

## 2022. Notebooks

### Update on Events in the Prohibition of Torture Index Countries

January - September 2022

#### Russia

(prepared by Public Verdict Foundation, Russia)

#### Preface

This report describes some of the most significant developments in the observance of the prohibition of torture and ill-treatment in Russia.

The start of this year marked a rapid renewal of the legislative process to criminalize torture, completed in July. In February, Russia launched a military operation in Ukraine and de-facto switched to martial law, banning anyone from calling the conflict a war and prosecuting those who publicly express anti-war sentiments.

Since the start of the military operation, the Russian authorities have been hastily adopting new repressive legislation targeting dissent and introducing de-facto censorship.

This pressure on society has resulted in several waves of emigration amounting to a mass exodus, as well as a total elimination of independent media outlets and civil society organizations. In a matter of months, the country slid towards de-facto martial law, imposing extensive bans and curtailing all fundamental freedoms. In this context, the problem of torture has largely disappeared from the public focus. The resulting non-transparency and isolation create significant risks of mounting violence and even higher incidence of torture in closed institutions.

#### 1. Criminalization of torture and ill-treatment

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 publication of reports and video footage of torture at Colony No. 1 in Yaroslavl. The subsequent drafting of the bill continued outside of the public sphere and without proper input from human rights organizations with the relevant expertise. In 2021, new reports of torture were made public, with the publication of videos documenting torture in prison hospitals in Saratov (documentary footage of torture and sexualized violence at a healthcare facility (TB hospital) of the Saratov regional penitentiary service).<sup>1</sup> The new bill was finalized and launched hastily in the State Duma in response to the public outcry.

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 its significant shortcomings, this bill cannot be described as furthering the goal of eradicating torture or consistent with Russia's international obligations:

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<sup>1</sup> <https://www.svoboda.org/a/31497953.html#1>

The bill was passed into law on 14 July 2022 (Federal Law No. 307-FZ of 14.07.2022)<sup>2</sup>. The following are some of the key shortcomings of the law criminalizing torture:

- rather than criminalize torture as an independent crime in a separate article of the Criminal Code, the new law amends the existing article 286 on "abuse of authority" by adding the phrase "involving the use of torture" as a qualifying circumstance; "torture" is thus considered an extreme form of "abuse of authority" rather than an independent crime. By this logic, there must be a kind of official authority which can be exercised to the point of it becoming torture.
- the law 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. This means that only direct perpetrators will be held liable but not those who facilitate, order or condone torture;
- the law leaves out ill-treatment;
- the statutes of limitations may still apply, because the perpetrators of torture will be charged under the amended article 286 that provides for statutes of limitations.

The first reading of the bill in the State Duma was scheduled for February 2022. Human rights organizations joined forces in solidarity against this version of the law.<sup>3</sup> Even after that, no systemic consultations took place between civil society and legislators. Comments and proposed amendments to the bill from the human rights community were ignored by the authorities.

The new law introduces tougher penalties. Criminal sanctions 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.

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<sup>2</sup> The text of the law is available (in Russian) at

[http://www.consultant.ru/document/cons\\_doc\\_LAW\\_10699/c1d97e48b63eff3e92926a82783f3a80148b18fc/](http://www.consultant.ru/document/cons_doc_LAW_10699/c1d97e48b63eff3e92926a82783f3a80148b18fc/)

<sup>3</sup>See the joint statement by Russian human rights organizations "The bill establishing criminal liability for torture needs serious improvements" <https://publicverdict.org/topics/found/13024.html>

One can assume that over time, more accurate distinctions between these two categories may develop in the law enforcement practice, but other countries' experience suggests that the article on "torture" is rarely used to prosecute perpetrators where a parallel article on "abuse of authority involving violence" still exists in the criminal legislation.

## **2. Indiscriminate, excessive, sexualized violence applied to antiwar protesters**

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, while the lights were switched off, until he lost consciousness, and then left him lying unconscious on the floor of the van while driving him to the police station. On the premises, officers searched his belongings and found his ID. Yudin had a seizure while at the police station, but officers refused for a long time to allow him to be seen by a doctor, see details at <https://polit.ru/news/2022/02/25/police/>*

*Since Yudin felt progressively 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, see details at <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, see details at <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 to him, see details at <https://v.24liveblog.com/iframe/?id=2993733386761572443#n2993982851379391142>*

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, see details at <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, see details at*

<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," see details at <https://novayagazeta.ru/articles/2022/03/07/putin-na-na-nashei-storone-18>*

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

### 3. Repressive legislation

Since January 2022, the Russian authorities have adopted an extensive package of legislation to impose censorship and to label citizens as "being under foreign influence," with both administrative and criminal sanctions for non-compliance with the new restrictions.

In March 2022, the State Duma proposed creating a unified register containing information on individuals acting as foreign agents or affiliated with those acting as foreign agents. This proposal resulted in the adoption of Federal Law No. 272-FZ on Sanctions for Individuals Violating Fundamental Human Rights and Freedoms of the Citizens of the Russian Federation. Articles 2.1, parts 8.1 - 8.4, of the new law provide for setting up and maintaining a unified register of "foreign agents" and affiliated persons. No such register has so far been created, and there is no evidence that the Ministry of Justice has adopted regulations for maintaining such a register, which the Ministry is required to do under article 2.1, part 8.4, of the new law. Indeed, we have serious doubts that a register currently envisioned by this law will ever become a reality.

In July 2022, Federal Law No. 255-FZ of 14 July 2022 on Control over Activities of Persons Under Foreign Influence was passed that essentially integrates all existing "foreign agency" provisions. The new law will become effective on 1 December 2022, invalidating all previously adopted legislation on the matter. The new law elaborates the idea of a unified register by providing for two registers: a register of "foreign agents" comprising all existing different registers and a register of individuals affiliated with "foreign agents," i.e. those who have been or are connected with "foreign agents" through employment or organizational/managerial relations or have received/are receiving support from "foreign agents."

The new law retains all current responsibilities imposed on "foreign agents" and adds several new ones:

- to disclose this status every time they come in contact with educational organizations and other organizations and authorities;
- to disclose this status to their founders, members, beneficiaries and employees.

"Foreign agents" are not allowed to receive any support from the state, even for artistic activity. The new law adds to the list of things prohibited to "foreign agents" – now they cannot hold any positions with public authorities, be members of election commissions, have access to state secrets, contribute to election funds or to political parties, and organize or conduct public events. Wishing to "save" minors from coming under "foreign agent" influence, the authorities ban "foreign agents" from teaching and educating young people at state and municipal educational institutions.

New names of activists, journalists, opposition figures, and human rights organizations and initiatives have been added to "foreign agent" registers on a regular basis, usually on Fridays.

The law on "undesirable organizations" was also tightened in July 2022 to criminalize involvement in (article 284.1 of the Criminal Code), and assistance to such organizations. Thus,

- Participating in an undesirable organization's activities can result in up to four years in prison for someone who has previously been under administrative sanctions or convicted on similar charges.
- Contributing to, or raising funds for, or providing financial services to support the activities of an "undesirable organization" is punishable by up to five years in prison.
- Organizing/managing the activities of an "undesirable" organization is punishable by up to six years in prison.

New laws passed in March 2022 were described by the media as "legislation on military censorship":

- Article 20.3.3 of the Code of Administrative Offenses punishes for public actions "aimed at discrediting the use of the Russian Armed Forces to defend the interests of the Russian Federation and its citizens, to maintain international peace and security, or to ensure the Russian government agencies' exercise of their authority for the said purposes"; the punishment is a fine of up to 50,000 rubles for individuals, up to 200,000 rubles for officials, and up to 500,000 rubles for legal entities. Fines can be increased if such acts are combined with calls to unauthorized public events or create threats to public order and endanger citizens.
- Repeated (within one year) "discreditation" entails up to three years in prison under the new article 280.3 of the Criminal Code.
- The newly added article 207.3 of the Criminal Code penalizes "public dissemination, under the guise of reliable, knowingly false information about the use of the Armed Forces for defending the interests of Russia and its citizens," with punishments of up to three years in prison. Committing the same acts while in an official position; as part of an organized group by prior agreement; using fake evidence to support one's accusations; for personal gain; for motives such as political, ideological, racial, national or religious hatred or enmity, or hatred or enmity towards a social group is treated as aggravating circumstances and can increase sanctions to up to 10 years in prison. Committing the same with severe consequences can result in up to 15 years in prison.
- The new article 20.3.4 of the Code of Administrative Offenses prohibits calls to sanctions against Russia. Such calls can result in fines of up to 50,000 rubles for individuals, up to 200,000 rubles for officials, and up to 500,000 rubles for legal entities. If committed again within one year, criminal liability can result under the new article 284.2 of the Criminal Code with sanctions of up to three years in prison.

We have observed extensive enforcement practice under these Administrative Code and Criminal Code provisions. As of September 2022, there have been more than 4,000 reports of administrative liability for "public acts aimed at discrediting the Russian armed forces," and more than 100 criminal cases initiated under article 207.3 of the Criminal Code. In terms of geography, both administrative and criminal sanctions cover the entire country.

In addition to the recently adopted legislation, other Criminal Code articles have traditionally been enforced against civil society activists to suppress anti-war statements and actions. Thus, people have been charged with violence against an official, hooliganism, vandalism, desecration of dead bodies, vandalism against burial grounds such as military graves, deliberate destruction or damaging of other people's property out of hooligan motives, desecration of state symbols such as coat of arms and flag, insulting a public official, recruiting or inciting people to participate in riots. OVD Info has been monitoring the persecution of anti-war activists in Russia, see <https://ovd.news/news/2022/04/07/antiwar-prosecutions-ovd-info-guide>.

In July 2022, the Russian Criminal Code was amended by articles punishing for treason, espionage and acts against national security.

- A new article 280.4 was added punishing public calls to actions aimed against the country's security by up to 4 years in prison. The same acts committed by an organized group or upon prior agreement, involving the use of mass media, etc. carry the penalties of up to 7 years in prison;
- Article 275 on High Treason was amended by adding the crime of "switching to the enemy side," with the maximum sanction of 20 years in prison;
- A new Criminal Code article 275.1 was added to punish citizens by up to 8 years in prison for "confidential cooperation with a foreign state, international or foreign organization or with their representatives" to assist them with actions aimed at undermining Russia's security.

#### 4. International Self-isolation

On 15 March 2022, the Parliamentary Assembly and the Committee of Ministers made a joint statement on the exclusion of the Russian Federation from the Council of Europe.<sup>4</sup> The cessation of Russia's membership was formalized by the Committee of Ministers' resolution<sup>5</sup> setting the date on which Russia ceases to be party to the European Convention to 16 September 2022. Thus, a potential violation giving rise to an application to the European Court of Human Rights must have occurred before 16 September 2022. In practice, this means that an alleged violation committed on 15 September 2022, followed by exhausting the domestic remedies for the next six months and into 2023, can still be submitted to the European Court of Human Rights, and the Court's judgment passed after a few more years must still be executed. This is all the more true in respect of judgments already adopted or about to be adopted, which must also be implemented.

The Russian authorities have not yet denounced the Convention but have already invented new rules to enable non-compliance with the system of international law. They adopted new legislation allowing them to implement only the judgments issued by the Court before 15 March 2022. Having come up with this quasi-legal norm, the Russian authorities have been following it consistently:

On 15 March, they stopped the payment of compensations awarded by the Court and discontinued communication with the Committee of Ministers and with the Court.

Russia's performance on its treaty obligations and interactions with the UN treaty bodies testifies to the country's disregard of the UN human rights system.

Russia was due to submit its 7th Periodic Report to the UN Committee Against Torture on compliance with the Convention against Torture. No such report has been posted to the UN Treaty Body Database, nor is there any information publicly available as to whether the report has been submitted.

On two occasions in 2022, the Russian authorities failed to attend the review of their periodic report by the UN Human Rights Committee. The most recent scheduled consideration of Russia's report on compliance with the International Covenant on Civil and Political Rights had to be cancelled after the Russian delegation notified the UNHRC of not being able to attend the session. We note separately that sending a notification of non-attendance on the day of the session is extremely impolite and borders on outright disrespect, as is well known to Russian officials engaging with international bodies.

The OSCE Office for Democratic Institutions and Human Rights has relaunched the Moscow Mechanism which was first established in 1991 to monitor the human rights situation in Russia and to make recommendations to promote compliance with its Human Dimension commitments. *A report of the OSCE Moscow*

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<sup>4</sup>

<https://www.coe.int/en/web/portal/-/council-of-europe-leaders-make-joint-statement-on-the-exclusion-of-the-russian-federation-from-the-council-of-europe>

<sup>5</sup> <https://rm.coe.int/0900001680a5da51>

*Mechanism's* mission of experts was published on 22 September 2022<sup>6</sup> with no response so far from the Russian authorities.

## 5. Torture in Prison

At the end of 2021, an archive containing evidence of torture, ill-treatment and sexualized violence at penitentiary facilities in Saratov Region was uploaded to the public domain. The Russian authorities did not question the authenticity of the archive. Their reaction was prompt but inadequate. There is currently no information publicly available as to whether any officials have been investigated or any perpetrators found and held accountable. One can assume that some kind of investigation is ongoing, but nothing is known about its results. The published archive containing videos of torture came as yet another shock both for the authorities and for Russian society. As before, statements have been made about the need to reform the country's penitentiary system, but no specific plan, nor even a concept of such reform has been published. None of the human rights/anti-torture organizations have been consulted about measures to be adopted for preventing systematic torture.

In 2018, after the Public Verdict Foundation published a video archive documenting the practice of torture at penal colonies in Yaroslavl Region, a Coalition of human rights organizations and mass media came up with urgent measures to set up a government response mechanism for combating torture.<sup>7</sup> In 2022, some of these measures were reflected in proposals made by the Prosecutor General's Office, the only authority to show at least some interest in addressing the problem of torture.

In particular, the reform proposal from the Prosecutor General's Office incorporates the Coalition's recommendation on monitoring the use of riot control equipment in real time. More specifically, the Prosecutor's Office proposes measures which would give its officers access to CCTV footage in prisons: to amend the Law on Institutions and Bodies Executing Criminal Punishments in the Form of Deprivation of Liberty by making it mandatory for penitentiary officers to wear body cameras to capture any use of physical force, riot control equipment and firearms; to qualify the absence of body camera footage as official misconduct, and to enable prosecutors to connect remotely to video surveillance systems in penitentiary colonies and pre-trial detention facilities for real-time monitoring and response to violations. The proposal reads,

*"We find it appropriate to give the supervising prosecutors real-time remote access to video surveillance systems in penitentiary institutions, which we expect to improve the effect from their oversight drastically."<sup>8</sup>*

Despite a total lack of engagement between the Prosecutor's Office and anti-torture experts, we still welcome the agency's willingness to adopt rational solutions to the problem of torture.

Investigations into torture incidents in penitentiary colonies and pre-trial detention centers fall short of the effective investigation standards in terms of promptness, thoroughness, independence or the victim's access to the proceedings.

It would be a mistake to assume that a victim's death or serious injuries would always lead to a criminal case being opened and investigated.

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<sup>6</sup> See the report at <https://www.osce.org/files/f/documents/7/5/526720.pdf>

<sup>7</sup> <https://police-barometer.ru/reform-tortures>

<sup>8</sup> [https://n.tass.ru/obschestvo/14673907?utm\\_source=yxnews&utm\\_medium=desktop&utm\\_referrer=https%3A%2F%2Fyandex.ru%2Fnews%2Fsearch%3Ftext%3D](https://n.tass.ru/obschestvo/14673907?utm_source=yxnews&utm_medium=desktop&utm_referrer=https%3A%2F%2Fyandex.ru%2Fnews%2Fsearch%3Ftext%3D)

The Public Verdict Foundation represents Vazha Bocharoshvili, a prisoner who died soon after suffering torture. Serving his sentence at Yaroslavl Colony No.1, Bochorishvili was subjected to the same punishment as Yevgeny Makarov whose case triggered the known criminal investigation into torture at penitentiary colonies in Yaroslavl Region.<sup>9</sup> A month after being beaten with rubber batons by several guards, Bochorishvili died at a civilian hospital in Rybinsk, to which he was brought from the colony while he was dying; in fact, he had been transported in a near-death state between different hospitals four times, including twice on the same day.

The authorities opened a criminal case but then the investigator dropped it "due to absence of a crime event." A forensic examination performed at that time failed to find a connection between torture, medical negligence, and the victim's death.

A prison doctor who was in the room during the beating failed not only to intervene but also to facilitate proper medical assistance to Bochorishvili afterwards.

It was only in 2021 that PVF succeeded in getting the authorities to investigate the case and to bring the perpetrators to justice. In 2022, three colony officials went on trial and were sentenced to terms ranging from 3 to 3.5 years in prison. (Compare this with much tougher penalties under Russia's "foreign agents" legislation).

A parallel investigation into the conduct of prison doctors is currently underway.

As seen from the case of Vazha Bochorishvil, not only is prison medicine of poor quality, but prison doctors are often complicit in torture. In this context, implementing the Istanbul Protocol appears impossible.

In 2022, criminal investigations were completed into several cases initiated into the events at Colony No.15 in Angarsk (Irkutsk Region). In April 2020, a riot at the Angarsk Colony was brutally suppressed, and all prisoners were transferred to different pre-trial detention facilities. Most prisoners were subjected to cruel beatings incompatible with human dignity. The authorities delegated torture, ill-treatment and rape to other inmates, the so-called "developers" cooperating with the administrations of prisons and pre-trial facilities, in an attempt to obtain information for the Angarsk prison riot investigation.

Here is one torture victim's story (currently assisted by PVF lawyers):

*Kezhik Ondar was transferred SIZO No.1 in Irkutsk after the Angarsk riot. In late November 2020, he was placed, together with Grigoriev, another former prisoner of the Angarsk Colony, to cell No. 235 where "developers" were housed. They started beating Ondar and Grigoriev immediately, even before the cell door closed behind them. Kezhik Ondar (who was carrying a mattress in front of him and was too confused to understand what was going on) had his face covered with a cap, was knocked down and blindfolded, and kicked on the head, legs, and all over the body. Then the torturers tied his hands behind his back and hung him by the hands on a wall hanger, so that his feet could not touch the floor, and beat him with a stick on the heels, stomach and back. But this was only the beginning of his ordeal. "They took off my robe and one of them inserted a cold object into my anus. [It] was a 0.5 liter bottle with frozen water. I was screaming loudly from severe physical pain, calling for help and asking them to stop. ... No one came to my rescue, not even the staff of SIZO No.1, and those who were doing that to me kept insulting me and saying that they had pushed the entire bottle into my anus. The pain was terrible ... I began to lose consciousness, there was blackness in front of my eyes. They took me off the hanger, dragged to the washstand and splashed cold*

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<sup>9</sup> The Public Verdict Foundation succeeded in getting the authorities to investigate the case against 12 prison officers who tortured Makarov and to sentence all of them to prison. See the Yardelo website for details of the Yaroslavl case at <https://yardelo.org/>



water on my face," according to Ondar's testimony. Then they hung him up once again and pushed a stick into his anus. After that, they took him off and threw him to the floor, still blindfolded. The ordeal continued: the torturers attached electric wires to the man's penis, scored his penis with a sharp object, and finally pushed a switched-on immersion heater into his anus. The next day, threatening Ondar with more torture, five inmates took turns anally raping him. A few days later, when he was transferred to another cell, Kezhik Ondar asked cellmates to call a doctor and told them about the torture and rape. Ondar was hospitalized in the medical unit of Correctional Colony IK-6 and underwent surgery at the city hospital. On 11 December 2020, a criminal case was initiated against the cellmates who had raped Kezhik Ondar. In June 2022,<sup>10</sup> a trial against five employees of the Federal Penitentiary Service on charges of abuse of office began at the Irkutsk Regional Court. It was a closed-door trial, ostensibly for "state secrecy" reasons.

Criminal cases were opened against "developers," penitentiary officers, into the Angarsk prison riot, and into some incidents of torture. Most of the victims have not yet seen a fair punishment of the perpetrators or organizers of torture, nor any rehabilitation or assistance for themselves. The administrations of the pre-trial detention facilities where torture took place still go unpunished.

The head of Angarsk colony No.15 Andrey Vereshchak was in fact [promoted](#) after the riot to the regional department of the Federal Penitentiary Service <https://readymag.com/u1323030576/3183255/2/> but eventually fired at the end of December 2020. A criminal investigation was opened against Vereshchak <https://tayqa.info/165111>. The investigation petitioned for pre-trial detention, but the court placed Vereshchak under house arrest. Arslan Mazhidov was appointed acting head of Angarsk Colony No.15. In April 2020, Mazhidov was the head of SIZO No.6 in Irkutsk known for its "torture conveyor belt" at that time. Mazidov [has been promoted](#) <http://www.zashita-zk.org/A5205F2/1657626993.html> to lieutenant colonel. Aleksey Agapov, the head of Correctional Colony No.6 in Irkutsk, together with deputy head of the operational department Aleksey Mednikov and the operational officer Anton Erokhin, are facing charges <https://t.me/publicverdict/2646> in one torture case.

The above cases are being investigated separately, as if ignoring the whole picture: the prison riot, followed by orchestrated torture of prisoners with complicity from prison administrations, let alone the entire deeply entrenched system of using "torture conveyor belts."

Either intentionally or due to the manner in which criminal process is organized in Russia, such investigations **make it impossible to demonstrate and prove that all these events are interconnected elements of a complex system.**

## **6. Prisoners of war and civilian internees in Russia: no access to a lawyer, incommunicado detention**

The Public Verdict Foundation has been receiving reports from relatives of Ukrainian citizens captured by the Russian military and forcibly transferred to the territory of the Russian Federation. These civilians were taken either from the streets or from their homes in settlements controlled by the Russian army. In some cases, people are aware of the location where their captured relatives are reportedly held, according to former captives who have been exchanged and returned to Ukraine. Most prisoners are held in pretrial detention facilities or penal colonies in Russian regions bordering Ukraine. These facilities deny lawyers access to these detainees, and relatives' attempts to contact them have been unsuccessful.

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[https://www.sibreal.org/a/v-irkutskie-nachalstva-sud-po-delu-ob-iznasilovanii-zaklyuchennogo-kezhika-ondara/31888806.html?nocache=1&fbclid=IwAR0buimV4SewQ4cTNrUlxh3Zkjxx2OwGmk1yzfbfBenmZJW8iBbcGn\\_Bu9Q](https://www.sibreal.org/a/v-irkutskie-nachalstva-sud-po-delu-ob-iznasilovanii-zaklyuchennogo-kezhika-ondara/31888806.html?nocache=1&fbclid=IwAR0buimV4SewQ4cTNrUlxh3Zkjxx2OwGmk1yzfbfBenmZJW8iBbcGn_Bu9Q)

*On 25 March 2022, at about 6:30 pm, seven Russian servicemen armed with machine guns and wearing white armbands broke into the house of a woman named Victoria in the village of Stary Bykiv, Chernihiv region of Ukraine (5 Lugovaya street). Besides Victoria, her mother, father and a female neighbor with her mother were in Victoria's home at that time. The servicemen found combat boots in the house and began threatening Victoria with a gun, pushing her around, and yelling at her. The Russian soldiers demanded that Victoria tell them the whereabouts of her husband, although the woman was not married. The soldiers took away her mobile phone and found photos of Russian military vehicles. They drove Victoria away to an unknown destination. On the next day, 26 March 2022, other Russian servicemen came to Victoria's house. They took away all personal documents and money they could find, turned everything over in the house, and checked the basement and the attic. Later, four Ukrainian soldiers released from Russian captivity as part of an exchange on 9 and 10 April, reported having seen Victoria in SIZO No. 1 (pretrial detention facility) in the Russian city of Kursk. Victoria's relatives have not received any official information as to her whereabouts. The human rights lawyer Irina Biryukova of the Public Verdict Foundation made an attempt to visit Viktoria in SIZO No. 1 in Kursk. But although Victoria was reportedly held at that SIZO and the lawyer had obtained a visiting order to see her, the chief of the detention facility, presumably after consulting with security agents, refused to give the lawyer access to the detainee, alleging that "there was no such person among the suspects and accused detained at the SIZO."*

*Before his forcible disappearance, a man named Vasily resided together with his wife in the urban-type settlement of Dymer in Vyshgorod district of Kyiv region. On 6 March 2022, Vasily's wife told his sister on the phone that Vasily had left home on 5 March and never came back. Before leaving, Vasily told his wife that he had information about a planned shelling of residential quarters and wanted to warn other people in the community. Some four to seven days after Vasily's disappearance, a local woman who knew him found his broken phone and bicycle in Lenin Street, Dymer, near a road turn to the village of Glebovka, Vyshgorod district, Kyiv region. On 1 or 2 April 2022, Vasily's sister got a phone call from a woman who introduced herself as the wife of a Ukrainian serviceman released from Russia in a prisoner exchange. According to the woman, her husband had been Vasily's cellmate at a "prison in Bryansk." Vasily's sister wrote to him using the FSIN Pismo (Federal Penitentiary Service Letter) system for sending emails to prisoners. At first, she got a response saying that her letter had been censored and handed over to the addressee, but then she received another message stating "No such person" – it was handwritten on a standard form used by prisoners to answer emails received through the system; such forms contain automatically generated names of the prisoner and the person to whom they are responding.*

These and other cases are described in more detail in the article "'I am worried they might kill him there'. Captured Ukrainians in Russian Prisons," at <https://www.severreal.org/a/hot-by-ego-tam-ne-ubili-plennye-ukraintsy-v-rossiyskih-tyurmah/31906224.html>, and documented by HRW in "Russia: Enforced Disappearance of Ukrainian Teacher" at <https://www.hrw.org/2022/06/13/russia-enforced-disappearance-ukrainian-teacher>. Other pretrial detention facilities and penal colonies in Russia are also known to deny lawyers access to Ukrainian prisoners.

This means that Ukrainian civilians forcibly brought to Russia are held incommunicado: they are not granted access to a lawyer nor allowed to contact relatives.

This practice poses a serious risk of torture and contravenes the OSCE Decision no. 7/20 "Prevention and Eradication of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" approved by consensus of all participating states on 4 December 2020 in Tirana. This OSCE Decision reminds "all participating States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment." Para 7 of the Decision says, "Respect the safeguards concerning the

liberty, security and dignity of the person and ensure that prolonged incommunicado detention and secret places of detention and interrogation are abolished, with the understanding that such detention can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment.”

\*We note that incommunicado detention of prisoners, whether civilians or those who have ceased to take part in hostilities, is contrary to the Third and Fourth Geneva Conventions.

## **7. 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. 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.**