



UNITED NATIONS HUMAN RIGHTS COMMITTEE
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**THE PUBLIC VERDICT FOUNDATION (PVF) SUBMISSION
TO THE HUMAN RIGHTS COMMITTEE IN ADVANCE OF
THE EXAMINATION OF THE RUSSIAN FEDERATION'S
EIGHTH PERIODIC REPORT UNDER ARTICLES 2, 7, AND
14 OF THE INTERNATIONAL COVENANT ON CIVIL AND
POLITICAL RIGHTS**

January 2022

Introduction

1. This report is submitted to the UN Human Rights Committee (“Committee”) by the Public Verdict Foundation (“PVF”)¹ in response to the Committee’s call for information regarding its 134th session. The report is devoted to torture and ill-treatment and provides the PVF’s assessment on state of affairs regarding articles 2, 7, 10 of the International Covenant on civil and political rights, question no. 10 of the Committee’s List of issues in relation to the eighth periodic report of the Russian Federation, and the Russian Federation’s answers on this question.
2. The Public Verdict Foundation is one of the oldest human rights organisations in Russia combating the practice of torture and degrading treatment of people by law enforcement agencies. It was founded in 2004 with the mission to nurture zero-tolerance to any forms of illegal violence and introduce civil oversight as the key instrument to achieve that goal. To manifest this role, PVF provides legal assistance to victims of power abuse and civil activists, offers them psychological rehabilitation to reintegrate into society, considers information support to cases as part of the defense strategy, has a professional research and analytical division, which puts the foundation into a unique position qualified to draw proposals for systemic changes.
3. All cases included in the submission are public cases and the consent of the victims or their families is obtained.

Torture and ill-treatment (Articles 2, 7 and 14), Question no. 10

4. In Russia, many instances of torture and ill-treatment reported by human rights organizations take place in circumstances where the victim is in isolation and without outside contact. This makes survivors of torture or ill-treatment particularly vulnerable, in particular in formal proceedings where they confront their perpetrators who often have full control over the evidence of torture. It is not uncommon for a victim of torture to come under pressure to discourage them from filing of a formal complaint, and some victims refuse to file complaints or seek remedies even in the absence of pressure or threats. This combination of factors – the isolated environment in which torture and ill-treatment occur and the victim's vulnerability – causes high latency of this crime in Russia.
5. For this reason, the public authorities mandated to respond to torture and to ensure effective investigation and fair punishment of the perpetrators should encourage the filing of torture complaints and take steps to facilitate torture reporting. But this standard of operation remains unattainable for Russia at the moment.
6. No state rehabilitation programs are available for survivors of torture, in particular to help them with the official proceedings, starting from filing a formal complaint with the appropriate investigating body. The only form in which rehabilitation can be provided is compensation which must be sought by the victim in court by making a case that they have been subjected to torture or ill-treatment. Meanwhile, rehabilitation programs do not only help survivors to recover from pain and suffering but also contribute to effective investigation of torture.
7. Torture victims can file a complaint using one of the official channels available in Russia. But once a complaint is admitted, the subsequent proceedings are inaccessible for the victim whose participation is limited to being interviewed by the investigator as part of the pre-investigative inquiry, when the investigator documents the victim's version of the events. Many investigations into torture reports are limited to such pre-investigative inquiry without instituting criminal proceedings.
8. Likewise, no programs are available in Russia to protect individuals who report torture, although their vulnerability increases multifold, especially when the complaint comes from a prisoner in a Russian penal colony. Pressure, intimidation and threats against survivors of torture and ill-treatment are widespread practices. Witnesses in criminal cases initiated into reports of torture also come under various forms of pressure.

¹ The Public Verdict Foundation is included by the Ministry of Justice in the list of foreign agents

In December 2016 in Usolye-Sibirskoe (Irkutsk Region, Russia), Marina Ruzaeva, a client of the Public Verdict Foundation, was called to the local police station, ostensibly to help identify a criminal suspect in a photo array. Instead, the police officers handcuffed Ruzaeva to a wooden bench, placed a plastic bag over her head and began hitting and torturing her with electric shocks demanding that she told them all she knew about a recent murder in the community. The torture lasted for several hours. Subsequently, Ruzaeva filed a complaint with the district department of the Investigative Committee, and criminal proceedings were initiated. The investigation hardly made any progress, until the case was reassigned to another investigative department, where it was finally investigated and sent to court. The proceedings took five years. During this time, Marina and her family faced pressure and threats: someone smashed the windshield of the family's car parked in the yard, their outdoor bath house was set on fire, and a few years later, during the trial in 2021, the country house of Ruzaeva's mother was burned down. The threats forced the family to relocate.

9. In-prison punishments such as strict isolation, often in solitary confinement, are used as a form of pressure on inmates who have filed complaints about torture or assisted in gathering information on torture incidents in the facility. Nothing can stop a prison from imposing arbitrary punishments on inmates, because the legally prescribed procedure for in-prison disciplinary measures does not provide for any fair trial guarantees. The administration can discipline an inmate based on a formal pretext such as a minor violation of the internal regulations. This type of disciplinary punishment often constitutes torture in and of itself.

Convicted inmate Alexander Kornev (Yaroslavl Region, Russia) who made a witness statement to a lawyer of the Public Verdict Foundation, a Russian NGO defending victims of torture, immediately after his meeting with the lawyer was placed in solitary confinement in a punishment cell and stripped of visits and phone calls, food parcels and books. The reason given by the prison administration for placing Kornev in the punishment cell for 15 days was that he had "failed to hold his hands behind his back." At the end of the 15 days, the inmate was not allowed to return to the living quarters but made to stay in the punishment cell for another 15 days. There was no trial or formal procedure; he was simply told that his punishment for "failing to hold his hands behind his back" was extended. A day before the end of the second period of punishment, it was extended once again for 15 days on the same ground of "failing to hold his hands behind his back." The punishment was imposed immediately after the inmate met with the lawyer.

10. Criminal charges have sometimes been brought against those who report torture. Such retaliatory prosecution is intended to put pressure on torture victims to discourage them from complaining and from seeking a remedy. Most commonly, charges against torture victims are brought under article 318 of the Russian Criminal Code, allegedly for violently assaulting a public authority during the exercise of their official duty or against their family members, putting their life or health at risk. The reason why this provision is invoked is that it requires no proof other than a testimony from the allegedly affected police officer and perhaps a fragment of their uniform, reportedly ripped off by the attacker. Charges under this article have been brought particularly often against those who complain of being beaten during arrest.
11. Retaliatory "false denunciation" charges (article 306 of the Russian Criminal Code) have also been used to discourage complaints. In such cases, a complaint brought by a torture victim is treated as an attempt to falsely accuse law enforcement officials of a deliberate crime. The officials often use materials from a pre-investigative inquiry which failed to find misconduct on their part as evidence in "false denunciation" proceedings.

Salima Mukhamedyanova, a PVF client, filed a complaint reporting torture and rape at a police station in Magnitogorsk, Chelyabinsk Region. She had been brought to the police station following a complaint from neighbors who were apparently disturbed by noise and generally disliked Mukhamedyanova and her family's lifestyle. According to Salima, she was beaten and raped at the police station. On the next day after the incident, Salima and her husband relocated to a neighboring region, fleeing from threats by the local police trying to discourage them from complaining, and then the couple filed a crime report. A criminal case was initiated, but no effective investigation was carried out. Salima's husband became desperate and began to chop off one finger on his hand every week trying to get the

authorities to investigate and in particular, to disclose the CCTV video footage from the police station. Eventually, the footage was disclosed but it was incomplete and edited. Both Salima's beating and her rape were investigated by the same investigator who subsequently brought "false denunciation" charges against Salima believing her complaint of rape to be fake. The same investigator then continued to investigate Salima's complaint about beating. Later, the case on beating was closed, and that on false denunciation sent to court. In April and July 2018, Salima was found guilty and convicted on false denunciation charges.

12. There is a risk that the practice of bringing criminal charges against torture victims could be established as a standard method to discourage people from exercising their right to file a complaint. According to a still relevant publication by the Russian independent online media outlet MediaZona,² false denunciation charges are routinely brought against incarcerated persons. The same conclusion can be made from the experience of human rights organizations working to defend prisoners.
13. While providing evidence in a "false denunciation" case may seem a challenging task, the Russian law enforcement authorities get away with a fairly low standard of proof, which is widely accepted by Russian courts as the basis for conviction. The evidence used to prove a false denunciation usually includes materials from pre-investigative inquiries on torture cases. Consisting of a minimum set of investigative actions, inquiries are often limited to taking statements of the parties and documenting injuries (or absence of such). Other obvious and standard investigative actions such as inspection of the scene and examination of the CCTV footage are performed only in rare cases and usually after a long delay.
14. According to the ECtHR statistics, a lack of effective investigation was found in 32 cases against Russia in 2021. In the context of seven judgments against Russia in 2021 finding torture and 76 judgments finding ill-treatment, one can assume that in half of these cases, the Court found the quality of domestic investigation unsatisfactory.³ Moreover, the number of judgments does not equal the number of applicants, as the Court combines similar applications in one judgement.
15. In fact, ineffective investigation of torture complaint is a key contributor to the practice of bringing retaliatory false denunciation charges against torture victims. No distinction is made in false denunciation investigations between bona fide mistakes and malicious intentional acts. People have been convicted on false denunciation charges even when their torture complaints were supported by medical evidence (e.g. Vitaly Buntov in Perm Region and Alexei Galkin in Kirov Region).

Pressure on torture victims such as retaliatory criminal charges, combined with poor quality of investigations, undermines any attempts to implement a state policy to prevent and eradicate torture and conceals the actual prevalence of torture in the country, leaving the victims defenseless and the perpetrators unpunished.
16. The Russian Federation states in para 59 of its Replies that complaints of ill-treatment are usually made by persons facing prosecution as a procedural defense in criminal proceedings. In support of this statement, the Russian authorities indicate that most complaints of torture and ill-treatment are dismissed without opening a criminal case.
17. While it is true that some torture complaints from suspects and accused persons may be ill-founded and manipulative, this should be assessed on a case-by-case basis as part of an effective investigation followed by an appropriate decision. But due to poor quality of investigations into allegations of torture and ill-treatment, it is impossible to speak with confidence about any aspect of the problem of torture. However, the experience of human rights organizations reveals that many refusals to open criminal cases into allegations of torture do not mean that torture has not occurred but rather indicate the authorities' inability or unwillingness to conduct a proper investigation.

The persistent ineffectiveness of investigations into allegations of torture, combined with a lack of pertinent statistics, makes it impossible to draw any informed conclusions about the prevalence and causes of torture in Russia.

² See "306. Three Thousand False Denunciations in a Year" at <https://zona.media/article/2016/02/12/codex-306>

³ See The European Court of Human Rights. Statistics for 2021. https://www.echr.coe.int/Documents/Stats_violation_2021_ENG.pdf

18. Moreover, the cases of both Salima Mukhamedyanova and Marina Ruzaeva, as well as numerous cases won against Russia in the ECtHR, indicate, first, that the problem of torture exists, and second, that torture victims are not necessarily those suspected or accused of crimes. Convicted prisoners serving their sentences are routinely tortured in institutions of the penal system as part of what is called "maintenance of internal order." The multi-episode case of prisoner abuse in Corrective Colony No. 1 in Yaroslavl alone makes it clear⁴ that torture and ill-treatment are routinely used in prisons in a variety of ways.

19. In its Replies (para 65 of the Replies to the list of issues in relation to its eighth periodic report), the Russian Federation gives the number of officials convicted of torture in Yaroslavl penal facilities without specifying the said facilities. We will provide further details for a more complete picture of the investigations and sentencing as of this writing (January 2022) in the criminal cases on ill-treatment of prisoners at Correctional Colony No. 1 in Yaroslavl Region, documented by publicly available video materials from 2018 and 2019. A total of 32 officials were accused and 17 convicted. We note that in 2021, two more videos were published, based on which two more criminal cases were initiated and only recently sent to court. Both cases concern collective beatings of prisoners by the colony officials.

Episodes	Number of accused officials of the Federal Penitentiary Service facilities in Yaroslavl Region	Prison terms and penalties	Trials and sentences
1. "Class for educational work," group beating of prisoner Yevgeny Makarov in Colony No. 1 in Yaroslavl	17	Sergei Efremov - 4 years in prison; Alexey Andreev - 3 years, 2 months in prison; Igor Bogdanov - 4 years in prison; Alexey Brovkin - 4 years in prison; Sergei Drachev - 3 years and 5 months in prison; Andrey Zybin - 4 years in prison; Sipan Mamoyan - 3 years in prison; Alexey Mikityuk - 3 years in prison; Alexander Morozov - 4 years in prison; Dmitry Solovyov - 3 years and 5 months in prison; Ruslan Tsvetkov - 3 years and 5 months in prison; Maxim Yablokov - 4 years and 3 months in prison; Vladimir Kostyuk - 3 years and 6 months of probation; Dmitry Nikolaev - acquitted;	Efremov (plea agreement) - trial on 14 January 2020, verdict on 15 January 2020 The others - a preliminary session on 7 and 10 February 2020, first public trial session on 21 February 2020, verdict on 19 November 2020

⁴ All materials documenting prisoner abuse in Yaroslavl are available online at <https://yardelo.org/>, a dedicated resource provided by the Public Verdict Foundation

		Igit Mikhailov - acquitted; Ivan Kalashnikov - the case is suspended, the widow seeks reconsideration	
"Running to SHIZO," prisoners beaten in the corridor outside the punishment cell at Colony No. 1 in Yaroslavl	2	Sardor Ziyabov - 4 years in prison Dmitry Nikitenko - 3 years in prison	The first trial on 16 January 2020, verdict on 2 October, 2020
3. "Etap" (new prisoners' arrival) - beatings of new prisoners who have just been admitted to the penal colony to serve their sentences	3	Maxim Yablokov - 3 years and 6 months of probation; Roman Onypa - 4 years of probation; Vladislav Pisarevsky - 4 years of probation;	Yablokov (plea agreement) - trial and verdict on 17 January 2020 Onypa and Pisarevsky (plea agreement) - trial and verdict on 29 January 2020
4. "Beating in the duty room" - beating of a prisoner in the duty room of Colony No. 1 in Yaroslavl	1	Vladimir Kostyuk - 3 years and 6 months of probation;	trial on 15 January 2020, verdict on 3 February 2020
5. "Class for educational work No. 2" – group beating of inmate Artur Tsagalayev in the room for conducting searches located on the premises of Colony No. 1 in Yaroslavl	9	The case file has been sent to court	The trial is scheduled for 15 February 2022
"Class for educational work No. 3" – group beating of inmate Vazha Bochorashvili in the class for educational work located at the SHIZO (disciplinary punishment block) of Colony No. 1 of Yaroslavl.	No data available yet	The case file has been sent to court	The trial date is not set

20. The authorities' failure to provide accurate statistics on the criminal proceedings against the Yaroslavl colony officials indicates that Russia has not established a system of collecting torture and ill-treatment statistics. Such statistics should include data on torture incidents, complaints filed, investigations initiated, cases brought to court, sentences delivered, etc. While these data can be found in the primary records maintained by the investigating and prosecutorial bodies, such statistics are not available to the expert and academic communities, to civil society, and even to the government, as can be concluded from Russia's official replies.

21. The only reason why an investigation into the incidents of torture and ill-treatment in Yaroslavl colonies became possible was the publication of video footage from body cameras worn by the colony officials. Prior to the publication of these videos, there had been ineffective inquiries into many episodes of the Yaroslavl cases, ending with decisions not to initiate criminal proceedings and to terminate all investigative actions.

22. The video footage, once available, served as the crucial evidence. In the absence of video evidence, the investigating authorities feel free to discontinue the investigation. But the current situation with the availability of video evidence is unacceptable.
23. First, video evidence is not always available to the investigators. All video footage from surveillance cameras is archived and stored by the same agencies whose officials can be held liable based on such footage. Potential perpetrators have unlimited access to this evidence and a possibility to tamper with it and to fabricate proof of their innocence. Russian law does not regulate the safekeeping of video archives or impose sanctions for tampering with them, nor does it prohibit prison administrators from denying the investigators access to video surveillance footage.

Sulim Bitayev was beaten in Colony No. 17 in Krasnoyarsk Region on 30 August 2018. On the next day, lawyer Ivan Khoroshev who represents Bitayev and cooperates with the Public Verdict Foundation, filed a complaint with the investigating authorities. The Investigative Committee registered the complaint and informed the lawyer that a comprehensive inquiry would be conducted, which implies that the video surveillance footage stored by the colony would be collected and reviewed. Video records must be kept for 30 days, according to the departmental regulations. In September, the Investigative Committee refused to initiate a criminal case due to absence of video records. "According to the briefing note dated 30 August 2018, there was a power failure at the correctional facility starting at 5:59 pm, making it impossible to view the video footage from the SHIZO/PKT made between 6:00 pm and 10:00 pm on 30 August 2018." However, the local power supply network, in response to the lawyer's enquiry, stated that no power failures occurred in the specified period.

24. The lack of effective investigation into Bitayev's report of torture indicates that the investigating authorities either refused to collect the video footage or did not know how to do it properly.
25. As such, neither the existence of video archives in penal facilities, nor the State's efforts to have prisons and their staff fitted with video surveillance cameras (see para 61 of the Replies of the Russian Federation to the list of issues in relation to its eighth periodic report) can prevent torture or contribute to torture investigations. It is essential to adopt and enforce regulations concerning the safekeeping of video archives and protecting them from tampering, and to establish liability for any damage, destruction or refusal to make available such video records.

New regulations to be adopted should be based on the premise that the archived footage from a CCTV installed at a penal colony or a police station provides evidence of their performance as a public authority and thus cannot be considered their institutional or departmental property. The officials of any such institution must be presumed guilty whenever access to such archives is denied or footage is tampered with and must face sanctions.

26. Second, the investigating authorities fail to act promptly, despite their ability to do so. Preserving the evidence of torture is essential for an effective investigation. The Russian investigating authorities do not use guidelines for urgent measures to document traces/evidence of torture and ill-treatment.
27. Third, even under the current Criminal and Criminal Procedure Codes, investigators have available to them an arsenal of means for a prompt and effective response and investigation. However, with rare exceptions, this is not how they deal with complaints of torture or ill-treatment.
28. Perhaps the most egregious incident in which the investigative and prosecutorial authorities failed to respond to ill-treatment occurred in January 2022.

The incident involved Zarema Musaeva, wife of the federal judge Saydi Yangulbaev and mother of Abubakar Yangulbaev, a human rights defender from Chechnya and former lawyer of the Committee Against Torture, a Russian NGO. On 20 January 2022, a group of plain-clothed policemen from the Chechen Republic broke into the apartment where Zarema lives with her husband. They intended to drive both Abubakar's parents to Chechnya for questioning them as witnesses in a criminal case unknown to the Yangulbaevs. Unable to arrest Abubakar's father due to his status as a federal judge, the men forcefully put Zarema in a car with Chechen license plates and drove her away. As they were arresting Zarema, the Chechen police officers used force, hitting Zarema, Saydi, and a lawyer and human rights

defenders from the Committee Against Torture who came to their rescue. Zarema fainted during the arrest, and the Chechen policemen dragged her, unconscious, out of the apartment to the car. The woman suffers from type 2 diabetes and needs insulin injections five times a day. The policemen did not allow her to put on warm clothes (she was wearing home clothes and slippers), to take her medicines or even her passport with her.

Immediately following this abduction under the guise of procedural action to deliver a witness to the authorities, formal complaints were filed with the investigating authorities, the prosecutor's office, and the police. But none of the said authorities made any response to the numerous complaints and appeals they received.

No information on Zarema's fate was available for hours, and only 24 hours later, the Chechen TV channel showed a video⁵ in which Zarema, apparently in a semi-conscious state, was talking to the Commissioner for Human Rights of the Chechen Republic. A day later, Zarema faced administrative charges and was found guilty of a violent assault against a law enforcement officer and sentenced to administrative detention. A lawyer who travelled to Chechnya to represent Musaeva was refused access to the police department to see his client. Zarema's husband, son and daughter had to urgently flee Russia.

29. Effective response to torture and ill-treatment requires that the investigating authorities should be capable of conducting an investigation that meets the standards of timeliness/promptness, thoroughness and independence, and ensures access to the investigation for the alleged victims. The case of Zarema Musayeva demonstrates extreme dysfunction on the part of the relevant Russian authorities.
30. Despite its treaty obligations, Russia has yet to criminalize torture and ill-treatment as specific offences in criminal legislation. In its Concluding Observations of 10 August 2018, the UN Committee against Torture once again expressed regret that Russia had not followed the recommendation to criminalized torture as an independent crime in the Criminal Code in full compliance with international law. Indicating the lack of progress in the execution of judgments in a group of cases concerning torture in police custody, the Council of Europe Committee of Ministers urged Russia to take prompt measures to prevent torture, in particular to criminalize torture as a separate crime, and expressed grave concern over the absence of major progress in the execution of the leading ECtHR judgment (concerning torture in police custody) pending before the Committee for 15 years.⁶
31. Torture and other types of ill-treatment are currently prosecuted as “abuse of authority involving the use of violence” (article 286(3) of the Criminal Code). This classification prevents the collection of transparent and meaningful statistics on the prevalence of torture and does not reflect the grave nature of the crime of torture.
32. In December 2021, a bill to criminalize torture was introduced in the State Duma (No. 42307-8 “On Amendments to the Criminal Code of the Russian Federation”). It was first initiated in 2018 after the reports of torture and the video from Colony No. 1 in Yaroslavl became public. The subsequent drafting continued outside of the public sphere and without proper input from human rights organizations having the relevant expertise. In 2021, new reports of torture were made public, with the publication of videos documenting torture in prison hospitals in Saratov and other places. The new bill launched in the State Duma was drafted hastily in response to the public outcry.
33. While no consultations with civil society actors were conducted before the bill was tabled in the State Duma, the drafters had coordinated the text with various government departments, including the law enforcement authorities. Due to significant shortcomings, the bill cannot be described as furthering the goal of eradicating torture or consistent with Russia's international obligations:
 - rather than criminalize torture as an independent crime in a separate article of the Criminal Code, the bill proposes amending the existing article 286 on "abuse of authority" by adding "use of torture" as a qualifying circumstance; "torture" is not considered an independent crime but an extreme form of "abuse of authority";

⁵ See <https://www.youtube.com/watch?v=a2-ITTj1Siw>

⁶ See the full text of the CoE CM decision at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a4accc

- a footnote to this amendment provides a definition of "torture" for law enforcement purposes. This definition, taken from the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, leaves out the part about pain or suffering inflicted at the instigation of or with the consent or acquiescence of a public official.
- the draft does not mention ill-treatment;
- the statutes of limitations may still apply, because the perpetrators of torture will still be charged under the amended article 286 that provides for statutes of limitations;
- the proposed amendment does not offer clear criteria for classifying an act as the crime of torture or for establishing the perpetrator's guilt, e.g. such criteria as being committed "in a coordinated manner by a group." The experience of human rights organizations in Russia reveals that torture is usually a pre-planned and coordinated group crime. But the draft law leaves out these important elements of torture.

34. The first reading of the bill in the State Duma is scheduled for February 2022. Human rights organizations have come out in solidarity against this version of the bill.⁷

35. In April 2021, Russia adopted a Roadmap [Concept] for the Development of the Penitentiary System until 2030. In particular, the Roadmap provides for setting up "combined institutions" (Russian Government Decree of 21 April 2021 No. 1138-r⁸), with the stated intent of humanizing the conditions of detention and creating modern penal facilities. The new Roadmap builds on the previous one (see para 133 of Russia's Eighth Periodic Report) and does not address the current methods of maintaining order and discipline in institutions of the penal system, thus leaving the existing disciplinary practices unchanged. Such practices include excessive use of lockup confinement and punishment cells for insignificant, non-violent infractions.

Aslan Cherkesov (client of the Public Verdict Foundation and "Khoroshev and Partners" law firm) was on many occasions placed in a punishment cell for breaking the internal regulations, most often for refusing to participate in compulsory morning exercises or to formally introduce himself to prison staff. His punishments followed closely one after another, with 10 to 15-minute or, rarely, 25-40-minute breaks in-between, but he was not allowed to return to a regular cell shared with other prisoners during such breaks. This made the total duration of his solitary confinement in the punishment cell equal to 600 days, or to 1 year 7 months and 22 days (between 15 February 2019 and 15 October 2020, with an eight-day break for in-patient treatment in the prison hospital).

36. Placement in a punishment cell is a widely used disciplinary practice affecting all prisoners in Russian penal colonies. Disciplinary punishments in prisons amount to independent criminal sanctions and often involve prolonged solitary confinement that in and of itself constitutes ill-treatment; however, such punishments are not imposed by a court but by the head of the prison in a procedure (article 117 of the Penal Code) which does not allow prisoners to access qualified legal assistance.

The new Roadmap does not envision any steps to change this disciplinary practice, nor does it consider the objective of combating torture and excessive use of force as a separate line of work.

37. In December 2019, Russia adopted Federal Law No. 494 of 27 December 2019 amending certain other laws, the so-called "Compensation Act" (see paras 62-63 of the Replies of the Russian Federation to the list of issues in relation to its eighth periodic report), to establish a national mechanism for seeking compensation for poor prison conditions. This law had been eight years in the making as part of Russia's obligations to execute the pilot judgment in *Ananyev and Others v. Russia* group of cases.⁹

38. Today, compensation can be obtained by proving the fact of poor detention conditions and is no longer contingent on finding a particular official's fault. A complaint about conditions of detention must be examined simultaneously with accompanying claims of compensation.

⁷See the joint statement by Russian human rights organizations "The bill establishing criminal liability for torture needs serious improvements" <https://police-barometer.ru/antitorture-statement>

⁸ <https://www.garant.ru/products/ipo/prime/doc/400639567/>

⁹ See the Action plans proposed by the Russian authorities, options for compensatory remedies, an overview of the pilot judgment and other documents at <https://hudoc.exec.coe.int/eng?i=004-14142>

39. Earlier, the Plenum of the Russian Supreme Court, in its Ruling of 25 December 2018 No. 47 “On Certain Issues Encountered by the Courts in Consideration of Administrative Cases pertaining to Violation of Detention Conditions of Persons in Detention Facilities,” extended the interpretation of detention conditions to include prisoner transportation/transfer and all types of places of deprivation of liberty, such as police holding cells, pre-trial detention centers and penal colonies.
40. The ECtHR found the new compensatory remedy effective, having the requisite procedural guarantees associated with judicial adversarial proceedings, directly accessible to the persons concerned and offering them reasonable prospects of success. The Court proceeds from the principle of member States' sovereignty and assumes their good faith in executing the Court's judgments.
41. However, the emerging judicial practice indicates, based on available decisions of Russian courts, that the said remedy has not yet become accessible and effective as a means of recovering compensation for poor detention conditions.
42. First, the burden of proof de facto remains with the prisoners, as they are expected to gather evidence to prove poor detention conditions. Considering that such evidence is entirely at the disposal of the penitentiary institution, prisoners are severely limited in their ability to provide it.
43. Second, the very short procedural time-limit for filing a complaint – three months of the first incidence of the violation – means that in most cases, a complaint must be filed while the person is still in prison. Before accepting a complaint from someone currently in prison, a Russian court will require this complaint to be formally registered with the security unit of the institution – penal colony or pre-trial detention center – that the person is complaining about.
44. Third, the new remedy does not provide any additional guarantees to support a prisoner's right to file a complaint, such as a simplified procedure of any kind.
45. Fourth, most claims in which Russian courts decided in favor of the plaintiff were filed by persons seeking to exhaust a new compensatory remedy after their applications have been registered with the ECtHR. In all other cases, favorable court rulings have been extremely rare.

Questions to the Russian Federation

Criminalization of torture

In the context of amending the Criminal Code to criminalize torture, are any steps being taken to set new standards of investigation of complaints alleging torture and ill-treatment?

What are the plans regarding the criminalization of instigation, consent or acquiescence in relation to torture?

What are the plans regarding the criminalization of ill-treatment?

Are there any statistics available on the number of inquiries carried out and criminal proceedings instituted on charges of false denunciation against individuals who have filed complaints alleging torture?

Are there any plans to publish official data on the following: 1) the number of complaints alleging torture; 2) the number of inquiries opened into such complaints; 3) the number of criminal cases instituted based on such complaints; 4) the number of cases sent to court with an indictment; 5) the number of sentences delivered?

Are there any statistics available on the number of sentences on charges of torture and ill-treatment, broken down by the offenders' affiliation with specific government agencies? If such statistics are collected, are there any plans to make them public?

Are there plans to set up state programs to provide rehabilitation for torture victims and to ensure their protection during official proceedings?

Punishment in prison

Are there any plans to reform the procedures regulating the use of disciplinary punishment in penitentiary institutions?

What is the current procedure whereby a prisoner facing disciplinary proceedings in a penitentiary institution can access legal assistance, including the help of a lawyer?

Please provide statistics on the use of confinement as disciplinary punishment in prisons between 2018 and 2021, broken down by type of confinement and by year, and on the number of disciplinary sanctions canceled through prosecutorial oversight.



UNITED NATIONS HUMAN RIGHTS COMMITTEE 135th Session

Addition

to the Public Verdict Foundation (PVF) Submission to the Human Rights Committee in advance of the examination of the Russian Federation's Eighth Periodic Report under Articles 2, 7, and 14 of the International Covenant on Civil and Political Rights

1. Investigation of various episodes of the Yaroslavl case and sanctioning of perpetrators (in addition to the table presented in para 19 of the Public Verdict Foundation's Report)

April 2022 marked the end of the trial in the case of Abubakar Tsagalayev, a prisoner subjected to ill-treatment and collective beatings in the punishment cell of Corrective Colony No. 1 in Yaroslavl.

On 4 April 2022, nine officers of the colony were sentenced to actual prison terms. The sanctions meted out by the court are as follows:

- Vladimir Balanov - 3 years, 3 months in correctional colony;
- Igor Bogdanov - 3 years; combined with the earlier sentence, the total term is 6 years in correctional colony;
- Aleksey Brovkin - 3 years, 4 months; combined with the earlier sentence, the total term is 6 years, 2 months in correctional colony;
- Alexey Vikharev - 3 years, 4 months in correctional colony;
- Igor Kamironov - 3 years, 2 months in correctional colony;
- Ivan Kokovin - 3 years in correctional colony;
- Alexander Semenov - 3 years in correctional colony;
- Ruslan Tsvetkov - 3 years, 4 months; combined with the earlier sentence, the total term is 5 years, 5 months in correctional colony;
- Maxim Yablokov - 3 years; combined with the earlier sentence, the total term is 6 years, 3 months in correctional colony.

Four defendants had earlier been sentenced to actual incarceration in other, similar episodes of the Yaroslavl case.

The investigations and trials in the Yaroslavl case confirm that collective “correctional” beatings of prisoners were a routine practice at the colony, perpetrated in the same manner by the same officers of the same facility.

See more details on the Yaroslavl case and its investigation at the dedicated page provided by the Public Verdict Foundation <https://yardelo.org/>

2. Police used indiscriminate force during the anti-war protests in February and March 2022. The extent of cruelty and humiliation and the demonstrative nature of police violence were unprecedented. Brutally beaten and injured protesters were either denied medical assistance or it was provided with a long delay.

*On 24 February 2022, prominent social scientist Grigory Yudin was arrested during an anti-war protest in Moscow and severely beaten in a police van. According to eyewitnesses, officers were beating him inside the van with the lights off until he lost consciousness and then left him lying unconscious on the floor of the van during transportation to the police station. There, the police searched his belongings and found his ID. Yudin had a seizure while at the police station, but for a long time, the officers refused to allow him to be seen by a doctor - <https://polit.ru/news/2022/02/25/police/>
As Yudin felt worse, the police eventually had to call an ambulance. Yudin was hospitalized at the Sklifosovsky Institute for Emergency Medicine.*

During an anti-war protest in St. Petersburg in February 2022, a protester sustained a serious eye injury during arrest, when a contact lens got stuck in his eye. The police refused to call an ambulance - <https://ovdinfo.org/articles/2022/02/25/net-voyne-itogi-akcii-protiv-voyny-s-ukrainoy-24-fevralya>

During the same protest, police officers dragged a woman headlong over the asphalt. Despite her serious injuries, they refused to call her an ambulance -- <https://t.me/ovdinfo/4326>

A passer-by who was not a protester was arrested and brought to a police station. He sustained injuries during arrest, but the police refused to call an ambulance - <https://v.24liveblog.com/iframe/?id=2993733386761572443#n2993982851379391142>

No information is available on whether these incidents are being investigated.

3. Women arrested during anti-war protests were subjected to sexualized humiliation and abuse. Such practices had not been documented by Russian human rights defenders before.

Strip searches of women and non-binary people at police stations were reported in several Russian cities after peaceful protests.

In St. Petersburg, two women arrested during an anti-war protest were forced to undress. "They told me to take off my underwear, to squat several times, and to spread my buttocks," said one of the arrested women to her defenders. <https://t.me/ovdinfo/13897>

In Nizhny Novgorod, several persons arrested during a protest were detained at a police station overnight, forced to strip down and to squat naked. <https://ovdinfo.org/stories/2022/03/17/zastavlyali-razdevatsya-i-prisedat-kak-obrashchalis-s-zaderzhannymi>

A female protester detained at Brateevo Police Department in Moscow was forced to strip and was hit several times with a plastic water bottle. The officer who hit her said, "Putin is on our side. You are enemies of the people... I can <kill> you and get away with it." <https://novayagazeta.ru/articles/2022/03/07/putin-na-na-nashei-storone-18>

No information is available on whether these incidents are being investigated.

Torture and ill-treatment Prevention and Prohibition

May – September 2022

1. The main report was submitted to the UN Human Rights Committee's 134th-136th session by the Public Verdict Foundation (https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCSS%2fRUS%2f47730&Lang=en). The text presented below complements the main report.
2. **Criminalization of torture.** The bill was passed into law on 14 July 2022 (Federal Law No. 307-FZ of 14.07.2022)¹

Comments and proposed amendments to the bill from the human rights community were ignored by the authorities.

Rather than conceptualize torture as an independent crime, the new law defines it as a type of "abuse of authority," in contravention of the relevant conventions.

The new law toughens the punishment for "abuse of authority involving the use of *torture*" — amount to 12 years in prison and may be as high as 15 years if the victim sustained serious injuries or died from torture. Punishment for "abuse of authority involving violence" can be up to 10 years in prison.

The newly adopted law contains two separate provisions: that on abuse of authority involving the use of violence and that on abuse of authority involving the use of torture. Nothing in the text of the law or in related comments and explanations makes it clear how the judges/enforcers should distinguish between the use of violence and the use of torture. This uncertainty can cause difficulties with administering the law and grant virtually unlimited discretion to judges/enforcers in choosing either option for qualifying an offence. This, in turn, leaves room for manipulation and bargaining, as sanctions for torture are tougher than those for violence. This may be used to put unlawful pressure on suspects and to allow perpetrators evade full responsibility and fair punishment.

Known and investigated cases of torture indicate that it is usually perpetrated in a preplanned manner by a group with roles distributed among its members. However, these aggravating circumstances – a crime committed by a group by prior conspiracy – are recognized only for the crime of "abuse of power involving violence" but not for the crime of torture. Thus, judges/enforcers may be inclined to use the former qualification as more familiar to them and better reflecting the typical circumstances of such crimes, while the new provision on "torture" is likely to be applied rarely and selectively.

The actual prevalence of torture in the country will remain unclear, because the judicial statistics will only include cases in which the perpetrator was sentenced under the heading of "torture," while a large part of acts that essentially constitute torture will be hidden under the "use of violence" heading which includes a wide range of different practices.

3. **Effective relief from punishment for torture.** Punishment meted out by a court to a torture perpetrator can be canceled or mitigated at the stage of its execution. This can be done through existing procedures for rewarding well-behaved prisoners.

The prison authorities can request a court to mitigate a prisoner's sentence by replacing it with a non-custodial penalty, with reference to the said convict's exemplary behavior while in prison. Torture victims are in a particularly vulnerable position in such situations. They are effectively denied access to the proceedings: in practice, courts do not notify the victims either of a scheduled hearing on the matter or of the decision to mitigate the perpetrator's sentence.

Marina Ruzaeva survived hours of torture at a police station in Ussolie-Sibirskoe. After six years of ineffective investigation, the case was finally sent to court that found the police officers guilty and sentenced them to custodial penalties (three and a half and four years in prison). Three months after being admitted to a penal colony, two convicted perpetrators were effectively relieved from their custodial sentences.

¹ The text of the law is available (in Russian) at http://www.consultant.ru/document/cons_doc_LAW_10699/c1d97e48b63eff3e92926a82783f3a80148b18fc/

Having considered a request to replace the remaining unserved part of their sentences with non-custodial sanctions, a court mitigated the punishment, sentencing the perpetrators to correctional labor which involved their release from the penal colony. Marina Ruzaeva, who had received numerous, well-documented, threats, and had her family's possessions destroyed during the investigation and trial, was excluded from the proceedings, and her opinion was not considered by the court.

Criminalization of torture is undermined when torture perpetrators are relieved of court-imposed penalties which are fair and commensurate to the gravity of this crime.