person the list of which is determined by the said law.

Thus, suspected or accused persons may be placed in a solitary cell or a disciplinary isolation cell for

- Oppressing and insulting other suspected or accused persons;
- Attacking detention facilities officers or other persons;
- Disobeying legal requirements of detention facility officers or other persons or for insulting them;
- Having repeatedly violated security regulations;
- Keeping, producing and consuming alcoholic beverages and psychotropic substances;
- Keeping, producing and using other objects, substances and articles of food prohibited to keep and use;
- Participating in gambling;
- Disorderly conduct.

The sanction of placement in a disciplinary isolation cell is also imposed on the suspected or accused persons on whom two or more disciplinary sanctions have been imposed earlier.

Russian side's opinion on para. 118 of the CPT Report:

Of the cells at SIZO No. 18 and 19 of IK No. 8 one is equipped in which convicted persons are placed subject to the existing housing space norms. In the SIZO and PKT cells the window apertures have been glassed, the temperature in the cells is no lower than 18° above zero.

At LIU No. 23 the premises of the SIZO, PKT and small-size exercise yards have been reconstructed in accordance with the established standards.

The premises of the disciplinary isolation cell of SIZO No. 1 measure no more than 4 m<sup>2</sup>. Considering that the placement in the disciplinary isolation cell is solitary, the sanitary space norm in the disciplinary isolation cell meets the requirements of article 23 of Federal Law No. FZ-103 on the Remand in Custody of Persons Suspected of and Accused of Committing Crimes of July 15, 1995.

Russian side's opinion on para. 119 of the CPT Report:

See Russian side's opinion on paras. 93 and 118.

Russian side's opinion on para. 120 of the CPT Report:

Under article 13 of Penal Enforcement Code of the Russian Federation № 1-FZ of August 1, 1997 sentenced persons have the right to personal security. If necessary, the chief of the correction facility upon a sentenced person's request or on the initiative of the facility administration by consent of the sentenced person shall take a decision to transfer the convicted person to a secure place. For this purpose any premises shall be used, including those situated in the facilities of disciplinary cells, the actual state of affairs considered. In this case the legal restrictions provided for by the law for persons held in a SIZO, PKT or solitary cells shall not be extended to the convicted person.

Russian side's opinion on para. 121 of the CPT Report:

In pursuance of part 4 of article 18 of Federal Law No. FZ-103 On the Remand in Custody of Persons Suspected of and Accused of Committing Crimes of July 15, 1995, meetings of suspected or accused persons with their relatives and other persons are held under supervision of detention facility officers and in case of an attempt to pass the suspected or accused person prohibited objects, substances and food or to transfer information which could obstruct establishment of the truth on the case or facilitate committing a crime are interrupted ahead of time.

In connection with a considerable reduction in the number of persons held in custody (at SIZO No. 1 in Vladivostok by 39 per cent) caused by bringing into effect the Code of Criminal Procedure of the Russian Federation, the conditions for visiting them meet the rated capacity of investigatory isolation wards.

Therefore, it is unreasonable to make amendments or additions to article 15 of Federal Law No. FZ-103 On the Remand in Custody of Persons Suspected of and Accused of Committing Crimes of July 15, 1995, in accordance with which at investigatory isolation wards a regime is established ensuring both the observation of suspected or accused persons' rights and their isolation.

Russian side's opinion on para. 122 of the CPT Report:

See Russian side's opinion on para. 121.

Russian side's opinion on para. 123 of the CPT Report:

The facilities for short-term visits at IK №№ 8 and 12, as well as at LIU No. 123 have been brought in line with the CPT recommendations.

Russian side's opinion on para. 124 of the CPT Report:

The order of suspected and accused persons' correspondence with their relatives or other persons is regulated by the provisions of article 20 of Federal Law No. FZ-103 On the Remand in Custody of Persons Suspected of and Accused of Committing Crimes of July 15, 1995 which establish that the delivery of incoming letters addressed to a suspected and accused person shall be made, as well as his/her letters shall be posted within a three-day period from the time of receipt except for holidays and days off. These terms are established considering the need to censor correspondence. A delay in the delivery or sending letters can be caused by the need to translate correspondence into the state language of the Russian Federation, which is also determined by the said law.

In case of breaching by the administration of a correction facility or an investigatory isolation ward the terms of sending correspondence established by the law official investigation is carried out upon a complaint by the person affected, the guilty persons are brought to disciplinary responsibility.

Russian side's opinion on para. 125 of the CPT Report:

The order of lodging complaints and allegations and submitting proposals in UIS establishments is regulated as follows:

1. In pursuance article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950, as amended and supplemented of May 11, 1994. The European Court of Human Rights can accept complaints from any physical person, any NGO or any group of individuals who allege that their rights recognized in the Convention or Protocols thereto have been violated by one of the Contracting Parties. The Contracting Parties have undertaken not to impede in any way the effective implementation of that right.

Moreover, if the European Court of Human Rights learns of any fact of the personnel's of correctional or detention facilities preventing convicts, suspects or accused from complaining to the Court, it may oblige the Russian Federation to pay the persons concerned significant cash compensation.

2. Article 19 of the Federal Constitutional Law on the Commissioner for Human Rights in the Russian Federation of 26 February 1997 provides that complains addressed to the Commissioner by imprisoned or detained persons are not be examined by the administration of correctional or detention facilities, and shall be transmitted to the Commissioner within 24 hours.

3. The responsibility for exercising control with a view to ensuring that imprisoned or detained persons can freely complain to the Commissioner for Human Rights or the European Court of Human Rights lies with the assistant heads of the territorial bodies responsible for the protection of human rights in the penal system, as provided for in para. 2.1.8. of the Model job description for the post of an assistant to the head of a territorial body responsible for the protection of human rights in the penal system of the Ministry of Justice of the Russian Federation, approved by the Main Directorate for the Execution of Punishments of the Ministry of Justice of Russia on 22 February 2002.

4. In accordance with article 17, part 1, para. 7, of the Federal Law On Holding Persons Suspected or Accused of Committing Crimes in Custody (Federal Law No. 103 of 15 July 1995), such persons have the right to lodge proposals, requests or complaints, including with courts, concerning lawfulness and reasonableness of their holding in custody or concerning violations of their legitimate rights and interests.

The procedure for lodging such proposals, requests or complaints is described in article 21 of the above Law, which provides that proposals, requests or complaints by suspects or accused addressed to state authorities, local governments or public organizations should be sent through the administration of the detention facilities concerned.

Proposals, requests or complaints addressed to prosecutors, courts or other authorities entitled to exercise control over detention facilities are not subject to censorship and should be send to the addressee in sealed envelopes not later that the working day following the day of their submission. Proposals, requests or complaints addressed to other authorities, public organizations or councils for the defense are subject to review by the administration of detention facilities and should be sent as addressed within three days from the day of their submission.

Proposals, requests or complaints containing information which can obstruct the criminal process or facilitate the commission of a crimes, as well as proposals, requests or complaints which are encrypted or encoded or which contain State or other secrets protected by the law are subject to the procedure described in article 20, part 3, of the above Law (letters containing information which can obstruct the criminal process or facilitate the commission of crimes, as well as letters which are encrypted or encoded, or which contain state or other secrets protected by the law shall not be sent as addressed or returned to the suspects or accused concerned and shall be handed over to persons or authorities carrying out the relevant proceedings).

Complaints about actions or decisions by courts, persons conducting enquiries, investigators or prosecutors are transmitted in accordance with the procedure established by the Criminal Procedure Code of the Russian Federation no later than three days from the day of their submission.

Replies to proposals, requests or complaints are brought to the attention of the suspects or accused persons concerned against their signature and are placed on their personal files.

It is not permitted to prosecute in any form suspects or accused for their lodging proposals, requests or complaints in connection with violations of their rights and legitimate interests. Detention facility officers guilty of such prosecution bear responsibility in accordance with the law.

5. Chapter IX of the Internal Regulations of Detention Facilities of the Penal System of the Ministry of Justice of the Russian Federation approved by Order No. 148 of the Ministry of 12 May 2000, as amended by Decision No. 93 of the Presidium of the Supreme Court of the Russian Federation of 2 October 2002 establishes the proposals, requests and complaints procedure which provides for the following.

Members of the administration make daily visits to cells and collect proposals, requests and complaints from suspects and accused both in written and oral forms.

Proposals, requests and complaints collected in an oral form are registered and reported to a person responsible for taking actions upon them.

Proposals, requests and complaints submitted in writing and addressed to the administration of the detention facility are registered and reported to the chief of the detention facility who acts upon them. In case of a negative response, the suspect or accused concerned is given relevant explanations.

Proposals, requests and complaints addressed to Prosecutor's Offices, courts or other authorities entitled to exercise control over detention facilities are not subject to censorship and should be sent to the addressees in a sealed form not later than the working day following the day of their submission.

Complaints addressed to the Commissioner for Human Rights in the Russian Federation are not subject to any examination and should be sent to the Commissioner within 24 hours (article 19 of the Federal Constitutional Law on the Commissioner for Human Rights in the Russian Federation).

Proposals, requests and complaints addressed to other authorities, public organizations (associations) or attorneys for the defense are to be reviewed by the administration of the detention facility and should be sent to the addressees not later than three days from the day of their submission.

If a submission not related to criminal proceedings contains legitimate requests or proposals which can be addressed locally by the administration of the detention facility, it is not sent to the addressee subject to the consent of the person concerned. In that case the administration take measures to resolve issues raised in the submission and informs the author of the results of such measures.

If the administration is not competent to resolve issues raised in the submission or if the author insists on its sending to the addressee, it is sent as addressed.

In that case the administration should attach to the submission a letter (note) containing explanations with regard to the substance of issues raised, as well as information on measures taken to resolve them.

Proposals, requests or complaints containing information which can obstruct the criminal process or facilitate the commission of crimes, as well as proposals, requests or complaints which are encrusted or encoded, or which contain State or other secrets protected by the law are not sent as addressed and are handed over to persons or bodies carrying out relevant proceedings.

If a proposal, request or complaint raises issues which cannot be resolved by the addressee, that fact is explained to the person concerned. If the author still insists on its sending to the addressee, it is sent as addressed.

Postal expenses in connection with proposals, requests or complaints other than appeals or complaints addressed to Prosecutor's Offices, courts or other authorities entitled to exercise control over detention facilities, or to the Commissioner for Human Rights in the Russian Federation are paid by the senders. If the suspect or accused does not have money on his personal account, the relevant expenses, excluding expenses on cables, are paid by the detention facility.

Replies to proposals, requests or complaints, received by detention facilities are brought to the attention of persons concerned against their signature and are placed on their personal files.

6. Responsibilities of the administration of detention facilities with regard to the collection and registration of complaints from suspects or accused are described in Order No. 148 of the Ministry of Justice of the Russian Federation (Approval of the Instruction Regulating the Functioning of Special Registration Divisions (Groups) of Detention Facilities and Prisons of the Penal System of the Ministry of Justice of the Russian Federation) of 18 April 2001.

7. In accordance with article 12 of the Penal Code of the Russian Federation convicts have the right to lodge proposals, requests or complains with the administration of correctional facilities, supervising bodies, courts, Prosecutor's Offices, State authorities or local governments, public organizations or with intergovernmental bodies concerned with the protection of human rights and freedoms, provided, in the latter case, that they have exhausted all internal remedies. This rule relates only to the rights of convicts and does not allow the personnel of correctional facilities to prevent convicts from lodging complaints.

The complaint procedure is established by, article 15 of the Penal Code of the Russian Federation.

Thus, convicts can lodge proposals, requests or complaints concerning violations of their rights and legitimate interests.

The convicts can submit their proposals, claims or complaints orally or in writing. These are considered by the administration of the correctional facility or penitentiary establishment.

The proposals, claims or complaints of persons sentenced to imprisonment or capital punishment, addressed to superior administrative bodies of correctional facilities or authorities, courts or procurator offices or local government authorities, civil society associations as well as to interstate bodies for human rights and freedoms protection, are channeled through the administration of the correctional facilities or establishments.

The proposals, claims or complaints of persons sentenced to imprisonment or capital punishment, addressed to bodies controlling or supervising the correctional facility or establishment, cannot be subjected to censorship and are transferred to the competent authority within 24 hours (except for weekends or public holidays).

The proposals, claims or complaints of the convicts concerning decisions or actions of the administration of the correctional facility or establishment do not preclude the execution of such decisions or actions.

The competent authority or official to whom such proposals, claims or complaints of the convicts are addressed must consider them within the time-limit set by the law of the Russian Federation, and inform the convict of the decisions adopted.

Article 91 of the Criminal Execution Code of the Russian Federation regulates correspondence of prisoners and their receiving or dispatching money transfers.

Thus, the convicts are entitled to receive or dispatch, at their own expense, unlimited quantity of letters or cables.

The correspondence dispatched or received by the convicts is censored by the administration of the correctional facility. The convict's correspondence with the court, prosecutor office, superior penitentiary facility or the Ombudsman for human rights in the Russian Federation cannot be subjected to censorship. The convict's correspondence with his/her counsel or any other person legitimately providing legal assistance cannot be subjected to censorship other than in cases when the administration of the correctional facility has sufficient grounds to believe that the information contained in the correspondence is aimed at initiating, planning or organizing a criminal act or involving other persons in its commitment. In such cases, postal, telegraph or other correspondence is controlled in accordance with a motivated decision taken by the head or deputy head of the relevant correctional facility (part II of Federal Law No. 26-FZ dated 20 March 2001, as revised).

Correspondence between inmates of correctional facilities, who are not members of a family, is acceptable upon permission from the administration of the correctional facility.

8. Paragraph 13 of Directive No. 224 *on the Approval of the Internal Regulations of Correctional Facilities* of the Ministry of Justice of the Russian Federation of 30 July 2001 (as amended by Directive No. 191 *on the Amendments to the Internal Regulations of Correctional Facilities* of the Ministry of Justice of the Russian Federation of 8 August 2002) regulates the procedure of submitting proposals, claims or complaints by the convicts. It provides that every convict can submit his/her proposal, claim or complaint orally or in writing.

The convicted nationals of the Russian Federation have the right to correspond, submit proposals, claims or complaints in the state language of the Russian Federation, or, if they so choose, in the state language of the subject of the Russian Federation in which they serve their sentence. The convicted foreign nationals or stateless persons have the right to do so in their mother tongue or in any other language they have knowledge of and, if necessary, use the services of an interpreter. The replies are given in the language of the submission or, when it is not possible, in the state language of the Russian Federation accompanied by a translation into the language of the submission, provided by the correctional facility.

The convicted foreign nationals have the right to maintain contact with diplomatic or consular missions of their respective states in the Russian Federation, and the nationals of states which do not have diplomatic or consular missions in the Russian Federation, have the right to maintain contact with diplomatic missions of states representing their interests or with intergovernmental bodies in charge of defense of the said convicted persons.

The convicts are entitled to submit proposals, claims or complaints in their own behalf only.

All proposals, claims or complaints submitted in writing are channeled to the addressee through the administration of the correctional facility (CF). They are registered at the special registry office or at the main office of the CF.

The proposals, claims or complaints, addressed to bodies controlling or supervising the correctional facilities or establishments, are transferred to the addressee within 24 hours (except for weekends or public holidays).

The proposals, claims or complaints, addressed to other bodies or NGOs, are transferred to the addressee within 72 hours.

The original claims or complaints addressed to the courts as well as requests for a transfer to a different CF are supplied with a personal character and performance report.

The replies to the proposals, claims or complaints after their consideration are announced and delivered in hand to the convicts within 72 hours after they are given. When the claimant refuses to keep the reply in his/her own possession, it is kept in his/her personal file.

To the proposals, claims or complaints submitted in writing, the provisions of paragraph 12 of the Rules of Internal Procedure of Correctional Facilities are fully applied, which prescribe the procedure for the correspondence of the convicts.

Accordingly, the letters or telegrams can only be received or dispatched by the convicts at their own expense through the CF administration. For these purposes, every isolated unit of the CF arranges for a post office box from which the correspondence is removed on a daily basis, except for weekends or public holidays, by duly authorized officers for further dispatching.

In prisons, joint cell-type units (JCTU) or CF cell-type units, the convicts hand their letters to administration officers for further dispatching. The letters are placed in the post office boxes or handed to administration officers unsealed.

The letters addressed to a convict and received after his/her departure from the CF are forwarded to his/her new address within 72 hours.

To send a telegram, the convict fills in an established form supplied by the CF administration. The telegram is actually dispatched no later than the following day, the circumstances permitting (e.g. break down or unavailability of a vehicle when the CF is situated at a considerable distance from the Post Office, or on weekends or public holidays, etc.). The receipt for the money paid to send the telegram is kept in the convict's personal file after he/she puts signature on it.

The correspondence dispatched or received by the convicts is censored by the administration of the correctional facility. The convict's correspondence with the court, prosecutor office, superior penitentiary facility or the Ombudsman for human rights in the Russian Federation cannot be subjected to censorship. The convict's correspondence with his/her counsel or any other person legitimately providing legal assistance cannot be subjected to censorship other than in cases when the administration of the correctional facility has sufficient grounds to believe that the information contained in the correspondence is aimed at initiating, planning or organizing a criminal act or involving other persons in its commitment. In such cases, postal, telegraph or other correspondence is controlled in accordance with a motivated decision taken by the head or deputy head of the relevant correctional facility.

9. Section 5 of the Instruction on the Operation of Special Divisions (Groups) of Correctional Facilities, Re-educational Facilities and Medical Correctional Facilities, enacted through Order No. 213 of the GUIN of the Ministry of Justice of Russia dated 25 May 1999 (as amended and supplemented by Orders No. 80 dated 8 May 2001, No. 121 dated 5 May 2001, No. 67 dated 18 March 2002 and No. 174 dated 6 August 2002 of the GUIN of the Ministry of Justice of Russia) regulates the procedure of the consideration of proposals, claims or complaints submitted by the convicts.

10. The procedure of processing citizens appeals in the headquarters of the Ministry of Justice of Russia is regulated by section 5 of the Instruction on Record Management in the Ministry of Justice of the Russian Federation, approved in Order No. 191 of the Ministry of Justice of Russia dated 28 June 2001.

## **C. Psychiatric Facilities of the Ministry of Health of the Russian Federation**

### **1. Provisional comments**

#### Russian side's opinion on para. 126 of the CPT Report:

The legislation of the Russian Federation does not contain any norms regulating the procedure of keeping psychotic patients in SIZOs to be treated at special-type psychiatric hospitals with intensive supervision (PBSTINs) by decision of court, and manner of transporting them further to the said healthcare establishments.

Therefore, the Ministry of Health departments do not transfer psychotic persons to be treated at PBSTINs by decision of court, to subordinate healthcare establishments.

Because of the fact that the said persons, as a rule, are kept in SIZOs of the Ministry of Justice of the Russian Federation before their cases are considered in courts, convoy departments of the Ministry of Justice of Russia have to transfer psychotic persons through the territory of the Russian Federation according to the procedure provided for suspects, accused and convicted persons with an accompanying SIZO medical staff.

Taking into account that the availability of 7 PBSTINs only in the Russian Federation leads to a significant increase of custody terms for psychotic persons, the Ministry of Justice suggested the Ministry of Healthcare of Russia to consider the question of creating a PBSTIN branch in each constituent entity of the Russian Federation in its letter No. 18/6891-UCh of 19.07.2002, in order to reduce SIZO terms for the persons to be kept in PBSTINs.

The purpose of such a suggestion is to extend the PBSTIN network, since the construction of a PBSTIN in Novosibirsk is being delayed, and actually, some difficulties will emerge in connection with obtaining visas for psychotic persons transferred to Kaliningrad PBSTIN.

Meanwhile, the implementation of this suggestion needs no additional material resources and it considerably reduces terms of keeping psychotic persons in SIZOs which are not authorized to provide them with special psychiatric assistance, as they are not hospitals, but places of keeping in custody of the persons suspected in and accused of committing crimes.

However, the Ministry of Healthcare of Russia has taken no positive decision in this respect.

#### Russian side's opinion on para. 128 of the CPT Report:

No comments.

#### Russian side's opinion on para. 129 of the CPT Report:

No comments.

Russian side's opinion on para. 130 of the CPT Report:

No comments.

Russian side's opinion on para. 131 of the CPT Report:

According to the report by Healthcare Department of the Administration of the Primorsky territory, the Administration of Vladivostok has taken necessary measures to improve conditions of staying in the city psychiatric hospital. The individual access to the toilet has been provided. A current reconstruction of the establishment is being under way. Funding is provided in the 2003 budget for the further reconstruction of the hospital. The management of the Vladivostok City Psychiatric Hospital is planning to enable patients to access telephone in each structural branch of the establishment in 2003. At present, the Administration of the city is taking measures to install soft equipment, as well as to improve the quality of patients' diet.

Russian side's opinion on para. 132 of the CPT Report:

See Russian side's opinion on para. 131 of the CPT Report.

Russian side's opinion on para. 133 of the CPT Report:

See Russian side's opinion on para. 131 of the CPT Report.

Russian side's opinion on para. 134 of the CPT Report:

See Russian side's opinion on para. 131 of the CPT Report.

Russian side's opinion on para. 135 of the CPT Report:

See Russian side's opinion on para. 131 of the CPT Report.

Russian side's opinion on para. 136 of the CPT Report:

See Russian side's opinion on para. 131 of the CPT Report.

Russian side's opinion on para. 137 of the CPT Report:

See Russian Side's Opinion on para. 131 of the CPT Report.

Russian side's opinion on para. 138 of the CPT Report:

See Russian side's opinion on para. 131 of the CPT Report.

Nevertheless, Law of the Russian Federation On Psychiatric Assistance and Safeguarding the Rights of Citizens when Rendering it No 3185-1 of 02.07.1992 does not contain detailed regulation of those rights of psychotic persons isolated from the society the implementation of which must be safeguarded by the state.

Russian side's opinion on para. 139 of the CPT Report:

No comments.

Russian side's opinion on para. 140 of the CPT Report:

No comments.

Russian side's opinion on para. 141 of the CPT Report:

In connection with the fact that according to the legislation of the Russian Federation the staff of private security firms are not authorized to apply physical force, special means, weapon or other means of restraint to psychotic persons who are treated in healthcare establishment, the staff of private security firms are not engaged in implementing measures of restraint in respect of patients.

At present, the management and medical personnel of this psychiatric stationary are authorized to maintain order on the territory of healthcare institutions of the Ministry of Health of Russia (article 39, Law of the Russian Federation on Psychiatric Assistance and Safeguarding the Rights of Citizens when Rendering it No. 3185-1 of 02.07.1992) without applying physical force, special means and weapons, as well as police staff who apply physical force, special means and weapon according to Law of the Russian Federation on Police No. 1026-1 of 18.04.1991.

To exclude a possibility of unlawful application of special means and weapon against patients by criminal law enforcement personnel of the Ministry of Justice of Russia who have been operating as police and healthcare bodies on maintaining order during 9 years in 7 special type psychiatric hospitals with intensive supervision (PBSTINs) under the Ministry of Health of Russia, the Main Directorate of Penal Enforcement of the Ministry of Justice of the Russian Federation has decided (No. 18/6/3-244 of 12.11.2001) to abolish special means weapon from the equipment of UIS staff guarding PBSTINs.

With entering into force of Federal Law on Agency Guard No. 77-FZ of 14.04.1999 the Russian Ministry of Health got an opportunity to independently protect its subordinate establishments from unlawful infringements, maintain pass and internal facility regimes, as well as prevent and suppress crimes and administrative offenses at the guarded objects.

At present, in accordance with protocol No. VM-P12-69pr of 11.01.2002 of the meeting chaired by Deputy Chairman of the government of the Russian Federation Valentina I. Matvienko, an interagency working group has been created which is to prepare suggestions on a changed legislation on psychiatric assistance to the population where regulation is provided of the rights and duties of persons kept in PBSTINs under the Russian Ministry of Health, the guard of PBSTINs, maintenance of order on their territories, as well as rights and duties of personnel of the said establishments as far as measures of restraint to psychotic persons are concerned.

Russian side's opinion on para. 142 of the CPT Report:

Measures of physical restraint of patients are applied most scarcely, in exceptional cases and only for the period of medicamental treatments of acute psychomotor excitement. Entries are made to the case record of these measures, as well as to special registers run at all the departments. The practice of some patients' helping staff in applying physical restraint to other patients is abolished. Considering CPT recommendations, the Ministry of Health of Russia has sent a letter to heads of healthcare management bodies of all constituent entities of the Russian Federation on applying measures of physical restraint.

Russian side's opinion on para. 143 of the CPT Report:

See Russian side's opinion on para. 142 of the CPT Report.

Russian side's opinion on para. 144 of the CPT Report:

See Russian side's opinion on paras. 141, 142 of the CPT Report.

Russian side's opinion on para. 145 of the CPT Report:

At present, in accordance with protocol No. VM-P12-69pr of 11.10.2002 of the meeting chaired by Deputy Chairman of the Government of the Russian Federation Valentina I. Matvienko, an interagency working group is established which is to prepare suggestions on a changed legislation on psychiatric assistance to the population which provides for regulation of the rights and duties of persons kept in special-type psychiatric hospitals with intensive supervision (PBSTINs) under the Ministry of Health of Russia, the guard of PBSTINs, maintenance of order on their territories, as well as rights and duties of staff of the said establishments as far as measures of restraint to psychotic persons are concerned.

Russian side's opinion on para. 146 of the CPT Report:

CPT recommendations to ensure control over observation by the courts of the time limits for considering matters related to coercive treatment established by the legislation of the Russian Federation, as well as control over the observance of patients' rights to be legally represented in court.

Russian side's opinion on para. 147 of the CPT Report:

See Russian side's opinion on para. 146 of the CPT Report.

Russian side's opinion on para. 148 of the CPT Report:

See Russian side's opinion on paras. 141 and 145.

**D. Military detention facilities of the Russian Federation**

Russian side's opinion on para. 151 of the CPT Report:

According to the Presidential Decree No.671 dated June 30, 2002, on the Introduction of Amendments to the Military Statutes of the Armed Forces of the Russian Federation, the amendments introduced to the Disciplinary Regulations and the Garrison and Guard Service Regulations of the Armed Forces of the Russian Federation on July 1, 2002 are the following:

- no disciplinary confinement of the servicemen in the gauptvachtas shall be allowed;
- servicemen arrested on suspicion of a crime or remanded in custody by a court decision shall not be held in the gauptvachtas more than 48 hours after the moment of their detention or confinement; if the court reserves its decision on the confinement of the suspect or accused as a measure of restraint, the servicemen may not be held in the gauptvachtas more than 72 hours after the moment when such a decision is passed by the court;
- in exceptional circumstances, when the servicemen remanded in custody cannot be transferred to a pre-trial detention center due to its remoteness or inadequate communications, they may be held in the gauptvachtas for up to 30 days.

Russian side's opinion on para. 152 of the CPT Report:

According to the Chief Military Prosecutor's Office, no complaints of ill-treatment were lodged by the servicemen held in the disciplinary military units in 1999. In 2000, the convicted servicemen held in Disciplinary Separate Battalion 36 of the Siberian Military District and Disciplinary Separate Battalion 62 of the Far Eastern Military District lodged two complaints of ill-treatment by the permanent military personnel serving on a compulsory or contractual basis.

Following the verification of the received allegations, criminal proceedings were brought against those accused of ill-treatment and after the prejudicial inquiry their cases were referred to a court. The persons found guilty of ill-treatment of the servicemen held in the disciplinary military units were sentenced to various types of punishment.

No allegations of ill-treatment by the servicemen detained in the garrison gauptvachtas of the Armed Forces of the Russian Federation were received in 2001.

Russian side's opinion on para. 153 of the CPT Report:

Measures have been taken to bring the lighting in the cells (including the access to natural light) in line with the provisions of the Garrison and Guard Service Regulations of the Russian Federation, Annex 14 (para.29), and the Departmental Construction Regulations of the Armed Forces of the Russian Federation (VSN 35-94) of the Ministry of Defense of the Russian Federation. The cells that fall short of these standards are now closed. The cells are ventilated every day.

According to the provisions of Annex 14 to the Garrison and Guard Service Regulations of the Russian Federation, the servicemen on remand, sentenced, suspected or accused of a crime are provided with greatcoats, mattresses and pillows with pillowcases at night.

It also should be reported that the Ministry of Defense is now drafting military statutes of the Armed Forces of the Russian Federation, Annex 14 to which sets out that the arrested servicemen are allowed a daily outdoor exercise (not less than one hour) and provided with bedding (a blanket, two bedsheets, a pillow with a pillowcase and a mattress) at night.

Russian side's opinion on para. 154 of the CPT Report:

The garrison executive officers have conducted administrative inquiries into the alleged detention of servicemen beyond the terms for which they were disciplinarily punished. The responsible officers (commandants and gauptvachta chief officers) were disciplinarily punished.

Russian side's opinion on para. 156 of the CPT Report:

See Russian side's opinion on para. 153.

**E. Federal Border Service establishments**

Russian side's opinion on para. 157 of the CPT Report:

The Federal Border Service of the Russian Federation took has taken note of the comments and recommendations made by the CPT's delegation following its visit to the temporary detention facility of the Border Service of the Russian Federation in the Pogranichnyi village of the Primorsky Region, the FBS is ready to provide the CPT's delegation with all relevant information on any establishments of the Border Service of the Russian Federation, where persons deprived of their liberty can be held, and provide access of the CPT's delegation to these establishments.

Russian side's opinion on para. 158 of the CPT Report:

As to persons sent to a country where they might be subjected to torture or ill-treatment, the Border Service of the Russian Federation acts in accordance with the national legislation.

In particular, the functions of the Federal Border Service in this regard are determined in articles 14 and 15 of the Federal Law On the State Border of the Russian Federation.

Thus, under article 14 of the Federal Law, a procedure and a competent authority - Border Representatives of the Russian Federation, the Ministry of Defense or the Ministry of Foreign Affairs of the Russian Federation - to deal with violations of the State Border regime are to be decided upon in agreements between the Russian Federation and neighboring countries on the State Border and its regime, other international agreements the Russian Federation is party to and resolutions of the Government of the Russian Federation.

Persons, aircraft, Russian and foreign river and sea vessels, war ships and other transport crossing the State Border in violation of the provisions of the Law on the State Border of the Russian Federation are to be considered as State Border violators.

Foreign citizens and stateless persons that have no status of persons residing in or staying in the territory of the Russian Federation and have crossed the state border from the territory of a foreign state incur liability according to the laws of the Russian Federation, in cases when their actions are characterized by constituent elements of offence or administrative infraction.

In cases when there are no grounds for initiating neither an administrative nor a criminal case against the frontier crossers and they have no right for political asylum, they are passed in the official order by the Federal Border Service of the Russian Federation to the authorities of the state, from the territory of which they have crossed the border. If the treaties between the Russian Federation and the foreign state do not provide the extradition of the frontier crossers they are deported from the territory of the Russian Federation in the places fixed by the Federal Border Security Forces of the Russian Federation. The authorities of the foreign state to (or through) which these foreign citizens and stateless persons are deported through the border crossing points are informed of it, being this provided by the treaty between this foreign state and the Russian Federation.

The citizens of the Russian Federation who arrive to the state border crossing points having lost their documents confirming the right to enter the territory of the Russian Federation during their stay abroad, are left in the crossing points for the period of time necessary for establishing their identity but for no longer than 30 days. The order and conditions of their stay in the state border crossing points are regulated by the Government of the Russian Federation.

According to article 15 of the Russian Federation Law on the State Border of the Russian Federation, for the purposes of solving issues of observing the regime of the state border, settling border incidents the Head of the Federal Border Guard Service of the Russian Federation can appoint, as agreed with the Ministry of Foreign Affairs of the Russian Federation, border guard representatives of the Russian Federation (border guard commissioners, border guard agents, and deputy border guard commissioners and deputy border guard agents) to certain sections of the state border, in accordance with the international treaties of the Russian Federation.

The activities of the border guard representatives are regulated by the Russian Federation Law on the State Border of the Russian Federation, and other Federal laws, as well as by international treaties of the Russian Federation, and the Government Regulation on the border guard representatives of the Russian Federation.

The settlement of border incidents involving the actions of Russian or foreign military aircraft and ships, other military objects or servicemen (except for the objects and troops of the Federal Border Guard Service of the Russian Federation in cases when the interests of prevention of dangerous military activities are not affected), is conducted by representatives of the Ministry of Defense of the Russian Federation, assisted, when necessary, by the border guard representatives of the Russian Federation.

The issues and incidents, which have not been settled by border guard representatives of the Russian Federation or the representatives of the Ministry of Defense of the Russian Federation, are solved through diplomatic channels.

In accordance with articles 3.20, 32.9 and 32.10 of the Code of Administrative Violations of the Russian Federation administrative expulsion of foreign citizens and stateless persons from the limits of the Russian Federation consists in forced and controlled transportation of the said citizens and persons across the state border of the Russian Federation outside the territory of the Russian Federation, or, in cases specified by the legislation of the Russian Federation, in the controlled self-sustained departure of the foreign citizens and stateless persons from the Russian Federation.

Administrative expulsion outside the territory of the Russian Federation is imposed as a measure of punishment on foreign citizens and stateless persons, the decision is taken by a judge, or by relevant officials in cases when a foreign citizen or a stateless person commit an administrative violation when entering the territory of the Russian Federation.

The ruling on administrative expulsion of foreign citizens and stateless persons outside the territory of the Russian Federation is implemented by

- 1) agencies and forces of the border guard service in cases of administrative violations, specified in article 18.1 part 2 and article 18.4 part 2 of the Code of Administrative Violations of the Russian Federation;
- 2) internal affairs agencies in cases of administrative violations specified in article 18.8, article 18.10 part 2, and article 18.11 of the Code of Administrative Violations of the Russian Federation.

The ruling on administrative expulsion of a foreign citizen or a stateless person outside the territory of the Russian Federation is implemented by official passing of a foreign citizen or a stateless person to representative of the authorities of a foreign state to the territory of which the said person is expelled, or by controlled self-sustained departure of a person that is subject to administrative expulsion outside the territory of the Russian Federation.

The authorities of a foreign state to or through the territory of which a foreign citizen or a stateless person is expelled are notified of administrative expulsion of a said citizen or a person through the state border crossing point of the Russian Federation, if administrative expulsion is provided for in the international treaty of the Russian Federation with this foreign state.

In cases when the passing of a person that is subject to administrative expulsion outside the territory of the Russian Federation to representative of the authorities of the foreign state is not provided for in the international treaty of the Russian Federation and the said foreign state, the administrative expulsion is conducted in places, fixed by the border guard service agencies.

The implementation of a ruling on administrative expulsion of a foreign citizen or a stateless person outside the territory of the Russian Federation is drawn up in the form of a bilateral or a unilateral act that is appended to the ruling.

Before the expulsion outside the territory of the Russian Federation a foreign citizen or a stateless person can, upon a court decision, be kept in special facilities, specified in article 27.6 of the Code of Administrative Violations of the Russian Federation.