

## EXECUTIVE SUMMARY

1. This report addresses the Russian Federation’s compliance with its international human rights obligations with respect to the death penalty. The Russian Federation continues to observe its moratorium on the use of the death penalty as a form of criminal punishment. The ban on the imposition of the death penalty by the courts was confirmed by Presidential Decree No. 724 of 16 May 1996, and also by ruling No. 1344 of 19 November 2009 of the Constitutional Court.
2. The report examines the current state of the death penalty in the Russian Federation, including (1) implementation of recommendations relating to the death penalty; (2) access to justice and legal representation; (3) torture and cruel, inhuman, or degrading treatment in detention, including for people under sentence of death; (3) conditions of detention; and (4) targeting of legal counsel representing people charged with capital crimes and human rights defenders expressing opposition to the death penalty.
3. During its third-cycle review in 2018, the Russian Federation received thirteen recommendations relating to the death penalty. Since that time, the Russian Federation has not sentenced any people to death.
4. This report recommends that the Russian Federation ratify relevant human rights treaties, improve detention conditions for all people, ensure all people facing the possibility of the death penalty have access to competent legal counsel and the right to a fair trial, and improve the transparency by allowing independent observers to conduct unannounced visits at all detention facilities.

### I. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

#### A12 Acceptance of international norms

##### **Status of Implementation: Partially Accepted, Not Implemented**

5. In the third-cycle UPR, the Russian Federation accepted two recommendations to “[c]onsider ratifying the Second Optional Protocol to the [ICCPR], aiming at the abolition of the death penalty,” but noted similar recommendations to accede to OP2, ratify OP2, and “[c]ontinue actions and initiatives aimed at ratifying” OP2.<sup>1</sup>
6. The Russian Federation is not a party to, nor has it signed, the Second Optional Protocol to the ICCPR, Toward the Abolition of the Death Penalty.<sup>2</sup>
7. Research reflects that the Russian Federation has not implemented the accepted recommendations. Due to a lack of transparency from Russia’s governing bodies, the coauthors have been unable to confirm any recorded or publicized steps taken towards consideration of OP2 ratification. Moreover, as discussed in greater detail below, the current conflict with Ukraine may have reduced incentives among Russian leaders to abolish the death penalty.<sup>3</sup>
8. In the third-cycle UPR, the Russian Federation noted several recommendations to ratify or accede to the Optional Protocol to the Convention Against Torture.<sup>4</sup> Russia ratified the Convention against Torture in 1985.<sup>5</sup> The Russian Federation is not a party to, nor has it signed, the Optional Protocol to the Convention against Torture.<sup>6</sup>

9. Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) concerning the abolition of the death penalty, adopted by the Council of Europe in 1982, provides for the abolition of the death penalty in peacetime; states parties may retain the death penalty for crimes “in time of war or of imminent threat of war.” The Russian Federation has signed but not ratified Protocol No. 6.<sup>7</sup>

### **B10 Access to justice & remedy**

#### **Status of Implementation: Accepted, Not Implemented**

27. In the third-cycle UPR, the Russian Federation accepted recommendations to improve its judicial system and the administration of justice, as well as to improve access to justice and to ensure the right to a fair trial.<sup>8</sup>
28. Since 2022, many lawyers have reported that police stations have applied the “Fortress” plan, a special regime governing the administration of police stations in response to a declared possible terrorist threat. In principle, the application of the “Fortress” plan results in the complete shutdown of a police station, prohibiting any entry into or exit from the building by any person.
29. In many cases, lawyers have been able to access their clients only after they had been interrogated or the police had completed interrogations and finalized their official reports on those detainees. In such cases, the lawyers were admitted to the police stations after the questioning was completed or the detainees were released from the station after the completion of questioning.
30. In some instances, lawyers were prevented from entering police precincts after being told that the detainees had either refused legal services or failed to request a lawyer. Once released, detainees often relayed a different story. For example, lawyer Irina Ruchko was prevented from entering a police precinct in Yekaterinburg.
31. Lawyers also reported that even after they were able to gain access, they were often rushed out of the courthouse prior to completing their work. In this way, lawyers were either prevented from attending multiple scheduled hearings or providing further assistance to their clients after hearings. For example, in St. Petersburg, lawyer Kseniya Briksa was escorted out of the courthouse because “the hearing was over and there was no reason for her to stay in the court house,” while she was still instructing a client on the appeals process for the client’s case.<sup>9</sup>

### **D23 Death penalty**

#### **Status of Implementation: Not Accepted; Not Implemented**

32. In addition to recommendations to ratify OP2, during the third-cycle UPR the Russian Federation noted several recommendations to abolish the death penalty or to consider abolition of the death penalty.<sup>10</sup> In noting these recommendations, the Russian Federation asserted that “[t]he moratorium on the use of capital punishment in the country will remain in place.”<sup>11</sup>

33. The Russian Federation continues to observe its moratorium on the use of the death penalty as a form of criminal punishment. The ban on the imposition of the death penalty by the courts was confirmed by Presidential Decree No. 724 of 16 May 1996, and also by ruling No. 1344 of 19 November 2009 of the Constitutional Court.<sup>12</sup>
34. In 2022, the Council of Europe suspended Russia’s membership due to the invasion of Ukraine, which was considered “a violation of [the Council’s] statute and of the European Convention on Human Rights.”<sup>13</sup>
35. As a precondition for membership in the Council of Europe, member states must prohibit use of the death penalty under Protocol 6 and Protocol 13.<sup>14</sup> Russia signed, but never ratified, Protocol 6,<sup>15</sup> but it has maintained a moratorium on the practice.
36. After the Council of Europe suspended Russia’s membership in 2022, a top Russian official noted that the suspension would open the door for Russia to legally reinstate the use of the death penalty.<sup>16</sup>
37. Dmitry Medvedev, former Russian President and current Deputy Chair of the Security Council of Russia, has publicly called for reinstatement of the death penalty in response to current events,<sup>17</sup> including the conflict in Ukraine and Russia’s suspension from the Council of Europe. Medvedev is not the only Russian official calling for restoration of the death penalty, as another head of the Russian Security Council was reported to have made the same proposal.<sup>18</sup>
38. Despite Russian leadership’s increasing support for the death penalty, public polling conducted in February 2022 suggests that public support for the death penalty is waning. According to RBK Media group, 43% of Russians surveyed in 2022 support the death penalty, down 13% from 2009.<sup>19</sup>
39. A court in the Russian-occupied region of Donetsk ordered the death of two captured British nationals, Sean Pinner and Aiden Aslin, and one captured Moroccan national, Denis Krisvosheev. The three were members of the Ukrainian regular forces and were taken captive in May 2022 by Russian Federation forces in Mariupol. The three were “convicted” of being foreign mercenaries and of taking “actions aimed at violent seizure of power and overthrow of the constitutional order of the [Donetsk People’s Republic].” The Supreme Court of the Donetsk People’s Republic announced their “death sentence” on June 9, 2022.<sup>20</sup> Research has not revealed any other people known to be under sentence of death.

## **D26 Conditions of detention**

### **Status of Implementation: Accepted, Partially Implemented**

40. In the third-cycle UPR, the Russian Federation accepted Switzerland’s recommendation to “[e]nsure that public detention monitoring committees are independent, adequately resourced and that their members are selected in a transparent manner.”<sup>21</sup>
41. There are reports that under the current administration, prison conditions are not consistent with international human rights standards. In August, a person who had been detained in a Russian prison detailed her experience to the Observer. She stated that the prison food is nutritionally inadequate and that prisons have poor sanitation and

insufficient electricity.<sup>22</sup>

42. There additional reports suggesting that under the current administration, people in detention are subject to physical beatings, electric shock torture, and waterboarding. Some detainees have been forced to learn and recite pro-Russian slogans, poems and songs.<sup>23</sup>

## **H1 Human rights defenders**

### **Status of Implementation: Accepted, Not Implemented**

43. In the third-cycle UPR, the Russian Federation accepted recommendations to investigate all reports of attacks on, or threats against, human rights defenders, lawyers, and civil society activists, and to ensure that human rights defenders and journalists can exercise their right to freedom of expression without fear of reprisal.<sup>24</sup>
44. In general, the conflict in Ukraine has led to increased political repression within the Russian Federation.<sup>25</sup> This repression includes broad new censorship laws aimed at attacking dissent and activism, restrictions on foreign contacts, and mass arrests, violence, and prosecution in response to anti-war sentiment.<sup>26</sup>
45. In April 2022, the Russian Federation forced Human Rights Watch and Amnesty International, among other nongovernmental organizations, to shut down their Russian offices by revoking their foreign registrations.<sup>27</sup>
46. In April 2021, Ivan Pavlov, a human rights lawyer and founder of Team 29, was arbitrarily charged with “divulging the results of a preliminary investigation.” He left Russia in September of 2021, and was subsequently placed on a “wanted” list.<sup>28</sup> Team 29 is an association of lawyers and journalists specializing in treason and espionage cases and freedom of information issues.<sup>29</sup> Pavlov was also at risk of being stripped of his lawyer’s license. In November 2021, Pavlov and four of his colleagues were designated “foreign agents.”<sup>30</sup>
47. In June 2021, authorities opened a criminal case against Ernest Mezak, a human rights lawyer who litigates cases at the European Court of Human Rights. They charged him with insulting a judge in a social media post.<sup>31</sup>
48. In September 2021, authorities barred human rights lawyer Valentina Chupik from re-entering Russia and stripped her of her refugee status, obtained in 2009. Chupik, a national of Uzbekistan, provided legal assistance to migrants in Russia and was an outspoken critic of the human rights violations they faced.<sup>32</sup>
49. Feminist and LGBTI activist Yulia Tsvetkova was accused of “disseminating pornography” for sharing online her body-positive drawings of female bodies.<sup>33</sup> In 2019 she was charged and was facing a maximum of six years in prison. She is known for posting body-positive drawings of the female anatomy on her blog called the Vagina Monologues. She was acquitted July 15, 2021, but Prosecutors appealed the court’s decision on July 22, 2022.<sup>34</sup>
50. Galina Arapova is the director and senior media lawyer of the NGO Mass Media Defence Centre.<sup>35</sup> In October 2021 she was designated as an “individual – ‘foreign agent.’”<sup>36</sup>

51. Andrei Pivovarov is the former head of the now-disbanded Otkrytaya Rossiya (Open Russia) movement. He was sentenced to four years in a penal colony in July 2022. He was found guilty of leading an “undesirable organization.” Since December 30, 2022, he has been moved to different penal colonies to serve his sentence. In a letter he sent to his partner, he was about to be transferred to a penal colony in northern Russia. His whereabouts have been unknown since January 18, 2023.<sup>37</sup>

## II. RECOMMENDATIONS

44. The coauthors suggest the following recommendations for the Government of the Russian Federation:

- Ratify the Second Optional Protocol to the ICCPR and the Optional Protocol to the Convention against Torture.
- Abolish the death penalty.
- Reaffirm the country’s commitment to a formal moratorium on executions and denounce any official rhetoric in favor of reinstating the death penalty.
- Prohibit all courts—including in occupied and contested territories—from handing down death sentences.
- On an annual basis, publish statistics about the number of death sentences pronounced, the number of people under sentence of death, and the number of executions (if any), disaggregated by sex, nationality, ethnicity, crime of conviction, relationship to the victim, relationship to any codefendant, status of any appeals or requests for clemency, court of conviction, and current location.
- Strengthen the Investigative Committee tasked with investigating crimes committed by law enforcement officials, including by ensuring access to all places of detention as well as to evidence, and providing sufficient human and financial resources for the Committee to carry out its work.
- Require all high-level government officials to publicly and unambiguously affirm that they will not tolerate torture and they will order independent investigation of all alleged acts of torture and ill-treatment.
- Collect and provide disaggregated statistical data on the number of complaints received alleging torture and ill-treatment by law enforcement and other public officials, the number of complaints investigated by Russian and any prosecutions brought.
- Ensure that all detention facilities comply with the Nelson Mandela Rules, particularly with respect to food and sanitation and freedom of opinion and expression.
- Establish an independent body to investigate all cases of death and alleged cases of torture in detention.
- Extend a standing invitation to UN special procedures mandate-holders to conduct country visits.
- Allow all persons charged with or suspected of committing capital crimes access to counsel from the moment of arrest through and including any appeals, without repercussion.
- Ensure that all lawyers and human rights defenders expressing opposition to the death penalty or representing people at risk of being sentenced to death are free from reprisals or restrictions on their freedom of expression.

<sup>1</sup> U.N. General Assembly Human Rights Council Thirty-ninth session, *Report of the Working Group on the universal periodic review: Russian Federation*, (Jun. 12, 2018), ¶ 147.11-17. Also available online at [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/39/13](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/13).

<sup>2</sup> Ibid.

<sup>3</sup> Isabel Van Brugen, *Anti-War Russians Sabotage Railways, Could Face Execution*, Newsweek (Nov. 3, 2022). Also available online at <https://www.newsweek.com/ukraine-war-russian-students-death-penalty-sabotage-railways-medvedev-1756541>.

<sup>4</sup> U.N. General Assembly Human Rights Council Thirty-ninth session, *Report of the Working Group on the universal periodic review: Russian Federation*, (Jun. 12, 2018), ¶ 147.7-10., .17. Also available online at [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/39/13](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/13).

<sup>5</sup> United Nations Human Rights Office of the High Commissioner, *UN Treaty Body Database- Russian Federation*, Also available online at [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=144&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=144&Lang=en).

<sup>6</sup> U.N. Treaty Collection, *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Dec. 18, 2002 Also available online at <https://treaties.un.org/Pages/showDetails.aspx?objid=080000028003d68b>.

<sup>7</sup> *Death penalty: Ratification of international treaties*, Amnesty International (Sept. 1, 2022). Also available online at <https://www.amnesty.org/en/documents/act50/5722/2022/en/>.

<sup>8</sup> U.N. General Assembly Human Rights Council Thirty-ninth session, *Report of the Working Group on the universal periodic review: Russian Federation*, (Jun. 12, 2018), ¶ 147.137-142. Also available online at [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/39/13](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/13).

<sup>9</sup> Maria Koroleva, *ST. PETERSBURG LAWYERS TOLD HOW THEY WERE NOT ALLOWED IN THE COURTS*, Advokatskaya Street (Feb. 3, 2022).

<sup>10</sup> U.N. General Assembly Human Rights Council Thirty-ninth session, *Report of the Working Group on the universal periodic review: Russian Federation*, (Jun. 12, 2018), ¶ 147.106-108. Also available online at [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/39/13](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/13).

<sup>11</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Russian Federation, Addendum*, (3 Sept. 2018), U.N. Doc. A/HRC/39/13/Add.1, ¶ 14.

<sup>12</sup> U.N. Treaty Collection available online at <https://treaties.un.org/Pages/showDetails.aspx?objid=080000028003d68b>

<sup>13</sup> Marija Pejcinovic Buric, *The Council of Europe suspends Russia for its attack on Ukraine*, The New York Times (Mar. 3, 2022). Also available online at <https://www.nytimes.com/2022/03/03/world/europe/council-of-europe-russia-suspension.html>.

<sup>14</sup> Council of Europe, *Abolition of the Death Penalty in Europe*. Also available online at <https://www.coe.int/en/web/abolition-death-penalty/abolition-of-death-penalty-in-europe>.

<sup>15</sup> Council of Europe, *The ECHR and the death penalty: a timeline*. Also available online at <https://www.coe.int/en/web/portal/death-penalty>.

<sup>16</sup> John L. Dorman, *Former Russian President Dmitry Medvedev threatens to cut diplomatic ties to Western countries in response to sanctions over Ukraine*, Business Insider (Feb. 26, 2022). Also available online at <https://www.businessinsider.com/medvedev-putin-sanctions-west-ukraine-cutting-diplomatic-ties-death-penalty-2022-2>

<sup>17</sup> Lilia Pashkova, *In Russia, for 13 years, the number of supporters of the death penalty has decreased*, RBC News (Mar. 1, 2022). Also available at <https://www.rbc.ru/society/01/03/2022/621d63cb9a7947b6d560a333>.

<sup>18</sup> Benoît Vitkine, *In Moscow, Dmitri Medvedev rails against the 'degenerates' of the West*, Le Monde (last updated Jun. 8, 2022). Also available at [https://www.lemonde.fr/en/international/article/2022/06/08/in-moscow-dmitri-medvedev-rails-against-the-degenerates-of-the-west\\_5986058\\_4.html](https://www.lemonde.fr/en/international/article/2022/06/08/in-moscow-dmitri-medvedev-rails-against-the-degenerates-of-the-west_5986058_4.html).

<sup>19</sup> Lilia Pashkova, *In Russia, for 13 years, the number of supporters of the death penalty has decreased*, RBC News (Mar. 1, 2022). Also available at <https://www.rbc.ru/society/01/03/2022/621d63cb9a7947b6d560a333>.

<sup>20</sup> Amnesty International, *Death Sentences against three foreign members of Ukrainian forces by separatists' court a blatant violation of international law.*, June 8, 2022 Also available on

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<https://www.amnesty.org/en/latest/news/2022/06/ukraine-russia-death-sentences-against-three-foreign-members-of-ukrainian-forces-by-separatists-courts-a-blatant-violation-of-international-law/>

<sup>21</sup> U.N. General Assembly Human Rights Council Thirty-ninth session, *Report of the Working Group on the universal periodic review: Russian Federation*, (Jun. 12, 2018), ¶ 147.133. Also available online at [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/39/13](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/13).

<sup>22</sup> The Guardian, *Russian prison camp ukrainians death in donetsk*. (August 6, 2022). Also available online. <https://www.theguardian.com/world/2022/aug/06/russian-prison-camp-ukrainians-deaths-donetsk>

<sup>23</sup> The Guardian, *Kherson torture centres were planned by Russian state, say lawyers*, (March 1, 2023). Also available online at <https://www.theguardian.com/world/2023/mar/02/kherson-torture-centres-were-planned-by-russian-state-say-lawyers>; See also, A. Deutsch, Reuters, *Torture chambers in Ukraine's Kherson 'financed by Russian state' – investigators*. (March 2, 2023). Also available online at <https://www.reuters.com/world/europe/torture-chambers-ukraines-kherson-financed-by-russian-state-investigators-2023-03-02/>.

<sup>24</sup> U.N. General Assembly Human Rights Council Thirty-ninth session, *Report of the Working Group on the universal periodic review: Russian Federation*, (Jun. 12, 2018), ¶ 147.127-.128, .159. Also available online at [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/39/13](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/13).

<sup>25</sup> Patrick Reeve, *Life in Russia, a year after the invasion*, ABC News (Feb. 24, 2023).

<https://abcnews.go.com/International/russia-ukraine-war-life-russia-year-after-invasion/story?id=97255588>.

<sup>26</sup> *Russia: War's Supersized Repression*, Human Rights Watch (Jan. 12, 2023). Also available online at <https://www.hrw.org/news/2023/01/12/russia-wars-supersized-repression>.

<sup>27</sup> *Ibid.*

<sup>28</sup> *Russian Federation Report 2021/2022*, Amnesty International. Also available online at

<https://www.amnesty.org/en/location/europe-and-central-asia/russia/report-russia/#endnote-7>

<sup>29</sup> Associated Press, *Russia rights group linked to Navalny closes amid prosecution fears*, The Guardian (Jul. 18, 2021). Also available online at <https://www.theguardian.com/world/2021/jul/19/russia-team-29-closes-navalny-links-media>.

<sup>30</sup> *Russian Federation Report 2021/2022*, Amnesty International. Also available online at

<https://www.amnesty.org/en/location/europe-and-central-asia/russia/report-russia/#endnote-7>.

<sup>31</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Russia*, Addendum, 1

<sup>32</sup> *Ibid.*

<sup>33</sup> Tiffany Wertheimer, *Yulia Tsvetkova: Russian LGBT activist acquitted of 'porn' charges*, BBC News (Jul. 15, 2022). Also available online at <https://www.bbc.com/news/world-europe-62180659>.

<sup>34</sup> *Russia: Prosecutors relaunch vicious campaign against artist Yulia Tsvetkova*, Amnesty International (Jul. 22, 2022). Also available online at <https://www.amnesty.org/en/latest/news/2022/07/russia-prosecutors-relaunch-vicious-campaign-against-artist-yulia-tsvetkova/>.

<sup>35</sup> *Galina Arapova*, Global Freedom of Expression, Columbia University. Also available online at

<https://globalfreedomofexpression.columbia.edu/about/experts/galina-arapova/>.

<sup>36</sup> *Russian Federation Report 2021/2022*, Amnesty International. Also available online at

<https://www.amnesty.org/en/location/europe-and-central-asia/russia/report-russia/#endnote-7>.

<sup>37</sup> *Russia: Disclose whereabouts of imprisoned activist Andrei Pivovarov disappeared one month ago*, Amnesty International (Feb. 17 2023). Also available at <https://www.amnesty.org/en/latest/news/2023/02/russia-disclose-whereabouts-of-imprisoned-activist-andrei-pivovarovdisappeared-one-month-ago/>.