

Index on Torture. Main Developments in 2023

Russia

Criminalization of Torture

In July 2022, amendments to the Penal Code of the Russian Federation were introduced with the goal of criminalizing torture. In our previous report¹, we discussed the way this was done and the issues with this method of addressing the problem.

Article 286 (abuse of power), traditionally used to prosecute torture and other forms of ill-treatment, was supplemented with Parts 4 and 5, which establish liability for torture. The main concern among human rights defenders is how exactly the law enforcement agencies are applying the updated law and whether the method of criminalizing torture proposed by the government is effective.

Judicial statistics for 2023 will not be available until later. According to the response we received from the Judicial Department of the Supreme Court of the Russian Federation:

- 565 individuals were convicted under Part 3 of Article 286 (abuse involving violence);
- seven individuals were convicted under Part 4 of Article 286 (abuse involving torture);
- one individual was convicted under Part 5 of Article 286 (abuse involving torture resulting in the victim's death or grievous bodily harm through negligence).

Meanwhile, researchers discovered information on courts' websites regarding 32 criminal cases received by courts with charges under Parts 4 and 5 of Article 286 of the Penal Code by the end of 2023. At the time of this writing, verdicts had been delivered in 11 of these cases, but none is yet final².

Cases in both the Public Verdict Foundation's and the Crew Against Torture's practice in which there are reasons to believe that the applicants were subjected to torture suggest that the quality of investigations into alleged torture has not changed. Additionally, one has to resort to extra efforts, such as appeals against investigators' decisions, to compel them to classify torture cases under the new provisions, i. e. specifically as newly criminalized torture.

For example, only in one case did the victim's attorney succeed in reclassifying an already initiated criminal case of torture from Part 3 (abuse involving violence) to Part 4 (abuse involving torture) of Article 286 of the Penal Code.³ However, in 2024, the case was reclassified back under the old provision. The verdict rendered under Part 3 of Article 286 is currently being appealed.

The practice of human rights organizations indicates that so far the inertia in investigators' use of the customary classification is very strong, and the criminalization of torture cannot yet be considered effective, as it remains an abstract norm without practical implementation.

Non-Implementation of ECtHR Judgments

¹ https://www.civicsolidarity.org/sites/default/files/russia_2022_en.pdf

² <https://zona.media/article/2023/11/09/uk-tortures>

³ https://www.civicsolidarity.org/sites/default/files/russia_2022_en.pdf

The Russian Federation ceased to be a Member State of the Council of Europe on March 16, 2022⁴, and a State Party to the European Convention on September 16, 2022. The European Court of Human Rights (ECtHR) ruled that it would continue to consider applications filed against the Russian Federation, provided that the alleged violations occurred before September 16, 2022.⁵

However, the government of the Russian Federation claims that it left the Council of Europe on March 15, 2022.⁶ Subsequently, laws were enacted to the effect that ECtHR judgments that came into force after March 15, 2022, were not subject to implementation by Russia. This means that compensations awarded by the ECtHR will not be paid, and the applicant's case will not be unconditionally reopened, not to mention general measures. This legislation has retroactive effect and regulates legal relations that had existed before the law came into force.

Thus, Federal Law No. 180-FZ of June 11, 2022, amended Chapter 49 of the Criminal Procedure Code of the Russian Federation: the express possibility of having a criminal case reviewed due to the "new circumstances" following a ECtHR judgment was removed. Similar provisions were deleted from other procedural codes as well.⁷

Moreover, the Russian Federation ceased all communications with the ECtHR and other Council of Europe bodies.⁸ National authorities do not provide any written comments upon request by the ECtHR or participate in Committee of Ministers meetings on the implementation of ECtHR judgments. As a result of its expulsion from the Council of Europe, the Russian Federation has stopped complying with interim measures under Rule 39, depriving victims of further protection.

Since March 15, 2022, the ECtHR has delivered 28 judgments in cases where the authors of this report represented victims of torture, ill-treatment, and other human rights violations.⁹

⁴ The Committee of Ministers of the Council of Europe Resolution, [CM/Res\(2022\)2 on the cessation of the membership of the Russian Federation to the Council of Europe](#), 16 March 2022

⁵ The European Court of Human Rights, [Resolution of the European Court of Human Rights on the consequences of the cessation of membership of the Russian Federation to the Council of Europe in light of Article 58 of the European Convention on Human Rights](#), 22 March 2022

⁶ Foreign Ministry statement on initiating the process of withdrawing from the Council of Europe, available at https://www.mid.ru/ru/press_service/spokesman/official_statement/1804379/?lang=en

⁷ Federal Law no. 180-FZ of 11 June 2022 "On Amendments to the Criminal Procedure Code of the Russian Federation"; Federal Law no. 183-FZ on 11 June 2022 "On Amendments to Certain Legislative Acts of the Russian Federation and Annulment of Certain Provisions of Legislative Acts of the Russian Federation."

⁸ [Letter from the Secretary General, Marija Pejčinović Burić to Sergey Lavrov, Minister for Foreign Affairs of the Russian Federation](#), 9 December 2022.

⁹ Daurbekov and Others v. Russia, (Applications nos. [60844/11](#) and 2 others), 22 March 2022; Ragimov v. Russia, (Application no. [54611/18](#)), 22 March 2022; Topal and Others v. Russia, (Applications nos. [61504/10](#) and 2 others), 14 June 2022; Saveykiny v. Russia, (Application no. [65774/11](#)), 21 June 2022; Kursish and Others v. Russia, (Applications nos. [62003/08](#) and 5 others), 5 July 2022; Al-Tbakh v. Russia, (Application no. [51973/18](#)), 4 October 2022; Arkhipov and Others v. Russia, (Applications nos. [26454/13](#) and 9 others), 13 October 2022; S.F.K. v. Russia, (Application no. [5578/12](#)), 11 October 2022; Monakhov and Silverstov v. Russia, (Applications nos. [19560/16](#) and [33300/16](#)), 1 December 2022; Kutayev v. Russia, (Application no. [17912/15](#)), 24 January 2023; Zhilina and Others v. Russia, (Applications nos. [10524/20](#) and 19 others), 20 April 2023; Sharov and Others v. Russia, (Applications nos. [58533/18](#) and 11 others), 7 September 2023; Kolesnikova and Others v. Russia, (Applications nos. [54250/18](#) and 9 others), 28 September 2023; Tarasov and Others v. Russia, (Applications nos. [15380/19](#) and 10 others), 7 September 2023; Lapunov v. Russia, (Application no. [28834/19](#)), 12 September 2023; Kushnikova and Others v. Russia, (Applications nos. [41761/20](#) and 9 others), 14 September 2023; Abakumets v. Russia, (Applications nos. [4792/22](#) and 10 others), 14 September 2023; Baronin and Others v. Russia, (Applications nos. [18032/19](#) and 9 others), 28 September 2023; Ivanov and Others v. Russia, (Applications nos. [58772/18](#) and 9 others), 28 September 2023; N.A. and Others v. Russia, (Applications nos. [48523/19](#) and 4 others), 21 November 2023; Yartsev and Others v. Russia, (Applications nos. [35101/21](#) and 10 others), 20 July 2023; Benyash and Others v. Russia, (Applications nos. [2926/19](#) and 11 others), 20 July 2023; Varzhabyan and Others v. Russia, (Applications nos. [60851/12](#) and 15 others), 5 October 2023; Tingayev and Others v. Russia, (Applications nos. [41071/18](#) and 9 others), 30 November 2023;

All these cases concern violations committed by state actors long before March 15, 2022. However, the Russian Federation does not intend to implement these decisions. The total amount of compensations awarded to 72 applicants represented by the authors of this report exceeds one million euros.

In some cases, human rights lawyers have written to the General Prosecutor's Office (the body responsible for paying compensations awarded by the ECtHR) demanding payment of compensations, but these claims were rejected with references to the new legislation. All litigation challenging these rejections before domestic courts has also been unsuccessful.

Sometimes, courts' reasoning goes beyond legal analysis and enters the political realm. For example, in one case, the court justified its position by stating that the Russian Federation is countering "threats of an economic and political nature" and that the "unifying potential of the Council of Europe has now lost its multi-sectoral nature, turning into a structure aggressively imposing a neoliberal approach to human rights in violation of the principles and values enshrined in the Council of Europe Statute and fundamental conventions."¹⁰

Several cases of non-implementation of ECtHR judgments were joined together and appealed before the Constitutional Court of the Russian Federation in mid-2023.¹¹ The consideration of this complaint is pending.

Non-registration of crime reports and investigation by incompetent authorities

Our report for the previous year highlighted the issue of improper investigation into reports of ill-treatment of protest participants.¹²

The issue of non-registration of crime reports (concerning unlawful use of force during public protests) and their redirections to incompetent authorities (Ministry of Internal Affairs) has been persistent for several years, as reported by human rights activists in reports submitted during the Universal Periodic Review of the UN Human Rights Council.¹³

This trend persisted into 2023. In cases brought by complainants, the Crew Against Torture documented 13 incidents in 2023 where investigative authorities refused to register reports of unlawful violence by law enforcement. It is common practice to refer crime reports to the Ministry of Internal Affairs for pre-investigation or administrative review; there are instances of repeated forwarding of investigation materials between the Ministry of Internal Affairs and the Investigative Committee.

Victims' attorneys are forced to spend months appealing against refusals to register crime reports and to push for the initiation of official investigations into torture and ill-treatment complaints, which are supposed to be handled by the Investigative Committee.

In practice, torture survivors are denied access to legal assistance, and their right to lodge a complaint is not guaranteed.

Muzhetskii and Others v. Russia, (Applications nos. [40311/19](#) and [10 others](#)), 23 November 2023; Kompaneyets and Petrosyan v. Russia, (Applications nos. [31186/22](#) and [9628/23](#)), 23 November 2023; Golovachev and Others v. Russia, (Applications nos. [30389/19](#) and [9 others](#)), 14 September 2023.

¹⁰ <https://publicverdict.org/topics/news/13296.html>

¹¹ <https://european-court-help.ru/konstitucionnyj-sud-rf-rassmotrit-otkaz-ot-ispolnenija-reshenij-espch/>

¹² https://www.civicsolidarity.org/sites/default/files/russia_2022_en.pdf

¹³ <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=11596&file=EnglishTranslation>

Penitentiaries

In our 2022 report, we noted that “[i]n Russia, the practice of placement in SHIZO is widespread and can be applied to any inmate. This practice is enabled by the current legislation, such as the Penitentiary Code, and by the internal regulations in penitentiary facilities, which means that this form of treatment is institutionally incorporated into the operation of the Russian penitentiary.”¹⁴ Disciplinary punishments in penal colonies usually involve prolonged solitary confinement, which in itself amounts to ill-treatment. However, these punishments are not imposed by a court but by the colony warden within a procedure (Article 117 of the Russian Penitentiary Code) that deprives the inmate of the opportunity to receive meaningful legal assistance.

In 2023, the Ministry of Justice adopted the Model Regulation on the Disciplinary Committee—a recommended quasi-judicial body for handling transgressions within penitentiaries. The committee is composed almost entirely of the warden’s subordinates, who also heads it ex officio. Members of the public “can participate” in the committee’s work without any defined powers. The committee reviews “cases” based on materials prepared by facility staff; disciplinary proceedings and investigations are conducted by colony employees ex officio rather than in their capacity of committee members.

The Model Regulation does not mandate that the warden must follow the committee’s resolutions. However, this is the expected outcome within the current regulatory framework. The Model Regulation serves as a model according to which regional penitentiary authorities can establish their own regulations for creating disciplinary committees. The committees themselves are a possible but not mandatory format of operation. The procedure for imposing penalties remains unchanged: no amendments have been made to the Penitentiary Code. Specifically, its Article 117 still states that “disciplinary measures are imposed by the decision of the correctional institution warden or acting warden.”

In 2023, the practice of punishing inmates by placing them in disciplinary isolation units (SHIZO) was also actively applied to a number Russian political prisoners. This method allows wardens to isolate political prisoners from other inmates. Placement in SHIZO often occurs shortly after arrival in the institution. Serving several consecutive detentions in SHIZO results in a stricter security regime for the inmate. This decision is also made by the colony warden rather than through a judicial procedure.

*Vladimir Kara-Murza was sentenced to 25 years in a strict regime colony on charges of treason, spreading “fake news” about the armed forces, and participating in an “undesirable” organization. The verdict took effect on July 31, 2023. He arrived at IK-6 colony in Omsk on September 21 and was immediately placed in a SHIZO. On November 1, 2023, it was reported that Kara-Murza was sent to a SHIZO for the fifth time, for fifteen days. The reason was that he did not wake up at 5 AM on a day when the wake-up signal was not sounded in the colony. In January 2024, he was transferred to a maximum security colony (IK-7 in Omsk Region) and placed in a solitary confinement in a special EPKT unit (Unified Cell-Type Accommodation) for four months as a “persistent offender.”*¹⁵

¹⁴ https://www.civicsolidarity.org/sites/default/files/russia_2022_en.pdf

¹⁵ <https://memopzk.org/news/vladimira-kara-murzu-pereveli-na-bolee-strogie-usloviya-soderzhaniya-v-druguyu-koloniyu-v-omske/>, <https://memopzk.org/news/vladimira-kara-murzu-vo-vtoroj-raz-otpravili-v-shizo/>, <https://memopzk.org/news/vladimira-kara-murzu-v-pyatj-raz-pomestili-v-shizo-i-uzhestochili-usloviya-soderzhaniya-v-kolonii/>

The provision of medical care in penal institutions in 2023 continued to remain notably inadequate. The reform initiated in 2014 to remove medical services from the control of the Federal Penitentiary Service (FSIN) was not fully implemented. Currently, doctors are not staff members of penal colonies or pre-trial detention centers (SIZO), meaning they do not report to the management of these institutions but continue to serve as prison doctors. They are integrated into an independent hierarchy of the medical service within FSIN, although theoretically they do not have subordination relationships with the management of specific colonies or SIZOs.

FSIN institutions face shortages of essential medical supplies, equipment, and medical staff. Furthermore, there may be penitentiary institutions where medical units do not function at all. In other words, medical services may be entirely absent. Abdul-Malik Albagachiyev, a Public Verdict Foundation client, found himself in such a situation.

Serving his sentence in Colony No. 10 in the Astrakhan Region (he was later transferred to a prison in the Ulyanovsk Region), he found that there was no medical unit at all in the institution. After numerous letters by the Foundation's lawyer to supervisory bodies, signaling the inmate's worsening health condition and risk of a lethal outcome, medical personnel were temporarily assigned to Colony No. 10. According to the client, during inspections conducted by the prosecutor's office in response to the defense's complaints, he was informed that there was a shortage of medical personnel in the region's correctional facilities, with almost no specialists available.

The option of receiving medical assistance in the civilian healthcare system, allowed by law, often runs counter to the requirement to prove the impossibility of obtaining it within the institution. This typically necessitates a precise diagnosis, which often requires specialists that many institutions simply do not have. Therefore, in practice, the manifestation of illness must reach a critical point for the institution warden and medical staff to acknowledge the need for treatment in a civilian hospital. When inmates are transferred to prison hospitals, medical assistance is not always provided promptly and in full. This often leads to deaths of inmates.

In 2023, cases handled by the Public Verdict Foundation included instances where the actual denial of access to medical assistance was difficult to explain with rational reasons. Inmates are simply ignored, which compels them to violate internal rules to draw attention to their health issues. For example, the Foundation's client Abdul-Malik Albagachiyev was forced to damage surveillance cameras in his cell to attract officials' attention to his urgent need for medical help.

When the inmate was serving his sentence, his health deteriorated significantly. Epileptic seizures became more frequent due to the denial or delayed provision of medical assistance. The inmate complained that waiting times for a doctor in the colony were long, and other staff did not provide any assistance. According to the inmate, there was an unwritten directive from the management not to intervene during seizures and to wait for the doctor. Despite surveillance cameras in his cell, the inmate claimed that assistance and medication could take hours to arrive. He resorted to writing makeshift signs and standing with them for long periods in front of the cameras to attract attention. Several times, the inmate damaged surveillance cameras to compel staff to respond to his pleas for help, resulting in disciplinary punishment. Additionally, the colony filed lawsuits seeking compensation for damaged property.