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ON HIS VISITS TO THE RUSSIAN FEDERATION

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**For the attention of the Committee of Ministers
and the Parliamentary Assembly**

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I. INTRODUCTION

In accordance with Article 3 e) of Committee of Ministers Resolution (99) 50 on the Council of Europe Commissioner for Human Rights, I made an official visit to the Russian Federation in summer 2004. Given the vast size of this Council of Europe member state and the fact that I was keen to cover a representative number of regions, my visit took place in two stages. I made a first trip to Russia from 15 to 31 July 2004 and returned a few weeks later, from 19 to 29 September 2004. Mr Manuel Lezertua, Director of my Office, Mr Alexandre Guessel and Mr John Dalhuisen, both members of the Office, accompanied me throughout.

First and foremost, I should like to thank our partners in the Presidential Administration, the Ministry of Foreign Affairs and the Russian Ombudsman's Office for the reception they gave us and for being co-operative and open-minded, which certainly made my visit easier. I should also like to express my sincere thanks and heartfelt gratitude to Ms Ella Pamfilova, who is currently President of the Council for Developing Civil Society Institutions and Human Rights, which is answerable to the President of the Russian Federation. Her help was invaluable during the preparation of the visit, the implementation of the programme, and indeed throughout the visit, during which she accompanied me. I am also most grateful to Mr Vladimir Lukin, Federal Ombudsman, for taking part in several stages of the visit and providing me with the benefit of his expertise.

As a Council of Europe member state, Russia was treated in a similar way to all the other member states I have previously visited. It was, however, clear that Russia had features of its own, stemming primarily from its large population and the size of its territory, which is partly in Europe and partly in Asia, and extends from the Baltic to the Pacific. In effect, Russia is both a country and a continent. It therefore struck me as all the more important to draw up a visit programme that provided as broad as possible a picture of the country, its regions and its ethnic and cultural diversity. I wanted to see for myself how the Russian people lived, in the most familiar parts of the country but also in the most isolated and geographically remote regions.

Accordingly, a programme was drawn up in conjunction with the federal and regional authorities. The programme itinerary bypassed the two Russian capitals, Moscow and St Petersburg, and concentrated on the provinces. Our objective was to visit the majority of the seven Federal Districts of the Russian Federation. We largely achieved this: during our 28-day visit, we managed to go to six.

In the course of our trip we had numerous valuable meetings with representatives of the authorities, civil society and trade unions, and with religious officials. The trip was punctuated by a very large number of visits to very different sites, including places of detention, police stations, orphanages, old people's homes, hospitals, schools and social and cultural institutions. None of this would have been possible without the valuable help and friendly co-operation, in each region, of numerous people, all of whom I cannot

unfortunately mention here, but to whom I extend my deepest gratitude. I should like to draw attention to the special role played by non-governmental organisations (NGOs), who helped me enormously during the preparatory phase and throughout the visit.

I should like to express my sincere gratitude to the Governors of the regions I visited: Mr Victor Ishaev, Governor of the region (*krai*) of Khabarovsk, Mr Boris Govorin, Governor of the region of Irkutsk, Mr Eduard Rossel, Governor of the region of Sverdlovsk, Mr Mintimir Shaimiev, President of the Republic of Tatarstan, Mr Alexandr Tkachev, Governor of the region (*krai*) of Krasnodar, Mr Alexandr Filipenko, Governor of the region (*okrug*) of Khanty-Mansiysk, Mr Alu Alkhanov, President of the Chechen Republic and Mr Alexandr Chernogorov, Governor of the region of (*krai*) of Stavropol. My thanks also go to the Mayor of Nizhniy Tagil, Mr Nikolai N. Didenko, the Mayor of Gelendzhik, Mr Sergei P. Ozerov, the Mayor of Kislovodsk, Mr Sergei V. Demidenko and the Mayor of Grozny, Mr Movsar Temirbaev, for welcoming me to their respective cities. I also grateful for the time accorded me by Mr Konstantin Pulikovskiy, Plenipotentiary Representative of the President in the Federal District of the Far East and Mr. Vladimir Yakovlev, Plenipotentiary Representative of the President in the Federal District of the South.

I should also like to extend my warmest thanks to my Ombudsmen colleagues in the regions I visited: Ms Tatiana Merzliakova, Ombudsman for the region of Sverdlovsk, Mr Rashit Vagizov, Ombudsman of the Republic of Tatarstan, Mr Alexandr Kozitsky, Ombudsman for the region (*krai*) of Krasnodar, and Mr Guennady Khoroshev, Chair of the Human Rights Commission of the region of Irkutsk, who did much to help organise the visit and who accompanied me throughout my travels in their regions.

My visit to the Russian Federation – as has been the custom on all my official visits – ended in the capital of the Federation, Moscow, where I had talks with the federal authorities. On that occasion I met Mr Boris Gryzlov, Speaker of the State Duma, Mr Dmitry Medvedev, Head of the Presidential Administration, Mr Sergei Ivanov, Minister of Defence, Mr Rashid Nurgaliev, Minister of the Interior, Mr Yuri Chaika, Minister of Justice, Mr Sergei Yastrzhembsky, Adviser to the President of the Russian Federation, Mr Konstantin Kosachev, Head of the Russian Delegation to the Parliamentary Assembly of the Council of Europe, Mr Mikhail Margelov, Vice-President of the Parliamentary Assembly and Chair of the Foreign Affairs Committee of the Council of the Federation, and Mr Yuri Fedotov, Deputy Minister for Foreign Affairs. I was also able to hold talks with representatives of the judiciary and the Bar Associations of the regions I visited.

II. GENERAL OBSERVATIONS

1. The Russian Federation became a member of the Council of Europe on 28 February 1996. It ratified the European Convention on Human Rights (hereafter “the Convention”) on 5 May 1998 and recognised the right of individual petition before the European Court of Human Rights (hereafter “the ECHR”) from that date.

2. My trip to Russia was certainly not my first visit to this country. Since the start of my term of office, I have visited it on many occasions, but it was not until 2004 that I decided to make a visit with a view to producing a general report on the human rights situation. It is clearly no small task to draft such a report, and any attempt to do so throws up many questions. Indeed, I cannot seriously claim to have produced an exhaustive review of the human rights situation in Russia, which would have been well beyond the capacities of the institution.
3. I shall therefore confine myself here to the issues that strike me as the most significant, and which I was able to study throughout my trip, without classing them in order of priority in any way. To this end, we endeavoured to gain an understanding of the current situation in Russia by choosing regions, government departments and establishments that were among the most representative. In particular, we tried to meet people from different backgrounds and endeavoured to listen to and understand what each had to say, in all the regions and towns we visited, whether in Moscow or in the Far East, in Siberia or in the Northern Caucasus, in the Urals or in the Volga basin.
4. Over a period of four weeks we covered over 20,000 kilometres and took over fifteen flights in order to go from one region to another. Forty-eight meetings were organised with representatives of the federal or regional authorities, the judiciary and the police. We visited thirty-nine establishments, including hospitals, schools, old people's homes and eleven places of detention. In the course of the visit we also organised two round tables - in Irkutsk and Grozny - to promote the regional Ombudsman as an institution in the constituent entities ("subjects") of the Russian Federation.
5. During my visit I paid a great deal of attention to non-governmental organisations. The views of their representatives on the general situation in a country, the progress made and the shortcomings still to be remedied enabled me to obtain a very full picture of the situation. It is for this reason, indeed, that I begin all my official visits with meetings with representatives of NGOs in the countries concerned. The vision of civil society often differs from that of the authorities. A comparison of the two makes it easier to pinpoint weaknesses that need to be investigated in detail. The visit to the Russian Federation was no exception to this rule. Each of my visits to the regions therefore began with a meeting with representatives of the NGOs most actively involved in the defence of human rights. These meetings were open, however, and all those who so requested were able to attend. We did not keep a precise record, but must easily have met with over a hundred NGOs, who greatly advanced our understanding of the difficulties raised.

6. Russia has experienced sweeping changes since the collapse of the Soviet Union and their consequences are still difficult to measure. They need to be critically reviewed and assessed as a whole. The fledgling Russian democracy is still, of course, far from perfect, but its existence and its successes cannot be denied. A mere fifteen years ago, the Iron Curtain divided Europe in two parts; at the time, the USSR was a state where any form of freedom of speech, private initiative or liberal thinking was prohibited and punished. Soviet citizens were deprived of the most fundamental freedoms. Freedom of movement beyond the frontiers of the Soviet Union was virtually non-existent and opportunities to travel abroad were very limited. Only a few organised groups were able to do so, and even then prospective travellers had to endure the humiliating procedures involved in obtaining authorisation.
7. Everything has changed since and the new Russian generations do not always remember their country's history, recent though it is. Present-day Russia is a different country for all those who experienced the Soviet era, although it has kept its traditions and its rich culture, which seventy years of relentless efforts to establish communism were unable to change.
8. When Russia joined the Council of Europe, the democratisation process was still in its infancy. The Russian Government has since entered into a number of commitments in order to comply with the rules and standards set by our Organisation. The extent to which these commitments have been honoured is monitored by the Parliamentary Assembly of the Council of Europe, and I do not want to give a detailed analysis here. It has to be said, however, that the Russian Federation has made a great step forward in radically reforming some of its legislation to bring it into line with European standards.
9. For instance, in the report on Russia's application to join the Council of Europe, dated 2 January 1996, the rapporteurs, describing the complex situation that existed at the time in the country, emphasised the efforts that the Russian authorities needed to make in order to comply fully with Council of Europe standards. In particular, they stressed the legislative reforms to be carried out. The report expressly adverted to the need to introduce a number of laws as soon as possible. Attention should, according to the rapporteurs, focus initially on the Criminal Code, the Code of Criminal Procedure, the Civil Code, the Code of Civil Procedure and the law concerning the prison system. The rapporteurs recommended that further legislation subsequently be passed, in particular regarding the status of judges, the public prosecution department, the legal profession, national minorities, freedom of association, the Ombudsman and religious freedom.
10. Nine years have elapsed since this report was submitted and the Russian Federation joined the Council of Europe – nine years during which Russian society has undergone a series of major transformations. The legislation governing the country has been substantially reformed, and this is one of the most visible changes. Virtually all the new legislation was drafted and passed by Parliament, which in itself is a big step forward. In the space of a few years, the legislation dating from the Soviet era, which was based on the principles of a totalitarian state and which denied individual freedoms in favour of collectivism, which did not recognise the right of private ownership and prohibited any private initiative in the economic sector, has been replaced by liberal, democratic legislation.

11. Most of the current weaknesses lie in the implementation of the legislative reforms undertaken since 1996. The large majority of the people with whom I spoke talked of delays in the application of the reforms, regardless of the region in question. They pointed out that some officials had difficulty in grasping the general principles and democratic spirit of the legislation. Certain local authority representatives I met stressed the fact that too many reforms had been carried out too quickly, without being accompanied by explanations and training for those responsible for putting them into practice. It also seems that certain legal instruments evolved so quickly – being amended or replaced by others – that professionals had great difficulty in understanding them.
12. Another major weakness needs to be singled out at this point, although I shall return to the matter in greater detail in the report. It is the problem raised by the death penalty, which is still provided for in Russian law, despite the moratorium introduced in August 1996. The non-ratification of Protocol 6 to the European Convention on Human Rights is a serious breach of the undertakings Russia gave when it joined our Organisation, and throws up a number of questions.
13. Moreover, some of the reforms recently introduced by the government and those announced lately have elicited concern among the public as to whether democratic achievements will remain in place. There are doubts as to whether this progress will be lasting. The misgivings of the representatives of civil society were very much in evidence during the visit.
14. If I might venture a metaphor, Russian society gave me the peculiar impression of a long train travelling very fast. The train has carriages in all classes – first, second and third class. All these carriages carry numerous passengers, with their problems, their worries and their hopes, but most of them are so busy trying to solve their problems that they do not realise how fast the train in which they are sitting is going and, indeed, have little interest in the engine and the route it is taking.
15. In this report, I shall confine myself to questions relating to legal reform, the situation of the prison system, national minorities, social problems and the situation of vulnerable groups, including women, children and elderly people. I shall address issues connected with xenophobia and racism, human rights protection in the armed forces and institutions defending human rights, such as the Ombudsman and the network of Regional Ombudsmen. I shall also examine freedom of the press and freedom of expression and all the issues connected with the participation of civil society in the system for monitoring respect for human rights in practice. In addition, I shall look at the complex situation in the Chechen Republic.
16. I could not conclude these general remarks without referring to a tragic event that took place in the interval between my two visits. The hostage-taking in Beslan horrified Europeans with its atrocious, inhuman violence. As I did at the time of the tragedy, I should like to stress that there can be no justification whatsoever for such actions. Being near the place of the tragedy during my second visit, I travelled to Beslan to express the

sympathy and support of the Council of Europe, and Europeans generally, to the families of the victims and all Russian citizens. The horror I saw in what remained of the school building and the cemetery remains vividly imprinted in my mind, rekindling the unbearable images we all saw on television. I hope that no one will have to relive such a tragedy, for which the terrorists and those who funded them are entirely responsible.

III. CHANGES IN THE LEGAL SYSTEM

1. General situation

17. As has already been pointed out, since the dissolution of the Soviet Union Russian society has undergone sweeping changes that have affected all aspects of political, economic and cultural life and society. But it is undoubtedly the judicial and legal spheres that have undergone the most substantial changes. Reform of these two sectors was given priority because of the key role that the law and justice play in any modern society. The scale of the reforms carried out all the more impressive if one takes account of how far Russia has come since the collapse of the Soviet Union.
18. The first changes did, admittedly, take place in Soviet times, but it was not until 1993, with the adoption of the new Russian Constitution, that comprehensive reform was set in motion. The Russian Federation had a long way to go and numerous obstacles to overcome in order to rid itself of the legacy of eighty years of communism, which virtually destroyed the Russian legal tradition based on the continental law system. It is common knowledge that the communist regime considered the system of the separation of powers as a “bourgeois” aberration and abolished it after the October 1917 Revolution. The Communist Party had no need of an independent judiciary, or indeed of the law as such. The laws and courts were therefore initially done away with.
19. This revolutionary trend nevertheless receded as the Revolution became a more distant memory and the idea of a strong state began to replace that of world revolution. The law never regained its earlier importance, however, and remained completely subordinate to the government and the Party. Indeed, the term “law” gradually came to be considered more or less equivalent to the term “criminal law”, the only term familiar to the large majority of Soviet citizens, and the two were often confused. Even in the criminal law field, the courts and judges did not have a leading role, but took secondary place to the police and prosecutors.
20. It was hardly surprising that law came to be assimilated to criminal law, for civil and commercial law were, to all intents and purposes, non-existent in Soviet society, or at least they did not concern private individuals, who were not entitled to private property, which had been abolished by the Revolution. Private individuals could not be self-employed and business law therefore applied only to companies, which were state-owned, which meant there was little likelihood of their coming before the courts over financial disputes. Disputes were settled by conciliation procedures in special courts known as “arbitration courts”, and then only if they could not be resolved administratively.

21. The legal profession did not, therefore, enjoy the prestige it has in most countries. The large majority of young lawyers took up careers as prosecutors or police investigators, another sign of the predominance of criminal law. As for the profession of judge, it was at the bottom of the *nomenklatura* ladder, and elections – which were in fact appointments – took place on the basis of decisions by the Party organs. In general the profession was very badly paid and was the least envied of all the legal professions.
22. After the break-up of the Soviet Union, impressive legal reforms were set in motion in Russia. 1993 saw the start of the reform of legislation; and the Council of Europe was very actively involved in this work. The sheer scale of the reform, and the energy Russia has invested in this enormous task, should be acknowledged.
23. The achievement of these objectives is reflected in the large number of laws passed, including some of prime importance. In less than ten years the Russian Parliament passed the new Family Code (1995), the Criminal Code (1996), the Civil Code (1996), the Code on the Enforcement of Sentences (1997), the Bailiffs Act (1997), the Law on Justices of the Peace (1998), the Courts Martial Act (1999), the Status of Judges Act (2000), the Code of Criminal Procedure (2001), the Administrative Code (2001), the Employment Code (2001), the Arbitration Code (2002), the Code of Arbitration Procedure (2002) and the Code of Civil Procedure (2002), to mention but a few of the new legal instruments.
24. Most of the NGO representatives and local authority officials with whom I spoke, however, talked of the difficulty in introducing the reforms and the problems resulting from their implementation. They also stressed that mentalities were evolving only slowly and with difficulty.
25. Virtually all the people I spoke with believed one of the main problems in introducing the legal reforms was the crucial lack of professionals – particularly lawyers – able to understand, assimilate and apply the new rules. The scale of change was so large that it inevitably took time to learn the novel features of the law. The aforementioned list of newly adopted legislation shows that over the last ten years Russia has ushered in a new legal system covering constitutional law, civil law, criminal law and business law. This means that experienced lawyers, most of them trained under the Soviet regime, had to relearn the law; whilst several years were required to train a new generation of professionals. According to academics I met, these problems were exacerbated by the severe shortage of places in law faculties, of which there, in turn, too few.
26. The situation is, however, improving substantially. On the one hand, experienced professionals have taken advantage of the last few years to assimilate the changes in the Russian legal system. On the other hand, a new generation of lawyers is beginning to come out of the universities and on to the labour market. In addition, according to the statistics with which I was provided, the number of law faculties has increased significantly in comparison with the early 1990s, while existing law faculties have appreciably increased their capacity and are training more and more students.

27. The civil society representatives I spoke with constantly reminded me of the realities of Soviet society, which are deeply entrenched in the mindset of the public, not least when it comes to defending their rights. It would be wrong to think that the Soviet regime did not provide citizens with any means of enforcing their rights but, as I understand it, the means in question were rarely judicial ones and the courts were but little involved. On the contrary, the emphasis was on administrative or similar means.
28. The Soviet system did, indeed, make some provision for the protection of rights. Members of public seeking compensation for damage initially turned to the district or urban committees of the Party (the famous *Raikoms* and *Gorkoms*), whose decision-making powers went far beyond those of the courts or even the Prokuratura. The situation has changed completely, but, as we know, traditions are firmly rooted and it takes time to change them. At this point in time, therefore, lawyers, indeed all legal professionals, have a particularly important task: they have a duty to explain the new legal mechanisms to the public, persuade people to use them and convince them that they are superior to the old system.
29. The way in which the judicial system operates is of prime importance here, and I should like to share a number of comments I received in the course of the visit.

2. Courts and judges

30. The Russian Government decided as far back as 1992 that reform of the judicial system was essential and adopted general guiding principles for the purpose. It was not until June 2001 that practical action was taken, however. The broad lines of the reform were approved by the Russian Parliament in late 2001. This time the State provided for the necessary means of carrying out the reform. A federal programme allocating 44 billion roubles (some US \$ 1.4 billion) to the “development of the judicial system” between 2002 and 2006 was set up. This represents a substantial investment.
31. The Russian authorities assigned priority to improving the difficult working conditions of the judiciary in the context of the reform. The Russian President himself stressed the need to do so on several occasions. As stated above, the Soviet legacy had left the profession in a difficult situation. To be credible, therefore, the reform of the judiciary required a change in the status of judges.

a. Changes in the status of judges

32. The main purpose of the Bills tabled by the government and passed by Parliament, as it emerges from the legislation in question, is, firstly, to strengthen the independence of judges and the judiciary as a whole and, secondly, to make judges more responsible in order to encourage the proper administration of justice¹.

¹ Dimitri Kozak, interview in Rossiiskaia gazeta, 19 June 2001, pages 1-2.

33. It is clear from the new recruitment criteria and the regulations governing judges' careers that judges have been made more responsible.
34. Council of Europe experts have recently completed assessing the Code of Ethics for judges.
35. The method used to recruit judges has clearly evolved. A competitive examination has been partly introduced. Nowadays, in order to become a judge, it is not only necessary to fulfil the conditions laid down by law and pass the aptitude exam, but also to be recommended for a vacant post by the body responsible for assessing judges' eligibility², which makes a selection when there are several candidates. Article 119 of the Constitution, laying down the rules governing access to the judiciary, stipulates that "*citizens of the Russian Federation aged 25 and older, holding a law degree and having worked in the law profession for at least five years, may become judges*". The last requirement was recently relaxed in order to attract the best students leaving university.
36. The reform also introduced provisions concerning judges' careers. Federal Court Judges are appointed by the President of the State on the recommendation of the Presidents of the Supreme Courts (ordinary and arbitration courts). There is no time limit to their term of office, except in the case of justices of the peace, who are elected for a period of five years. The age limit is 65 for investigating judges in the ordinary and arbitration courts and 70 for Constitutional Court judges. This rule is, however, destined to change rapidly and a common retirement age of 70 is to be introduced, apparently because of the considerable shortage of qualified judges and the large number of vacant posts in the judiciary.
37. Indeed, in the course of my visit, the judges to whom I spoke complained about the serious shortage of staff. They considered that there were not enough judges and registry staff for the judiciary to perform its function satisfactorily.
38. This situation is accounted for by the fact that, throughout the 1990s, very little money was allocated to the courts. The situation is, admittedly improving. In the mid-1990s the only 20% of the real financial needs of the judicial system were budgeted for. According to the information given to me, funding has increased steadily over the last five years, although it is still inadequate. The funds allocated to the judicial system under the federal budget have increased by 30%.
39. Judges' salaries, which had, in keeping with tradition, remained low since the collapse of the Soviet Union, have been increased. This strikes me as a crucial development. The great importance of the profession of judge and the need to recruit the most highly qualified people, and people of the utmost integrity, necessarily means that judges must be paid enough to attract the best candidates. Clearly, prospective judges must not be motivated by financial reward alone, for it is a profession that requires a moral commitment, but a decent salary is necessary if they are to have normal living and working conditions.

² A body formed exclusively of judges elected by their peers, which plays an essential role in recruitment and disciplinary matters.

40. A district judge's salary is currently between 12,000 and 15,000 roubles a month, while an urban/regional judge earns between 23,000 and 25,000 roubles. This salary is not in keeping with the responsibilities shouldered by judges, who expressed their concern about the matter to me. It is of prime importance that judges should receive a respectable salary. In addition, this should remedy the problem of corruption that exists within the judiciary – an issue raised by all those to whom I spoke.
41. The increase in pay, although it is a very welcome development in itself, has not been sufficient to achieve the objectives set by those responsible for the reform. If justice is to be administered effectively and quickly, the number of judges must be in keeping with the country's needs, which would appear far from being the case today. Proceedings before the courts are excessively lengthy, partly because of the lack of personnel. While this problem is common to most European countries, it is flagrant in Russia. I can therefore only welcome the Russian authorities' declared determination to increase the number of judges significantly. According to those we spoke to, the process is under way. While the total number of judges was 18,000 in 2001, the Supreme Court announced in 2002 that it wanted to recruit an extra 30,000 judges, and steps have apparently already been taken to this end.

b. Need to strengthen the independence of the judiciary

42. Independent judges are a prerequisite for the existence of a genuinely independent judiciary. Independence is all the more important as Russia is rebuilding a judiciary in which the public previously had no confidence when it came to the settlement of disputes. In Soviet times the judiciary dealt with criminal law, in that members of the public went to court mainly over criminal cases and witnessed only the punitive functions of the judicial system.
43. Substantial legislative changes have altered the situation by making the justice system accessible to the public. This is only a first step, however, and it must be matched by a change in the Russian public's mentality. The Russians must gradually gain confidence in the judicial system, and this will prompt them to turn to it. To this end, the judiciary must be seen to be independent of the government. The judges are the first to embody this independence through their integrity and resistance to external pressures. This clearly requires their putting the Soviet legacy behind them.
44. The authors of the reform made provision in the Status of Judges Act for a number of rules designed to strengthen the independence of judges. Given the historical context in which the reform is taking place, the Act does not merely introduce changes, but completely reorganises the profession. For instance, as we have seen, judges now enjoy security of office until the age of 65. Furthermore, a professional judicial body has been set up to monitor judges' work and decide on the eligibility of judges. It performs a number of administrative tasks and manages judges' careers. Its purpose is to avert the risk of administrative pressure on judges.

45. Another important step that has been taken to strengthen the independence of the courts vis-à-vis the Executive has been the creation of a new centralised system for funding the courts under the aegis of the Supreme Court. The financing of courts is thus no longer supervised by the Ministry of Justice, as used to be the case. This is certainly a welcome development, though it might yet be taken a stage further. Indeed, according to the information given to me, some of the buildings housing the courts still belong to the Ministry of Justice and not to a body attached to the Supreme Court. It seems to me that this *de facto* situation risks, in the context of the ongoing reform, affecting the independence of the judiciary.
46. The Status of Judges Act also provides for the disciplinary responsibility of judges and lays down the principle of judges' immunity. They are afforded broad immunity in order to ensure that they can practise their profession freely. Although on paper this immunity is a sufficient safeguard to ensure that judges work in a serene climate, it is not always fully applied.
47. At the same time, it is important that the judiciary should itself embrace the spirit behind the reform. According to the numerous representatives of civil society and barristers I met, most of the courts continue to take a punitive line. I was able to observe that very few people are acquitted: in fact, the number is actually considerably lower than in the early years of the reform. According to the statistics provided by the Supreme Court, 389,080 people were sentenced in the first six months of 2004, while only 3,797 were acquitted. According to certain NGO representatives I talked to, this trend is accounted for by the persistence of certain traditions and beliefs within the judiciary. Some judges would appear to think that to acquit someone who has been detained on remand – often for a very long time – would discredit the organs of the Prokuratura and cause tensions between the two judicial institutions.
48. This explanation strikes me as unsatisfactory. Moreover, detention on remand should itself only be applied as a last resort, particularly when alternatives are available.
49. Lastly, I should like to refer to a delicate issue that is often raised in Russian society, and which was frequently brought to my attention during my visit. Many of those with whom I spoke referred to the problems of corruption undermining the judiciary. Corruption is unfortunately an evil that no democracy has yet managed to eradicate completely. It must be combated with the utmost severity. The work undertaken since 1996 by the Council of Europe, and notably by the GRECO, shows the importance of formulating common responses to this problem. I would not wish to enter into a domestic debate on issue as delicate corruption. I note, however, that combating corruption is one of the main concerns of several leading politicians. The Head of State, for instance, has referred to the problem on several occasions in his speeches. I can only reiterate my calls for the firmest possible measures to combat this scourge, so that the Russian courts at last inspire confidence among the country's citizens.

50. I myself was able to observe to what extent certain courts could be influenced by the political or administrative authorities. For instance, during my visit to Krasnodar, representatives of an NGO that is well known in the region, the Human Rights Centre, explained their recent difficulties. This NGO, which is known for its very critical stance towards the regional authorities, had been declared “illegal” by an administrative decision and its activities had been suspended. Contesting the decision, the NGO leaders went to court to have it declared unlawful and annulled. For over a year, no appeal had reached its conclusion, for administrative reasons such as delays or the absence of witnesses or of the parties to the case. Yet, very strangely, 48 hours before the Commissioner’s arrival, a court decision was handed down in favour of the Human Rights Centre, which has again been authorised to operate. It is difficult not to see a link between my visit and a decision that ought to have been reached already for some time. Even if I am glad that the Commissioner’s visit helped to settle even only a single case, I am still astonished that the courts were unable to guarantee such violated rights more rapidly.
51. Another example illustrates the undoubted passivity of the courts. It was provided by the Prosecutor for the Irkutsk region, Mr Merzliakov. He explained that one of the most serious problems in the region concerned salaries that had not been paid, by private and public companies alike. Many members of the public had lodged appeals with the courts against their employers under labour legislation, but for a long time the various courts in question refused to become involved in these cases, in breach of the Employment Code, and the large majority of cases remained in abeyance. The Prosecutor had therefore had to react strongly and issue a writ against the employers, making exceptional use of criminal law provisions in order to get things moving. In response to the applications from the Public Prosecution Department, the courts have begun to take decisions in favour of employees and inflict substantial fines on the companies concerned. A large proportion of the companies responded to the new situation by deciding to anticipate the penalties by rapidly paying their debts. According to the figures provided by Mr Merzliakov, the courts acknowledged the criminal responsibility of 33 companies, whereupon 127 others began paying the sums they owed. In a short space of time, over 40 million roubles had been disbursed to this end. This is certainly a good example of the defence of workers’ rights by the Prokuratura, but it would have been better if the courts had applied the civil employment law without waiting for the Prosecutor’s office to intervene, for this is a matter that affects the reputation of the courts.

c. Material needs of the courts

52. One of the key principles of European justice, including Russian justice, is that hearings should be public. Any Russian citizen may attend a trial, except trials that take place in camera in accordance with the legislation in force. This Constitutional rule means that not only may the parties involved attend hearings concerning them, but also that anyone can attend hearings that interest him or her. This implies, though, that the necessary material conditions exist and that court rooms are suited to the purpose.

53. I took a particular interest during my visit in the physical condition of the courts, for many members of civil society with whom I spoke repeatedly drew my attention to problems in this area. The situations I observed varied considerably not only from region to region but from court to court, so great were the disparities in their material conditions.
54. A number of general comments can nevertheless be made. First, most of the buildings housing the courts are dilapidated and need rebuilding. They are often old premises unsuited to the needs of modern courts. The limited funds that have been made available are insufficient to make permanent improvements.
55. Some premises I visited were fully in keeping with European standards. Such, for instance, was the Supreme Court of the region of Khabarovsk. Others left something to be desired. For example, when I met NGOs in the city of Khabarovsk, I was told that the premises of the city's district courts required urgent improvements. The Zheleznodorozhnyy District Court was singled out on several occasions. I was told that the premises were very cramped and dilapidated, and that this made the task of the judges and barristers difficult. In addition, the situation apparently affected court proceedings: those facing criminal charges and parties to civil proceedings had little room, and the public was quite simply unable to attend trials for want of seats in the court room. This is by no means an isolated example.
56. According to many reports, a large number of Russian courts are chronically short of space and need renovating or rebuilding. In some cases, this situation is apparently at the root of the ban on the public attending hearings. In the region of Krasnodar, for instance, some courts carry out a sort of pre-selection of members of the public who want to attend hearings. It would seem that the ushers at the entrance to the courts turn some people back on the basis of instructions they have been given. Some justify such practices by the existence of written rules. This situation is unacceptable and must be remedied without delay.
57. In connection with the courts, the problem of backlogs and the excessive length of time taken to deal with cases cannot be overlooked. The Russian courts are no exception, and the representatives of civil society and the lawyers I met complained about the situation. That said, the delays are particularly prevalent during investigative phase of criminal cases, which lengthens the time for which prisoners are held on remand, but I shall come back to this point below.
58. During my conversation with the President of the Leninsky District Court in the city of Ekaterinburg, I received some very interesting information. The number of criminal cases is apparently constantly declining. In the Leninsky court, for instance, it is falling by some 500 cases a year. By contrast, the number of civil cases is rising steadily, as is the number of administrative cases in which one of the parties is the municipal authority.
59. The problems concerning the length of time it takes for cases to be dealt with must be addressed urgently by the judicial system. This means giving priority to solving a number of practical problems. Firstly, it is crucial to provide the courts with sufficient funding to

enable them to bring their premises up to standard. Secondly, I would encourage the authorities to continue their efforts to make the profession of judge attractive and draw the best people into the profession. It is essential to increase the salaries of members of the judicial professions, which are still far below those in the private sector. The efforts already been made in this area must be accelerated.

60. Greater attention should also be paid to the auxiliary legal professions, and in particular to the lawyers, who assist the parties involved in legal proceedings and bailiffs, who are responsible for enforcing court decisions.

3. Auxiliary legal professions

61. This category includes a number of important professions that are essential to the proper functioning of the judicial system. I cannot, however, cover all the professions concerned in this report, which is not exhaustive. I should like to consider just two: bailiffs and barristers. In making this choice, I am not seeking to stress the importance of these two professions in comparison with others – I have no intention here of establishing a hierarchy. My objective is to focus on two professions that have recently been reformed, and whose practices were frequently discussed during my visit.

a. Bailiffs

62. We all remember learning, at university, Montesquieu's famous adage to the effect that it was not so much the legislation that impressed him in a country as the capacity of the state to enforce it. This adage is particularly apt in the present Russian context. It is not sufficient simply to reform legislation, increase the resources of the courts or encourage the public to settle their disputes in court: it is also essential that members of the public who have placed their trust in the judicial system should not be disappointed and should obtain satisfaction, not only on paper but also in practice. This means that every judgment must be enforced.
63. So it is no coincidence that, in the context of judicial reform in Russia, the profession of bailiff has been radically transformed, not to say reinvented. Prior to the introduction of the new Bailiffs Act of 21 September 1997, there were no bailiffs in the strict sense of the term. The tasks normally performed by bailiffs were carried out by court staff responsible for executing court decisions. They formed a profession that was not governed by any law and was looked down on. This state of affairs was a logical consequence of the Soviet dialectic described above. The situation needed to change in a society that had set itself the objective of introducing the rule of law.
64. The new institution of bailiff is governed by two basic laws: the above-mentioned Act and the Execution of Sentences Act (*ob ispolnitel'nom proizvodstve*). These two laws establish a completely new profession within a judicial system where it was previously lacking. The court staff responsible for executing court decisions did not have the same powers as those now attributed to bailiffs. In particular, they were unable to execute court

decisions forcibly. If forcible execution was required, the police alone were entitled to take action. Prior to the introduction of this new legislation, therefore, only 25 to 30% of court decisions were actually executed. Moreover, the state itself does not always set an example when it comes to respecting court decisions. The Russian Federation was sentenced by the European Court of Human Rights for the first time on 7 May 2002 in the case of Burdov against Russia (59498/00) for failing to enforce a final court decision. The reputation of the judicial system has been severely tarnished as a result.

65. There have been several recent developments. In particular, the new law has given bailiffs genuine power to execute court decisions, which strengthens the judicial system as a whole.
66. Russian bailiffs are in fact civil servants, unlike their French counterparts. They are answerable to the Bailiffs Directorate of the Ministry of Justice and are divided into two main groups. The first is responsible for enforcing court decisions, and the second for maintaining order in the courts. According to the people I spoke to from the Ministry of Justice, the services of the professionals in the first group are in great demand. They intervene in cases of various kinds, which suggests that they have become successfully established in Russian society. Indeed, the profession seems to be viewed increasingly as an emergency assistance service. Their help is required to enforce a very large majority of court decisions. For instance, they may intervene to help dismiss an employee guilty of misconduct, to force an employer to reinstate an employee who has been dismissed for no apparent reason, to evict a dishonest tenant or, on the contrary, to ensure that someone who has been wrongly evicted can return to his or her dwelling, or to ensure that maintenance is paid and that companies that fail to pay allowances or even salaries are forced to do so. Their duties also include winding up bankrupt companies.
67. We were also told about the many problems this apparent success has caused for bailiffs. It seems that in some cases they cannot enforce a court decision because there are no laws or regulations authorising them to take action. In other cases, it may be impossible in practice for them to do so. These difficulties are being examined by the Ministry experts, who are working on amendments that could be made to the existing legislation in order to give bailiffs real powers in particular areas covered by specific laws.
68. In addition, according to the information I was given, it is essential to increase funding for the work of bailiffs, and particularly their operating budget, in order to cope with the growing number of cases in which they have to intervene. Bailiffs are financed from the federal budget through the Ministry that supervises their work. I understand that a considerable effort has been made to increase the federal budget appropriation for the Ministry of Justice, whose needs are enormous, as in most of the member states of our Organisation. The Ministry of Justice is, admittedly, required to provide funding for a number of purposes that are of prime importance – and in particular to improve the condition of the prisons for which it is responsible. This task should not, however, prompt it to neglect other important services that are being prevented from operating properly because of insufficient funding.

69. Furthermore, representatives of NGOs and the Bars told me that bailiffs were not as effective as they might be, for several reasons. First of all, they have a very heavy workload. It would seem from the statistics with which I was provided that enforcing a court decision takes on average 31 hours' work, which represents roughly four working days. In theory, a bailiff can therefore deal with only five or six cases a month, yet the average workload assigned to bailiffs is 160 to 170 cases a month. The figure may be up to 500 in some regions. It is therefore crucial to increase the number of bailiffs and the logistical and financial resources at their disposal. This would make it easier for the public to enforce their rights and would enable the new institution to become firmly established.
70. It seems, moreover, that the establishment of this new profession has led to a certain tension amongst the legal professions. At Khabarovsk, for instance, the President of the Regional Court said he would have much preferred bailiffs to be answerable not to the Executive, but to the judiciary. This would suggest that the profession is yet to firmly establish its place and that further adjustments are necessary.

b. Lawyers

71. The existence of the free and independent profession of lawyer is one of the foundations of a state based on the rule of law and a genuine democracy. Establishing such a profession was one of the prime objectives of the democratic reforms carried out in Russia. It is clear that much progress has already been made in this direction and that there have been major achievements, even if the work is not yet complete.
72. Whenever I have visited member states of our Organisation, I have set great store by meeting representatives of the Bar. My visit to Russia was no exception, and I should like to extend my special thanks to the representatives of the Kazan, Krasnodar and Irkutsk Bars for the time they spare and for throwing light on some issues of key importance.
73. It should first be noted that the reform of the legal profession is one of the most significant achievements of recent years. The new law governing the activities of lawyers and the profession in the Russian Federation was passed in May 2002. It was recently amended to make good certain shortcomings in the initial text, which clearly shows that the reform is still in progress. We must therefore avoid drawing hasty conclusions. Nevertheless, in the light of my conversations with barristers and NGOs, I should like to mention a number of points which were made and which deserve particular attention.
74. Virtually all the people with whom I spoke thought that the new law governing the legal profession was a very welcome one that made it possible to organise the profession satisfactorily. The law defines the status of lawyers, lays down a legal and structural framework and provides the profession with genuine protection and the necessary professional conditions. It now allows representatives of the profession to set up in private practice on their own or in partnership and to become members of existing law

associations (*kollegia*). The law also provides for the establishment of a Bar Association, both to protect the independence of the profession and to guarantee that its members operate as a unified profession. The fact that the law protects the profession is a welcome development that will help to ensure that all members of the Russian public are properly represented in court.

75. The current situation is very different from that which preceded the above-mentioned law. Previously, there were several legal instruments governing the profession. The powers assigned to lawyers were vague, and this lessened their influence.
76. Among the most significant contributions of the law, attention should be drawn to the extension of the safeguards surrounding the practice of the profession. Lawyers are now entitled to collect evidence in the cases assigned to them, which is an improvement on the previous legislation. The law has introduced another important development: lawyers now enjoy protection in the practice of their profession. Neither the police nor the Prosecution Department can initiate an enquiry into the actions of a barrister without a prior court decision. In addition, the new law allows barristers unlimited access to their clients, even if the latter are in prison.
77. Furthermore, the profession of barrister has followed the general trend in Russian legislation and reflects the changes introduced in comparison with the situation under the Soviet regime, which have been described above. Russian law has been diversified and is no longer confined to criminal law, and this has been reflected in the reform of the profession. Barristers are now entitled to represent their clients' interests not only before a criminal or civil court but also in the case of disputes with the tax authorities or in connection with the enforcement of court decisions. This represents considerable and extremely beneficial progress, and is to be welcomed.
78. At the same time, I was told that a number of problems persist, and I should like to draw attention to them for it is of prime importance in a state governed by the rule of law that lawyers be able to operate effectively.
79. Among the problems affecting the proper administration of justice and the legal profession, one of the most often mentioned was the issue of free legal aid and the official assignment of defence counsels. According to the Code of Criminal Procedure, anyone against whom criminal proceedings have been instituted is entitled to assistance from a lawyer. If someone cannot afford the services of a lawyer, the Code provides that a defence counsel must be officially assigned to him or her. This is in keeping with the Convention, Article 6.3.c of which stipulates that a defence counsel must be officially assigned when the interests of justice so require.
80. Although the Code of Criminal Procedure is categorical when it comes to the award of legal aid, this right would not always appear to be enforced. Section 26 of the law governing the profession of barrister defines the conditions under which free legal aid is awarded. They are quite restrictive: legal aid is assigned only to citizens whose income does not exceed the "survival minimum" threshold or who are plaintiffs in welfare

support disputes, veterans of the Great Patriotic War (the Second World War), Russian citizens appealing for a retirement pension or victims of political repression asking to be rehabilitated. Everyone else must pay for the services of a lawyer.

81. The representatives of civil society pointed out that the services of a lawyer were very expensive for someone on an average income. Those who received only the “survival minimum” income, the threshold adopted as a reference in the above-mentioned law, or fractionally more, faced day-to-day economic problems which, in any event, prevented them from being able to afford the services of a lawyer. The threshold seems, therefore, to be extremely low if everyone is to be guaranteed access to the services of a lawyer. Unfortunately, the majority of the Russian population is currently in financial straits, and this does nothing to facilitate access to the courts. And yet it is usually this category of people who have the greatest need of such access.
82. It strikes me as important, in the light of what I was told, that efforts be made to enable legal aid to be awarded more widely. This is a means of safeguarding the Russian population’s right to the proper administration of justice. I quite understand that the current budget does not allow the authorities to increase expenditure significantly, but the extension of free legal aid should be included amongst the objectives of the ongoing judicial reforms.
83. The authorities should therefore consider a number of immediate measures to ensure that the most deprived sections of the population have access to a lawyer at all times. A solution must be found, for the situation is still problematic. The barristers with whom I spoke stressed that numerous problems still arose in the course of the procedure for the official assignment of a defence counsel.
84. The presence of a lawyer is compulsory in a number of situations, for example when people are taken into police custody or detained on remand. In such cases, the person arrested has the right to choose a lawyer and, if he or she expresses no preference, a lawyer is designated automatically at the request of the authority concerned. According to the barristers I met, there are two problems. The person they have to defend often cannot afford to pay them, and the authorities concerned do not have the means to pay their fees and, if they do so, they pay only a small proportion of them.
85. I raised this problem during my conversations with the authorities concerned and I should like, once again, to request that every effort be made to find a solution. On the one hand, all work should be remunerated, and this also applies to barristers who are, in any event, obliged to lend their services once they have been designated. On the other hand, their remuneration should be fair and not a mere token payment. During my visit to a prison in Irkutsk, a prisoner raised this very problem, but from a different angle. He told me that in some cases lawyers are officially assigned but the client still has to pay for their services. And it sometimes happens that the fees are compulsorily obtained even though the customer is not always satisfied with the services provided.

86. All this clearly shows that there are problems, including that, already mentioned, of corruption. There are, no doubt, structural causes for this, connected with the rapid changes in the judicial system and of society in general. Even if they cannot be resolved overnight, solutions need to be found if the large and ambitious reforms of the judicial system are to achieve their aims. Lasting and effective solutions will only be found through the concerted action of all the parties concerned, including lawyers themselves. I should like to encourage all those concerned to work together to make progress on this urgent issue.
87. Furthermore, it seems that existing legislation provides for the possibility of voluntarily forfeiting the services of a lawyer, even in a criminal case. I think this creates too great a risk that someone will not be effectively defended, not to mention the risk of abuse and pressure on the part of the authorities, which can never be ruled out.
88. Lastly, I should like to raise a point that I can relate to personally, being once been a practicing lawyer myself. The barristers with whom I spoke expressed some concern over the sanctions they could incur in the performance of their duties. Section 33 of the law defines the circumstances in which sanctions can be imposed on lawyers. Such measures are taken by committees responsible for deciding on the eligibility of lawyers to practice, set up by the Bars in the subjects of the Federation. This is a classic procedure, which exists in many member states.
89. I was very surprised, however, by the membership of these committees. I learnt that, in addition to barristers, the committees include members representing the Ministry of Justice (or the Regional Justice Directorate), judges from the Supreme Court of the region concerned and members of the regional parliament. This strikes me as questionable in view of the need to preserve the independence of barristers. Moreover, I was told that very often complaints lodged against barristers come from representatives of the courts or the Regional Justice Directorates. This is tantamount to having barristers “tried” by the very people who are accusing them, which by no means makes for an impartial procedure. I share the misgivings of those with whom I spoke about the membership of these committees that also serve as disciplinary bodies. It is important that the independence of the legal profession be preserved. I would therefore urge the competent authorities to institute an open dialogue with the Bars in order to find a solution that is satisfactory all round.

4. The death penalty

90. As I have already said, the question of the abolition of the death penalty is still outstanding in Russia. President Yeltsin decreed a moratorium on the death penalty in August 1996, cancelling all executions. In doing so, he met one of the key requirements formulated by the Council of Europe during the negotiations preceding the Russian Federation’s accession to our Organisation. On 16 April 1997 Russian signed Protocol 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty. It has still not ratified it. Its failure to

honour its undertaking is a source of grave concern, particularly as many voices have been raised over the last few years in the highest echelons of power – in the Duma, the lower house of Parliament – in favour of its restoration. Some argue that capital punishment should be reintroduced for people accused of terrorism, while others see it as the only means of combating drug traffickers.

91. I cannot endorse these arguments under any circumstances, and I repeat with insistence that the abolition of the death penalty is essential to the establishment of a genuine modern democracy, which fully respects fundamental freedoms and rights. I therefore call on the highest authorities of Russia to pass, as soon as possible, a law abolishing capital punishment, not only in practice, as is currently the case, but also in law. I would encourage Russia to ratify Protocol 6 to the Convention as soon as possible.

IV. ACTIVITIES OF LAW ENFORCEMENT AGENCIES AND REFORM OF THE PRISON SYSTEM

92. Every state has a duty to secure public order. The national authorities must therefore ensure that the needs of the services responsible for this task are met. As always on such visits, I paid particularly close attention to the role of the police and the Ministry of Justice in protecting public order and to issues relating to the deprivation of liberty. On examining the situation, I was able to observe that a number of essential reforms have been introduced in this area following Russia's accession to the Council of Europe. I was, at the same time, able to gain some understanding of what remains to be done.
93. It is worth recalling that Soviet practice regarding the deprivation of liberty paid scant regard to the respect for human rights, both regarding criminal investigation procedures and detention and imprisonment in the strict sense. The safeguards for persons arrested by the police and the conditions of those detained in police custody and then imprisoned were well below European standards. Soviet era practices were not only unacceptable from the point of view of human rights, but they created, in addition, an increasingly wide gulf between the population and those who were supposed to protect it. They also led to sustained criticism from the international community and from Russian public opinion itself. It was therefore only natural that one of the conditions for Russia's accession to the Council of Europe was a radical reform of criminal procedure and legislation.
94. The Russian Federation has not only accepted these conditions but has also promised to make them priorities and to integrate them into its current legal reforms. Such changes were also demanded and expected by the public at large, and by representatives of law enforcement agencies themselves.
95. Major reforms started in the 1990s and are still continuing. Any assessment I can make must therefore be provisional, based above all on my personal impressions from visits to police stations, police detention facilities, remand prisons and prisons for persons serving sentences. These visits were interspersed with numerous meetings and discussions with

officials, law enforcement representatives and prison managers, as well as with prisoners, their families and lawyers. I must emphasise from the outset that all these visits were conducted with the utmost transparency. My team and I were given full access to all the establishments we asked to visit and encountered no obstacles once inside.

96. In this section I will focus firstly on law enforcement agencies, and in particular how they conduct arrests and the conditions in police custody, then on remand procedures and practices and finally on the situation in prisons.

1. Law enforcement agencies and the arrest of individuals

97. First a general comment. My discussions with NGOs, police, judges and lawyers highlighted the major problems faced by the police. These initial conclusions were confirmed by my own observations. It is important that greater attention is paid by the State and the public to the proper and effective functioning of the police as society cannot do without this key institution for the maintenance of public order. It is very much in the public interest for those recruited to the police to be properly trained and to feel appreciated and respected by their fellow citizens and the authorities. The police also needs to be better funded: salaries should be raised and better equipment provided. These are preconditions for the development of the rule of law and will also help to prevent corruption.

98. My visits to various regions offered a very contrasting picture, which very much reflects the period of transition through which the Russian state is passing. I met officers of a very high standard who are totally committed to their profession and have spent a large part of their lives in the service of their fellow citizens and the state, despite the difficulties of the job and unattractive pay. But I also received many complaints of police brutality and the poor training of many officers. I was informed of brutal and violent practices during questioning and police custody. I was told of police who risked their lives in a courageous fight against organised crime and drug networks but also of the pervasive nature of corruption. I saw recently restored police stations whose level of equipment was fully in conformity with European standards and others built in the last century that were highly dilapidated and had had no work done on them for decades. And if some police officers work in modern conditions with computer facilities, others are only equipped with little more than typewriters and carbon paper.

a. Arrest, police custody and investigation procedures

99. In my conversations with representatives of law enforcement agencies and civil society and with detainees, I raised a number of issues relating to arrest, police custody and the investigation procedure.
100. Before coming to the principle problems noted throughout my visit, it will be useful to provide a brief summary of some of the main changes in criminal procedure in the recent legal reforms.

101. Under current legislation, persons suspected of offences are arrested by law enforcement agencies, usually the police. They are taken to a police station or some other place of inquiry to establish the facts. This is the first stage in the proceedings. Under Article 92 of the Code of Criminal Procedure (hereafter the CCP) they must formally be taken into police custody, not more than three hours after the arrest, or released. Under Article 49.2 and 3 of the CCP, arrested persons are entitled to the assistance of a lawyer as soon as they are notified of their custody. If the individual concerned does not choose a defence lawyer within twenty-four hours, the investigating official is required to ask the court to appoint a lawyer *ex officio*.
102. If there is sufficient evidence to open a criminal inquiry and if the investigator considers that the individual concerned should be detained during the course of the inquiry, an application is lodged with the court, which orders the opening of an investigation and, if indeed necessary, the individual's remand in custody, as a precautionary measure. Once such an order is issued, the individual is remanded in an what is called, in Russian, an 'investigative detention facility' or, more generally, a "SIZO".
103. If on the other hand the circumstances call for more detailed investigation, and if the investigator thinks that more time is needed to confirm or disprove the evidence against the suspect, the latter is placed in police custody and held in a short-term detention facility known as the "IVS". Police custody lasts forty-eight hours. The investigator must inform the prosecutor of a suspect's placement in the IVS, once twelve hours have elapsed.
104. After forty-eight hours, the investigator must release the individual or refer the case to a relevant court and ask for an investigation. The court may also extend police custody under Article 108.6.3 of the CCP for an additional seventy-two hour period, at the investigator's request. Such requests must be justified by the need to secure additional evidence. In certain cases laid down in Articles 97 and 99 of the CCP, police custody may continue for up to ten days. The relevant courts are responsible for ruling on such exceptional situations. At the end of police custody, if the judge opens an inquiry, the suspect is remanded in custody in a SIZO.
105. It should be pointed out here that concerns relating to the deprivation of liberty were raised repeatedly by those I spoke with, representing both civil society and the legal profession. All drew my attention to a tradition inherited from the Soviet era in which imprisonment was considered to be the normal, indeed almost only, appropriate measure. This almost automatic tendency to see every problem from a criminal perspective from the very outset is very worrying. At Krasnodar, representatives of an NGO working with young people in difficulty said that the courts resorted to custodial measures almost as a matter of course. Over the previous three years, for example, this NGO had secured the release of 65 young persons in police custody for a ten-day period, because there was a clear lack of evidence to justify such a measure or, indeed, the opening of a criminal investigation at all.

106. Although Article 98 of the CCP offers a wide range of alternatives to remand in custody, such as undertakings not to leave the territory (as defined by the court) or compulsory residence orders, they are rarely offered. Imprisonment remains the norm.
107. Under Article 109.1 of the CCP, persons may not be remanded in custody for more than two months. However under paragraph 2, this period may be extended by a court to up to six months for the purposes of the inquiry and up to twelve months if the person is suspected of committing a very serious offence. However, under paragraph 3, in exceptional cases, a judge of a court of a subject of the Federation may extend remand in custody to up to 18 months, following a request from the investigator with the agreement of the Prosecutor General of the Russian Federation. No further extensions are permitted under law unless the individual concerned expressly requests it in order to examine the documents in his or her file. During remand in custody, the investigator must close the inquiry and forward the case file to the prosecutor, who then transmits it to the relevant court.
108. These are the main stages of the criminal inquiry procedure, the result of a recent reform drawn up with expert assistance from the Council of Europe. During the visit, however, we were able to observe ourselves substantial problems with the implementation of this reform. Those we spoke to also reported the continuation of bad practices, inadequate training for legal personnel and even, in certain cases, a certain reactionary resistance to change. The reform process must be continued, preferably by persuasion, but where unwillingness still persists, through imposed solutions. I was able to observe the commitment of many of those I spoke to, in Moscow and in the regions, and am confident of the eventual success of this enormous task that is already under way. It will take time and effort but there can be no letting up on a process that will benefit the entire Russian people.

2. Administrative detention (police custody)

109. The first investigations in criminal cases are generally conducted by law enforcement officers answerable to the Ministry of the Interior. Local police officers carry out the initial groundwork, from stopping suspects following a complaint to initial questioning and other operative measures relating to the enquiry. Responsibility then passes to the supervisory staff of the detention facilities (IVS's) for persons held in police custody.
110. Throughout my visit, I paid particular attention to persons detained by law enforcement agencies responsible to the Interior Ministry. I received many complaints from persons detained in these detention facilities, from representatives of civil society and from lawyers. I obtained such information not only from the meetings organized during the visit but also from written communications, in accordance with the procedure laid down in Article 5 of my terms of reference.³ It is no secret that serious human rights problems occur at this stage. They are indeed the subject of debate inside Russian society, which is perfectly well aware of them. There is considerable discussion in a variety of a, whether

³ See Resolution (99) 50 of the Committee of Ministers.

in the press, on television or in political debates, about the treatment of detained persons by law enforcement officers. These concerns were also raised in the recent election campaigns. The fact that such grave problems persist is acknowledged at the highest levels of the state, including the Interior Ministry, which has launched a major educational and financial effort to secure the necessary improvements.

111. Most of those we spoke to referred to violence and ill-treatment inflicted by law enforcement officers on individual prisoners. However, there were also references to the rampant corruption in the police. The very fact that some officials are involved in violence and/or corruption casts discredit on the entire profession. This trend could pose a major threat to Russian society as a whole. It is therefore essential to focus on the problems raised, determine their origins and do everything possible to rectify them rapidly.

a. Police stations

112. Arrested persons are taken to a police station, which is when the inquiries begin. The initial investigations are crucial and can affect the subsequent course of the proceedings. After questioning, arrested persons may be released or placed in police custody. If there is sufficient evidence, a criminal inquiry may be launched. The courts may then order placement in and transfer to a SIZO.
113. The first hours after arrest are extremely important. As well as influencing the subsequent proceedings, they can also affect suspects' psychological balance and their physical and mental health. It must be borne in mind that persons who are arrested and detained are presumed innocent, and their rights must be respected. They should therefore be informed as soon as possible of their rights and the remedies available to them. Yet, it appears from my conversations with detained persons that they were given very little information.
114. Under current legislation, arrested persons are entitled to the assistance of a lawyer. However, from the accounts I heard, the reality is quite different and very few persons spontaneously request a lawyer. In the majority of cases, the lawyer is appointed *ex officio* and appears on the scene only later, after the procedure has already got under way. In the meantime, suspects are not informed of their rights. Admittedly, when I visited the Krasnoflotsky district police station in Khabarovsk, I saw extracts of the CCP setting out the main rights of detained persons pinned to the wall, which is a good start. However, these provisions are not understood by everyone, particularly those who are not versed in the law. In other words, they are only accessible to a very small minority of detained persons.
115. I therefore consider it desirable to supply all detained persons with an explanatory booklet setting out their basic rights and describing the most frequent situations and problems they are likely to encounter. Such booklets are well known in Russia and are generally called *pamiatka*. Such a step would strengthen existing arrangements, such as the statutory posting up of legal provisions, and supplement the information and advice available to detained persons. It might also act as a restraint on police and curb any

temptation to use violence. I believe that it would be beneficial to give bar associations and NGOs a role in drafting these documents. They might also usefully be translated into several foreign languages. This applies particularly to border areas, where there is a greater likelihood of finding foreign detainees, with no information to help them to defend themselves.

116. In addition, since we have received significant complaints about the availability of free legal aid and court appointed lawyers, it would be appropriate for the bar associations to establish a proper system of emergency assistance on which the police could call when the need arose. If necessary, such services should be subsidised by the state.

b. Short-term detention centres (IVSs)

i. Material conditions

117. Under current legislation and regulations, persons in police custody must be held in an appropriate location. Many police stations are unsuitable for custody, so central short-term detention centres (IVSs) have been established for this purpose. As noted, police custody generally does not last more than 48 hours, though it can be extended to 72 hours or even up to ten days. In other words, persons are not detained in such centres for very long, but this does not mean that their material conditions can be ignored.
118. During the visit, I visited two police stations, Krasnoflotsky in Khabarovsk and Leninsky in Nijny Tagil, and five IVSs: the central IVS in Irkutsk, a further one for minors in the same town, and two more in Kazan and Gelendzhik. Finally, I also visited ORB-2 in Grozny. I was a result able to obtain at least a general overview of the situation in such establishments, and would like to make a number of comments.
119. Firstly, the material conditions in the IVSs I visited were fairly poor, even though they varied from region to region. The buildings were often old, dating back to the Soviet period, and lacking adequate funding. The cells were normally fairly spacious and did not suffer from overcrowding as the average length of stay was very short. However, there were a number of very alarming features.
120. Firstly, in the majority of IVSs visited - with Gelendzhik the notable exception – persons in custody were not supplied with mattresses or blankets. I was shocked to discover that the large cells were fitted with a large raised platform the length of the wall opposite the door that served as bed, table and chair. No other facilities were supplied. Prisoners were given blankets in one IVS visited, but not in the others.
121. The absence of basic necessities is regrettable and unacceptable. The IVS managers I spoke to about the absence of mattresses and bedding often replied that there was no provision for them in the regulations. This is very surprising since Article 3.1 of Interior Ministry Decree No. 41 of 26 January 1996 on IVS rules of procedure states that all prisoners must be given the necessary bedding. Even if the decree has since been modified, this is unlikely to have been in such a way as to reduce prisoners' rights. At all

events, in Gelendzhik, they were indeed supplied with all the necessary items for sleeping, including mattresses. I call on the competent authorities to do everything in their power to improve the situation in IVSs to offer prisoners decent conditions and the respect owed by the State.

ii. Allegations of violence and lack of medical checks

122. During my time in Russia, I visited a significant number of Interior Ministry establishments, including police stations, IVSs and remand centres for young persons. On each occasion I visited the ordinary and disciplinary cells, rooms used for questioning and the sanitary facilities. Material conditions varied between establishments but in general they were very poor, and in themselves constituted fertile ground for human rights violations. I am also convinced that they affect not only the prisoners but also the staff, who also suffer from the difficult conditions in which they have to carry out their jobs. Unfortunately, these factors are all linked.
123. Law enforcement officers' working conditions will be considered below but it needs to be said at once that senior figures, and in particular the Minister of the Interior, Mr Rashid Nurgaliyev, have assured me that major efforts are now under way to improve the material situation of law enforcement agencies.
124. Most of the complaints I received concerned clearly defined issues. I therefore wish to focus on certain precise points.
125. One that recurred frequently in various places concerned the ill-treatment of prisoners by staff. In the vast majority of cases, these allegations were made against the police. Such assaults reportedly took place during police custody or questioning. I was careful to question each individual encountered in the SIZOs about ill-treatment and must acknowledge that there were no complaints of incidents in these establishments. According to those I spoke with, the majority of staff in remand establishments abided by the rules of conduct laid down in the relevant legislation.
126. On the other hand, I received many complaints of police assaults on persons in IVSs or police stations. It is difficult to disentangle the truth in such cases when surrounded by accusations on the one hand and denials on the other. However, on the basis of my personal experience, I believe that the police must anticipate such situations and introduce mechanisms to reduce as far as possible unfounded complaints, if that is what they are. Besides, in discussions with the Interior Minister of the Republic of Tatarstan, I was told that in the previous year, his department had received 141 complaints of police ill-treatment, but at the same time the police supervisory department had launched 134 investigations on its own initiative, which suggests that many citizens are reluctant to accuse the police of brutality. This may be attributable to fear of reprisals. On the other hand, certain citizens think that such behaviour is quite normal, which is inadmissible.

127. I was also very surprised to discover that the administrative detention procedure made no provision for medical checks on entering or leaving the establishment, as is typically the case in many European countries. Moreover, very few IVSs had doctors on the premises.
128. In certain establishments, I came across *feldshers*, medical staff traditionally employed in Russia whose level of training is somewhere between that of nurses and doctors. Others employed nurses. These medical staff were able to provide emergency medical care if prisoners so requested. I asked whether persons entering and leaving IVSs were examined to check for signs of ill-treatment, and only received negative replies.
129. I was told that on arrival, all prisoners were asked if they wanted to complain about their state of health. If the answer was negative, no medical examination was carried out. Nothing was done when they left the IVS. It seems to me that this system leaves room for possible abuses. Firstly, if staff know that there are no systematic checks on prisoners' health, they may be less likely to worry about the possibility of proceedings being brought against them. Equally, however, dishonest prisoners can complain of ill-treatment knowing that no checks have been carried out that might disprove the allegations.
130. I therefore think that obligatory and independent medical checks on persons entering and leaving places of custody would not only be desirable in themselves but also of benefit to the police. Such checks should be carried out by qualified doctors who would not only ask individuals if they had any problems but also carry out highly professional checks on them. Such examinations should take place without the presence of the police, unless there was a clear risk for the doctor, to avoid any fear of subsequent pressure or reprisals.

b. Police working conditions

131. It is pretty well a truism to say that in most of our member States the police are far from being the amongst the best paid. This is also the case in the Russian Federation. This issue was frequently raised in our meetings the police, whether they were simple station officers or senior ranks. Police officers' basic salary is not very high and this creates a number of problems for the Interior Ministry.
132. It emerged that the very low wages had led to the departure of a fair number of highly qualified staff to the private sector, including private security companies, which are very common throughout Russia. These large scale losses are very damaging to the police. I think back to a very interesting discussion with police in Nijny Tagil, which casts a lot of light on the situation. These very experienced officers described the problems they faced. In many cases, they echoed what was said by civil society representatives. They said that the police had been seriously affected in recent years by a large loss of staff, who had been replaced by young and inexperienced officers. The problem was not one of lack of training, since in fact almost every region had its own police college, and nearly all those joining the service received specialist training.

133. However, no amount of theory can replace practical training on the ground or the experience passed down by older officers to new recruits. The scale of departures from the service means that many young policemen and women no longer have the opportunity to serve alongside their elders. The generational transmission belt has been badly damaged, and in some regions, has totally broken down; this has caused serious harm to the entire profession. It appears that some of the police violence reported to me was committed by demotivated and badly trained officers poorly suited to the profession. I was also told by police officials in Nijny Tagil that during the most difficult period, persons were recruited who had a criminal record. When this was discovered those concerned were dismissed, but the damage had been done. This is undoubtedly a difficult situation but it can be improved. The authorities have at least recognised the problem and are clearly committed to resolving it. I can only encourage them because a strong, motivated, well trained and law abiding police force is an important guarantee of respect for human rights.

c. The events in Blagoveshchensk

134. Although the activities of law enforcement agencies raise important problems in most Russian regions, the situation in certain areas is of particular concern. Attention should be drawn to excessive use of force occasionally employed by police on the civilian population. During my visit, I received numerous complaints from NGOs about the situation in the Republic of Bashkortostan. Recent events in Blagoveshchensk, in that Republic, only serve to reinforce our fears. Law enforcement agencies conducted a vast so-called "preventive" operation in this small city between 8 and 14 December, in the course of which nearly 1000 persons were arrested.

135. It appears from information from persons arrested that many of them suffered ill-treatment. Nearly 300 had to be admitted to hospital after they had received repeated blows from several police officers. These were quite inappropriate measures against members of the public, involving totally unacceptable methods.

136. The authorities of the Republic of Bashkortostan and their federal counterparts have since recognised that the police acted quite disproportionately. The federal Ombudsman, Vladimir Lukin, has taken up the case and has officially requested the Republic's Prokuratura to throw all possible light on these deplorable events. An inquiry was opened, but so far the investigations into who was responsible have not led to any tangible results. I cannot but express my great concern about the methods used and the patent violations of human rights that occurred. I call on the local and federal authorities to ensure that these actions do not remain unpunished.

3. Remand establishments (SIZOs)

137. Remand in custody corresponds to the period of imprisonment during the enquiry, and ends when the courts have passed final judgment. At this point, an accused may be released if acquitted or if any prison sentence passed is less than the time already spent in

custody. Alternatively, he or she may be sentenced to a prison term and sent to a penal colony, or more simply a colony. Persons remanded in custody are placed in remand prisons, or SIZOs.

138. The conditions governing remand in custody, the length of proceedings and overcrowding in SIZOs were some of the most troublesome issues for the Russian Federation when it joined the Council of Europe. At the time it was well known that living conditions in SIZOs were appalling and that there was a huge prison population greatly in excess of the number of places available. In contrast to most of the organisation's member states, the prison system was administered by the Interior Ministry, which created a major risk of conflicts of interest and responsibilities between the investigating and prison authorities. Periods spent on remand were well in excess of what was laid down in law, itself fairly long by European standards. This is why reform of the prison system and criminal procedure were among Russia's most important obligations.

a. Contribution of the reform of the prison system

139. The reform started with Russia's accession to the Council of Europe and continues to this day. There has been some significant progress but work still remains to be done. All prison establishments are now controlled by the Justice Ministry, except the IVSs, referred to earlier; though a few SIZOs still fall under the control of the Federal Security Bureau (FSB). I hope that this exception will rapidly disappear and that the ordinary law will prevail. The process of reform and improvement has been undertaken with great commitment by the Justice Ministry and I wish to pay tribute to the commitment and resolve of the Minister, Mr Yuri Chaika.
140. The situation in the prison sector and in particular in the SIZOs was also the subject of one of the first judgments of the ECHR affecting Russia: application No. 47095/99, Kalashnikov v. Russia, judgment of 15 October 2002. The Court found that there had been a violation of Article 3 of the Convention because the applicant's poor conditions of detention amounted to degrading treatment. Such a situation was clearly far from satisfactory and the Russian authorities were obliged to take steps to secure rapid improvements.
141. One of the main objectives of the ongoing reform of the prison system is to significantly improve detention conditions. I was informed of this by the Russian authorities well before the start of the visit. This progress was also the subject of Committee of Ministers Interim Resolution ResDH(2003)123 of 4 June 2003. I therefore visited a representative sample of prison establishments during my stay to enable me to assess the changes that had resulted from the reforms. The visits were to SIZO N 1 in Khabarovsk, SIZO N 1 in Irkutsk and IZ – 16/2 in Kazan.
142. I wish to stress that I was not subject to any restrictions inside these establishments. I was free to visit all the places that interested me. I was also able to hold discussions with prisoners whenever I wished, quite openly and without the presence of guards.

143. The material conditions in these establishments were very poor. In the Khabarovsk SIZO, for example, I visited a women's cell which held fourteen people in an extremely hot and humid confined space. There was only one small window that did not even let in any light. The air clearly did not circulate and a tiny fan on a table in the middle of the room was totally ineffective. The women with whom I discussed the situation said that there was not enough room for all of them in the cell and that, on crowded days, they had to sleep in turns.
144. I also visited the same prison's disciplinary cells. The first I was shown had recently been renovated and was in a perfectly reasonable state. However when I asked to be shown the neighbouring cell, I found a shocking sight. The room was narrow, with a window through which no air or light could pass. The walls were dirty and covered with mildew and damp. The WC was open, with no form of separation, and gave off strong smells. A prisoner was seated on the floor. He told me he was entitled to one shower a week and one hour's outdoor exercise each day in the courtyard, but that this had been replaced by a walk on the roof because of a shortage of supervisory staff.
145. In the Irkutsk SIZO, we visited an entire wing where the cells were in an appalling state. They were dilapidated, dirty and overcrowded. They held between 4 and 17 persons and had no ventilation or appropriate lighting. The beds and bedding were awful. In other sections, the general conditions were much better. The authorities assured us that work was scheduled in the section in a bad state and we were able to observe that it had started in the corridor.
146. Overall, I had the firm impression that most of the premises of these SIZOs required general reconstruction. The thick coats of fresh paint along the walls of all the parts we visited did nothing to hide the dilapidated and probably irreparable state of these buildings. I was, as we walked their corridors, only too aware that I must myself have been the involuntary source of the suffering caused to prisoners by the stifling smell of the freshly painted walls and floors in the July heat wave. I should note, however, that as the visit progressed from east to west, the painting became less obtrusive and the air more breathable, while the colours selected by prison managers for walls and floors changed from oppressive browns and blacks to more hopeful greens and blues.
147. Nevertheless, a clear distinction must be drawn between the very old premises and those that had been renovated, not to mention ones that were newly built. In the former, I saw narrow, overcrowded and badly ventilated cells whose walls and ceilings were covered in numerous stains caused by mould and damp. In the latter, the cells conformed with European standards, the number of prisoners was consistent with the floor area and certain cells were equipped with televisions.
148. Despite all that I have said, there have been very positive changes in the prison sector. The new CCP that came into force on 1 July 2002 has led to a significant decline in the number of persons in pre-trial custody. The reason is the transfer to the courts of the power to order remand in custody and the stricter conditions to which such decisions are

subject. According to figures supplied by the Russian authorities, the monthly average number of persons remanded in custody fell from 10.000 in 2001 to 3 700 in September-October 2002. This trend continued in 2003 and 2004. As a result the total number of persons detained on remanded fell from 199.000 in October 2001 to 145.000 in October 2002, and 136.000 in 2004⁴, which has considerably reduced the overcrowding in SIZOs. This trend has done much to bring the Russian prison system into line with the norm of 4m² per prisoner. The work must be continued and accelerated.

149. Reference should also be made to another important development. As we were visiting one of the last prisons on our programme, we were telephoned by Mr Yuri Kalinin, the deputy Justice Minister with responsibility for prisons, to tell us that the government had decided that very day to increase the 2005 budget appropriation for work on the SIZO system. An additional 400 million roubles will be allocated to this sector.

b. Necessary improvements to the prison sector

150. The Justice Ministry's 2002-2006 federal reform programme for the prison system, approved by the Russian government on 29 August 2001, provides for the building of new remand prisons with 10.130 places, and the renovation of many existing facilities aimed particularly at providing healthier detention conditions. We were able to see some of the results of this programme. For example, in SIZO N 1 in Irkutsk, we visited the new building inaugurated three days earlier to accommodate young persons. The layout of the cells made them more like four-person rooms, with furniture that gave them an air of normality. I was delighted to note that the building contains class rooms and a sports hall. I have to congratulate the authorities on this development and hope that other parts of the SIZO will be brought up to the same standard.
151. In this context, it is clear that overall improvements are required to the SIZO system. In the old buildings, for example, the cell windows are very small, which greatly restricts the amount of light that enters. Efforts must therefore be made to make these cells more accessible to daylight. At the very least, this means that nothing should be placed over windows and that external blinds, called "*jalousies*", should be removed.
152. Detention conditions are made even more difficult by the fact that prisoners in SIZOs have no form of occupation, other than one hour's exercise each day. Efforts must therefore be made to offer prisoners who so wish additional activities. Providing sports facilities would be a very positive development. Moreover, exercise areas are generally narrow and enclosed. Urgent work is needed to improve them.
153. It should also be made easier for prisoners to receive family visits. Many of those we met complained that their families had to obtain prior authorisation. The system that applies in most Council of Europe member states is that there is a presumption of authorisation; in other words, visits are considered to be authorised but may be restricted by order of a judge or the authorities. The principle of freedom to visit should also become the rule in Russia.

⁴ According to Ministry of Justice figures.

154. Prisoners' state of health continues to be a worrying problem. Persons who end up in prison generally come from disadvantaged sections of the community, though I recall a wise Russian proverb that says one should never swear not to end up in poverty or in prison. A significant number of persons entering prison are already in bad health and then become the prison service's responsibility. During my visits, I always asked to see prisons' medical departments, where I was able to discuss the situation with doctors, to whose courage and devotion I pay tribute. The medical services I saw varied in their level of equipment, but each establishment had its own department. The problems currently faced in SIZO's are effectively the same as those applicable to prisons in general, since all lack modern equipment. I was told that more medication has recently become available as a result of more generous funding, though it is clear that this is still inadequate.
155. Tuberculosis is still a problem in many prisons. Patients certainly receive treatment but there are not always sufficient medicines and the system for preventing the disease has a number of shortcomings.
156. At the same time, I had the impression that the medical services were almost totally unprepared for the new diseases that are increasingly making their presence felt in prisons. This applies above all to AIDS. In all the establishments visited, I was told that there were prisoners with HIV infection, but from what I understood nothing is currently being done to treat these patients.
157. I cannot forget the young man of about 20 whom I met in a disciplinary cell in penal colony 272/4 in Plishkino, in Irkutsk region. He had been placed there after taking part in a fight. Our visit appeared to offer him a certain distraction while he completed his punishment. I was able to talk to him in complete freedom and found his account of his short and tragic life at once simple, terrible and commonplace. He said that he had passed his childhood in a deprived environment. He had no father and his mother had to bring up his brother and himself with the small amount of money she earned. After leaving school, he went off the rails and in any case there was not enough money to pay for studies. Besides, he told me, he had the AIDS virus so what was the point. I then discovered that he was quite unaware of modern forms of treatment that allow infected persons to lead normal lives. The medical staff confirmed that persons with the AIDS virus received no specialist treatment. I cannot but call on the Russian authorities to urgently address this situation. The medicines are certainly expensive but I am convinced that a country like Russia, with traditionally high medical standards, could respond positively to this issue. It also seems to me that specialist NGOs could assist the authorities in helping to support these patients.

c. Complaints of ill-treatment in remand in custody

158. I have to say that in my conversations with prisoners I received no complaints of ill-treatment or violations on the part of prison staff, which is clearly very positive. On the other hand, I did hear allegations concerning the police. Initially, I found these very surprising since I had been told that once they had been detained on remand, prisoners should have no more contact with the police. How then could they suffer police brutality? The answer was not initially clear, but subsequently emerged from conversations with prisoners and, above all, lawyers during the course of my visit.
159. In a conversation in a cell in the Irkutsk SIZO, I tried to understand where the problem lay. It was occupied by some twenty prisoners, most of them fairly young. Initially they confirmed that they had not suffered any violence inside the prison. They were very insistent on this form of wording, so that eventually I began to wonder what they meant by "inside". I therefore asked whether they had had problems outside. From the silence that typical of the prison environment I realised that I was approaching the truth. I insisted on an answer and one of the boys then told me that he had been struck by the police during inquiry proceedings outside the prison. Tongues were then loosened and I was very surprised to discover that the prisoners spoke of such violence as quite routine, or at least as a regular occurrence. And when I asked whether such events happened often or just exceptionally, I was told that they were more or less the rule.
160. I find this situation extremely worrying and I tried to discuss it with all the professionals I met. It was clear that the complaints did not concern prison staff, prosecutors or investigators. Yet as far as I can make out from the new CCP, all inquiry proceedings should be conducted in their presence.
161. I was, however, told that certain aspects of criminal inquiries were governed by legislation dating back to the early 1980s and amended in 1995. This is Act No. 144-FZ of 12 August 1995 on "operational activities relating to enquiries". As far as I can understand, the Act establishes certain methods for the conduct of certain operational activities in the course of criminal inquiries. Its essential purpose is to protect state security. Under the legislation, inquiries may be conducted openly or in secret by bodies answerable to the Interior Ministry, the FSB or other specialist departments. It is not necessary for a lawyer or a prosecutor to be present during such inquiries, probably because they normally concern investigations designed to catch and arrest serious criminals. At the same time, inquiries concerning ordinary prisoners are governed by the CCP, and must be conducted by an investigator in the presence of a prosecutor.
162. I therefore think there is a risk of conflict between two sets of legislation covering the same area. From what I was told, in accordance with Act No. 144-FZ, the police remove prisoners from SIZOs and question them without the presence of a lawyer or investigator, which is apparently not necessary under this Act, though it is under the CCP. The absence of a lawyer or investigator could well be seen by certain police officers as an opportunity to extract a confession using prohibited methods, including force. It is apparently at this stage that the violence alleged by prisoners regularly occurs.

163. Another problem emerged from my discussions with senior police officials in Kazan. Apparently an Interior Ministry circular requires a 100% clear-up rate for offences. Police officers' assessments and pay are reportedly directly linked to this. Such an objective risks becoming an incentive to use force.
164. Many lawyers spoke about the conflict between the 1995 Act and the CCP, which was enacted after it. I cannot avoid being concerned that police brutality may be based on legislation originally intended to deal with situations very different from simple inquiries into everyday offences. I therefore call on the Russian authorities to examine this issue and come up with a clear and precise response, to end abuses that may be committed by those who take advantage of a legal ambiguity to put convenience before the law, and who violate human rights rather than defending them, as they are required to do.

4. Prisons or colonies

165. Persons who have been found guilty of an offence and sentenced to a term of imprisonment are sent to prison establishments normally referred to as colonies. I visited three large colonies in different parts of the country: colony 272/4 in Plishkino (Irkutsk region), colony IK-6 for women in Nijny Tagil and, finally, colony N 14 Elisavetinskaya, near Krasnodar.
166. I must say from the outset that the colonies seemed to pose less serious problems than the other types of prison. I do not wish to imply that the situation is excellent, but of all the establishments visited, the colonies are the ones where the benefits of the reforms and changes were most noticeable. This more positive impression is probably also influenced by the fact that convicted offenders do not spend most of their days confined in narrow cells but enjoy more humane conditions. Their movements are not limited to the interiors of the barrack-type buildings and they have the use of communal kitchens where they can prepare their own meals in private. The barracks also include reading rooms, television rooms and other recreation areas. Even though material conditions varied, most of them had at least these facilities.
167. I should add that during the visit we were told that several weeks before our visit to Plishkino the prisoners had mutinied. Certain NGO representatives maintained that ill-treatment of prisoners by the authorities had been the root cause of the problem, whereas other NGOs offered a different version of the facts. In any case, the prison management said that an inquiry was under way, but that according to their initial findings it had been provoked by the colony's mafia faction to protest against the appointment of the new director.
168. I do not intend here to offer an exhaustive analysis of the situation in the colonies as this is not the main aim of the report. I will therefore confine myself to a number of significant points.

a. *Prison diets*

169. In each establishment visited, I saw the kitchens and the food that was being prepared. On the days of my visits the quality and quantity of the meals were satisfactory. However, the authorities told me that there are problems in this area because the 20 roubles allocated per person/day were not sufficient, even though the situation had noticeably improved.
170. In many colonies, the management tried to find internal means of improving the quality of the food. Thus, in each establishment visited I was shown a vegetable garden and a farm where the prisoners themselves were employed. The product of their labour was used in the colony kitchens on a daily basis.
171. However, I know from letters I receive from Russian colonies and NGOs that dietary problems remain and still have to be resolved in a large number of establishments. I call on the authorities to accelerate the eradication of this problem. Persons deprived of their liberty are punished by the very fact of being placed in custody and should not suffer additional penalties and ill-treatment, such as malnutrition.

b. *Purposeful activity*

172. It is important for offenders to be able to work while they serve their sentences. I appreciate, therefore, the efforts being made by the prison service to offer work to all those who want it. Indeed, the situation has changed notably since the end of the Soviet era – work is no longer obligatory for persons in custody but a voluntary activity for which they are paid.
173. Nevertheless problems remain. The market economy that now governs Russian society has imposed new rules which have not left the colonies untouched. They can only arrange work for those who want it if they can find business partners willing to place orders with them. According to persons I spoke to in the prison service, it was becoming increasingly hard to obtain orders and thus to retain jobs because the competition was fierce. In the three colonies visited, I was able to observe the nature and conditions of the work undertaken. In the first two the main activity was sewing, in response to orders from the Ministry of Defence and catering businesses (cooks' uniforms and so on). I was particularly impressed by the Elisavetinskaya colony, whose director showed me a new factory built by a private investor to produce modern building materials. The factory was able to match the best businesses in this sector of the economy. Unfortunately I was told by prisoners that its entry into service had reduced the number of jobs in the prison by a factor of three. Clearly, economic progress and modernisation also affect the very closed world of prisons. One prisoner even said that they now feared the relocation of jobs!
174. The great majority of persons who worked and with whom I spoke said that they welcomed the occupation and the chance to earn a little money. The opportunity for many young persons entering the colonies without a trade or profession to learn one and

then practice it after release is clearly a positive factor. However, certain prisoners complained that too much was deducted from their wages. From what I understood, such deductions were intended to cover the costs of the individuals' presence in the colony. But although this is probably not unacceptable in principle, I do not understand why these costs should amount to up to 75% of wages, which acts as a disincentive to persons who are given the impression of working for nothing.

c. Women's colonies and the presence of children

175. Colony IK-6, which I visited, is for women. It includes women who give birth during their imprisonment or who are admitted with children under three. The colony therefore has a children's unit where they are placed and can be visited daily by their mothers. The mothers can breastfeed and remain with them.
176. I was very impressed by the care staff gave to these children and the material conditions in this unit, where nearly everything is made by the mothers and other women who do not have children placed there. It provided a very touching picture and made it possible to forget for a few instants the horror of seeing innocent babies in prison through no fault of their own.
177. I do understand that this is for the good of the mothers and children, since the alternative to keeping them together would be even more unacceptable. However another problem arises when the children reach the age of three years, when they are separated from their mothers. This is a very difficult situation and needs to be examined and resolved. I know that representatives of the prison service are currently reviewing the matter and hope that a solution that protects the interests of both mothers and children can be found.
178. We were told during our visit about a case of ill-treatment involving three young women in the disciplinary cells. I visited them and only found one, who refused to speak to me. The head of the unit said that the other two women were receiving medical examinations. I thought I would find them in the medical department but they were not there. I was then told that they had been taken to the radiology department. I was not greatly convinced by these evasive responses, and said as much to the staff members concerned.
179. However, I must thank the authorities of the Sverdlovsk region for the help and attention they give to the colony and its children's unit, and in particular Mrs Tatiana Merzliakova, the Regional Ombudsperson, whose work in the colony was clearly evident from the fact that many of the inmates recognised her without being introduced.

V. RIGHTS OF NATIONAL MINORITIES

1. General situation

180. Anyone arriving in Russia is immediately impressed by the scale of this immense country, which on its own forms an entire continent. But quite apart from its natural beauty, one is surprised and impressed by its population, a large family of peoples and

ethnic groups that have shared this vast expanse for centuries. The Russian Federation is a multi-ethnic and multi-confessional state. It is inhabited by more than 170 ethnic groups, designated as nationalities. In the Russian language and law, the word nationality refers to ethnic, national or religious affiliation. The population of these ethnic groups can vary enormously, from millions, in the case of Russians and Tartars, for example, to under ten thousand, in the case of Nenets and Samis.

181. The territory of the Russian Federation is divided into 21 so-called national republics, 6 territories (*krais*), 49 regions (*oblasts*), 2 federal cities, 1 autonomous oblast and 10 autonomous districts (*okrugs*). All these entities have a multi-ethnic composition. The "eponymous" ethnic group only accounts for more than half the population in seven of the republics. However, whether or not the region is "national", all the citizens have equal rights under the law and no one is privileged or discriminated against on account of their ethnic affiliation. Even before my arrival, I had heard a great deal about the national minorities issue and how it was dealt with by the Russian authorities, as this has been critical for Russia's survival and civil peace for centuries.
182. How to respect and protect national minority rights is a major problem in contemporary Europe. We are all aware of its complexity and sensitivity. The Council of Europe is particularly concerned with minority rights, which are enshrined in a number of treaties starting with the Framework Convention for the Protection of National Minorities. I therefore wished to examine the Russian experience in this area. To get a better understanding of the situation, the progress made and the difficulties encountered, I visited the republics of Tatarstan and Chechnya and the autonomous okrug of Khanty-Mansiysk. More generally, in each region visited, I tried to meet representatives of minorities and religious communities active in the region.
183. I was able to appreciate the advances made in the in the protection of national minority rights and their cultural development, but was confronted, at the same time, with a number of specific problems. I was particularly impressed by the steps taken by the Republic of Tatarstan to foster understanding between ethnic groups. Tatarstan might easily be described as a laboratory for collaboration between different national minorities.

2. Legal and political aspects: national and cultural autonomy

184. Current legislation and policies in the Russian Federation are designed to encourage closer co-operation between the authorities and minority representatives and between minorities themselves. Generally speaking, they provide an excellent framework for the promotion of good relations between the many ethnic groups living in Russia.
185. The Russian Federation signed the Framework Convention for the Protection of National Minorities on 28 February 1996 and ratified it on 21 August 1998. This was a very positive development.

a. National cultural autonomous entities

186. The National Cultural Autonomy Act was passed in June 1996 and provides the legal and political framework for the development of national minorities. National cultural autonomous entities exist at federal, regional and local level. They correspond to voluntary associations of citizens defined by their ethnic, national or religious affiliations. They are national and cultural self-governing bodies which play a key part in preserving, developing and disseminating the languages, cultures, traditions and customs of different ethnic groups. In 2004, there were more than 300 national cultural autonomous entities, 15 of them at federal level.
187. The Russian Federation government's Consultative Council on National Cultural Autonomy helps to draw up federal proposals in this area and makes an important contribution to protecting national minority rights.
188. There are inter-ethnic associations and councils in several subjects of the Federation. For example, the Tatarstan association of national cultural autonomous entities brings together more than thirty nationalities, such as Tatars, Germans, Ukrainians, Armenians, Azeris and Assyrians. Such organisations facilitate dialogue at the highest level. They are also consultative bodies and take part in debates on the nationalities question at the regional and local levels. They are normally provided with premises where they can hold meetings or organise cultural activities. In many regions, they are called “houses of friendship between peoples”, a title that goes back to Soviet times but to which Russians remain very attached.
189. I met a number of representatives of cultural autonomous entities during my visit, often in these friendship houses. I particularly appreciated the ones in Yekaterinburg and Kazan, which were modern and welcoming cultural centres offering local associations premises and qualified and willing staff to help them organise cultural and educational activities.
190. The association representatives I met spoke of their constructive dialogue with local and regional authorities. They stressed the importance of the latter's support in preserving and developing national languages and cultures and in the religious renaissance of the different communities.

b. Assembly of the Peoples of Russia

191. The Assembly was established in 1998 and represents another forum for debate. It is made up of representatives of national cultural autonomous entities, public associations and organisations with an ethnic, cultural and/or religious basis. It fosters dialogue between ethnic minorities and between the latter and federal, regional and local authorities and monitors respect for minority rights.
192. In addition to the National Cultural Autonomy Act and the Assembly of the Peoples of Russia, there is further statutory protection for national minority rights, including several articles of the Constitution (in particular 26, 28, 29 and 69), and legislation on the rights

of small indigenous peoples, citizenship, education and the media, and freedom of religious association. The legal framework was strengthened in 2002 by legislation on citizenship of the Russian Federation, on the legal status of foreigners residing in the Russian Federation and the law on combating extremism.

193. However, the Russian Federation Ministry for Federation Affairs, Nationalities, and Migration Policies, set up in 2001, was recently abolished. The nationalities question and respect for national minority rights are now the responsibility of the Russian Federation Regional Development Minister, currently Mr Vladimir Yakovlev.

3. National minority participation in political life

194. I mainly visited national territorial entities, but I also wanted to meet representatives of all the nationalities concerned. This served to strengthen my initial impressions concerning the degree of co-operation and understanding between the various nationalities living in the same area, whatever their demographic importance. The fact that minorities were generally represented on local and regional authorities helped to foster harmony. I would like to describe my experience in the autonomous *okrug*, or region, of Khanty-Mansiysk in Siberia, where I saw how the international, constitutional, federal and statutory protection for national minorities was reflected in practice. The governor of the region is of Russian origin, the deputy prime minister is from Dagestan and the foreign minister is Tatar. This is the situation throughout Russia, whose multi-ethnic and multicultural character is always apparent and testifies to the richness of its human relations.
195. Generally speaking, minority representatives participate actively in public affairs. This does vary from region to region but the principle is generally respected.
196. I also met representatives of the diasporas and of community organisations in most of the regions I visited. They all spoke of their close collaboration with authorities who respected minority rights. For example, the Germans living in Tatarstan said that their cultural and religious renaissance owed much to their co-operation with the republican and local authorities.
197. The regional and local authorities are key participants in ethnic dialogue and the development of national minorities. They pay close attention to cultural and religious associations and organisations. Their willingness to listen to ethnic groups and their political commitment make a direct contribution to the development of national minorities.
198. This close relationship also applies between regions. There are several bilateral treaties and agreements between neighbouring republics, such as those reached by Tatarstan with Chuvashi and Bashkortostan in, respectively, 1992 and 1994.

199. Other steps are taken to strengthen dialogue such as congresses, conferences and other forms of consultation at all political and administrative levels.
200. In Khanty-Mansiysk, I was pleased to meet delegates at a congress of writers of Finno-Ugrian extraction. I also had the privilege of addressing the opening session. I learned a great deal about the contribution of the Finno-Ugrian people to Russian cultural life and the aid they receive from the authorities to foster economic and cultural relations with countries from the same linguistic family, such as Finland, Hungary and Estonia. I welcome this activity and encourage its development.

4. Cultural development

201. There are many ways of protecting minority peoples' heritage and identity but cultural development, the preservation of national traditions and the use of minority languages are key elements and essential to any democracy. The country's national, regional and local authorities are demonstrably concerned to preserve and develop national languages and cultures, which I welcome. I visited national cultural centres in all the regions I travelled to. I also sought to visit as many secondary schools as possible, particularly ones with teaching in minority languages. It is at school that young persons can and must acquire the foundations of their ethnic as well as their national culture. Far from being incompatible, the two are mutually reinforcing. I was able to see that the cultures of minority peoples were holding up well and that efforts were made not only to preserve them but also to help them to flower.
202. The cultural centres I visited promote the specific culture, language, history and life style of the nationality they represent. Their activities are varied and are aimed at all age groups. They range from language courses to support for the elderly, and include the formation of choirs or ethnic theatre groups, often of a very high artistic standard. What I particularly appreciated though was that these centres did not operate in a spirit of isolation. Much was done to bring cultures and individuals together and draw specific cultures to the attention of other minority or majority groups. Multi-ethnic activities are a regular occurrence and help to strengthen mutual understanding. One example is the annual festival of national cultures in Krasnodar. Most of the region's ethnic groups are represented, except the Meskhetian Turks, to whom I shall return below.
203. The Constitution of the Russian Federation recognises Russian as the official language. However the individual republics may declare one or more official languages. Most of the subjects of the Russian Federation have at least two – Russian and the language of the "eponymous" nationality. Dagestan is an exception, with ten official languages - Avar, Azeri, Dargin, Lak, Lezgin, Nogai, Tabasaran, Tat, Chechen and Russian – thus placing all the main nationalities in the republic on the same footing. Such a democratic approach to language use is a great asset to Russian culture. Moreover, it appears that this freedom has always existed, other than in the dark days of Stalinism.

204. I was particularly struck by my experience in Tatarstan. The local authorities had taken many steps to protect the rights of each ethnic group in the Republic, particularly regarding language use. Under local legislation, in areas where people from a particular minority language group are concentrated, that language may be designated a language of communication in addition to the official languages laid down in the republic's constitution.
205. The written press, radio and television all help to keep national languages alive and in active use. Some 4000 newspapers in national languages are published across the country. In Krasnodar region, seven national languages are represented in the press: Russian, Armenian, Adyg, Georgian, Kurdish, German and Greek. However, although most subjects of the Federation have their own radio and television channels in national languages, Russian remains the main language of broadcasting. There are many channels and programmes in national languages but they do not always receive state financial support and find it difficult to achieve continuity of programming. However, these difficulties should not mask the successes. In Khanty-Mansiysk, for example, I met representatives of the Tatar cultural autonomy entity who told me about a regional television channel in the Tatar language, which is apparently doing well, with interesting programmes and a daily audience that is constantly rising.

5. Education in national languages

206. The right to education in national languages exists in the republics and the other administrative entities that make up the Russian Federation. Instruction in the mother tongue mainly takes place in nursery, primary and secondary schools. Minority representatives have great freedom in this respect since any group of citizens, and not just autonomous entities, may open a minority language primary or secondary school. We heard, for example, of Tatar, Jewish and Ukrainian schools in Moscow, St Petersburg and other regions.
207. In certain republics such as Tatarstan this measure has been extended to higher education. The republic's authorities have recently approved the establishment of a Tatar university.
208. The Federation's schools offer teaching in 38 languages. Nearly 75 languages are also taught as a separate subject. Several approaches are used in primary and certain secondary schools, depending on the policy adopted and the financial and material resources available. In some schools the education is purely in the national language, be it in history, literature, maths, biology or physics. Others combine national language teaching with teaching in Russian or one of the region's other official languages (Tatar in Tatarstan, for example). Where teaching is only in the national language, Russian will be taught as an additional subject.
209. In most cases though, national language teaching is confined to language classes, particularly given the shortage of staff capable of teaching specialist subjects in minority languages. This teacher shortage could impede the transmission of languages through schools. We were told that special efforts have been made to prepare and publish

textbooks in national languages in subjects like history and the life sciences. However such initiatives suffer from lack of finance and other resources. The process should certainly be continued and expanded.

6. The minority indigenous peoples of the north and Far East

210. One particular category of minority peoples stands out, as much for their maintenance of very traditional lifestyles as for their small numbers. These are the small indigenous peoples of the North and Far East. They represent some thirty ethnic groups ranging in number from several hundred to nearly 35 000 persons.
211. The most numerous groups, the Sakha (Yakuts) and Komi, have their own eponymous republic in the Russian Federation. The others - the Abazians, Aleuts, Inuits, Itelmens, Kamchadale, Koryaks, Mansis, Nanais, Nenets, Nivkhs, Orochis, Saami, Selkups, Teleuts, Tofalars, Tubalars, Tuvinians, Todjins, Khants, Chukchis, Chulym, Evens, Enets, Eskimos and so on – live in administrative areas such as *oblasts* and *okrugs* that generally bear their name, even if they are only a small minority of the population.
212. These indigenous peoples in remote regions have retained their authentic ways of life in a hazardous climatic environment, while adapting to the modern world, in a similar way to their counterparts in Scandinavia, Canada and the United States. Each has its own language and culture. They are semi-nomadic and roam the Siberian taiga with their reindeer herds. The reindeer is the basis of their economy, together with hunting, gathering and fishing. The basic social unit is the clan, each with its own territory on which traditional economic activities are carried out.

a. Brief historical background

213. In the course of the twentieth century, Siberia and the Far East have experienced far-reaching economic and social change. Civilisation has penetrated these arid lands, with their rich deposits of gold, diamonds, iron, nickel and other minerals, wood and coal, oil and gas.
214. In the 1930s, the minority indigenous peoples of the north were affected by the intense wave of industrialisation that swept through Siberia. It was accompanied by massive immigration into vast and practically virgin territories. These immigrant populations now constitute the majority group in the regions concerned.
215. The years of collectivisation were particularly devastating. They considerably slowed down the cultural progress of the early 1920s, without, however, causing the total disappearance of traditions and customs, which survived within the family circle. Another distressing problem is alcoholism, which from that time has seriously affected the indigenous peoples. The policies of the 1950s to 1970s led to new changes. Education became universal but this often led to children's separation from their traditional environment. Boarding schools were established, with special arrangements to enable them to see their parents regularly, for example via helicopter. Inevitably though, the relentless onslaught of modernity led to the changes in traditional ways of life.

216. Nevertheless, these ways of life and cultures have been preserved, at least in part, despite the recurrent threats of assimilation, which have not entirely disappeared. The problems are similar to those faced by other countries with indigenous populations. However the Soviet regime's policies of indigenisation and territorialisation of identities did contribute indirectly to their preservation. Since the fall of the Soviet Union, the rebirth of these cultures has been supported by the Russian Federation and the different federal entities concerned. A raft of legislation has been passed to protect the rights and distinctive identities of small minority indigenous peoples.

b. Federal legislation

217. After the fall of the Soviet Union, the Russian Federation passed legislation to protect the rights of small northern indigenous peoples. The first safeguard is Article 69 of the Constitution, which directly lays down the rights of such peoples. Further federal legislation has been adopted to reinforce these constitutional safeguards. The first was a federal law passed in 1992 on indigenous peoples' property and its protection. This was followed by a number of provisions, culminating in the 1999 federal law on the rights of small indigenous peoples of the north.

218. Federal legislation provides a framework for protecting these peoples' rights. Much of the responsibility is devolved to the subjects of the Federation, which not only have to apply the law but are also encouraged to enact their own legislation to foster the preservation and development of minority peoples' distinctive social, economic and cultural ways of life.

219. However one particular problem was drawn to my attention by delegates at the congress of writers of Finno-Ugrian extraction in Khanty-Mansiysk. The current legislation on the protection of minority peoples defines the latter as peoples with no more than 50 000 persons. Beyond this figure no special protection is afforded. According to my interlocutors certain peoples with slightly more than 50 000 persons need protection but are not eligible for it. Consideration might therefore be given to broadening the current statutory criteria to extend protection to all small peoples who need it.

220. Work on this has apparently already started at local level.

c. Example of local legislation: the autonomous okrug of Khanty-Mansiysk

221. I was very interested to visit at least one Russian region concerned with preserving such traditional cultures. In September 2004, therefore, I visited the autonomous *okrug* of Khanty-Mansiysk, whose experience in this area offers an interesting example of the preservation of small indigenous peoples of the North. Although the Khantis, Mansis and Nenets only make up a little over 0.5% of the population they benefit from special treatment from the local authorities.

222. The regional Duma operates a quota system to ensure that minority peoples in Khanty-Mansiysk are represented. Three of the twenty five seats are reserved for their representatives. Most of these peoples enjoy national-cultural autonomous status and are locally self-governing. However the most effective legislative and political instrument is still the Assembly of representatives of the small peoples of the north of the Duma of the Khanty-Mansiysk autonomous okrug.
223. This Assembly met for the first time in October 1996. It includes the members of the Regional Duma representing the Small Northern Peoples. Under the Assembly's Charter of 26 April 1995, its president is automatically the vice-president of the Duma. The Assembly has become an important institutional partner that is listened to and respected. It intervenes at all stages in decisions affecting the minority peoples. It takes part in discussions on the *okrug's* budget and has the right to monitor the activities of the department responsible for indigenous peoples' affairs.
224. The Khanty-Mansiysk Duma has also enacted legislation to safeguard the rights of its indigenous peoples. A whole series of acts passed between 2001 and 2003 are concerned with the renaissance and development of local languages, traditions and customs. They take the relevant federal legislation as their model and lay great stress on traditional forms of social organisation. Many laws focus specifically on the social and economic development of the indigenous Peoples of the North.
225. Khanty-Mansiysk, a recent city amongst the most prosperous in Russia, has achieved the harmonious integration of its minority peoples. Its different groups of citizens live together without difficulty, a point worthy of emphasis. Its active policies for improving living conditions benefit all categories of the population.
226. I consider the emphasis on cultural development to be very important. A state university was opened in October 2001. It pays particular attention to minority languages and cultures and has a special faculty to train minority language teachers. I was also very impressed by the arts school for the region's younger talents. They were learning music, dance and graphic art, while at the same time pursuing a normal secondary school curriculum. These talented young persons, including ones from distant indigenous villages, were looked after completely free of charge and the results were certainly exceptional.
227. Special regional legislation is undoubtedly a great step forward. However I was also interested to see how far it had had a practical impact on the daily lives of those concerned. The authorities offered me such an opportunity despite a heavily charged agenda. We therefore visited the village of Kichik, half of whose inhabitants are Khantis. The village is not far from Khanty-Mansiysk but during the non-winter period it could only be reached by boat or helicopter. We travelled by air, which only took about forty minutes.

228. Kichik has a population of just over 500, about half of whom are Khantis. I wish firstly to thank the mayor and her municipal council for their warm welcome. The village has a polyclinic including hospital beds, a secondary school and a kindergarten. I must pay tribute to the teachers I met, who do a fine job despite somewhat difficult conditions, since the school building requires renovation work, apparently scheduled for next year. In the Khanti language class, we were told that the textbooks were old and that the school needed new teaching material, including books. Moreover, the language was apparently only taught for two hours a week, and not in the upper school.
229. I was delighted to be received by a Khanti family into their own home. We had an interesting and highly informative conversation. It was a traditional family, whose main occupation was raising reindeer. The herd of some twenty animals was kept on 30 000 hectares of family land and continually roamed this expanse in search of food. According to our hosts, the family followed the herd for nine months out of twelve, and only returned to the village for a very limited period to sell the products of from their herds, hunting and gathering, and to buy certain necessities. A girl aged no more than 22 or 23 explained that since her grandparents' and father's death life had become much more difficult and that their work brought in very little cash, which they needed to buy essentials such as corn, salt and sugar. The rest was produced by the family itself, including clothes made in the traditional fashion from reindeer leather and furs procured through hunting. Difficulties arose in respect of the children's education, because from what I understood the children of our host family only went to school for the three months they spent in the village, which is a matter of some concern.
- d. New ways of protecting indigenous peoples' heritage (agreements with oil companies)*
230. The regional authorities are not the only points of contact for the indigenous peoples' representatives, who have also established close relations with the oil companies that are now a permanent feature of the local landscape. Since the start of oil and gas exploration, the region has completely changed. Significant areas are now occupied by exploration equipment or by drilling rigs, pipelines and roads. Pipeline leaks have also raised the danger of pollution. Moreover thousands of hectares of pastureland have disappeared, all of which poses a real threat to indigenous peoples and their traditional way of life.
231. At the same time, industrial development has led to significant immigration. The region's demography and ethnic composition have changed and new cultural practices have been introduced. This new situation has encouraged indigenous representatives to enter into negotiations with the region's new business enterprises and the local authorities.
232. A number of federal and regional laws cover the activities of these industrial giants, which are constantly expanding in a region where 60% of the country's crude oil production is concentrated. All emphasise the need to protect the indigenous peoples' traditional habitat and associated economic activities.

233. A variety of legislation governs relations between these peoples and the oil companies and encourages dialogue on matters relating to exploration and production. More recently, agreements have been signed between the companies and indigenous representatives. These operate at various levels, from the Assembly of representatives of the small Peoples of the North to individual villages or even families. The authorities assist by ensuring that negotiations are properly conducted and that the agreements are implemented.
234. The agreements provide for compensation to families whose land is affected by oil exploration. This can take various forms such as financial damages, donation of equipment or working clothes, assistance with children's education or medical costs. Some companies also recruit representatives of indigenous peoples to watch over pipelines.
235. A meeting between indigenous representatives and their oil company counterparts gave me an insight into how these negotiations were conducted and what they aimed to achieve. The indigenous representatives told me that such negotiations were a considerable advance, and that discussions with the oil companies constituted a genuine dialogue.
236. Nevertheless several problems remain, in particular the failure to comply with legislation on industrial concentration and thus with environmental rules, which poses a direct threat to these peoples' traditional habitats. The regional authorities must intervene here to ensure that agreements between the parties are applied. For this purpose they must compile inventories of clan property and assets and define the boundaries of their traditional natural areas to control the advance of the oil companies.

7. Concluding remarks

237. Generally speaking, the policy towards national minorities is a positive one. However there is a significant difference between "eponymous" ethnic groups and nationalities without their own national territory. The latter only such receive financial support as the subjects of the Federation may provide them. Compared with so-called titular nationalities their resources are limited. Their linguistic and cultural development consequently poses greater problems. Those that are geographically dispersed across the Russian Federation, like the Roma, face the same material difficulties and find it harder to achieve progress. The federal authorities should therefore develop measures to the ensure equal treatment of all national minorities.
238. Like most European countries, the Russian Federation is also host to many foreigners who have come to engage in professional activity, to study, for the purposes of family reunion, or simply irregularly. When concentrated in a particular geographical area they make up so-called new minorities. They are generally few in number but have to face a number of problems that are primarily linked to their status. Many of them have no *propiska*, or registration as it is now known, and cannot, therefore, send their children to

school or get medical treatment. Those that are registered encounter other problems of integration because of language barriers. Finally, as they are not recognised as national minorities, they cannot defend their language or culture, or ask for it to be taught. The 800 Vietnamese in Kazan in the Republic of Tatarstan suffer daily from this non-recognition. Moreover the Presidential Representative in the Far East Federal District, Mr Pulikovskiy, told us that in the last fifteen years some 1.5 million persons had left for the centre of the country while a significant number of illegal immigrants had arrived over the same period from surrounding countries, particularly China.

239. Although co-operation and good relations are still generally the rule in most of the country's regions, tensions do arise, whose origins vary even if they sometimes overlap. Such sources include the problems relating to peoples that suffered Stalinist repression, a criminal injustice that is deeply rooted in the collective memory, the social and economic problems provoking tensions between different communities, and the situation in Chechnya and the associated terrorist attacks, with resulting hostility towards people from the Caucasus and Central Asia. Certain inflammatory rhetoric has also helped to ignite passions. This hostility takes the form of discrimination and overt racism towards the groups in question.
240. Whatever the context, the state has a duty to allay new and existing tensions. The Russian state has announced its intention to strengthen co-operation and promote good relations through further legislation. For their part, representatives of national minorities must themselves also seek to engage in dialogue and find points of common interest with others to cement their good relations.

VI. FOREIGNERS AND MIGRANTS

241. Like any modern state, Russia is host to many foreigners. Some come to find work or refuge. Many of them lack the necessary visas or permits to reside legally in the country. They therefore find themselves in a difficult situation that could pose a threat to their well-being. The situation concerning foreign nationals' in Russia is further complicated by the existence of a group of persons belonging to a rather specific category, namely former citizens of the Soviet Union, who benefited for some time from favourable residence rights. This group's legal situation has recently been altered, which calls for a change of practice on the part of the immigration authorities.

1. Foreigners

242. On 31 October 2002, the Russian Federation introduced new legislation on the legal status of foreigners, which laid down the conditions governing their entry, residence and departure and employment. It is more restrictive than the previous legislation and is primarily designed to control immigration and clarify foreigners' rights. Despite this legislative advance, I was led to conclude that the numerous foreign communities in Russia face a number of serious difficulties in practice.

243. Most of the foreigners arriving in Russia do so in the hope of finding work. Only a minority of them already have an employment contract or other agreement with a local employer. The majority are in Russia irregularly. The representatives of the Vietnamese community whom I met in Kazan told me of the day-to-day problems they face, which are also typical for other nationalities. All derive from the fact that they are not registered and have no identity papers. Because of their illegal status they cannot claim any rights or social assistance and their employers easily take advantage of this situation. Many are exploited and do not enjoy any social protection. Those who set up in business must operate through intermediaries, which is against the law and once more places them in a situation of dependence.
244. The authorities are generally aware of these difficulties, but have not managed to resolve them. I had the impression that there is certain *modus vivendi* among the parties. Even though they are exploited, the illegal immigrants still benefit, while in the absence of the necessary financial and material resources the local and regional authorities close their eyes to it, or even take advantage of the situation. The impotence of the local authorities before this phenomenon, raises the question of the necessary involvement of the federal authorities in the issue.
245. For there is little prospect of the slowing of the flow of arriving foreigners, who mainly come from Asia and the Far East. Everyday, indeed, more persons arrive with no greater entry permit than a tourist visa. The Russian authorities therefore need to give this matter serious attention. Legislation is required to deal with what are often long-established situations. Several thousand foreign nationals have been living in Russia for years. They are fully settled and sometimes married to Russian citizens, but have no status and no rights. Moreover, they face the permanent threat of expulsion.
246. At my meeting in Kazan with representatives of the Vietnamese community, I was told that most of those concerned – several hundred persons – had no identity papers. Yet none of them are in hiding, which in any case would in any case be somewhat difficult in a town where they are easy to spot. Many of them are traders in a local market well known for its low prices. NGO representatives told me that although the police know they are working illegally, no one is molested. It is easy to imagine that in return the foreigners must pay a certain commission to those who let them work. Such ‘commissions’ are evidently not paid into the Treasury. When I asked the Tatarstan Interior Minister about the opportunities for corruption he said that there were reports of it and that even though representatives of the Vietnamese community had recently been granted temporary residence permits the problem continued. I believe that if such persons undertake trade that benefits the region, it would be better to legalise their situation rather than leaving room for corruption.
247. Some foreigners come to Russia to request political asylum, but the administrative process is very slow. The time taken to decide whether to grant political refugee status can create serious difficulties for those concerned. It is not unusual for asylum seekers to wait years for their application to be determined. If this is rejected, they are deported to

their country of origin. In some cases such persons have spent several years in the Russian Federation and started new lives. In the absence of official documents, they could also be arrested at any moment and placed in detention centres for illegal immigrants.

248. I was also told in my meetings with senior immigration officials in Khabarovsk, Yekaterinburg and Kazan that expulsions must be paid for from the federal budget. In practice, the relevant funding is sorely lacking, especially as many of those concerned can only be sent back by air. As a result, even if expulsion is ordered, persons remain locked in detention centres for months or even years.
249. I was told that these centres were run in an arbitrary fashion, with very bad living conditions. NGOs gave examples of people who had waited several months, and even up to two years, for a ruling on whether they would be released or expelled. Tension was high between the foreigners threatened with expulsion and the camps' administrative staff. The UNHCR and several NGOs particularly concerned with asylum applications often intervene to try to calm the situation and offer legal and material support to detainees. For example, under an agreement with the Tatarstan Interior Ministry, the Kazan 'house of nationalities' acts as a social and legal defence centre for foreign nationals. It also tries to combat corruption, extortion and arbitrary detention.
250. I detected a firm political commitment among of those I met to finding a satisfactory solution to what had become a long-running problem. Both the federal and the regional authorities had been considering the matter for some time. I found the discussions and the proposals that were circulating encouraging. One was the idea of regularising foreigners who had lived illegally in Russia for a certain number of years and were integrated into Russian society, which I would support.

2. The specific case of former Soviet nationals, Russian migrants and Russian citizens denied their right to citizenship

251. The term "migrant" covers a number of situations. One such group are non-Russian citizens who want to settle temporarily or permanently in Russia. A second group of "forced migrants" comprises Russian nationals forced to leave their place of residence because of war or persecution based on their racial, national, religious, language or social affiliation or their political views. The great majority of this group is made up of non-Chechens forced to leave the Chechen Republic in the early 1990s, Chechens driven from their homes at the start of the second military campaign and displaced Ingush from North Ossetia. The situation of persons displaced from Chechnya since 1999 will be considered below in the section on that republic.
252. Finally, since the events of 1989 in Fergana, the Meskhetian Turks have suffered particular problems, aboveall in the Krasnodar region. They are denied entitlement to Russian citizenship and all associated rights, even though they meet the criteria for these laid down in the Russian Constitution.

a. *Migrants ineligible for Russian citizenship*

253. During its seventy-five years of existence, all citizens of the fifteen republics making up the Soviet Union had Union citizenship and the right to live, travel and work throughout the country. Clearly, when speaking of this absolute right I am not referring to the exceptional cases in which the Stalinist regime made it a criminal offence for whole population groups to move and required them to remain in a particular area. General speaking, when the Soviet Union broke up, Soviet nationals were granted citizenship of the country in which they were living when those countries' respective citizenship laws came into force.
254. For a long period, though, citizens of the former Soviet republics could travel freely to Russia to live and work, without the need for special authorisation. Moreover, these persons generally held former Soviet passports, which were valid in the Russian Federation until 31 December 2003, even though certain restrictions on their use were introduced in 2000 by the new law on foreigners. It is perfectly understandable that many former Soviet citizens took time to realise that they had become foreigners in a country they considered their own. For more than a decade many such persons visited and worked in Russia without pausing to consider their new status as foreigners and the legal implications that followed.
255. New regulations came into force in 2000 requiring any non-Russian citizen entering the country for more than three days to have an immigration card. The workers I met, particularly in the Khabarovsk and Yekaterinburg regions, said that the relevant legislation had a number of shortcomings, inadequacies and inconsistencies that caused difficulties. I raised this point in discussions with the Interior Minister, who told me that the matter was currently under consideration.
256. The main problem is that the immigration card, which migrants must be able to present at any time, is only issued at border posts. Persons – tourists and others – arriving by air generally experience no difficulties since there are visa desks in every airport. There are also notices clearly informing passengers that immigration cards are obligatory.
257. However those arriving by train and car from neighbouring countries are not offered the same facilities. Although the requirement has been in force for four years, knowledge of it is often limited or totally non-existent. Some foreigners therefore fail to apply for a card on arrival in the country through ignorance. Others are simply unable to do so. Trains frequently stop for only an hour at border crossings, which is not nearly long enough for every passenger to complete all the formalities and obtain the document. Some leave with it unstamped, which makes it invalid, while others have to return to their train before they even reach the visa desk.
258. These shortcomings raise an insoluble problem under the legislation as it stands. Three days after entering Russia, foreigners without a duly completed and stamped immigration card become illegal immigrants. Yet there is no way for them to regularise their situation as the law makes no provision for cards to be issued other than at the border, since only frontier authorities are authorised to do so.

259. Several amendments to this law are currently being discussed at the Interior Ministry. One of the possible changes consists of modifying the law and allowing the police Commissariat, for instance, to deliver the immigration card. Foreigners would then have three days to get the card if they didn't have the opportunity at the border posts. The workers I met in the regions were highly in favour of this solution.
260. I hope that the current discussions will lead to swift changes in the legislation. At the same time, the recent bilateral agreements between the Russian Federation and Ukraine may lead to greater flexibility as part of a move to free up trade. As this report was being drawn up, the two countries signed an agreement making it no longer necessary for persons remaining in the country less than ninety days to obtain an immigration card. Although the agreement is limited to Ukraine, it will facilitate the movement of persons between the two neighbouring countries.

b. Persons who can claim Russian citizenship

261. As noted earlier, many persons from the former Soviet republics came to live and work in Russia before and after the break-up of the Soviet Union. For many years they could live and work there without difficulty using the old Soviet passport, which was accepted by the Russian authorities as a perfectly valid identity document.
262. The new legislation on nationality and on the status of foreigners that came into force in 2002 considerably changed the situation. These laws did not regularise the legal situation of these former Soviet citizens, who had entered Russia lawfully at a time when no formalities were imposed and when there was, moreover, no limit to the length of stay. Most of these persons are now fully integrated into Russian society, have work, rent or own their own accommodation and have established social links. Overnight, however, they lost their legal status and effectively became illegal immigrants, as the residence conditions applicable to other foreigners were also applied to them.
263. Admittedly, many of them were given the option of rapid naturalisation. However naturalisation applications can only be made after a residence card has been issued, and the waiting times for the latter are extremely long. Moreover, we were told that these waiting times were up to twice as long the period of validity of an immigration card, which means that persons seeking to regularise their situation inevitably end up in automatic, if involuntary, breach of the law.
264. Certain categories of persons therefore find themselves in a kind of legal limbo capable of seriously affecting their welfare. There are two main groups. The first concerns persons born in Russia but who were not on Russian territory when the first citizenship law came into force in February 1991. The second group comprises persons born in the Soviet Union who were on Russian territory when the law came into force but who were not formally domiciled there.

265. Both groups have perceived the new legal situation arising from the reform as a major injustice. We were told this on a number of occasions in conversations with NGO representatives, some of which focused on citizenship issues. It does appear though that the new legislation has been rapidly amended to try to deal with the most pressing issues.
266. For example, interim arrangements have been made for a simplified naturalisation procedure for foreigners or stateless persons from states that were once part of the Soviet Union, who were formerly Soviet citizens and who were registered in Russia on 1 January 2002. These persons are not required to apply for a residence card prior to initiating naturalisation proceedings. However, this is only valid if the naturalisation application is lodged before 1 January 2006. This clearly represents progress since before the reform many people were unlawfully present in the country. The majority, indeed, were even deprived of retirement benefits and medical assistance. However their morale has also been seriously affected since they feel rejected. I met, for example, a young man in Yekaterinburg whose parents were ethnic Russians and had been born in Russia, as had he. But at the time of the Soviet Union's break-up they were living in Ukraine and had automatically been given Ukrainian citizenship. As a result, even though he had lived in Russia for over five years he had still not been granted Russian citizenship. At the same time, as he told me himself, he did not want to go through the ordinary naturalisation procedure because he considered it long and, above all, offensive for someone who already considered himself to be totally Russian.
267. The other group's position is even more difficult. These are former Soviet citizens who arrived in Russia before the Soviet Union disintegrated but were not formally domiciled/registered in Russian territory when the 1991 Nationality Law came into force. Under Section 13.1 of this act, all former Soviet citizens permanently resident in the Russian Federation on 6 February 1992 were recognised as Russian citizens. The members of the group in question satisfied these conditions but did not have the official residence document, or *propiska*. Some of them were therefore refused Russian nationality and official identity documents on the pretext that they were not formally domiciled in Russia. Some administrations in the regions effectively decided that the law required official residence, even though this is not the case.
268. In many regions the law was interpreted literally to mean that continuous presence on Russian territory was sufficient for entitlement to Russian citizenship. In others, though, officials decided that the law required official residence. As a result certain groups of persons, such as Armenians and Meskhetian Turks, displaced from Soviet regions by ethnic conflicts, found themselves in a very difficult situation. They were refused citizenship and therefore became *de facto* stateless persons, with no identity papers and no entitlement to social coverage or even, in some regions, education. Such a situation is quite unacceptable, particularly in the case of persons who are totally integrated and considered themselves at home.

269. The 2002 Nationality Law established new naturalisation procedures. In practice, it complicates the process. In certain regions where the problem arises those concerned have ended up in a still more difficult situation. According to their representatives, their rights are being violated; it should not be necessary for them to apply for citizenship because under the previous legislation they already had it.
270. A large number of regional and federal departments and officials have been confronted with this issue without always finding the appropriate solutions. Some people have applied to the courts for their citizenship to be recognised. Once again, the response has varied, since many courts ruled that they had no jurisdiction in the matter. A letter from the vice-President of the Russian Federation's Supreme Court, N 587-8 of 21 March 2003, has clarified the issue. It confirmed that the ordinary courts had jurisdiction to rule on any matters relating to residence, for the purposes of determining their entitlement to Russian citizenship. Since then, the majority of courts have accepted applications on this issue, and many persons have benefited from favourable rulings on the basis of which the Interior Ministry has issued them with passports.
271. Unfortunately, this has not been the case everywhere. In certain regions the authorities refuse to follow the requirements imposed by the law.

3. The specific case of the Meskhetian Turks in the Krasnodar region

272. The Meskhetian Turks originally come from Southern Georgia. In 1944, like a number of other peoples, they were the victims of an arbitrary and criminal decision by the Stalin regime declaring them guilty of treason and sentencing them to mass deportation. Most Meskhetian Turks were forcibly removed to Uzbekistan in Central Asia. Unlike certain other deported groups, the Meskhetian Turks were not given the opportunity to return to Georgia as they were never rehabilitated during the lifespan of the Soviet Union. They have not, however, ever renounced their ambition to return to the land of their ancestors. In 1989, following a wave of violence and disturbances, including attacks on Meskhetian Turks in the Fergana valley in Uzbekistan, more than 70 000 of them had to be evacuated as an emergency and were dispersed to seven of the former-Soviet republics. Unfortunately, at the time, the Georgian authorities opposed their return to Georgia. As a result most of the refugees were placed in Russia, Ukraine and Azerbaijan. After the break-up of the Soviet Union, the Georgian authorities initially refused categorically to consider even the possibility of the Meskhetian Turks' return to their homeland. This situation did not change much until Georgia joined the Council of Europe, when it committed itself to admitting those Meskhetian Turks who so wished to return in the years following its accession. Alas, no progress has been made on this matter.
273. However, I hope that the Georgian authorities will abide by their commitments and that those who wish to will be able to return to the land from which they were expelled. I have

already considered this question in my report of 13 July 2000 on the human rights situation in Georgia.⁵

274. With the tragic events in the Fergana valley and their relocation, the situation of the Meskhetian Turks took a dramatic turn. They became refugees, a very rare phenomenon at that time in the Soviet Union. It is clear that the relevant formalities were not completed in the prescribed manner. Many persons were allocated housing but were not officially domiciled, that is they were not issued with a *propiska*. In 1989, this was by no means critical. The displaced Meskhetian Turks were Soviet citizens and therefore refugees in their own country. At the time the question of citizenship did not arise. When two years later, in early 1992, the Russian Federation passed new citizenship legislation, in most of the regions where they were now living the Meskhetian Turks were automatically granted Russian citizenship. Under Section 13.1 of the 1991 act, they were considered to be permanently resident in Russian territory.
275. However, in the Krasnodar region, where some 15 000 evacuated Meskhetian Turks were living in early 1991, events took a turn for the worse. The local authorities refused to grant them Russian citizenship, on the pretext that they were not officially domiciled. Thirteen years later, nothing has changed.
276. For several years, I had been receiving alarming reports from the Krasnodar region from Russian and international NGOs and directly from "Vatan", the association of Meskhetian Turks, several of whose representatives I met in Strasbourg. In the course of our discussions I promised that during my visit to Russia I would look at the situation on the spot, if it had not already been settled by then. Sadly, the problem remains.
277. The day after our arrival in Krasnodar, we visited the Crimea district, where the majority of the region's Meskhetian Turks live. An open meeting was arranged attended by Meskhetian Turkish representatives, as well as representatives of the local authorities and other national communities of the region. The atmosphere at the meeting was very heated and impassioned, though this did not prevent us from having frank exchanges. I was able to hear and compare the positions of both sides.
278. As I understand it, between 12 and 13 000 Meskhetian Turks currently live in the region. The great majority have no identity papers and have never been granted Russian citizenship. According to what I was told, about 5 000 of them wish to return to Georgia when this is possible. A similar number have lost all hope of returning. They do not think matters will improve in Russia and have decided to emigrate to the United States, following the American authorities' decision to receive a certain number of Meskhetian Turks. Finally, a group of between 2 and 4 000 say they want to stay in the region.
279. This community's current situation is nothing short of a disaster. After more than 15 years in the region, most of them have bought houses and have started to till the land they rent or raise livestock. Because they lack the necessary papers they are there illegally, at the mercy of any officials who, if not necessarily malicious – though according to those I met

⁵ CommDH(2000)3 Report on visit to Georgia, 1-10 June 2000

this not unknown – have no compunction about mistreating and humiliating Meskhetian Turks, and depriving them of their most basic rights. It is difficult to imagine but these people are not even allowed to marry as they have no legal standing.

280. Fortunately the children are admitted to school but here again the authorities are adopting increasingly humiliating measures, such as establishing special classes for Meskhetian Turkish children on the grounds that they do not speak Russian, which is not always the case. But even if it were, as I pointed out at the time, if they are separated from other children they are unlikely to learn Russian and thus become better integrated into the life of the region. It is, indeed, precisely the Meskhetian Turks' unwillingness to integrate that is so forcibly alleged by the authorities, and denied by those concerned. My own view is that by separating the children, and thereby displaying a readiness to sever all ties, the authorities are rather demonstrating their own refusal to accept the community's integration, even though the majority of their neighbours think that they are perfectly integrated.
281. I do not wish to go into further details of this appalling saga; it leaves me with nothing other than a sense of shame and outrage. It was clear that the region's authorities are completely bound up in this web of untruths, which frankly smacks of xenophobia and that they totally reject any reasonable approach. I note that Krasnodar is the only region to refuse to grant Russian citizenship to Meskhetian Turks and that no problems have arisen elsewhere in the country. I have also heard that the region's courts refuse to hear applications for recognition of formal residence in the Russian Federation, submitted by Meskhetian Turks on the basis of the letter of the vice-President of the Supreme Court, in order to establish their citizenship. This again is completely arbitrary and unlawful. The relevant Interior Ministry bodies are waiting for the matter to be resolved by the federal authorities in Moscow, even though it is in the first place their own responsibility as it is they who represent the Federation.
282. I therefore call on the regional and federal authorities to put an end this situation. I ask for no more than that the Russian law be applied, for Russian citizenship to be recognised and granted in respect of all those who ask for it and are entitled to it, for the others to be able to regularise their situation and obtain residence cards for the remainder of their stays in Russia, and for all these people to be treated with dignity. I hope that those who have decided to leave for the United States can sell any assets, including property, that lawfully belong to them, without difficulties. I hope that they will not be obstructed to such an extent that they have to lose everything before parting. Finally, I hope that those who so wish can return rapidly to Georgia, so that this collective Stalinist punishment is finally brought to an end.
283. I left Russia encouraged by the promises I received from the regional governor, Mr Tkachev, and the presidential representative, Mr Yakovlev. I also had encouraging discussions with the federal authorities. I hope that these promises of a rapid solution to the problem, which are in fact easy to implement, will be kept because I consider it unacceptable for a small group of persons to be deprived of all civic rights simply on the basis of their ethnic affiliation.

284. I was also shocked by the attitude of certain regional media outlets, which censored my calls for an end to this painful situation. Nowhere else in Russia were the Commissioner's views subject to such censorship, which smacks of another era. I must therefore pay tribute to the courage of regional NGOs that defend the rights of Meskhetian Turks, despite the aggressive stance of the authorities and the media.

VII. PROBLEMS OF XENOPHOBIA AND RACISM

285. Xenophobia and racism are unfortunately very old phenomena which have been with us in Europe for much longer than democracy and awareness of the need to defend human rights. One of the very foundations of human rights is the principle of equality between human beings and the prohibition of any discrimination on the grounds of race, religion, nationality or membership of a minority, whether ethnic, religious or sexual. The Council of Europe was set up to defend these rights and to combat xenophobia and racism. In a Europe which was just emerging from the barbarity of the Nazi era, these were clearly essential to establishing democracy in our old continent. Since then, we have travelled far, but it has not been possible to banish xenophobic and racist ideas completely from our societies. Moreover, in times of crisis or when difficult decisions have to be taken, they resurface and contaminate democratic life. For this reason we have to remain vigilant and be ready to counter them at any time.
286. Unfortunately, the Russian Federation is no exception in this regard. Xenophobia and its corollary, the manifestation of ever more virulent nationalism, are part of the present-day facts of life in the country. While traditionally there is a good level of understanding between the different ethnic minorities, the acts of certain groups or individuals strike at the core of the goodwill that exists. Accordingly, the whole of Russian society should feel concerned by the rise in xenophobia and racism. Everyone must play their part in the fight against these menaces.
287. The law-enforcement agencies and the Prokuratura have a prime role to play here. However, they are not the only ones on whom the success of the fight depends. The Ombudsman, the Council for the Development of Civil Society, NGOs, the media, and the citizens themselves must do what they can to halt dangerous nationalist trends. The local and regional officials I met told me they were committed to wiping out this phenomenon which has grown alarmingly. They assured me that all steps were being taken to arrest and punish those guilty of racist and xenophobic acts. The fact that Russian society is waking up to the dangers of xenophobia should mark a return to the ideals Russia has always held – it is the friendship among the peoples that make up this huge country which has enabled the major achievements which all of humanity remembers.
288. At the same time, several NGOs have stressed that some officials in the law-enforcement agencies and the Prokuratura have a tendency to minimise matters of this type. Others told me of instances of discrimination and violence carried out by the law-enforcement

agencies in the course of their duties against people belonging to visible minorities or ethnic groups, who are frequent targets for xenophobic attacks.

289. The Minister for Interior whom I met insisted that all the necessary steps were being taken to stop these practices. Whilst the recent legal provisions adopted are, indeed, a step forward, they will not in themselves prevent an increase in xenophobic acts. I therefore believe that greater vigilance is called for by the authorities to ensure that the current legal framework is effectively employed to prevent and punish instances of xenophobia or racism.

1. Legal and administrative measures to combat xenophobia

290. The Constitution of the Russian Federation clearly declares the total equality of all citizens, regardless of their ethnic, national or religious affiliation. The Constitutions or Charters of all the administrative entities making up the Russian Federation provide for a series of measures to combat discrimination of a racist nature.
291. In addition, the Russian Federation has undeniably consolidated its legal provisions to fight against all forms of extremism. The Criminal Code, adopted in 1997, increases the penalties for acts motivated by considerations of a racist or xenophobic nature. Particular mention in this connection should be made of Articles 136 and 282 of the Criminal Code which constitute the reference provisions in this matter. Finally, the passing in 2002 of the law on the fight against extremism was a further step forward in efforts to contain and combat the rise in xenophobia.
292. As well as bolstering its legal provisions, in 2001, the Russian Federation initiated a federal “tolerance awareness” programme aimed at preventing the rise in extremism. This programme is targeted primarily at adolescents and young adults who are unfortunately the first to be attracted by xenophobic ideologies.
293. For their part, the local and regional authorities have taken a number of initiatives with the same objectives as the federal programme. Schools have become the main focus for raising awareness about xenophobia. The growing number of activities is evidence that the problem is being taken on board. However, they are not enough to prevent an increase in the number of xenophobic acts.

2. The main communities targeted by xenophobia

294. During my visit, I was told about a noticeable and alarming increase in xenophobic acts against certain communities. According to the representatives of civil society with whom I spoke, the groups in question belong not only to communities that for a long time have had to deal with xenophobic attitudes from their compatriots but also to communities which have only more recently become the target of racism, such as people from the North Caucasus and Central Asia. This phenomenon, while it should be viewed in its overall context, and in the light of events in Chechnya and related attacks, also concerns,

though not exclusively, members of the more visible minorities, migrants, foreigners and the Jewish community.

a. The Jewish community

295. Anti-Semitism remains a distressing problem in Russian society. There has been a Jewish community in Russia for several hundreds of years and people of Jewish origin have always felt the country to be their fatherland, in which many of them have been able to achieve both professional and personal fulfilment. At the same time, there have always been anti-Semitic feelings among part of society, often artificially shored up by those in power who needed a scapegoat to take the blame for any failures caused by the acts or omissions of the authorities. This was the case in Tsarist Russia, and in the Soviet regime at one point in its history.
296. The new Russian democratic state which replaced the Soviet regime for the first time completely ended all forms of state discrimination against the Jewish population. Religious and cultural development in the 1990s gave renewed life to the community. The time when the word “Jew” printed in a person’s passport entailed discrimination in a number of areas was now over. Synagogues and community centres appeared in Russian towns; it became possible to learn Hebrew and Yiddish; contacts with European and international Jewish organisations are now commonplace. Jewish music has emerged from underground and can be heard everywhere at all times of the day. The progress made has been impressive and the Russian authorities should be congratulated.
297. When I met the Chief Rabbi of Russia, Mr Berl Lazar, he confirmed the excellent relations between the Jewish community and the federal and regional authorities. I was very impressed by the new Moscow Community Centre in Maryina Roshcha, built on the site of the old synagogue which had been destroyed by arson some years previously. I also visited the Kazan synagogue and community centre where I met members of the community. All told me that they had excellent relations with the regional authorities and were able to develop fully in the life of their community.
298. However, all this remarkable progress has not eliminated the anti-Semitic feelings to be found in some sectors of Russian society. Based on historical stereotypes built up and nurtured by certain extremist parties and groups, and disseminated through the media, such ideas are expressed in words, acts of violence and the use of unmistakable Nazi symbols and slogans.
299. Attacks on synagogues, the desecration of Jewish cemeteries and assaults against individuals are examples of the serious criminal acts which are becoming more frequent in numerous regions of the Russian Federation. This is all the more shocking given that this is a country which played a decisive role in stamping out the Nazi regime and in liberating the continent from the spectre of fascism.
300. Those with whom I spoke claimed that the people who spread hatred were encouraged by the flagrant lack of penalties against extremist groups or individuals who incited hatred

by distributing tracts, uttering anti-Semitic statements and using violence. It also seems that in recent times, such occurrences have taken a more radical turn since certain public statements with a clear anti-Semitic flavour have been made by politicians, including members of the State Duma. Furthermore, anti-Semitic comments openly appear in the press and on television. This is unacceptable and is a flagrant breach not only of our values but also of national legislation and international treaties. I call on the competent authorities to take urgent steps to bring a halt to such instances and to initiate proceedings against the perpetrators.

b. Groups originating from the Caucasus

301. A further worrying phenomenon has emerged in Russia over the last ten years: a sense of suspicion, if not outright hatred or contempt, for people originating from the Caucasus. Such feelings surfaced particularly strongly following the break-up of the Soviet Union and the beginning of the events in Chechnya. The first groups to be hit by the prevailing xenophobia were the Chechens living in the various regions of the Federation. Often these were people who had been forced to leave their republic because of what was happening, obliging them to seek refuge far from the war in other regions of the country. Many of them, quite apart from having had to leave everything behind, with their lives in ruin, have been directly affected by discrimination, violence and racial harassment.
302. Certain press articles and television programmes unacceptably equate representatives of a whole people or group of peoples from the Caucasus with the terrorist acts that have plunged Russia into mourning. Old expressions have apparently reappeared taking on a new connotation. It seems people now talk of “person of Caucasian nationality”, just as in the past during the worst times of Soviet totalitarianism, people spoke of “persons of Jewish nationality”, in order not to name them directly. Old stereotypes are being recycled in old clothes and it has not proved possible to break them.
303. The propaganda targets Muslim Caucasians, portraying them as the natural accomplices of the terrorists. This promulgation of stereotypes against Muslims, increased by the image of “terrorism with a Muslim face” portrayed by the media and several politicians following the devastating attacks in Russia, gives rise to anti-Islamic feelings. Anti-Muslim graffiti alongside fascist symbols can now be seen on walls throughout the Federation. Desecrations of Muslim cemeteries are on the increase. These acts reflect a day-to-day racism, which is extremely worrying in the current context, and which leaves no Muslim group untouched.
304. Equated simply with Caucasians, they are all victims of blind violence and reprisals by extremist groups. For example, in October 2004 two Uzbeks were attacked in the Moscow suburbs; one died and the other was taken to hospital in a critical condition. A short time previously, a young Tajik girl was beaten to death in Saint Petersburg and two Tajiks were attacked in the region of Sverdlovsk by fifteen or so skinheads. Racist attacks have multiplied in public areas such as the underground, markets and parks. At the same time, Russia like the majority of the countries of Europe, is plagued with

hooliganism during sporting events, in which context verbal abuse and physical attacks on Caucasians have been noted.

305. Admittedly, the authorities are responding to these criminal attacks and are attempting to put an end to them. For example, the murderers of the young Tajik girl have been arrested, tried and convicted in St. Petersburg, which is very positive. But this needs to be stepped up. Furthermore, what is especially needed is a concerted effort to educate people at all levels of society, since its harmonious future that is at stake. It is, indeed, a matter that concerns everyone.

c. Migrants and foreigners

306. The difficult socio-economic situation and the rise in Russian nationalism feed resentment and hatred directed towards migrants and foreigners. Intimidation, harassment and violence affect all the visible minorities and first and foremost Africans, although people from Asia are also particularly targeted.
307. In November 2003, the arson attack on a foreign students' hall of residence in South-West Moscow resulted in the death of thirty-six residents, mostly from Africa and China. In October 2004, a Vietnamese student died in St. Petersburg as a result of an attack from a group of fifteen or so skinheads. A few days later, a Chinese man died from injuries suffered in an attack by two drunken youths.
308. This situation creates a deep sense of insecurity among migrants and foreigners, compounded by the relative impunity enjoyed by the perpetrators of xenophobic acts.

d. Sexual minorities

309. Homophobia has been growing alarmingly in the Russian Federation over the last few years. The statements made by representatives of the Orthodox Church and other denominations, and the actions of the Cossacks in Southern Russia and other extremist groups target homosexuals in a particularly hostile way.
310. While xenophobic acts have predominantly occurred in Moscow, St. Petersburg and in the Region of Krasnodar, they are now becoming more widespread. This can be seen in the increase in acts of violence against the above-mentioned groups and the related role played by the nationalist movements.
311. I was particularly shocked to learn from both NGOs and the press, that a group of Russian members of Parliament, comprising eminent members of the State Duma, including the heads of certain political groups, had recently tabled a bill to have homosexuality once again classified as a criminal offence. Such an attitude runs counter to the freedoms enshrined in the Convention and reflects an undesirable shift towards authoritarianism and populism. I hope that the Russian members of Parliament will reject this move if the bill in question is not withdrawn by its authors before it comes to that stage.

3. Public manifestations of xenophobia

312. Acts of xenophobia and racism are rarely committed by individuals on their own. They are a result of the activities of extremist groups. More often than not such groups subscribe to an extreme right ideology, displaying excessive nationalism with their populist slogans and appealing to the baser instincts of those with time on their hands. Slogans such as “Russia for the Russians” find a receptive audience in some quarters, particularly among young people, who are easily influenced to extremist ideas. This worries me considerably, particularly as the extremist groups, such as the skinheads, are not the only ones promoting a nationalist view and fostering religious intolerance.
313. Alarmingly, several organisations and parties pass on these ideas. Amongst these, in the region of Sverdlovsk, is the “Russian Renaissance” organisation, which emerged following the split in the “Russian National Union”. It carries out symbolic acts and organises commemorative events during which, it would appear, anti-Semitic slogans and calls for violence against the Caucasians can be heard. These acts sustain and increase both stereotypes and fears. In addition, they trivialise xenophobia and hatred of the groups suffering most from such prejudice. Certain politicians, through the official stances they adopt and their initiatives, contribute also to the propagation of extremist ideas.
314. Several measures at the local level are based on false and simplistic accusations, whereby, for example, all Roma/Gypsies and Tajiks are taken drug traffickers, or all Meskhetian Turks for criminals. It is not unusual to read in the press or hear on the television that the Jews are in control of all the banks and are dispossessing the Russian people. Similarly, individuals of Caucasian origin are more often than not believed to be associated with the activities of bandits, mafia-type organisations and, more recently, Islamic fundamentalists.
315. These indiscriminating accusations also appear in the press. Some of the media close to the extreme right or having a strong nationalist leaning are the first to convey and broadcast racist ideologies. It is not difficult to obtain books such as *Mein Kampf* or the *Protocols of the Elders of Zion* in the many second-hand book markets to be found in Russian towns and cities. However, in my eyes, the most worrying aspect is the increasingly more common appeal to xenophobic sentiments found in the mainstream Russian press. These are primarily directed towards the Chechens and the Jewish community.
316. Similarly, certain representatives of the Orthodox Church, through the positions they support, accentuate nationalist sentiments and, in so doing, incite intolerance and violence towards other religions and non-Slavic ethnic groups. This runs counter to the official position of the Orthodox Church, as stated to me by Patriarch Alexis II during our meeting. He confirmed what I was convinced of: the largest Russian Church condemns xenophobia and racism and calls for the mutual respect and unrestricted development of the “traditional” denominations in Russia.

4. Xenophobia and discrimination

317. I received information describing the situation of certain Caucasians, settled in other regions of the Russian Federation, who experience many difficulties in their efforts to gain access to education, employment, housing, health-care or even certain public areas. This also applies to migrants and foreigners who, in addition, are often refused the right to freedom of movement. This was reported to me by representatives of the Vietnamese community living in the Republic of Tatarstan.
318. While mention of appartenance of a national minority on Russian passports (which previously played a key role in discrimination) is now a thing of the past, discriminatory practices are now more generally linked to problems of status and registration. The *propiska*, the obligation to secure the formal registration of one's residence – which, however, the Constitutional Court has declared to be unconstitutional – is still widespread and is mandatory in a number of regions, including Moscow, in order to qualify for access to housing, employment, health-care, education, etc. In other regions, the authorities have decided not to continue with this legacy from the Soviet era, replacing it with a new formality, registration, which is, in practise, virtually identical to the *propiska* system. The fact is that several local authorities refuse to register representatives of certain ethnic groups or foreign communities, thereby arbitrarily denying them their rights. I also received information indicating a high degree of corruption among the police linked to the registration procedure.
319. It would appear that racism also on occasion influences the behaviour of the law-enforcement agencies. Some carry out arrests simply on account of the person's appearance, and use violence. The fight against terrorism, the post-11 September context, and the Beslan tragedy often serve as a pretext for practices which are clearly racist in nature.
320. I would like to stress again that the widespread rise in xenophobia is most alarming. Excessive nationalism and the ideologies transmitted by parties and organisations attached to the extreme right are the main causes of this state of affairs. In addition, I have noted an increase in tension and ethnic hatred between several communities. Such tensions are often deliberately provoked – indeed, nothing threatens the stability of Russia more than the temptations of xenophobia and disunity among people who have been living together since time immemorial. This is what I said when I visited the site of the indescribable tragedy in Beslan. And I warmly welcome the fact that despite the inflammatory forecasts, no hate-driven provocation has upset the peace and spirit of good neighbourliness between the Ossetian and Ingush peoples.

VIII. THE SITUATION IN THE CHECHEN REPUBLIC

1. Background

321. I was elected to the post of Commissioner in October 1999, just as the “second Chechen war” was beginning. As soon as I took up my post, I decided to visit Moscow and the Chechen Republic to assess the situation on the ground; this was, indeed, my first official visit as Commissioner.
322. When I arrived in Moscow, the military campaign initiated by the federal forces in Chechnya following the attacks on Daghestan by combatants from the break-away republic, was in full swing. It was commonly held at that time that this area was totally closed not only to foreigners but also to Russian citizens; even the press had difficulties in covering events taking place there. I then asked Mr Igor Ivanov, the Russian Federation Foreign Minister, to be able to travel to Chechnya. In view of the situation, this was understandably not an easy decision for him to take.
323. Nonetheless, the following day, I was informed that I could travel to the Chechen Republic and that the Russian government would provide me with all the logistical support to make the trip. If the Russian authorities had not decided at that time to comply fully with my mandate and assist me, that could have affected the future of my post which might not have been taken seriously by the first of the member states visited. However, in accordance with Article 6 of Resolution (99) 50, I was given all the necessary assistance.
324. During this first visit to Chechnya, I was accompanied by Mr Yuri Chaika, the then Prosecutor General. This was a tense and emotionally trip, as we visited an area that had been devastated by a military conflict which affected first and foremost the civilian population. We witnessed scenes of great distress, human tragedy and death. The conflict was just in its initial stages and its consequences are still being strongly felt today. We were in the middle of a war, and war is in itself one of the most serious violations of human rights, bringing with it as it does death and despair.
325. Observing the catastrophic consequences of the war, my first concern was to help the civilian population living in intolerable conditions. From my very first visit, I was struck by the lack of civilian confidence in the military personnel around them. The violence of the fighting and the crimes committed by out-of-control elements of the federal forces created a gulf between the army and the civilian population in the midst of fleeing in large numbers to Ingushetia. It was therefore imperative to take measures to guarantee the security of the civilian population in order to bring about a return to normality. The responsibility lay primarily with the Federal Government to take the first steps to reassure the demoralised population. I therefore recommended that the authorities set up a body to gather the population’s complaints and act as an intermediary between citizens and the administration (including the military authorities). This was a means of preventing crimes going unpunished. The post of Special Representative of the President of the Russian Federation for the defence of human rights was established and Mr Kalamonov was

appointed to the post. It was also important that the Council of Europe should make experts available to Mr Kalamonov's office, who subsequently helped establish the procedures and working methods.

326. Over the years, I have visited the Chechen Republic on five occasions in order to see the situation at first hand and attempt to help the civilian population and the authorities to return to normality, that is, to peace.
327. Since the cessation of fullscale military operations, I have always stressed that any return to normality is conditional upon the achievement of three objectives: (i) there has to be an atmosphere of security, permitting not least the return of refugees, and the climate of impunity must come to an end; (ii) political dialogue within Chechen society must begin in order to rebuild civil society and a representative authority for the Republic; and (iii) material living conditions must be improved, which requires the economic and civil reconstruction of Chechnya.
328. I do not wish here to recount in detail the conclusions of my successive visits to the Chechen Republic, as each visit gave rise to a separate report containing practical recommendations. These documents have all been published and are still available.
329. Following the setting up of the Office of the Russian President's Special Representative, and the secondment of the Council of Europe experts, one of the most important aspects of their work began, ie dealing with the complaints filed by the population through the Office or its intermediary of the Chechnya Prokuratura in order to trace those reported missing. During my visit in February-March 2001, it emerged that a large number of these files had not been properly pursued and that the applicants were experiencing difficulties in their relations with the representatives of the judicial authorities. At that point I suggested that an ad hoc commission, comprising representatives of the Prokuratura, Mr Kalamonov's office (including the Council of Europe experts) and representatives of the NGOs active in the field, be created. This commission was set up and operated for a while, making it possible to speed up the processing of a number of files. However, the problem of missing people is an ongoing concern and has not yet been resolved. I shall come back to this later.
330. From my very first visit to the Chechen Republic, I was able to see that this terrible conflict has created a deep rift in Chechen society. Unfortunately, the whole population has been affected by events which began well before 1999. The images of this tragedy cannot fade with time and remain engraved on my mind. I can still see those thousands of refugees in the camps inside Chechnya and in Ingushetia, women, children, old people terrorised by the bombardments of their homes, haunted by their relatives who had died, appealed to for help by the wounded, and threatened by combattants. I can remember the representatives of the refugees from the non-Chechen population, which had been expelled almost in its entirety from the Republic, who had lost most of what they owned; I think again of that terrible prison in Chernokozovo which we discovered with Mr Chaika, and which had just been retaken from the Chechen fighters. It was then that I asked for it to be closed down or completely refurbished because the conditions there

were tantamount to torture. Appropriate action was, indeed, taken. Nor can I forget the ruins of Grozny, the apocalyptic image of a ghost town seen from a helicopter in February 2001, and the eyes of the young Russian soldiers, called up for their military service and sent to fight in Chechnya.

331. These images, especially those relating to the first years of the conflict, before any signs of some sort of improvement became visible, made it clear to me that peace could not be restored to the minds of men without some effort being made at reconciliation. The first step had to involve Chechen society. Accordingly, in November 2001 I brought together, in Strasbourg, representatives of all of Chechen civil society, including those, who clearly exist, whose views converge with those of the separatists, – provided that they did not subscribe to the idea of an armed struggle. The seminar was also attended by representatives of the federal authorities, local government and federal and local NGOs. The seminar allowed for a substantive discussion on the main topic of “upholding and protecting human rights as a basis for the democratic reconstruction of the Chechen Republic”. The final declaration adopted with the approval of the participants led to the setting up of mechanisms for co-ordinating the efforts of the *Prokuratura*, local government, and NGO representatives to improve the security and human rights situation inside the Republic.
332. In early 2002, the human rights situation continued to be of great concern, with large-scale cleansing operations (“*zachistki*”) conducted by the federal forces. These operations were carried out against whole villages blockaded by the federal forces, sometimes for several days. At that time, the NGOs *in situ* complained about the disappearance of people arrested in large numbers during such operations. These people were often taken away by the military and simply disappeared. The discussions held in Strasbourg clearly showed the exasperation of the civilian population before such criminal methods. Representatives of the federal authorities then promised to take practical measures to bring an end to this situation. In March 2002, the commander of the federal forces in Chechnya, General Moltenskoy, adopted Order No. 80 (the “Moltenskoy Order”) setting out in detail the procedure for operations to verify registered addresses. The order stipulated that all such operations should be carried out by clearly identifiable military personnel in the presence of the prosecutor, NGO representatives and village elders. It also stipulated that the registration plates of military vehicles taking part in operations of this type be clearly visible. This order has played a major role in improving the situation regarding control operations.
333. However, throughout the first half of 2002, representatives of NGOs working in the field informed me of cases of civilians being arrested by military personnel during verification operations, and subsequently going missing. In a large number of cases, these people were taken by the military to unknown destinations, often regimental outposts. If these were civilians suspected of violating the law, however, they should have been handed over to the civilian prosecutors. However, traditionally, civilian prosecutors do not enter military bases, leaving this task to the military prosecutors, who, however, have no jurisdiction to deal with cases concerning civilians.

334. Clearly, there was a problem involving rules of jurisdiction and practice, and this is why I suggested an initiative to the Prosecutor General of the Federation of Russia. This proposal was set out in my Recommendation 1/2002 “concerning certain rights that must be guaranteed during the arrest and detention of persons following “cleansing” operations in the Chechen Republic of the Russian Federation”. I suggested that mixed groups be formed comprising a civilian prosecutor and a military prosecutor, able to take speedy action on a military base, with due regard for the competence of each prosecutor. Such a solution would provide a response to situations which were tantamount to a denial of justice.
335. This recommendation was acted upon by the judicial authorities; a few months later the *Prokuratura* of the Chechen Republic adopted a circular setting up this type of mixed group.
336. At the same time, however, the situation remained most worrying in the Chechen Republic. There was a general air of insecurity and many cases of missing people, attributed both to the activities of the separatists and to representatives of the federal forces. Furthermore, there were still a large number of refugees in neighbouring regions, primarily Ingushetia. These people were afraid of returning because Chechnya was still under military control; up to that point no step towards restoring political life to normality had been taken.
337. In this context, the federal authorities and the provisional administration took the initiative of drafting a Constitution for the Chechen Republic and putting it to a referendum. There was much discussion within Chechen society, Russian civil society and the international community about the expediency of holding a referendum while the situation was still extremely difficult. While this debate was going on, I was invited to make a further visit, enabling me to assess the situation at first hand.
338. I was able to hold discussions with federal and local officials, including the Head of the Chechen Administration, Mr Akhmad Kadyrov. However, more importantly, I was able to meet ordinary citizens, both within the Republic and in the camps in Ingushetia. I was struck by the great weariness of the population after years of war, their wish to see it come to an end as soon as possible, and the people’s desire to go home and get on with their old lives, send their children to school, and no longer have to spend cold winters and stifling summers under canvas. Things had to get moving, change was needed. And the referendum on the new Constitution could herald a start to change. For that reason, I came out in favour of the referendum, provided that it was the first stage in a process of ongoing change. It was essential that it should lead to a peaceful political process within Chechen society and that it help form civil society in the Republic.
339. The referendum of March 2003 and the presidential elections that followed, despite all their difficulties and shortcomings, nevertheless gave rise to a glimmer of hope within Chechen society. The situation in Chechnya began to improve slightly in the course of the past year, although it remains difficult and uncertain.

340. Unfortunately, the hope of normalisation has not to be fully realised. Akhmad-Khaji Kadyrov, the President elected in 2003, was assassinated on 9th May 2004, which has once again aggravated the situation. Although it is acknowledged that the military violence has decreased, NGOs in the field continue to report frequent cases of missing persons. Moreover, the cleansing operations have not come to a complete halt and Order No. 80 is not being complied with everywhere and by everyone. In addition, the disastrous situation and the poverty of the population are not at all conducive to normalisation. The town of Grozny, totally in ruins, shows the urgent need for reconstruction; this state of decay and dereliction is another punishment unjustly inflicted on the Chechen population.

2. The current visit

341. It was against this background that I returned to Chechnya from 23 to 26 September 2004 as part of my general visit to the Russian Federation.

a. The need for human rights protection mechanisms

342. For this new visit, I sought to further progress towards normalisation in the field of human rights by promoting inter-Chechen dialogue. I focused my attention primarily on the functioning of the human rights protection mechanisms in Chechnya, given that since January 2004, there was no specific mechanism for this in the Republic, following the closure of the Office of the Special Representative of the President of the Russian Federation for the defence of human rights. Admittedly, the new Chechen Constitution provides for the setting up of a regional Ombudsman, but this cannot take place until after the election of the new Chechen parliament which must, in turn, pass a law on the Ombudsman.

343. Accordingly, I was interested to note the idea of appointing a provisional Ombudsman pending the election of parliament. This idea is also supported by the Russian Federal Ombudsman, Mr Vladimir Lukin. I believe it is essential that the future provisional Ombudsman be given broad powers and the support, not only of the authorities, but also of the emerging civil society and Chechen and federal NGOs. In addition, the incumbent should take over the legacy of the Office of the President's Special Representative, beginning with the more than 18,000 complaints concerning the acts or omissions of the authorities.

b. The Grozny Conference

344. To this end, I sought to take advantage of my visit to Chechnya to organise a conference in Grozny to discuss the main features and operation of the institution of the regional Ombudsman in Chechnya. The Conference took place in Grozny on 24 September 2004. It was jointly organised by my Office and the State Council of the Chechen Republic. It was attended by more than 70 participants, including:

- senior Chechen officials, including the President of the State Council, Mr Tauz Djabrailov;
- members of the Chechen government;
- representatives of Chechen local and municipal authorities, including the mayors of the main towns and heads of most of the districts;
- representatives of the federal authorities, including those of the Plenipotentiary Representative of the Russian President in the Southern Federal District, Mr Vladimir Lukin, the federal Ombudsman and Ms Ella Pamfilova, Chair of the Presidential Human Rights Commission;
- representatives of the main federal NGOs, such as Memorial, International Helsinki Federation, Civic Aid; these included Ms Alexeeva, President of the International Helsinki Federation, Mr Orlov, President of Memorial and Ms Gannushkina, President of Civic Aid;
- Representatives of the main Chechen NGOs, such as Chechen Memorial, Echo of the War and Mothers of Chechnya.

345. It should be noted that a number of NGOs that attended are reputed to share the views of those expressing their hostility towards the current Chechen political regime and claim to subscribe to ideas close to those of the separatists. The Chechen authorities, aware of their views and political preferences, did not object to their presence.
346. There was very active participation. Discussion focused on the current situation, on the role of institutions defending human rights in the building up and consolidation of Chechen civil society, and on human rights violations, the problems of missing persons and the fight against impunity. The conference also touched on the nature and key features of the future institution of the regional Ombudsman, the future Chechen law and the timescale for setting up the institution. The participants were unanimous that Chechen society needed a genuine institution for the defence of human rights.
347. At the end of the conference, the organisers representing the State Council presented a set of draft conclusions. This courageous text describes the situation in Chechnya without concession. Following an animate debate with the NGOs, a number of amendments were made to the draft, which also set out a number of objectives for the future Ombudsman and for relations between the authorities and civil society. The text provides for the appointment of a provisional Ombudsman, pending election of the parliament. On our return to Strasbourg, we learned on 28 October 2004 that the Chechen provisional Ombudsman had been appointed the day before.
348. The day following the conference, I met the new Chechen President, Mr Alu Alkhanov, who said that he had been impressed by the results. He said that he wished to adopt the conclusions of the conference as a “road map” for his work in the field of human rights. He referred to these conclusions as the “Grozny Declaration”.

3. Prospects for action in the Chechen Republic

349. As I have already said, despite some improvements, the situation remains difficult. I was particularly saddened to see Grozny virtually in the same state as it had been at the time of my previous visit, which is to say in ruins.
350. Reconstruction has barely commenced. Although I was able to visit a bank responsible for paying compensation to people entitled to damages, the citizens whom I spoke to there said that the process was very long and laborious. I also received many complaints about corruption which, it was claimed, was part and parcel of the compensation payment process. But here too, the people in the crowd assured me that things were getting better. Whereas, according to them, in the past they had had to pay half of the amount as a “sweetener” in order to receive their compensation, now the “commission” was “only” 30%. I hope that all these unacceptable practices will cease forthwith.
351. In my talks with President Alkhanov we agreed on prioritising the main objectives to be achieved in the Chechen Republic with the assistance of the Council of Europe. These are:
- taking control of the situation regarding missing people and combating impunity;
 - co-operation in order to help bring about the normal functioning of civil society with a view to preparing the future parliamentary elections;
 - co-operation to protect and improve the image of Caucasians in general and the Chechens in particular throughout Russia.
352. These priorities will be addressed through joint action and I will be regularly assessing the progress made. Particular attention needs to be focused on a number of areas.
- a. Combating impunity*
353. I was told that although the number of cases of disappearances had fallen, this was still a vital issue. The responsibility for such disappearances would appear to divide into three: the fighters hiding in the mountains kidnap people as part of their terrorist action; some people are abducted by criminal groups seeking a ransom; and in addition, the federal forces and the Chechen police also appear to be implicated. Instances where people simply disappear, whoever is behind it, are unacceptable. Such practices must cease and those responsible, whoever they are, must be arrested and tried.
354. In addition, the missing people must be searched for and their disappearances explained. I decided to pursue my work with the Deputy Prosecutor General of the Russian Federation, Mr Fridinsky, concerning the investigations into missing people. In my conversations with the Deputy Prosecutor of the Chechen Republic, I was informed that 1,749 criminal investigations into the disappearance of 2,400 people had been initiated since the re-introduction of the Russian legal system in the Chechen Republic. The

overwhelming majority of these investigations had been put on hold. This is unacceptable. Peace cannot fully return while the fate of these people remains unknown. Families need to be informed where those still alive are to be found or, where such is the case, be able to recover their bodies.

355. Mr Fridinsky gave a promise that the files put on hold would be reviewed on a case-by-case basis, starting with the most recent files dating from 2003-2004. In this connection, I had a meeting very recently with the Prosecutor General of the Russian Federation, Mr Vladimir Ustinov.
356. Unfortunately, a large number of the missing people are no longer alive. One of the first difficulties to be dealt with, therefore, is the identification of bodies. At the request of the Chechen authorities, the Council of Europe could offer its assistance in securing funding for the creation in Chechnya of a forensic medicine laboratory to help with identification. At the same time, training should be provided to the staff who will be working there.

b. Development of civil society

357. There is a great need to develop civil society, which offers the only way to move beyond the consequences of the war. In this respect, it is extremely important for the elections of the Chechen Parliament to be properly democratic. They will be beneficial only if all the political forces who are willing to help bring about peace and who reject the armed struggle can take part in the electoral campaign and be elected.
358. The development of civil society could be most valuable for the provisional Ombudsman in Chechnya. The Commissioner and the Council of Europe in general should assist this new provisional institution which could become the main institution for the defence of human rights, pending the election of the new Chechen parliament and the passing of the law on the Ombudsman. In this context, and as part of the joint Council of Europe/European Union programme, I offered assistance to the Chechen Ombudsman in setting up his office and beginning his activities.

c. Need for economic reconstruction

359. When you visit Grozny and see all the ruins, it is clear that peace will not come about until reconstruction has really begun. When people start seeing cranes, bulldozers and diggers in the streets of Grozny and when more and more cars are unable to move because of building sites rather than tanks, then they will realise that life is back on track and plans for the future can once again be made.
360. I hope that this comes about quickly. The federal government will have to make an extra effort by allocating the necessary funds to Chechnya. And of course, there has to be some guarantee that this money will not be stolen or channelled elsewhere for other purposes.

d. Visit to IVS "ORB-2"

361. During the conference, the NGO representatives expressed to me their grave concerns about the situation in a remand centre, used for the detention of persons suspected of terrorism-related crimes during the initial phase following arrest. The facility in question was ORB-2, placed under the responsibility of the anti-terrorism departments of the Russian Federation's Interior Ministry. I was told that the people held there were ill-treated and kept under extremely harsh conditions; furthermore, they were kept there for very long periods, going well beyond the time allowed under the law.
362. Alarmed by this information, I immediately asked the authorities to be allowed to visit the facility in question. This was accepted without it appearing to cause any particular problem. The following day, I went there accompanied by Ms Pamfilova and Mr Lukin.
363. We were met by the director of ORB-2, who said that he could show me the files of the 15 people currently being held there and that I could meet them if I so wished. I was shown the files although I chose not to look at them as it is not my role to interfere in an investigation. However, we did go down to the detention section.
364. I asked to go into some of the cells, which I was able to do and speak with the detainees there. The conditions in the cells were not good, although they were no different from the vast majority of other IVSs that I visited and which are described above. All the detainees with whom I spoke said that they had a lawyer. However, it seemed that they were not allowed exercise and were therefore obliged to spend 24 hours a day in their cells. I did not receive any complaints of ill-treatment. At the same time, I had the impression that these detainees did not feel they could speak freely, even though we were left alone in the cells.
365. All the same, I learned that all the detainees being held in the IVS had been there for more than 10 days, the maximum length of time allowed under the law. Some had been there for four months or longer, considerably exceeding the statutory limits. The director acknowledged this, citing the requirements of the investigation and special circumstances. Without passing any judgement on the merits of the cases in question, I firmly believe that the law should be upheld and that the statutory procedure should be followed in respect of all detainees, whatever crime they are accused of. It is only in this way that a state governed by the rule of law can take shape.

IX. RESPECT FOR HUMAN RIGHTS WITHIN THE ARMED FORCES

1. General situation

366. The armed forces are an important component of any democratic society. Despite the particular nature of the task with which they are entrusted, the same democratic standards that apply to all other institutions in society must also apply to the army, in terms of both rights and duties. During the visit, I was determined to see for myself the extent to which human rights were upheld in the Russian army. It was not my first contact with the Russian military. I had previously met representatives of the armed forces both during my visits to Chechnya and at the seminar I organised in 2002 in Moscow on human rights and the armed forces.
367. This time, I wanted above all to form an opinion on how ordinary military service operated and on soldiers' and officers' living conditions. When the visit was being prepared, we asked to visit a number of bases and military commissariats in different regions in order to gain a picture of the general situation. We therefore visited a railway troop base in Khabarovsk, forces under the authority of the Ministry of Interior based in Kazan and military units in Chechnya. We also visited the military prosecutor for the Krasnorechenski regiment in Khabarovsk, and a military commissariat in Kazan.
368. We also met representatives of civil society active in this field. I would like to make special mention of the "Committees of soldiers' mothers", an NGO renowned for its unequivocal position and the constant support it offers soldiers and their families. It is a federation with independent branches in the majority of Russian regions. Members of the NGO have to a large extent gained the trust of both officers and soldiers and offer them their assistance in difficult times. Furthermore, the very fact that, in the military bases I visited, the contact numbers for this NGO were clearly displayed in places accessible to soldiers shows the good relationship between the organisation and the command. During our visit to the military base in Khabarovsk, the President of the Khabarovsk region Committee of soldiers' mothers, Ms Valentina Reshetkina, accompanied us throughout.

2. Compulsory military service

369. The federal law of 28 March 1998 on "military obligations and military service" makes military service an obligation for all male citizens between the ages of 18 and 27. The general length of service is 2 years but there are some exceptions. Conscripts are posted in all the armed forces or those belonging to the Interior Ministry. There are two recruitment sessions each year in the different administrative entities of the Russian Federation.
370. Approximately 400,000 18-27 year-old males are called up each year. However, a sociological survey of the recruits shows that the majority are from the least well-off sectors of Russian society. Apparently, young people from better-off families manage to avoid military service by using their parents' contacts or bribing the recruitment board or

doctors. We received reports of such practices from NGOs and from the military, including the Defence Minister himself. Consequently, it is primarily the most vulnerable young men and those who are least in a position to defend their rights who enter the Russian armed forces.

371. Military life is without a doubt demanding and sometimes it is hard for the young recruits to adapt to the new rules. Above and beyond the change in living conditions and environment and the need to submit to military discipline, some young conscripts have serious health problems. In our conversations with officers, we were told that an increasing number of young people arrive in the units in an advanced state of malnutrition and first of all have to be brought to a decent state of health feet before they can even begin their training. Others encounter serious psychological problems. During the first year of service, some conscripts desert, expressing thereby express their refusal to continue their compulsory military service under such poor conditions. According to the figures provided by the Kazan military commissar, 5-7% of young people fail to respond to their summons; in all likelihood the real percentage is higher than this official figure.

372. Although some progress has been made in a number of areas, there is still much to be done to ensure that human rights are upheld in practice in the armed forces. We heard from a variety of sources, including NGOs, that soldiers' basic rights are not always secured – first and foremost as concerns living conditions. In some of the military bases I visited, the conditions were relatively good, but in others, they were very harsh. In addition, bullying and the violent practice of hazing or “*dedovshchina*” (see below) is a serious problem, compounded by the slowness of the military authorities to take any action to stop it.

a. *Violations of soldiers' rights linked to physical and psychological violence*

373. The documentation I gathered and the talks I held during my visit enabled me to gauge the extent of *dedovshchina*. Literally, it means “grandfathers' rules” and comprises a series of practices which are similar to an initiation ceremony or violent rites of passage. It affects primarily new recruits in their first year of service. While some military commanders ensure that the military code is complied with in their units, there are many who turn a blind eye to such practices. They indirectly or directly go along with these practises, which, originating from the criminal milieu, they perceive to instil a certain order amongst their soldiers. This order, however, is based on abuse and can really not be called order at all, owing as it does more to the unwritten rules of prisons than to the celebrated traditions of the Russian army.

374. Based on what I was told, the world of *dedovshchina* is a horrible one. In some units, every single moment in the life of a young soldier is subject to harassment, humiliation and violence. Newly arrived conscripts are apparently forced to submit to the orders, wishes and desires of the older ones. Very often, their personal items are stolen, they are forced to hand over money and cigarettes; they are deprived of food, prevented from sleeping or woken up in the middle of the night to take part in rituals that are as pointless

as they are humiliating. Night time is apparently the time young recruits fear the most. In addition, soldiers coming to the end of their service force the young recruits to perform their chores for them; any refusal or failure to carry out the task properly is allegedly severely punished by beatings and by being given further more degrading tasks.

375. Such criminal practices have tragic consequences. Some soldiers, for example, cannot tolerate this level of violence and, in the absence of any support from their officers, decide to desert. They then have to cope with prosecutions and sometimes the lack of understanding on the part of their families who send them back to their units and pressurise them to complete their military service, regarded as a patriotic duty.
376. Others are tempted to take another, irreversible, route. The resort to suicide to escape the violence and abuse reflects the distress and despair in which many new conscripts find themselves. At the time of my visit, figures seemed to indicate a slight fall in the number of suicides or attempted suicides in relation to the previous year, while the level of reported violence in general had fallen by 30% in 2004 compared with the 2003 in the Far Eastern region. However, the military *Prokuratura* of this region which provided me with these figures acknowledged that there was a serious problem and that it was currently difficult to address, despite the fact that a number of criminal investigations had been initiated against officers accused by soldiers having experienced particular distress. In this respect, the Federal Military *Prokuratura*'s figures indicating that 25 people had died as a result of violence in the first half of 2004 are very worrying.
377. When I visited Yekaterinburg, I was told by Ms Anna Pastukhova, representative of "Memorial", of events that had taken place in military garrison no. 32 in the region where in the three or four months prior to my visit, four young conscripts had died in tragic circumstances which had not yet been fully explained. According to currently available information, these deaths were due to violence. I believe it is necessary to shed light on these tragic deaths and for the people responsible to be brought to justice.
378. Figures provided by NGOs tend to show that the official statistics are far removed from the actual situation. Human Rights Watch, in its latest report published in October 2004, indicated that there had been 35 deaths due to abuse and 109 suicides during the first half of 2004. While, as the official figures claim, there may be a downward trend in the number of deaths caused by violence inflicted by others, the number of suicides is rising significantly, as acknowledged by the military *Prokuratura*. This serious and distressing problem reflects the tough living conditions for the majority of soldiers. Obviously these do not affect the young conscripts alone, but they are the ones who suffer most.

b. Soldiers' material conditions of service

i. Difficulties associated with conscripts' conditions of service

379. The last 15 years have been difficult for the army, as they have been for the whole of Russian society. The economic recession following the breakdown of soviet economic structures has led to a drastic reduction in funding for the army, resulting in a sharp deterioration in material living conditions for both soldiers and officers.

380. The lack of sufficient food is one of the main problems according to the NGOs. Food does not always meet the health standards laid down by the federal law on the armed forces. Soldiers are often given food of very poor quality, either old or rotten. The daily ration is very low in meat, sugar and bread. It scarcely varies, if at all. This gives rise to sickness, with very frequent cases of food poisoning. However, this is not something that occurs everywhere. According to the military Prokuratura in Khabarovsk, this was indeed the case there three or four years ago, but things have changed since then. We were told that there were now no cases of death due to malnutrition.
381. The canteens we visited on the Kazan and Grozny bases were quite respectable and the borsch I ate there would survive comparison with that served in many restaurants in Moscow. However, the canteen I saw in Khabarovsk was much less well equipped and the quality of the food served there left much to be desired.
382. A further difficulty for soldiers is access to health-care. NGOs claim that young conscripts have no faith in the medical service and do not seek treatment. As a result, certain minor illnesses deteriorate dramatically: occasional stomach pains or headaches become chronic; a slight wound can become infected and lead to septicaemia. On a number of occasions, I was told a typical joke which reveals a lot about this matter. A soldier goes to see the doctor in his unit and tells him he has terrible toothache and stomach ache and would like something to sort it out. So, the doctor takes a tablet, breaks it in two and gives it to him, saying the first half is for the toothache and the second half for the stomach ache. I was, indeed, most surprised by the medical facilities I visited in Khabarovsk which were in quite a state of disrepair, with equipment dating from a bygone era.
383. In addition, it would appear that officers and conscripts nearing the end of their service often prevent young recruits from consulting a doctor. Some are even beaten or given new difficult tasks for having dared to ask permission to go to the infirmary. Fear of *dedovshchina*-related practices, such as harassment and abuse from the older soldiers within the medical services, and of having to perform chores whilst ill prompt young recruits to keep quiet about their problems and avoid the medical services and military hospitals. Others, who request and obtain permission to see the unit doctor are not infrequently sent back to their quarters without any treatment.
- ii. Difficult conditions for officers
384. Soldiers are not the only ones to suffer from the funding problems of the last fifteen years; officers too have been largely affected. In the Soviet era, officers were a privileged category in society, with comfortable salaries and preferential housing conditions.
385. In recent years, officers' salaries have plummeted and housing conditions have deteriorated abominably. I was able to discuss matters with representatives of officers and sensed a feeling of great disappointment at their living conditions. They said that the accommodation problem was one of the most serious, especially for young officers who had just started a family and who had no decent housing.

386. This was confirmed by the Minister of Defence during our conversation in Moscow. I conveyed to him the feeling of discontent I had sensed in my discussions and he told me that the authorities would be including this issue among their priorities.

387. I also saw that some initiatives had been taken within individual units themselves. For example, in Khabarovsk, I visited the building accommodating young officers which had been constructed inside the military base thanks to resources found by the command. I was also able to visit a two-room flat which had just been allocated to a young lieutenant. It was very gratifying to see this young man, his wife and baby happily settled into their new home. It would be welcome were this excellent example to be followed wherever possible.

c. Misusing the services of conscripts (exploitation and slavery)

388. In the course of my meetings with representatives of civil society in several regions of the Russian Federation, I was informed of certain particularly troubling practices in a number of military units. These concerned the exploitation of soldiers as workers whose services were hired out by unscrupulous officers for their own financial gain. This is nothing short of modern-day slavery.

389. This despicable practice extends beyond the confines of the military base. It concerns primarily young recruits but soldiers at the end of their service are also involved. It would appear that some officers arrange for conscripts to be taken on in factories or the building industry and in return receive remuneration for the unpaid labour. We were told that contracts were concluded directly with the factory manager or site manager and the soldiers from the officer's unit were made available for an agreed length of time. All or the majority of the soldiers' would-be wage, it is claimed, is handed over to the officers for their personal use. Not only is this an illegal misuse of the services of soldiers, but all labour laws are completely disregarded. Representatives of the Soldiers' Mothers told us, for example, that very often the working day is much longer than the 8 hours laid down in the labour code, that the soldiers are given no break and are not even fed properly during the day as the officers do not wish to run the risk of bringing them back to barracks.

390. Obviously, such practices do not fit into the legal framework of military service. At the same time, it is clear that this occurs because of financial difficulties. Some of the people with whom I spoke said that occasionally the money earned is used for the good of the regiment; however more often than not it goes into the pockets of the corrupt officers. The work involved varies in nature – soldiers may be used to help build dachas for officers, to work in factories or to build roads.

391. Such practices, the real extent of which it is difficult to gauge, account for less than 1% of offences charged in the armed forces, according to official figures. The Committee of Soldiers' Mothers, however, believes that they are very widespread. At the same time, it should be pointed out that many officers protest at this criminal misuse of soldiers, which mocks the serious duties to be carried out under the Constitution. In the course of my

conversations in the military Prokuratura, I was told that they were very attentive to any reports of such acts. The prosecutors in Khabarovsk told me that they had begun several criminal investigations into the exploitation of soldiers. At the same time, some officers do stand up against these serious offences committed by some of their colleagues. This is certainly very brave of them, and sometimes it costs them dearly.

392. For example, during my stay in Khabarovsk, NGO representatives spoke to me about the case of a certain Captain Matveev which had made waves in the region. Captain Matveev served with Interior Ministry forces and had spoken out against such practices by his colleagues. When his protests got nowhere, he turned to the media to inform the public of what was going on. A few days later, he was bizarrely involved in a dubious road accident and was placed in pre-trial detention in SIZO N1 in Khabarovsk. Criminal proceedings against him have been initiated.
393. On being told about this, I immediately asked to meet Captain Matveev, particularly as he was being held in a prison I was to visit. The prison authorities had no objection. So Ms Pamfilova and I were able to talk with Captain Matveev without anyone from the prison administration present. I have to say we came out of the interview with a very heavy heart and with a feeling that an injustice was taking place before our very eyes. The person we met was a young man, humiliated but dignified, an officer with a very high regard for the honour of Russian officers and his duty to defend that honour, who had been thrown into prison and placed in a cell with people detained under ordinary law. He claimed that the criminal charge against him had been fabricated and had but one aim: to force him to resign from military service on account of his criticism of and fight against the exploitation of soldiers. This was a man who had qualified as a military legal expert with a high grade. He told us as we were leaving that he intended to fight to defend his honour as a man and an officer, even though the battle seemed lost in advance.
394. I was amazed to see that the young man had been in prison for some time even though the charges against him were vague and the proceedings unclear. Ms Pamfilova was also very shocked. We raised this question that very evening in our talks with Mr Reznik, a member of the State Duma, who promised to look into the matter.
395. Two weeks later we learned from the press that Captain Matveev's prediction had proved accurate. It would appear that he was judged in expedited proceedings, given a one-year suspended sentence and prohibited from continuing his service in the armed forces. He was released in the court room, the verdict apparently having satisfied those against whom his criticism had been directed. During our conversation he told me that he would appeal to a higher military court to bring his case fully into the open. I hope that justice will triumph in the case of this brave young officer and that the Ministry of the Interior will get to the bottom of this sombre affair.
396. It is clear that the practices described above are unacceptable and that everything must be done to bring them to an end and to ensure that the army carries out its primary task, that of defending the country.

3. The fight against violence and ill-treatment

397. The number of reported cases of abuse and violence that have led to judicial proceedings is staggeringly low in comparison with the almost systematic nature of *dedovshchina* and the exploitation of soldiers. In my opinion, there are two reasons for this. First, the law of silence governs the ranks of the various parts of the Russian army. There are very few former conscripts who are willing to give evidence and ultimately it is only the most serious offences that are documented. It is only in exceptional circumstances that the daily bullying and violence come to court. Second, the inertia on the part of the military authorities and, in particular, the officers in charge of the military units. The vast majority of them turn a blind eye to what is going on in the bases under their responsibility.
398. I did take note of the efforts made by the military Prokuratura and the Ministry of Defence who took account of all reported cases of violence and abuse. The Prokuratura in particular was striving to bring this type of incident to an end. Together with the Ministry of Defence it was running awareness-raising training courses for officers and soldiers. These courses, focusing appear on human rights, would appear to have become part of the military educational activities. The Prokuratura also organises conferences bringing together judges working on cases of this type and NGOs. It had broadened its co-operation with the Committees of Soldiers' Mothers, which primarily gather statements on ill-treatment and bring the matters to the attention of the authorities. Lastly, the military Prokuratura makes public the trials concerning violence and abuse against soldiers.
399. However, these initiatives have failed to achieve the anticipated results. The soldiers' difficult living conditions, the officers' legal ignorance, the fact that *dedovshchina* is so firmly rooted in an informal code of honour, and corruption make it very difficult to change practices and attitudes. It is essential, therefore, that efforts to combat this scourge be redoubled. The reluctance to publicly denounce such injurious acts in order not to harm the army's reputation is somewhat illogical because the whole of society is any case aware of what is going on. Saying and above all doing nothing merely fuels the rumours and makes young people more inclined to refuse to do their military service. In contrast, if the command took a clear and firm position acknowledging that such things occurred and stating that they will not be tolerated, the situation could be rapidly improved. But a statement of intent is not enough. I think that the authorities need to take the necessary steps to improve the funding of units and to ensure that the appropriations allocated do actually make their way to the intended units. In my long conversation with Mr Sergey Ivanov, the Minister of Defence, I was reassured on this point. He was very open and attentive to the issues I brought up without attempting to hide or gloss over these problems.

4. Military reform

400. Article 59 of the Russian constitution adopted in 1993 guarantees the right to alternative service for any citizen not wishing to enrol in the army on the grounds of his convictions or faith. However, it was nine years before this provision was given legal form. It was only in July 2002 that the law on alternative service was passed. The long delay between this being enshrined in the Constitution and the passing of a law was due to the political debates and the administrative inertia. It must also be acknowledged that a part of the public opinion and the very active patriotic associations were strongly opposed to this law.
401. However, although between 1993 and 2002, the right to alternative service could not be implemented because of a lack of legislative provisions, several local or regional initiatives did allow in practice for an alternative service of sorts, although it was not recognised as such by the military authorities.
402. Entering into force on 1 January 2004, the federal law on alternative service has not met with the approval of all military personnel. They frequently state that it has had no impact on cases of desertion before call-up.
403. Indeed this law continues to raise a number of problems criticised in turn by several NGOs including the Committees of Soldiers' Mothers. For example, whereas active service lasts two years, unarmed service lasts three and civilian service three and a half. It would appear that conscientious objectors cannot choose between unarmed service and the civilian service but are posted by the Minister of Defence. Anyone applying for alternative service must first of all provide proof of inaptitude for military service, and this has led to several violations of conscripts' rights. Support from the Committees of Soldiers' Mothers in the Khabarovsk region in particular has enabled many young people wishing to do alternative service to win their case. Lastly, as opposed to what commonly happens in active service, unarmed or civilian service takes place outside the citizen's region of origin. In the view of many of those with whom I spoke, alternative service, as conceived in its present form, is less an alternative than a punishment.
404. I therefore ask for the lessons learned from the first year of the law's operation to be fully taken on board and for everything to be done to make it workable. Alternative service is a right guaranteed by the Constitution and any citizen should be able to avail himself of it without being suspected of not being patriotic or wishing to avoid his duties.
405. The Minister of Defence informed me that one of the aims of the reform was to strengthen the proportion of professional soldiers in the Russian army, which should mean that the current length of service for conscripts could be halved from 2008.

X. RELIGIOUS FREEDOM

406. Throughout my visit I made a point of meeting the representatives of the different religious communities. I visited numerous places of worship, including a mosque, a church and a synagogue in Kazan, a mosque in Yekaterinburg and a synagogue in Moscow. I had beforehand already held talks with the highest authorities of three of the religions practised in Russia: the Patriarch of Russia, Alexis II, the Grand Mufti of Russia, Ravil Gaynutdin, and the Chief Rabbi of Russia, Berl Lazar.
407. The Russian Federation is a multi-ethnic and multi-faith country with a large majority of Orthodox believers (61%) and a high proportion of Muslims (12%). The remaining 27% include smaller communities: Jews represent 1%, Catholics about 1%, the Armenian Church less than 1%, Protestants 0.7% and so on. It was clear from my visit to the regions that relations between the representatives of the different religious communities are generally harmonious. I was told by the religious authorities of the Krasnodar region at an inter-faith meeting that relations between the minority faiths were as good as they were between the three majority religions, in this case the Orthodox Church, Islam and the Armenian Church.
408. I have always regarded religions as having an important role to play in the promotion of respect and good relations between the different communities. I have been impressed by the tremendous religious revival enjoyed by all faiths in Russia since the end of the 1980s and all the more so as this has generally been in an atmosphere of concord. Article 52 of the Constitution guaranteeing freedom of conscience and religion is generally respected. Indeed, this process is actively supported at all levels of the State. While the Constitution stipulates the strict separation of State and religion, the federal and regional authorities provide funding and material assistance to the different communities to foster the parallel development of religion and tolerance.
409. The Russian Duma passed a law in October 2004 granting religious organisations unlimited usufruct of the land on which places of worship have been built. When I met the Governor of the Khabarovsk region, Mr Viktor Ishayev, he told me that fifteen churches had been financed by the region and that a Jewish cultural centre, a synagogue and several Muslim establishments would see the light of day in 2005, thanks to assistance from the local administration. The Governor of the Sverdlovsk region described the specific programme launched by the region to aid religious development and thereby head off disputes between communities: 316 places of worship have been restored and 12 mosques built, together with a Catholic church and a synagogue regarded by the Governor of Sverdlovsk, Eduard Rossel, as the finest synagogue in the Russian Federation. A Council of religions has been set up in that same region and the Palace of culture opened to all nationalities and all types of artistic events.
410. The example of the Republic of Tatarstan is even more noteworthy. As I pointed out earlier in connection with the rights of national minorities, Tatarstan is a veritable cultural and religious melting pot, in which a spirit of cooperation and dialogue prevail, two values championed by both the President of the Republic of Tatarstan and the Grand

Mufti of Kazan, who represents the majority religion in that region. Good relations are in evidence at the highest level. When I visited Kazan's main church, also known as the Old Kremlin of Kazan, I was accompanied by the Metropolitan and the Grand Mufti of the city. All the religious representatives I met emphasised their very good relations with the other faiths and the local authorities. Today Kazan stands out as one of the leading centres of Muslim culture, and the greatly influential Islamic university has done much to cement this reputation. This institution accepts students from all over Russia, and I was pleased to note the presence of a Chechen among the students introduced to me.

411. In Tatarstan and elsewhere, the religions do not only fulfil a spiritual role. They also provide significant social assistance, particularly to the more vulnerable (children, orphans and the elderly), as was apparent in Kazan. The Orthodox church of the Krasnodar region has become involved in preventing drug abuse and assisting underprivileged children. These initiatives, which I find laudable, make the various religions key players in developing and maintaining civil and also social harmony.
412. Finally, I would like to raise a number of problems which were put to me and which I myself encountered. For one thing, I was told that certain religious groups such as the Jehovah's witnesses were discriminated against. This situation is in breach of the Convention, which guarantees freedom of conscience and religion on condition that public order is maintained. But it would appear that this right is not fully respected in some regions and that certain religious communities are discriminated against in particular.
413. The situation of Catholics also needs to be mentioned. It is not my role to offer an opinion on relations between the Russian Patriarchy and the Roman Catholic Church. I noted, however, that Catholics are not always heeded as well as the other religions by federal and local authorities and I regret this. In Kazan, the Catholic community worships in a small dilapidated chapel, as the Institute of Science, which several years ago took over the old building previously used by the church, is refusing to hand it back. I was told that the authorities had pledged aid for building a new church and that the first stone had been laid. I hope that this project will be completed in the very near future so that Kazan's Catholic community will at last have a decent place of worship. I also call on the different local authorities and the federal State to ensure that similar solutions are found for similar problems in the constituent entities of the Federation.
414. Finally, I also heard that the Orthodox Church and the Ministry of Education wish to introduce teaching of the foundations of the Orthodox religion into the school curriculum. I have always supported the teaching of knowledge of religions, as I believe it contributes to an understanding of oneself and one's neighbours. However, I wonder if teaching of the culture of the Orthodox faith alone is appropriate in a multi-ethnic and multicultural society and, for that matter, in a secular State. The values of *laicity* are fundamental and lie at the very foundations of freedom of conscience and religion. I invite the federal authorities to consider this problem and withdraw their scheme, unless a teaching programme is introduced entailing the study of all the religions present in Russia.

XI. FREEDOM OF THE MEDIA

415. The freedom of the media, or in some cases the lack of it, is one of the best and most obvious indicators of the level of democracy in society. In the Russian Federation, this freedom is a particularly potent symbol given the country's history and the Soviet-era totalitarian regime's repression of any attempt at free speech in the media. We all recall, moreover, that the democratisation of the Soviet Union, the *Perestroika*, began with the policy of *glasnost*, meaning openness or freedom of speech. That policy is still regarded within Russian society as one of its most precious achievements, and the vast majority of people are not willing to accept any kind of change to it.
416. The current state of media freedom follows on from the proactive policy pursued by the Russian authorities at the beginning of the 1990s. That policy was reflected in the passing of a Law "On mass media" on 27 December 1991. This long-awaited legislation had been fought for since the beginning of *glasnost* not only by journalists and civil society but also by Russian society as a whole. The text guarantees freedom of expression for all media and affords journalists rights and protection in the exercise of their functions. It also states that citizens have a right to information. To date, it remains not only the predominant legal instrument in the area of media freedom but also an important symbol of Russian democracy.
417. The law has a strong democratic character. It was very quickly put into practice and fostered the development of media freedom. It prompted an increase in the number of publications and television and radio channels, initially representing all the political currents in Russian society. The different national minorities have also taken up this tool, which is already broadly used to disseminate languages and cultures. Well adjusted to by Russian society, this law remains a key text and guarantor for Russia's media. I was told repeatedly in numerous conversations with representatives of the media, both journalists and media-owners, that, to safeguard media freedom, the most important thing was to keep the law as it was and to resist certain calls to have it revised, which were expressed from time to time in the corridors of the Duma.
418. Freedom of expression and information is intrinsically linked to citizens' right to know. It is notable, in this context, that during the 1990s, Russia society went through a period of rapid development of the traditional media, while the beginning of this century has seen the emergence of a new media form - the electronic media. At present, there are over 20,000 newspapers and some 10,000 magazines. The television and radio broadcasting market is shared by 2,500 private broadcasting companies and a hundred or so public channels.
419. Even so, some worrying trends have emerged in recent years. According to international journalists' associations, the situation is taking a turn for the worse. A number of laws and provisions adopted in the general context of combating terrorism restrict freedom of speech and do away with the guarantees that are vital to the work of journalists in a democracy. This regrettable development has not been without victims, with a number of

television companies, radio channels and newspapers being closed down. In addition, ownership changes for some media have brought them under the control of the State or of companies in which the State is the main shareholder. Finally, Russia counts amongst the countries in which attacks and acts of violence against journalists have noticeable risen in recent years.

420. Prior to my visit, I received a great number of reports concerning the difficulties faced by many media today, not least their economic and financial problems. As a result, I decided to pay special attention to this issue throughout my trip and insisted on meetings with journalists and media owners wherever possible.
421. I made an effort to systematically meet local and regional media representatives in each of the regions visited. These talks were generally organised at the end of my stay in a given region. And for once I made a point of breaking with the press conference convention only replying to their questions and asked that the roles be reversed and that the journalists answer in turn my own.
422. This gave me a chance to gauge from the many local and regional media representatives present on each occasion how much freedom they really enjoyed in their work. I was impressed by the strong motivation of the journalists, their keenness to preserve and reinforce their rights and their everyday efforts to uphold freedom of expression. I also realised how closely media professionals associate freedom of the media with the health of democracy in general. This varies according to context and situations differ somewhat from region to region. Notwithstanding specific local features, an overall trend became apparent, and I tried to meet representatives of the Moscow-based media to compare their impressions with those of their colleagues in the regions. In addition, I analysed the situation using other sources of information, through dialogue with NGOs and questions put to interlocutors from different socio-professional backgrounds, who all gave me their assessments and opinions of both the overall context and specific local developments.
423. I realised that beyond the characteristics common to all Russian media, typified by their everyday efforts to safeguard their economic and financial independence, a clear distinction should be made between the situation of regional media and that of the Moscow-based media. Some problems are shared by all while others however are not.

1. Moscow-based media

a. Print media

424. At the meeting organised with the editors-in-chief of the major Russian newspapers, I noted the broadly shared opinion that freedom of speech has remained substantial since 1991. It is true that there have been several recent reports of pressure on journalists. The most recent case involved the editor-in-chief of *Izvestiya*, Raf Shakirov, who was sacked following the Beslan siege. The sacking was said to be a punishment for the newspaper's overly critical view of the Russian authorities' management of the crisis. Freedom of the press is an important acquis that one must strive to preserve.

425. The financial situation of the press ranked highest among the difficulties mentioned. Most of the Moscow-based newspapers seek diverse sources of funding so that their independence will not be jeopardised and they will not have to turn to either the State or private shareholders, which are more often than not big industrial groups. I had the impression that shareholding by industrial groups was regarded leading more or less inevitably to a loss of independence, resulting from the absence of a clear division between the financial management and the editorial staff. Were this to be the case, steps should be taken to limit shareholders' influence over the freedom of journalists.
426. Another specific problem was mentioned in connection with the distribution of the press outside the capital. Those I spoke with said that the Russian public still preferred subscriptions as their main means of access to the printed media and, while distribution was reliable in the capitals, difficulties arose in relation to other towns and cities, especially in Siberia and the Far East. This situation was partly due to the great distance between these regions and the capital. But we were also told that, in some cities, the postal services followed instructions from the regional authorities to delay distribution of a given newspaper because of how journalists had reported the actions of a given authority. Whilst it is difficult to imagine such unacceptable behaviour, it must, wherever might occur, be ceased forthwith.

b. Television and radio

427. Television and radio find themselves in a quite different situation to that of the press, and their loss of independence raises a number of issues. I noted the growing concerns of journalists, who spoke of the closure of the private channels or their acquisition and placement under state control. The best-known examples are the NTV channel, purchased in 2001 by Gazprom, the gas giant close to the government, at a time when it was one of the country's most popular channels, achieving substantial audience ratings. June 2003 saw the disappearance of another independent federal channel, TV6, which had taken on a great many former NTV journalists. It was renowned for its criticism of government policy and closed on the grounds of "bad management and financial crisis".
428. It is true that these developments are partly due to economic processes, as the representatives of the authorities pointed out, but I believe that they reflect above all a taking of control of popular television and radio stations, whose broad coverage permits a degree of critical information to reach the majority of the population throughout the country. I was shocked to hear from the editors-in-chief of some of the main Russian newspapers and several of the leading television journalists I met on 30 June 2004 in Moscow that, of the thirty or so live programmes broadcast two or three years ago, not one remained on air, the last of them - symbolically entitled "Freedom of speech" - having been scrapped by NTV despite its great popularity.

429. I share the concerns voiced by the professionals I met, and I wish to underline that a democratic country requires a free media, capable of reflecting the diversity of political views current in the country. Temptations to monopolise information are an obvious danger and must be nipped in the bud immediately.
430. Finally, I would like to pay tribute to the work of the "Echo of Moscow" radio channel, which is internationally renowned and also a reference within the country itself. I have known this radio station for years and have always appreciated the frankness and professionalism of its journalists. It is never easy to reply to their direct questions but all its interviewees receive equal treatment, and this inspires respect.

c. Electronic media

431. The electronic media are becoming increasingly important. Virtually all the main newspapers are now available on-line and some have opted for the web as their sole information outlet. The press agencies, including the most important (Ria-Novosti and Itar-Tass), are also well represented. Owing to the diversity and the relative freedom of speech they allow, the electronic media are now catching up or even overtaking the traditional media in terms of popularity. However, it should be emphasised that only a minority of Russia's population - about 8% according to official statistics - has access to these media. The best educated and those living in a large metropolis such as Moscow, Saint Petersburg or Yekaterinburg are the best placed to receive a diversity of Russian and international news.
432. However, this does nothing to detract from the electronic media's high quality of news and speed of its reactions. Indeed, my NGO talking partners said that these media had a particularly promising future ahead of them if restrictions continued to hamper the work of the printed press. Whilst wishing the electronic media a brilliant future, I would hope, in this context, that they do not thrive on the back of a crisis being traversed by the printed press.

2. Regional media

433. The press is highly developed in the regions. Russians have long been great readers of newspapers, averaging between one and two a day. I was struck by the number of newsstands and vendors in all manner of places - kiosks, stations, bus-stops, streets - and by the strong distribution of regional press. The very widespread practice of subscription is further evidence of the press' popularity. Newspapers remain affordable and this partly explains the obvious enthusiasm shown by the great majority of Russians.
434. Today this diversity is being tested somewhat by the obstacles springing up before regional media. All the journalists I met expressed deep concern over the growing dependency of the media on regional authorities and the increasing pressure exerted on them. This development stems from an overall context and but also from deliberate attempts to restrict the media's freedom of expression. It also reflects a difficult or in

some cases disastrous economic situation. Regional and local media receive little or no federal aid and are obliged to turn to local backing or public or private sponsors to keep them running.

435. It seems to be increasingly the case that regional authorities agree to fund regional press in return for favourable treatment from it, with the result that journalists can be hampered in their work by increasingly close ties between the media and local authorities. While this affects the print media, it is the television and radio channels that suffer most, as they require more substantial funding. Their audience and potential impact on the local community add to the interest of regional authorities. Television and radio media, which must furthermore obtain a broadcasting licence issued by the regional authorities, are generally far more heavily controlled by regional political leaders, some of whom are turning them into propaganda machines.
436. Finally, the only media to remain relatively independent in the regions are the big Moscow-based dailies, most of which carry a regional insert. As they are funded by their publishing group, they maintain a greater objectivity as regards regional authorities.
437. A closer inspection of the situations in four of the regions visited - Khabarovsk, Krasnodar, Sverdlovsk and the Republic of Tatarstan - provides a keener insight into a worrying situation.

a. Media in the Khabarovsk region

438. The journalists I met in Khabarovsk explained their concerns to me. Several of them condemned the lack of competition, the economic difficulties encountered by most media and, consequently, the ever increasing reliance on the regional authorities and the Governor in particular. As a result, TV stations and press outlets tended not to be critical of the Governor.
439. Some also pointed to breaches of the Law on mass media frequently suffered by journalists. It would appear that certain media opposed to the Governor had been excluded from press conferences given by the region's highest authority. One press group was said to be affected in particular. Others claimed to have been threatened, intimidated and prevented from carrying out their work during the 2004 election campaign. It appears that no inquiry has been opened in the wake of these events. Some maintained that the media were divided into two camps in the Khabarovsk region: the "loyal" media which supported the Governor and the "others", which dared to voice criticism and were subjected to exclusion or even violence. This albeit caricatured dichotomy symbolises the concerns felt and expressed by certain journalists over known violations of their rights.

b. Media in the Sverdlovsk region

440. I must say that I was impressed by the sheer number of local media in the region. Not even counting the printed press, sixteen regional television channels is a surprising figure. I was also told that the different channels follow very different editorial lines and

sometimes even take up radically opposed positions. I regard this as a fine example of media freedom, which reflects the healthy administration of democracy in the region overall. It seems that the media have no hesitation in criticising the Governor and his administration without any fear of repression.

441. While regional media are well developed – with a printed press circulation of some 3 million - journalists in the Sverdlovsk region did mention difficulties. The broadcasting ban on the private television and radio company *Telekon*, for example, has outraged media professionals, who see the regional authorities' decision as one of the most blatant violations of freedom of expression, restricting the rights of journalists and the constitutional rights of citizens, who are deprived of diversity of information. The continuing silence of the local authorities in the face of strong protests from the entire sector backed by numerous NGOs is heightening concerns.

c. Media in the Republic of Tatarstan

442. My meeting with the media involved some fifty journalists, representing local, regional and federal media and press agencies. Despite the large number (643) of dailies, journals and magazines published in the Republic of Tatarstan, everyone stressed the lack of diversity of news and the heavy reliance of the media on local institutions. Some insisted there were massive and serious violations of the freedom of expression.
443. In fact, I was initially surprised by a distinct inertia on the part of the journalists, who appeared reluctant to answer my questions even though these related directly to their professional activity. I even had to ask why no one was saying anything. This prompted a young and highly courageous journalist to launch into a description of the main problems in the region. She was backed up by other colleagues and what had initially been a very subdued meeting ended on a livelier note. However, another individual sitting in the public audience spoke up to correct and even deny what the first journalist had said. He introduced himself as the press attaché of the Ministry of the Interior of the Republic. I was stunned to see such a blatant attempt to exert pressure on a journalist, and I expressed my surprise to Mr Shaymiyev, the President of Tatarstan, whom I met just after that meeting.

d. Media in the Krasnodar region

444. I held lengthy talks with journalists from the Krasnodar region, and what they had to say was equally alarming. They were bitter over the fact that regional government bodies had been barred to the press; these bodies no longer assumed their role as sources of information. The supply of information or data was no longer as systematic as it had been, particularly when a journalist tackled a sensitive issue, such as corruption or the conduct of law enforcement agencies. For some time, journalists in this situation increasingly found that doors were closed to them and sometimes faced attempts to intimidate them. This applied above all to the independent media critical of the regional authorities.

445. Here again, there are recurrent material and financial problems which, according to the journalists, are damaging on two fronts, making the media economically reliant on the regional authorities and pushing the journalists towards self-censorship. The journalists felt obliged to avoid certain embarrassing topics in their articles or programmes and no longer fulfilled their role as the fourth estate.
446. The broadcast media were particularly affected by both economic difficulties and the influence of local and regional authorities. Of the thirty live broadcasts that used to go out only a few years ago, only five are still on air. The professionals I spoke to see this as proof of the loss of independence of regional media in the Krasnodar region, with radio and television apparently more directly affected than the printed press. My own experience in the region only served to heighten my concerns over media freedom: one public television channel completely censored and twisted the comments I had made following a meeting organised with national minority representatives, including Meskhetian Turks. I voiced my concerns to the region's Governor in no uncertain terms. He informed me of the steps taken by the administration to guarantee media freedom and promised that he would tackle this issue attentively and determinedly. I might mention that just before I left Krasnodar, representatives of the authorities gave me a video cassette recording of the latest news broadcast of the TV channel in question, which revisited the events of the previous day and reported my statements in full.

3. Need to safeguard legally established standards for media freedom

447. In our lengthy discussions on freedom of expression in the Russian Federation, all the media professionals stressed the absolute necessity of preserving the independence of the media vis-à-vis the political authorities. It is crucial, therefore, that the substance and spirit of the 1991 law be preserved and journalists protected. Only by maintaining a free, diversified and high-quality press can its important role in the democratisation of Russian society be strengthened.
448. Moreover, for some time now, well-meaning individuals have been accusing the media of playing into the terrorists' hands or hindering efforts to combat terrorism through the information they disclose and the supposed threat they constitute to the work of the intelligence and investigation services. There are calls for tighter control of the media and, *de facto*, restrictions of freedom of expression.
449. The bill adopted by the Duma in June 2002 prohibiting "extremist activities in all their forms" on the Internet and, more recently, the statement by Valentin Sobolev, Deputy Secretary of the Security Council of the Russian Federation, follow in this line. On 27 April 2004 Mr Sobolev said that it was now necessary for journalists to comply with new norms when dealing with information on terrorism, in order to avoid abetting terrorism in the manner claimed above.
450. I by no means share this opinion and wish to stress that freedom of the media is one of the prime achievements in a democracy. It is a right that may not be flouted on any

pretext. In fact, restricting freedom of expression under cover of anti-terrorism activities is tantamount to handing victory to the terrorists. I believe, on the contrary, that it is absolutely vital to enable journalists to carry out their work and be free to decide what cannot or should not be disseminated. It is notable, in this connection, that one was able to observe a fairly detailed coverage of the tragic events in Beslan in the Russian media, even if it is regrettable to hear that a few individuals were prevented from doing their job and were subjected to pressure or even repression. Emphasis on freedom of expression must remain intact whatever the circumstances and it must be respected in Russia as everywhere else.

XII. PROBLEMS LINKED TO THE HEALTH SYSTEM

451. The economic crisis experienced by Russia since 1991 has had drastic consequences for the health system. The lack of resources has brought resulted in serious difficulties, and the level of care has deteriorated, as have the facilities provided by hospital establishments, many of which have dilapidated equipment and are in dire need of modernisation. Alongside them, brand new, very well equipped complexes are springing up but, which, unlike the older hospitals above all provide private care. We visited some of these recent complexes, which have new equipment and extensive diagnostic capabilities: the new regional oncology centre in Khabarovsk, the regional diagnosis centre in Irkutsk and the highly efficient regional hospital in Khanty-Mansiysk. Those I spoke to feared a widening gulf between the old hospitals deprived of resources and the new establishments, which are mostly private. A two-track medical care system has become established in Russia in recent years, which I find most worrying.
452. All the surveys carried out since the beginning of the 1990s concur that the health of Russians has generally declined. This has affected all categories of the population but, as I have already pointed out on several occasions, the least privileged have been particularly hard hit. In 1999 the average life expectancy was 59 years for men and 72 for women. Children's health appears to be among the most vulnerable.

1. Reform of Russia's health system

453. Russia's health system, a legacy of the soviet era, comprises two types of care. The polyclinics group together general practitioners and specialists dealing with out-patients. Each household has its assigned polyclinic and the doctors working there are supposed to be the first port of call for those who fall ill. Alongside those establishments, hospitals provide more specialised care. While infectious diseases and occupational illnesses were generally well treated in the past, the Soviet health system was typified by under-funding and poor allocation of resources and skills. The economic crisis that took hold at the beginning of the 1990s has exacerbated the inherited problems.
454. In a bid to remedy these structural and financial difficulties, the Russian authorities launched a process of reform at the beginning of the 1990s. Their first move was to decentralise the health system, making regional and local authorities responsible for

maintaining the system, running the medical establishments on their territory and distributing the amounts invested (Law no. 2449-1 of March 1992). Since then the Health Ministry has had the task of framing broad strategy in the health sector, funding infrastructures and renewing infrastructure equipment. While the law has paved the way for certain developments, it has above all created major disparities between the regions. There is *de facto* inequality in access to health care between Russia's regions.

455. Another innovation under the reform concerns compulsory health insurance. In line with the system operated in the Soviet Union, health insurance is defined as universal, covering all care entailed by curative medicine, occupational medicine and preventive medicine. In Soviet times, health cover was funded from the budget of the Union; the social security system introduced by the reform provides for funding through contributions deducted directly from salaries. Under the reform, the amounts raised should be divided up between the different private health insurance companies accredited by the authorities.
456. However, this system does not work well at all and, in the present state of affairs, health insurance is still covered for over 70% by funding from the federal budget. This is due to economic difficulties and poor management on the part of the insurance companies, which have done nothing more than mimic the old system and, I was told, are generally low in expertise and high in cost. A hybrid form of funding is currently employed, superimposing the old system on the new. Indeed, Russia's health system is experiencing major structural difficulties, partly due to a hastily managed reform and the inadequacy of resources earmarked for its renewal.
457. Moreover, the health insurance system has a major shortcoming: it does not provide for the reimbursement of medicines other than those dispensed by hospitals. The medicines prescribed by day-care in the polyclinics have to be paid for by the patients. Before the pensions reform came into force, pensioners, invalids, the disabled and war veterans received free treatment and medicines in all circumstances. This has now changed: people in these categories, termed as vulnerable, are obliged to pay up-front for medicines that are often prohibitively priced. The reimbursements provided for in law, like the partial reimbursements for the other categories of the population, fall well short of what is required. The cost of medicines is very often an insurmountable barrier for those on low incomes, who are deprived of access to healthcare as a result.
458. I therefore call on the federal and local authorities to take urgent steps *inter alia* to raise the amounts reimbursed for medicines and care. Furthermore, they should envisage giving in-depth consideration to a possible overhaul of the social security system, which has now run out of options.

2. Situation in health care establishments (polyclinics and hospitals)

459. Hospitals lack resources and have to cope with difficult conditions. It is true that some of the hospitals I visited on my trip through Russia had been renovated and refitted and now offer acceptable conditions in which to receive and care for patients, but it would appear that these are a small minority and that the vast majority of establishments find themselves in a very tricky situation and unable to completely fulfil their role.
460. Those I spoke to were concerned over backlogs in the Russian health system. In many cities, obtaining an appointment in a polyclinic is a serious challenge. Patients requiring an appointment with a specialist have to put their names down on a register and take a ticket. They often have to wait for days and queue up as early as 6 am in front of the polyclinic when their appointment is due. Consulting a general practitioner is just as difficult, with patients having to queue for hours, possibly for a whole day or even night. This means that the most disadvantaged patients, who cannot spend hours waiting outside owing to their health or their circumstances, are prevented from receiving the care to which they should have priority access. The elderly are particularly badly affected by the failure of the under-funded Russian health system to care for all the sick, which is intolerable.
461. Moreover, the standard of care provided by polyclinics and hospitals would appear to be poor in many cities. In many hospitals the facilities are very old and no longer meet present-day needs. Representatives of civil society raised another problem which I find worrying: in establishments providing free health care patients should, by definition, have nothing to reimburse, but this is often far from the case - if they do not pay, they receive reduced or inappropriate care. I was also told that, in breach of the rule on free care, some hospitals require patients or their families to bring bed linen and nightwear and even to supply medicines. Once again, it is the most disadvantaged who are deprived of the medical care they need. I find these practices abhorrent since, as always, they hit those who struggle to keep afloat on a day-to-day basis and are often the most vulnerable.
462. The equipment in certain hospitals fails to meet everyday operational needs. The head doctor at the regional hospital for invalids and war veterans in Yekaterinburg, Semen Spektor, told me that the equipment was so dilapidated that 20% of it was unusable and the rest was reaching the end of its useful life.
463. At the same time, I could see that the regional and local authorities are making an effort to improve the health system. They are investing and building new hospital establishments with modern facilities and efficient diagnosis centres. However, they must take adequate measures to resolve the serious problems affecting Russia's health system as a matter of urgency. Better funding of infrastructures and a significant increase in the budget allocated for new equipment would doubtless remedy some of the shortcomings I observed. A substantial effort should also be made to improve the appeal of the medical professions, whose decidedly unattractive wage levels are no incentive for students to embark on long and difficult studies and even detrimental to the reputation of a profession pursued in conditions that are more than difficult.

3. Worrying situations: the spread of tuberculosis and AIDS

464. The spread of tuberculosis and AIDS is a major public health issue. According to the specialised NGOs some 30,000 people die of tuberculosis each year. The prison population is among the hardest hit, with about 10% estimated to be suffering from an active form of the illness.
465. Russia has also had to cope with the rapid spread of AIDS in recent years. The explosion in the number of HIV-positives is partly due to the steep rise in drug addiction. Moreover, tri-therapy, which enables infected individuals to lead nearly normal lives, is only very rarely available to patients. Medicines of this type come at a very high cost, which most patients cannot afford to pay, whether in full or in part. Not only are the patients not always treated, but Russia still has no prevention and information policy, despite experience in a number of other contexts showing that education campaigns on AIDS substantially lower the rate of infection. In addition, better informing the public would certainly help put an end to the stigmatisation and occasional discrimination from which patients suffer. This illness and its social consequences are unfortunately a reality that is under-estimated in Russia by political and medical decision-makers. The Russian State and its regional authorities should look into this issue with the utmost urgency and provide sufferers with infrastructures and appropriate care.

4. The health consequences of the Chernobyl disaster in the Russian Federation

466. The Chernobyl nuclear power station accident of 26 April 1986 had dramatic human, ecological, health and economic consequences, whose impact is still being felt today. While Ukraine and Belarus were the worst hit, Russia was not spared. Fourteen regions of Russia were contaminated by very high doses of radioactivity. The Bryansk region is certainly one of those that suffered most and still suffers today from the consequences of the disaster. At the time of the accident, it had some 112,000 inhabitants, compared to 50,000 in the areas affected in Ukraine and 110,000 in Belarus. 53,000 people have been evacuated from the contamination zone since 1986.
467. The conclusions of UN and UNICEF experts carrying out an on-the-spot survey in 2001 and 2002 were alarming and the situation has changed little since. I would like to give special thanks to the Ombudsman of the Bryansk region, Mr Boris Kopyrnov, who provided me with the necessary information and made no secret of the serious problems and risks faced by the people living and working in heavily contaminated zones, who number some 350,000 in Russia today. These people do not receive proper medical check-ups, let alone diagnoses. The entire population of these regions has been hit by the disaster, but it is the children, suffering from early thyroid cancer, leukaemia or malformations at birth, who pay the heaviest price.
468. It is true that programmes to detect and treat these illnesses have been set up at federal level but they now no longer receive sufficient funding. Furthermore, the regions affected

lack qualified medical staff and auxiliaries. The local and regional authorities have also put together assistance programmes but here again proper funding is lacking. One of the problems of greatest concern to the local authorities, besides health problems, is the contamination of soil and the rehabilitation of zones contaminated by radioactive fall-out. The needs in terms of agricultural engineering expertise and equipment are enormous and cannot be covered by regional and local budgets. Yet the rehabilitation of farmland is absolutely vital to life in those regions.

469. Moreover, the State does not always honour the commitments made to the direct and indirect victims of Chernobyl. People suffering from illnesses caused by the disaster and diagnosed as such are entitled not only to free care but also to an allowance compensating for their work disability. These are individuals who were exposed to very high doses of radioactivity during work carried out on the accident site and those who lived or still live in the contaminated areas. However, in a great many cases the State does not pay the allowances. Indeed, Russia was judged to have violated the European Convention on Human Rights in the case of *Burdov v. Russia* of 7 May 2002, confirmed on 4 September 2002 (Application no. 59498/00) for one such instance. Even so, little progress appears to have been made. The Russian Federation must therefore look after its sick people as a matter of urgency, not only by giving them the appropriate care but also by providing for their needs through the payment of the allowance foreseen.
470. I was also told that most of the houses in the contamination zone had not been demolished as previously planned. The inhabitants of those villages have been displaced, but many migrants and refugees have moved into the houses over the last ten years. It is important that the State prevents such practices, which expose these people to mortal danger.
471. Another problem brought to my attention involved the forests containing contaminated trees. These trees have to be cut down, as there is a permanent risk of forest fires and any ash carried on the wind would constitute a grave danger for the vast territories of Russia, as well as other countries. Once again the preventive measures require heavy investment as specific machinery must be used for wood clearance, which is apparently only manufactured in Finland and very expensive.
472. I therefore call on the federal authorities to provide the stricken regions with the material and human resources required to assist the communities and implement existing programmes. I also call on the international community to continue its efforts to aid these regions.
473. The difficulties faced by Russia's health system are very worrying. As I have already pointed out, they affect the most vulnerable with the lowest level of social protection. These are groups with little in the way of resources, whose interests are represented to varying degrees within society and who are therefore subject to various pressures. The problems linked to the health system are among the most serious, but there are many others which deserving mention.

XIII. VULNERABLE GROUPS

474. The Soviet State was always been proud of its achievements in the social sphere. The benefits of this progress were felt by nearly everyone, and undoubtedly went a long way towards promoting the general welfare and instilling confidence in the future in the great majority of citizens. It is not my intention here to catalogue the social acquis of the Soviet era but clearly, free health care, free secondary and higher education, a highly developed education system and summer camps for children, access to sanatoriums and rest homes for adults and pensioners had a positive impact on Russian society. The dismantling of the Soviet state, followed by economic and social breakdown and the ensuing welfare reforms have been a painful experience for everyone, but especially the most vulnerable sections of society such as women, the elderly and children.
475. The State has obviously tried to protect these groups by passing laws which mandate the payment of numerous financial benefits and benefits in kind. Most of these, however, could never actually be claimed by the people they were intended for, for a variety of reasons. Some benefits which exist on paper have never been implemented due to lack of funds while others have been rendered obsolete. The key benefits, therefore, were free transport for pensioners and certain other groups and subsidies to cover rent, water and electricity charges. This system, which was too complicated and insufficiently transparent from a State budget perspective, made for a certain lack of economic control and even abuse. Indeed, it had to be reformed. However, reforming such a highly sensitive sector entails painstaking calculations and detailed explanations on the part of the authorities. At the time of my visit, the reform was being debated in the Duma and was also on the minds of many of those I spoke to. I will return to this subject later but first, I would like to look more closely at the situation of women and children, who have been badly hit by the socio-economic problems in Russia. I should point out here that I have covered only some aspects of the issue and that to go into it in detail would require a separate report.

1. Situation of women

476. As with every country, I looked at the role of women in society and the freedoms afforded them. By travelling to different regions of the Russian Federation, I was able to observe the significant progress that had been made, but also some worrying failures and deficiencies.
477. Unlike other parts of Europe, the position of women in Russian society is well established. Women are represented in public and political life and some hold top positions in business, politics and the voluntary sector. The achievements of the Soviet era seem to have been preserved and I am happy to report that the emancipation of women advances well.

478. Under Article 19 of the Russian Federation Constitution, men and women have equal rights, a rule that is also enshrined in various provisions of the Family Code and the Criminal Code. A new federal law adopted on 16 April 2003 “on State guarantees of equal rights and freedoms for women and men and equal opportunities for their implementation” reinforces the existing legal arrangements.
479. Closer investigation into the situation of women, however, shows that the equality professed in legislation and political rhetoric is far from being reflected in practice. According to the people we spoke to, women are under-represented in areas of responsibility. There is also a significant gap in pay: given the same position, education and experience, women’s pay is, on average, 71% of men’s. By order of the Ministry of Labour, women are prohibited from certain occupations because they are considered too dangerous or incompatible with motherhood. The desire to protect women is certainly admirable but it is important to ensure that it does not become a source of discrimination in itself, which is how some see it.
480. Low pay compounds the social and economic problems facing many women. The NGO representatives encountered in the course of my visit told me of numerous cases of women who have been severely affected by poverty and social problems. Unemployment is very high among women and like the rest of the world, the Russian Federation has seen a growing “feminisation” of poverty. This trend has been exacerbated by the virtual disappearance of child support schemes, which have withered from lack of financial and practical support from the State. Many mothers are now obliged to stay at home to look after their children, without receiving any allowances.
481. Women are also more affected than men by the failures of the Russian health system which no longer guarantees automatic access to treatment. More socially disadvantaged than men, women, who are among the biggest consumers of health care, are thus the first to be excluded from medical services.

a. Domestic violence

482. Quite apart from the problems mentioned above and following various meetings with women’s NGOs, I realised that violence against women is by far the most worrying problem. Such violence, whether domestic or sexual, is a violation of human rights. Numerous studies have shown that domestic violence against women is particularly common in Russia, even though only a small percentage of the women who suffer domestic violence is recorded.
483. In every region I visited, I heard the same disturbing accounts of everyday violence against women. The abuse usually occurs in the home and is perpetrated by close family members. Endemic social problems such as alcoholism and drugs serve to exacerbate an already worrying situation in which women are the primary victims.

484. According to official statistics provided by the Committee on the Elimination of Discrimination against Women, some 14,000 women die every year as a result of domestic violence.⁶ NGOs estimate that 36,000 women are abused and assaulted by their husbands or other family members every day. Few witness accounts mention sexual violence perpetrated in the home. Violence of this kind tends not to be widely documented. The figures for rape and abuse perpetrated in the workplace or, worse, in institutions such as the police or prisons, would seem to be largely underestimated. There are virtually no statistics for rape or abuse committed by a husband or partner, yet such cases are reportedly common and serve to compound all the other forms of violence that exist.
485. The silence and taboo surrounding such practices are a reflection of the patriarchal attitudes that remain deeply embedded in Russian society. Domestic violence is a fact of life which many women take for granted. The figures provided by the NGO representatives I spoke with show, for example, that the great majority of married women have suffered domestic violence, recurrent or otherwise, at some point in their lives. The victims tend to be isolated and there are not many facilities for battered women. The facilities which exist are normally run by the few NGOs which are concerned with domestic violence and which assist women victims. These NGOs receive no government support and are desperately short of funds. Despite the medical, psychological, financial and legal assistance that they provide, few women dare approach them. Even fewer women bother to report the crimes, since most of them do not know where or who to turn to and are given no encouragement or support.
486. I wish to express my deep concern here at the authorities' failure to adequately address an endemic problem of which they are nevertheless aware. Firstly, it appears there is no legal definition of domestic violence. Secondly, the lack of response from the authorities and certain government agencies is alarming. The attitude of the police, in particular, is often ambivalent. Many law enforcement officials feel that domestic violence is something only the man and woman involved can settle and that any outside intervention, even by the police, is pointless. Violence, it is argued, is a matter for the private sphere and the private sphere alone. Others prefer to adopt a consensual approach, trying to initiate dialogue between the spouses or partners when what is really required is direct action to put a stop to the violence. There is an urgent need, then, to implement reforms and to introduce a range of penalties for anyone guilty of abuse of this kind. From my conversations with police officers, I learnt that under the current system, no legal action can be taken until the victim herself has filed an official complaint. The police cannot institute proceedings *proprio motu*. Given the scale of the problem, however, the authorities might wish to consider changing the law in order to allow this possibility.
487. I am surprised and concerned at the lack of progress made on the legal front. Some fifty versions of a national law to combat violence have come before Parliament but none of them has been adopted. Meanwhile, the prevailing climate of legal, political and

⁶ See United Nations, Convention on the Elimination of All Forms of Discrimination against Women, Fifth periodic reports of States parties, The Russian Federation, 3 March 1999, CEDAW/C/USR/5, p. 38.

psychological inertia is helping to create a general culture of impunity.

488. I would urge the Ministry of Internal Affairs to ensure that cases of this kind are dealt with in a more methodical manner. The authorities need to be alerted to this worrying problem and to address it urgently in order to bring about a change in attitudes.

b. Trafficking in human beings

489. Whereas before, there were no legal instruments with which to combat trafficking in human beings, in December 2003 the Russian Federation expanded its Criminal Code to include several articles specifically designed to combat this problem which was previously not really recognized. Russia has also ratified the Palermo Convention on transnational organised crime, the main purpose of which is to prevent and eliminate human trafficking, and an Interpol office, tasked chiefly with combating human trafficking, has opened in Moscow.
490. Despite these new measures, the fight against human trafficking is being hampered by some obvious gaps in the law. There is, for example, no precise legal definition of trafficking in human beings. The Russian Federation urgently needs robust legislation, therefore, to combat what now looks to be a major scourge both within Russia and beyond. I also hope that the Council of Europe will shortly have a new convention on human trafficking which will become a powerful, effective tool for dealing with this disturbing problem.
491. According to UN data, Russia was one of the main suppliers of trafficked human beings in 2003. Closer inspection shows that Russia is also one of the primary countries of transit and destination for what is now a global trade in human beings. Women and children are the main victims of this criminal activity, which is usually organised by transnational groups or, at any rate, groups which are part of a worldwide network. Most of the victims are forced into prostitution either in Russia itself or abroad.
492. Two main methods of recruitment have been identified. There have been several reported cases of people being abducted in the street or coming out of nightclubs. More often, however, criminal groups pose as private companies offering well-paid jobs abroad. The internet has come to play an increasingly prominent role here: from marriage proposals to promises of jobs outside Russia, the recruitment methods are increasingly varied. Women, who have been particularly affected by the worsening socio-economic climate, are extremely vulnerable and easy prey for recruiters who lure them with promises of a brighter future.
493. Once the women have been approached and recruited, they are sent to North America, Western Europe or Asia. Others are simply despatched to other parts of Russia. Several witnesses have described how they were held captive, subjected to physical and mental abuse and forced to work as prostitutes in Russia before being sold.

494. For those who are sent abroad, it is a depressingly similar story, involving confiscation of their passports and meagre earnings. Destitute and stranded in countries where they very often do not speak the language, the women are kept in appalling conditions and bullied into prostitution.
495. There are few options for women and children who become enslaved in this way. Not many victims manage to break the silence, although some do succeed in contacting their families, while others escape or buy back their freedom and return to Russia. Either way, the victims and their families receive precious little help from the authorities. Few are willing to testify and their abductors, who are often well connected, enjoy total impunity in some cases.
496. Only a few NGOs are actively engaged in efforts to rehabilitate and reintegrate victims of trafficking and sexual exploitation. As in the case of women's organisations, they receive little financial or other practical support from the federal government and local and regional authorities. The setting-up of a shelter for victims of trafficking through the Public Initiative Fund of the Republic of Tatarstan is a notable exception. The *Angel* coalition, which is very active in this area, the *MiraMed* Institute and the *Fatima* centre for women are also involved. I was very impressed by the representatives of these organisations whom I spoke to and would like to offer them my support.
497. The exploitation of vulnerable individuals for sexual trafficking purposes is a violation of human rights, so it is important that action against trafficking in human beings and the sexual exploitation of women and children be given a high priority in Russia.

2. Children and teenagers

498. Children are highly valued in Russian society. Indeed, there could even be said to be a "cult" of children, who are generally very well looked after by their families and institutions. I was also very impressed by the Russian education system. In the various regions which I travelled through, I visited a number of specialised institutions for children, schools and kindergartens, including the corrective facility for teenagers in the Crimea district of the Krasnodar region, the orphanage for children and teenagers in Khabarovsk, the "Pelican" family and child centre in Yekaterinburg, the centre for disabled children in Kazan, the Khanty-Mansiysk orphanage and the detention centre for juvenile delinquents in Irkutsk. Some of the establishments impressed me with the quality of their premises and facilities while others were clearly under-funded. In every instance, though, despite the many practical and financial problems, what stood out was the staff's kind and caring attitude towards their charges, from the very youngest to those in their late teens.
499. As I have already emphasised throughout this report, the situation varies tremendously from region to region, from town to town and even within the same area, so it is important not to over-generalise. I will therefore confine my comments to the establishments which I visited and the experiences acquired during my travels. First,

however, let us turn our attention to the worrying problem of *bezprizorniki*, or street children, whose numbers have been rising steadily since 1991.

a. Bezprizorniki (street children)

500. The term *bezprizorniki* first emerged in the early twentieth century in Russia. It is difficult to translate because it refers to a social phenomenon which, although certainly still present in Europe, is nevertheless less visible in Western countries. The children in question have been rejected by their families, or have left the family home in order to escape violent and/or drunken parents, only to end up on the street, completely destitute and exposed to all manner of dangers. Penniless and disorientated, they are highly likely to turn to crime or, worse, fall victim to exploitation, in particular sexual exploitation.
501. There are thought to be over 600,000 street children in Russia as a whole, according to figures supplied by specialised NGOs. The government has made some attempt to help them, but their burgeoning numbers call for ever greater efforts and there is an urgent need to introduce comprehensive provisions in this area.
502. I spoke at length to government officials and experts in the field, especially in Khabarovsk which is one of the main focuses for combating the problem of *bezprizorniki* in Russia. I would particularly like to thank Ms Nina Polichka, director of the Scientific Centre of Local Authorities of the Far East, for her detailed explanations on the subject. There are believed to be some 15,000 *bezprizorniki* in this region alone yet there are only two establishments, each capable of housing between 60 and 70 children. As a result, the *bezprizorniki* are often placed in orphanages, which in turn leads to overcrowding. According to local NGO officials, between 82% and 94% of the children currently housed in orphanages in the Khabarovsk region do actually have parents. These parents, however, do not appear to feel any sense of obligation and there is no law by which they can be held legally liable. According to the persons I spoke to, this creates a further dilemma for the State. Should parents who have abandoned or neglected their children be legally compelled to look after them? Or should more homes be built in order to replace the parents altogether? These are the questions which I came across most frequently during my visit. While there is clearly a need to tackle the root causes of the problem, there can be no question of simply abandoning these children to their fate. Federal and local government must do everything in their power to help these children and to reintegrate them into society.
503. In order to do this, the authorities need to resolve a legal problem that is hampering the operation of programmes for *bezprizorniki* and which concerns the gap between federal and local legislation. In 1995, a federal law on social services for the family was adopted, which calls for the introduction of specific schemes for *bezprizorniki*. These protection and assistance mechanisms were expanded upon in Federal Law No. 120 of 1999, which deals more specifically with *bezprizorniki* and violations of minors' rights. Under Articles 3 and 4 of this law, every subject of the Russian Federation is to adopt its own legislation in the matter and adapt it to its own specific social context. The law of 1999 thus envisages similar mechanisms to those prescribed by the law of 10 December 1995,

which requires each subject of the Federation to develop and introduce its own social services and its own public support services (Article 21, Federal Law No. 195). Thus, central government legislates and the subjects of the Federation create the necessary institutions, fund and operate them.

504. The law of 1999 calls in particular for the creation of a network of six departments to deal with the problem of *bezprizorniki*. This network was supposed to involve territorial child and family support centres, counselling and public education centres, emergency counselling centres, corrective facilities for juveniles, shelters and support centres for children whose parents no longer have custody of them. These various institutions were meant to work together in partnership. In the event, however, it appears that none of the provisions of the laws of 1995 and 1999 have been implemented. Some centres have admittedly been set up, but the networks are not operational. There are several reasons for this: firstly, the number of institutions involved and lack of co-ordination at local level; secondly, the virtual absence of power-sharing between federal government, the subjects of the Federation and the municipalities; and thirdly, the critical lack of funding and material resources. The regional authorities tend to blame federal government, saying that they were given no extra funding to help them perform this task. At the same time, they have in turn offloaded their responsibilities on to the municipalities, which are unable to meet the needs of the children concerned.
505. The same problems dogged attempts to implement the federal law of 1998 on children's rights. This framework law was to have been introduced in the regions and incorporated into the legislation of the subjects of the Federation. Because of some outstanding matters relating to power-sharing, however, this crucial law, which concerns the protection of children's rights, has still not been implemented. Children, and perhaps more specifically *bezprizorniki*, are the main victims of this procrastination which is preventing the implementation of rights and provisions that already exist on paper.
506. This wealth of legislation is proof of the federal government's concern for the plight of street children. Despite that, however, we have yet to see any radical improvement in the situation. We were told that most of the federal laws which deal with this issue are framework laws which require the adoption of regional legislation in order to come into effect. According to the people we spoke to, however, almost nothing has been done because the laws in question did not set binding deadlines for their incorporation into sub-federal law. This failure has been remedied by the adoption, in August 2004, of Federal Law FZ No. 122 which resolves a number of flaws. The subjects of the Federation are now obliged to adopt regional laws specifying fixed budgetary expenditure on welfare schemes, including schemes for homeless children.
507. I hope that this will pave the way for a radical improvement in the matter. According to the latest news from our contacts in the Russian Far East, however, by the end of December 2004, none of the subjects in the District had adopted regional laws on prevention of the problem of *bezprizorniki* and on social assistance for orphans. It is absolutely imperative to end these delays because they are jeopardising the efforts to help underprivileged children.

508. Quite apart from the above-mentioned legal problems, Russian society finds itself confronted here with a major social and ethical issue which urgently needs addressing. I am well aware that the issue is a distressing one, as the children concerned have usually suffered domestic violence, followed by more violence on the street. Both federal and local government need to step up their joint efforts to resolve the current legal and financial problems, therefore. The future of these children depends on it.

b. Orphanages

509. Every region has a number of state-run orphanages which take in children who have been abandoned by their families or who have no parents. These establishments are experiencing a number of problems due to under-funding, which are compounded by the fact that most of the residents are *bezprizorniki*. This influx of street children is placing a heavy strain on the orphanages, particularly as there has been no matching increase in their budget. Some remedial action has been taken at federal and local level, but these efforts are not sufficient and need to be pursued further. By way of an example, the number of homes designed to accommodate very young children (under four years old) has doubled in recent years in the Khabarovsk region.

510. Generally speaking, the orphanages are under-funded and under-resourced. In some cases, the buildings are in a very poor state and in urgent need of repair. Others have only inadequate, dilapidated equipment. Despite these continuing structural problems, however, the orphanages are just about able to function thanks largely to the care and devotion of their staff. I would like to pay particular tribute here to Mr Petrinin, who despite the lack of resources, is managing to run the Khabarovsk orphanage for children and teenagers, of which he is the director. I was greatly impressed by the character of this man, and his tireless quest to help street children, young people in difficulty and children who have lost their families. Were it not for him, many children would be left to cope alone with the perils of life on the street, unloved and uneducated. Despite a limited budget, the centre operates all year round: in summer, the children attend camp and in winter, they stay in a centre in Khabarovsk. The buildings need repairing but this can only be done if the federal and local authorities are prepared to put up the money required to restore the premises and purchase new equipment. I would thus urge the politicians concerned to examine the practical problems involved and take prompt action to resolve them.

511. I would also like to mention the kindness of the staff in the orphanages which I visited. I was very impressed, too, by the set-up at the Khanty-Mansiysk orphanage, where the children are divided into family units, each with its own apartment and one or two members of staff who act as parents. Each “family” thus comprises around ten children of varying ages.

512. Another scheme that ought to be actively encouraged by the federal authorities is the practice of fostering. Introduced in an effort to alleviate funding problems – a child in an orphanage costs between 11,000 and 16,000 roubles per month (i.e. between \$360 and

€550) compared with roughly 1,300 roubles (i.e. approximately €50) for a child who is fostered⁷ – and to provide a suitable family environment, this policy ought to be extended. In my view, it offers a welcome alternative for those children who can be placed. In order to avoid any legal difficulties, however, legislators need to look into the matter and determine how competence is to be allocated between federal and local government. In particular, the question of funding the scheme must be settled as quickly as possible.

c. Centres for children with disabilities

513. There are some 155 state-run centres and orphanages across Russia, housing approximately 29,000 sick or disabled children in total. These centres are desperately short of funds and able to organise only a handful of activities for the children, in what are often dilapidated buildings. As I observed in the “Pelican” family and child centre in Yekaterinburg, however, the children receive a great deal of attention and the staff try to make up for the lack of funding and equipment by being caring and supportive. That is not enough, however, and I would urge the authorities to provide all the necessary resources so that these sick children can grow up in an environment more conducive to their development.
514. As I have frequently pointed out in the course of this report, the situation varies considerably depending on the region and the financial resources available to the subjects of the Federation. In Kazan, for example, I visited a centre for disabled children which has modern facilities and pleasant surroundings. This centre is funded by the social services of the Republic of Tatarstan. The rehabilitation rooms are fitted with state-of-the-art equipment and there are computers in the classrooms. Generally speaking, the children and teenagers who stay here are very well cared for. The centre aims not just to treat the person’s condition, but also to ensure that they receive an education. Every patient is encouraged to go on to higher education and even after they start university or find a job, the centre stays in close contact with them.
515. Local NGOs in the Republic of Tatarstan are working with the regional authorities to introduce activities and purchase equipment for children’s homes, including centres for children with disabilities. This co-operation is an excellent example which could be replicated in other regions. The concentration of resources and efforts can only benefit the children concerned, who are highly vulnerable.

d. Detention centres and corrective facilities for juvenile delinquents

516. The question of how to treat juvenile delinquents is always difficult, whatever the country. The decision to incarcerate a teenager is a very serious one which will affect the life of the individual concerned and should only be taken as a last resort. Where a teenager is suspected of having committed a crime or serious offence, it is important that they be brought to justice, however. Just as there are “colonies” and temporary detention

⁷ Figures which were given to me by representatives of local NGOs in the Khabarovsk region.

centres for juveniles, so too the Russian Federation has detention centres or “IVSs” for children, because it is important that young inmates be separated from adults, particularly in a prison environment. Unfortunately, conditions in the IVSs for juvenile delinquents, as in the IVSs for adults, leave much to be desired.

517. There are also corrective facilities where children are placed by administrative order. I visited one such facility in Irkutsk where I found poor living conditions and, once again, buildings in need of repair. Despite the unpropitious setting, I was impressed by the caring way in which the staff treated their charges. As well as daily lessons, various activities are organised in an attempt to relieve the boredom of incarceration and to provide some sort of entertainment. The centre has workshops, a kitchen garden and offers sporting activities. There is a large football pitch and I was glad to see that the children are not locked up 22 or 23 hours a day in cramped cells, because it is important that, from the moment the administrative or legal wheels are set in motion, some thought be given to the person’s reintegration after they finish their sentence, assuming, of course, that they are convicted.
518. I would thus urge the authorities, once again, to provide IVSs and other penal institutions for juveniles with more financial and practical resources.
519. Quite apart from the attention paid to the children and in particular those at greatest risk, the main problem is funding and materials. All the establishments suffer from a lack of resources which prevents their dedicated staff from giving the children all the care they need and providing the necessary activities for their education and development.
520. As pointed out by the NGO officials I spoke to in the various regions, moreover, the staff’s work is complicated by the fact that there is no comprehensive child welfare programme in Russia. Although major efforts are being made on all sides, these efforts could, I believe, be enhanced by better co-ordinated policies on children and teenagers and better organisation.

3. Pensioners, invalids, veterans and welfare reform

521. One of the most important reforms undertaken by the Russian Federation is pension reform, which aims to end the system introduced in the Soviet era and which is still in place today. While preserving the system of public pensions financed through the contribution of current earners, the government is introducing a “funding” element into all retirement pensions. As has already been indicated, another reform was also adopted recently, under which the benefits in kind and services hitherto available to pensioners, veterans and invalids and certain other social groups are to be abolished and replaced by a fixed allowance, payable on top of the monthly pension.
522. Aimed at modernising the Russian welfare system and effecting a radical change in attitudes, the reform enshrined in the now famous Law FZ 122 of 2004, to be phased in from 1 January 2005, presents a number of problems which go far beyond those normally associated with the introduction of a new social security model and which affect the most

vulnerable sections of society, namely pensioners, veterans and invalids of war and labour.

523. Pensioners make up roughly a fifth of the population in Russia. The normal retirement age is 60 for men and 55 for women. Women, moreover, account for over 65% of the retired population. This imbalance is due to the fact that women retire earlier and have a longer life expectancy: 59 years for men compared with 72 for women in 2003.
524. Between 1991 and 1993, pensions roughly halved in value because of inflation and the fact that they were not pegged to the cost of living. At the same time, inflation swallowed up the meagre savings amassed by many over the course of their working lives. By mid-1995, the average pension had fallen below the poverty line and pension payments were several months in arrears.
525. Throughout the 1990s, pensioners, invalids and veterans experienced a sharp drop in income that plunged many of them into poverty. The devaluation of the rouble in the crisis of 1998 further exacerbated the plight of these vulnerable groups. By the end of 1999, real average incomes had fallen almost 15% compared with the previous year, despite the payment of salary and pension arrears ahead of the parliamentary election.
526. Many elderly people who had contributed to a pension scheme all their lives now find they must continue working in order to support themselves. This is true of more than 25% of elderly people, of which a rapidly growing proportion are women.
527. The economic reforms begun in 1999 and economic growth have brought about a general improvement in the situation. Pensions are paid on time and, according to several persons we spoke to, they are regularly revised upwards and adjusted to the cost of living. The living conditions of elderly people are still extremely precarious, however. Although the number of Russians living below the poverty line has fallen, according to official figures, to 17.5% of the population by the beginning of 2004⁸ (compared with 25% in 2002), the figures are still worrying, particularly as it has been established that the majority of those concerned are pensioners.
528. Badly hit by recession and the problems of transition, pensioners, like invalids and veterans, had hitherto received benefits in kind or in the form of services. Rents were partially or fully covered by the State, along with electricity and water charges. Urban transport and medical treatment were free, and medicines were subsidised.
529. Under the so-called “monetisation of benefits” reform, the existing benefits in kind are to be abolished and replaced by a monetary allowance. Originally, a monthly allowance of 456 roubles (approximately \$16) was to be paid to all pensioners but according to the latest information, this will shortly be increased by 200 roubles. This money should enable pensioners to meet their medical costs through a special type of social insurance designed specifically for this section of the population, and also to pay for transport and water and electricity charges which are no longer covered by the State. While the

⁸ Russian government press release of 22 December 2004

philosophy behind the reform is sound, it being only logical that in a developed, responsible society, citizens should receive a monetary sum which they can then choose to spend as they wish, I would nevertheless like to highlight a number of points which I believe are crucial and which reveal certain flaws. Public opinion on the reform is divided. On a visit to a metallurgical plant in Nizhniy Tagil, I witnessed a heated discussion between the trade unions and the management. The latter were strongly in favour of the reform and scrapping the old benefits system. The trade unions, on the other hand, were firmly against it and wanted to see key entitlements, such as employer-sponsored crèches, summer camps, schools and medical care, maintained.

530. I should point out firstly that the level of allowance is very low and that no arrangements have been made for fixing it to the cost of living. Inflation, however, is a factor that cannot be ignored. Granted, some sections of the population will receive a bigger allowance: “Heroes of Russia” and “Heroes of the USSR”, for example, should receive 3,500 roubles (\$120), war invalids 2,000 roubles (\$70) and war veterans 1,500 roubles (\$53). People with disabilities will receive between 800 roubles (\$28) and 1,400 roubles (\$48), ie a total income that is well below the minimum living wage. The sums involved are fairly low, therefore.
531. Pensioners, invalids and disabled people have openly voiced their fears about falling living standards and social exclusion. Some say they will no longer be able to afford the medicines which they used to buy at reduced rates and for which they will now have to pay full price. According to those I spoke to, the new system does not offer sufficient safeguards because the monetary allowance will not be enough to offset the scrapping of benefits in kind. These vulnerable groups have already been severely affected by the abolition of free health care. Many are now effectively excluded from the health system, either for lack of money or because they cannot endure the long waits to see a doctor. The abolition of benefits in kind means more insecurity, and is liable to exacerbate an already very worrying situation. This was forcefully confirmed by the trade unions.
532. I remember one meeting at the Regional Hospital for Invalids and Veterans of War in Yekaterinburg. Thanks to the hospital’s chief physician, Mr Semen Spektor, I was able to meet around a hundred of the residents. The hospital houses veterans of the Great Patriotic War as well as veterans of later conflicts, including the military operations in Chechnya. These ex-servicemen, many of whom had suffered severe hardship, were extremely worried by, and strongly opposed to, the impending reform and had clearly lost faith in everyone except their doctors. With some six months to go before the reform came into force, they had still not been given any details. My visit, moreover, came at a time when Russian television was broadcasting the debates taking place across all sections of society.
533. Finally, the reform raises an important issue as regards financing. The old system of benefits in kind was financed out of the federal budget. Under the new law, it will be the regional authorities that will have to pay the allowance that is to replace the current system. This transfer of powers and responsibilities does not appear to be accompanied by a corresponding transfer of funds, however, thus raising the spectre of greater

disparities between the regions. Of the 89 subjects of the Russian Federation, only ten or so administrative entities are net contributors to the federal budget. The great majority thus depend on funds allocated by the federal budget, which performs a redistributive function. I sensed concern among all the Governors I spoke to about the implementation of the reform.

534. I have recently learnt that although it has been officially approved, the reform is still being extensively debated in Russian society at large and among policy-makers. The President, who has formally pledged to improve the lot of the elderly, has taken some important steps and I am well aware of the efforts made since 1999 to make up for the time lost in the 1990s. In order to improve the social situation and to cover the expenditure that such a priority entails, I invite the Russian Federation to turn to complementary financial sources, including those offered by the Council of Europe. In this context, it might of great benefit for the Russian Federation to join the Council of Europe Development Bank.

XIV. NON-JUDICIAL MEANS OF PROTECTING HUMAN RIGHTS

1. The Commissioner for Human Rights (Ombudsman)

a. The Ombudsman in the Russian institutional set-up and the future of the institution

535. The Ombudsman was enshrined as an institution in Russia by the Constitution of the Russian Federation of 12 December 1993 (Article 103), which stipulates that the duties and powers of the Ombudsman must be laid down in a federal constitutional law (*federalnyi konstitutsionnyi zakon*). This clearly shows the importance the drafters of the Constitution afforded to this institution. The Federal Constitutional Law on the Commissioner for Human Rights in the Russian Federation, No. 1-FKZ, was passed on 26 February 1997 and the first Ombudsman (Commissioner for Human Rights) was elected in May 1998.
536. The law stipulates, inter alia, that the Ombudsman is responsible for helping to remedy violations of individual rights and freedoms and improve Russian legislation concerning human and civil rights (Section 1). The Russian Ombudsman is an institution based on the classic model, the most common in Europe, ie it is a parliamentary institution monitoring the activity of the public administrations. Individuals and legal entities may submit complaints to the Ombudsman concerning the authorities' actions or failure to act. The Ombudsman helps to remedy breaches of human rights and improve the content of the laws and regulations in force in Russia.
537. From the start of my term of office I was in close contact with the Federal Ombudsman, who is my natural counterpart in Russia, as is the Ombudsman in other member states. My relations with Mr Oleg Mironov were very good, and the same is true, if not more so, of the new Russian Commissioner for Human Rights, Mr Vladimir Lukin, who was kind enough to help me organise my visit and accompany me during several stages of it.

538. Wherever we went together, I saw evidence of the public's interest in this institution and the hopes they placed in it. At the same time, Russia is so vast that the Federal Ombudsman alone cannot hope to address all the needs of members of the public who want help and advice from a state institution responsible for defending their rights. It is for this reason that I warmly welcome the trend towards the establishment of Ombudsmen in the Russian regions. This trend has its basis in the above-mentioned Law No. 1-FKZ, Section 5 of which states that a post of Ombudsman may be created in the constituent entities of the Russian Federation.
539. It would seem that the Soviet regime did not favour litigation and preferred to resolve conflicts through hierarchical intervention. People therefore preferred to complain to the bodies that could actually solve their problems, and solve them quickly. These were mainly the Party's regional committees, better known as *Raikoms* and *Obkoms*. Since these disappeared, the bulk of the population has been deprived of the bodies to which members of the public naturally turned by tradition, and people do not see these bodies as having been replaced. They are not yet very keen to go to court, partly because of the length of proceedings and the fact that court cases are expensive. It is here that the Ombudsman can and should intervene, given that his *raison d'être* is to provide a service very similar to what Russian citizens currently lack.
540. The Federal Ombudsman is, however, based in Moscow and deals with questions of federal importance, and it is only natural that he should find it very difficult, if not impossible, to deal effectively with all the local problems. The regional Ombudsman, on the other hand, is not only close at hand but, more important, abreast of regional affairs and therefore better able to take action rapidly and secure consensual solutions.
541. The Council of Europe has always supported the Ombudsman as an institution and is trying to promote it, not least at regional level. The Congress of Local and Regional Authorities of the Council of Europe has issued recommendations concerning the main features of regional Ombudsmen and has done important work with the representatives of the different regions of member states to help them set up this institution in the best possible manner.⁹
542. As Commissioner for Human Rights, I set particular store by the development of the regional Ombudsman as an institution in the Russian Federation. Three years ago I set up a special programme with the European Commission to promote this institution in Russia's regions and support its development. Moreover, on the occasion of my last visit, I organised two seminars on regional Ombudsmen with the assistance of the Federal Ombudsman and the regions concerned. The first took place in Irkutsk with the assistance of the region's Governor, Mr Boris Govorin, whom I thank for his valuable help. The seminar in Irkutsk brought together representatives of 17 regions of Siberia and the Far East and to explain the purpose of a regional Ombudsman and discuss how the

⁹ See the Congress Resolution 80 (1999) and Recommendation 61 (1999) on the "role of local and regional mediators/ombudsmen in defending citizens' rights" and Resolution 191 (2004) and Recommendation 159 (2004) on "regional ombudspersons: an institution in the service of citizens' rights".

Ombudsman can help the region. The second seminar was held in Grozny to assist Chechnya in setting up such an institution to protect human rights. I was pleased to note that a mere ten days after we left Grozny, the President of the Chechen Republic, Mr Alu Alkhanov, decided to appoint a provisional Ombudsman, pending the election of the regional parliament, which alone is empowered to establish the Ombudsman as a permanent institution. I hope that the region of Irkutsk and others will follow suit.

543. The work of those who defend human rights, regional parliaments, regional authorities and the Council of Europe have made for the rapid development of the regional Ombudsman as an institution. To date, 31 Subjects of the Federation have appointed Ombudsmen. This is a promising trend. I have worked a great deal with the regional Ombudsmen and must say that it is remarkable that a true community of Ombudsmen should have been formed in such a short space of time. They are courageous, passionately committed and very active people dedicated to the ideal of human rights. I met them all together for the first time in April 2002 in Vilnius, where I invited them to take part in the Round Table of European Ombudsmen. We have since collaborated for some time, and I was very pleased to welcome them to Strasbourg in March 2004. It is significant that Mr Lukin, the newly elected Commissioner for Human Rights of the Russian Federation, should have decided that his first visit abroad should be to the Council of Europe and that he was accompanied by regional Ombudsmen.
544. In the wake of the appointment of regional Ombudsmen, it became clear that the population has quickly adopted and endorsed this institution, which has rapidly proved its utility and importance. During my visit, I was personally able to witness the respect the Ombudsmen enjoyed in the regions I visited and the hopes invested in them. For instance, the Ombudsman for the region of Sverdlovsk, Ms Tatiana Merzliakova, and the Ombudsman for the Republic of Tatarstan, Mr Rashid Vaguizov, are now at the heart of activities to protect human rights in their regions. They are familiar to and recognised by NGOs and the authorities alike, as an Ombudsman should be. The Ombudsman for the region of Krasnodar, Mr Kozitsky, has been in office for just over a year, but he too is making substantial progress in establishing and imposing the institution.
545. It is worth pointing out that the Russian Federation is now the member state with the largest number of regional Ombudsmen, which is no mean achievement. Russia is, indeed, the country with the largest number of regions, so it should not stop there – on the contrary, I consider it very important that the institution should continue to spread.
546. At the same time, it has to be observed that the parliaments of the constituent entities of the Federation have appointed Ombudsmen whose powers, conditions of appointment and duties vary from one region to the next and differ from those of the Federal Ombudsman. While each region can obviously decide on the powers and features of its own Ombudsman in the light of its own characteristics, each regional Ombudsman should fulfil a number of common conditions in order to ensure that the institution operates effectively as a whole. It is essential that the conditions of appointment should guarantee that the Ombudsman is completely independent, having been appointed by the regional parliament. Furthermore, the regional Ombudsmen should be empowered to monitor the

municipal authorities as well as the regional authorities.

547. Only recently, I received alarming messages from the Moscow region. The region's Duma has just amended the regional law on the Ombudsman to incorporate a new provision allowing the Ombudsman to resign in the wake of a vote of no confidence. This amendment was apparently introduced after a number of reports by the regional Ombudsman criticizing the authorities. I hope there is no causal link between the two and that the Duma did not introduce the amendment in order to cross swords with the current Ombudsman. If it did, it would be an unfortunate precedent undermining the Ombudsman as an institution.
548. More generally, the Federal Ombudsman and the regional Ombudsmen should, as a rule, operate in such a way as to complement one another. An Ombudsman empowered to intervene vis-à-vis the regional authorities should be able to refer a case to the Federal Ombudsman if the issue in question is one for which the federal authorities are responsible, and vice versa. To this end, it would be appropriate to provide for the drafting and signing of special agreements for co-operation between Ombudsmen.
549. The homogeneity and flexibility of the institution will be the key to its success. To this end, a framework law could be passed at the federal level, setting out general principles governing the institution of regional Ombudsman, or the existing law No. 1-FKZ could be amended.

2. The Council for the Development of Non-Governmental Organisations (Presidential Council), answerable to the President of the Russian Federation

550. Another institution of key importance that is dedicated to the defence of human rights is the Presidential Council. This is a new name for a well-known body: the former Human Rights Commission, answerable to the President of the Russian Federation, which was transformed in November 2004. The former Commission had the important task of advising the President on human rights issues, the President being designated by the Constitution as the guarantor of citizens' rights.
551. I would draw attention to the important role the Commission played in Russian society, as the first human rights body set up in Russia. Its membership is also highly significant, for it includes representatives of civil society, including the most reputable and active human rights NGOs. The members are appointed by the President of the Russian Federation.
552. I cannot talk about the Commission without mentioning its President, Ms Ella Pamfilova, who accompanied us throughout the visit and was actively involved in preparing for and organising the visit. She is evidently extremely committed to human rights issues and her tireless work helps to ensure that human rights are respected in practice in her country. I was most impressed by the immense respect and popularity Ms Pamfilova enjoyed among her compatriots. Everywhere we went, the President of the

Commission was recognised, whether in hospitals, military units, prisons or schools. Members of the public tried to approach her everywhere and share their problems and difficulties with her, which is a very good sign for a human rights defender.

553. The fact that the Commission is empowered to receive information and complaints from members of the public and NGOs, and, on that basis, to issue recommendations, definitely gives it weight. I have known some of the Commission members for a long time and the very fact that they are involved bears witness, to my mind, to the reliability of the institution. Moreover, it is not for nothing that it is called a Presidential Council. Indeed, I was informed, *inter alia* by Commission members, that the President holds regular meetings at which they have an opportunity to exchange views on the current situation and express their opinions, which are sometimes highly critical - which strikes me as a good thing.
554. As I said, the Commission was recently transformed into a Council and given even more important tasks in an effort to consolidate the development of Russian civil society. I hope the Council will be as determined and as committed as the former Commission and will continue its work as actively as possible.
555. Furthermore, many Russian regions have Human Rights Commissions responsible to the regional governors or authorities. I have met representatives of some of them, in particular the Commission for the region of Irkutsk. It seems that the Commissions play a particularly important role in regions without regional Ombudsmen, since they bear sole responsibility for monitoring respect for human rights. I would call on the local authorities to co-operate more directly with the regional Commissions. At the same time, the fact that they exist should not be considered an impediment to the appointment of regional Ombudsmen. The two institutions are complementary and not in competition with each other.

3. Non-governmental organisations

556. Throughout this report I have talked a great deal about civil society and non-governmental organisations, which are natural partners and interlocutors for me. A true democracy is strong only because it is participatory, and involves the public in the life of their country through active citizenship. This is even more true of the fledgling democracies, for society in these countries is undergoing rapid, radical change and the authorities need the help of the public if these changes are to be successfully carried through.
557. Russian society has a wealth of associations, and this is something of which it has reason to be proud. Many Russian NGOs are known far beyond the frontiers of the country and even of Europe. Organisations such as Memorial, the Civic Assistance Committee, the Moscow Helsinki Group and the Committees of Soldiers' Mothers need no introducing, for they are well known and respected. I have been working with my Russian friends in these organisations for a very long time and I am always impressed by the quality of their

work, their warm-heartedness and the great love of their country that I sense whenever I talk to them. But my visit showed me that Russia is not confined to Moscow and St Petersburg when it comes to associations, nor, indeed, in so far as economic and cultural development is concerned.

558. I met NGO representatives in every region. Many regional organisations are doing work of great importance in their own region, whether in helping children, monitoring prisons or in other areas. I talked to volunteers who worked for associations free of charge in addition to their jobs in order to improve life in their region. The refusal to lapse into indifference has always impressed me in Russia: I think it is rooted in a long-standing tradition, so well described in great Russian literature. It is present everywhere and constitutes the very foundation of society.
559. At the same time, in the course of my conversations I sensed that there was concern over relations between the authorities and NGOs, particularly in recent years. It would seem that some NGOs are subjected to pressure or even threats, especially in the regions. In most cases, this is as a result of NGO criticism of one or other government department.
560. I consider this unacceptable, and believe that associations should not be hindered in their work or subjected to pressure. Russian society and its leaders must be clear about the importance of civil society and co-operate with its representatives.
561. Relations are never straightforward. Dialogue between the authorities and civil society may take the form of discussion or indeed opposition, but such dialogue is essential, for both parties are motivated by the same desire to serve their country. It is for this reason that disagreements must not be allowed to lead to a breakdown in dialogue or provoke mutual suspicions. I hope that the Russian authorities will continue to co-operate as intensively as possible with NGOs, and that the NGOs will, for their part, be receptive to working with the authorities.
562. No democracy can do without the criticism of non-governmental organisations, for they represent civil society and important indicators of public opinion.
563. I can also assure NGOs that they will find in the Commissioner for Human Rights a constant and attentive partner.

XV. CONCLUSIONS AND RECOMMENDATIONS

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

1. Justice and the police

- Persist with the judicial reform under way and increase the financial and material resources for the legal professions and the courts; reduce the length of court proceedings, inter alia by recruiting additional judges; support the reform of the auxiliary legal professions, such as those of bailiff and lawyer, which make for a more effective judicial system;
- Strengthen the independence of the judiciary as a whole and of individual judges, in particular by introducing firm practical measures to establish a clear separation between the executive and the judiciary;
- Improve training for judicial personnel and provide Russian citizens with more comprehensive information about the reform in order to inspire confidence in the courts and change people's mentalities;
- Improve detention conditions in the various establishments where people are deprived of their liberty; meet the basic needs of detainees and prisoners by improving sanitation and the quality and quantity of food and providing an occupation for prisoners who want one; facilitate family visits for people held on remand in SIZOs; improve medical services in SIZOs and penal colonies, modernise them and provide them with the equipment needed to combat illnesses, in particular tuberculosis and AIDS;
- Renovate or rebuild dilapidated buildings housing prisoners and, in particular, the remand establishments (SIZOs);
- Improve procedures during police custody and detention in short-term detention centres (IVSs) and introduce a systematic medical examination when people enter and leave prisons and detention centres; encourage alternatives to detention on remand;
- Firmly combat police violence; ensure proper training for the police; increase police salaries; provide the police with the equipment essential for their task; improve their image in Russian society;
- Eliminate any risk of conflict between Act No. 144-FZ of 12 August 1995 on the conduct of inquiries and the Code of Criminal Procedure;
- Firmly and forcefully combat corruption, which is rife in several areas of public life.

2. Protecting national minorities and combating xenophobia

- Maintain efforts to safeguard minority rights; promote education in the national minority languages and, to this end, meet schools' needs for teaching materials, textbooks and teacher training;
- Consider the possibility of extending the legislation on the "Small Indigenous Peoples of the North" to communities with over 50,000 members, which are currently excluded because of their size;
- Ensure that the agreements signed between the representatives of the Small Indigenous Peoples of the North and oil companies are properly enforced;
- Step up efforts to combat xenophobia, anti-Semitism and all other forms of racism; introduce harsher penalties for those who commit xenophobic, anti-Semitic or racist crimes; punish politicians and the media for making racist, anti-Semitic and xenophobic statements; actively combat the practices of local government officers who discriminate against people belonging to certain categories (Caucasians, migrants, etc);
- Provide a legal and political solution to the situation of foreigners who have been present in Russia for years and are integrated in Russian society, so as to provide them with legal status and combat illegal labour;
- Respect the rights of asylum-seekers and in particular of those pending deportation; improve the detention conditions of foreigners held in administrative detention centres;
- Change the legislation in order to make it easier to obtain and regularise immigration cards;
- Take urgent steps to deal with the situation of former Soviet citizens who are now stateless and who are entitled to citizenship but were not granted it when the first Nationality Act (1991) came into force; speed up and harmonise naturalisation processes; combat the practices of certain regional and local authorities that interpret the law in a biased way;
- Put an end to the practices of the authorities of the Region of Krasnodar in respect of Meskhetian Turks and apply the legislation currently in force; resolve the difficulties currently faced by the Meskhetian Turks in the region.

3. Situation in the Chechen Republic

- Actively combat crimes involving missing persons in the Chechen Republic; carry out effective investigations to elucidate these crimes, identify the perpetrators and prosecute them; put an end to the cleansing operations and night-time raids that perpetuate a climate of great insecurity;
- Set in motion and support the economic reconstruction process in order to establish peace and enable the ruined economy to develop; combat corruption in the Chechen Republic, in order to create confidence of the Chechen people in the local government;
- Encourage, as far as possible, the necessary reconciliation within Chechen society;
- Rehabilitate the image of Chechens, and Caucasians in general, in Russian society.

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

- Provide officers and soldiers with better living conditions; ensure that all units are supplied with sufficient food; modernise and adequately equip the medical services of the armed forces and arrange for systematic access to health care for all soldiers;
- Actively combat *dedovshchina* and the illegal exploitation of military labour; provide for severe sanctions for those who engage in such practices;
- Ensure the effective respect of the right to do alternative civilian service, as provided for in Article 59 of the Constitution.

5. Freedom of expression

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

6. Social sphere and protection of vulnerable groups

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

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

7. Institutions for the protection of human rights

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

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