



Universal Periodic Review of Russia

44th session of the United Nations Human Rights Council Working Group on the Universal Periodic Review

(6–17 November 2023)

Submitting NGOs

HR NGO Citizens' Watch, <https://citwatch.org/en/>.

Public Verdict, <https://publicverdict.org/pages/about.html>.

Background of submitting NGOs

The Citizens' Watch (CW) (St. Petersburg, 87, Ligovsky pr., office 300) is a human rights NGO active since 1992 with extensive expertise in the field of access to justice. We pay special attention to the transparency and accessibility of justice, our experts took part in the development of recommendations to improve transparency of the courts, to lower the threshold of access to justice for disadvantaged groups. In addition to advocacy, our organization also provides free legal aid to vulnerable groups and engages in human rights awareness and education.

Public Verdict (Moscow, 12, Maly Karetny Lane) – a Russian human rights organization that combines legal protection for victims of law enforcement arbitrariness with in-depth law enforcement research and professional media support for human rights work.

Joint Submission

CW and Public Verdict make this joint submission to the Universal Periodic Review (UPR), on the theme Prohibition of torture and cruel, inhuman or degrading treatment and conditions of detention. As a result of previous UPR of Russian Federation (3rd Cycle – 16th session, 2018) the following thematic recommendations were made:

Prohibition of torture and cruel, inhuman or degrading treatment

1. In relation to the recommendation to improve the conditions of detention, In April 2021, Russia adopted the Concept for the Development of the Penal and Correctional System until 2030. It envisages the creation of "Integrated Penitentiary Institutions" (Decree No 1138-r of the Russian Government of 29 April 2021) aimed at humanising conditions of detention and creating modern penitentiary institutions.
2. The concept builds on previous ones and does not address the issues of regime and maintenance of order in the penitentiary system, keeping the established disciplinary punishment practices intact. The latter are a source of human rights abuses and ill-treatment of prisoners.

3. No new type of penitentiary institution has yet been built. In March 2023, the first pilot project to build such an institution in Kaluga oblast was announced,¹ as was the design of a master plan for the location of penitentiary institutions. The authorities acknowledge that there remain many penitentiary institutions in the country, which are dilapidated buildings providing poor conditions for the detention of prisoners.²
4. However, the problem of degrading conditions on detention is still present. According to the Committee of Ministers of Council of Europe Russia has not been implementing judgments of the European Court of Human Rights relating to poor conditions of detention, lack of effective remedies in this respect and absence of adequate medical care.³ The compensatory remedy for poor conditions of detention was introduced in December 2019 by Federal Law No. 494 of 27 December 2019 "On Amendments to Certain Legislative Acts of the Russian Federation" as a part of implementation of the pilot judgment of the ECtHR.⁴ However, the remedy is not effective, because of insignificant amounts of compensation awarded by Russian courts and their disregard of practice of the ECtHR.⁵ In particular, national courts do not shift the burden of proof demanding the applicant to prove the poor conditions instead of demanding administration of the place of detention to prove that the conditions meet all the required standards of detention. Moreover, the deadline for lodging a claim to demand compensation in court is very short - 3 months from the date of violation. The new compensatory remedy ignores the vulnerable status of the detainees and does not contain additional safeguards to ensure a prisoner's right to claim compensation for poor conditions.
- 5. Russia should improve conditions of detention, envisage effective preventive and compensatory remedies for degrading conditions of detention.**
6. Moreover, Russia does not make much effort to improve conditions of detention for women. According to the statistics of the Judicial Department of the Supreme Court for 2021 the number of convicted women is 80 952, from which 15 004 were convicted to deprivation of liberty.⁶ These numbers do not show improvement in comparison with 2020, when 73 325 women were convicted, including 13 581 deprived of liberty.⁷ For 2022 full statistics has not yet been published. For this number of detained women only 13 children's homes are available.⁸ Those women who are placed in detention facilities without s children' home, might be forced to give up their children or place them in foster care.⁹ The statistics on the number of

¹ Implementation of the first project of a unified FSIN institution will start in 2023, TASS, March 17, 2023, URL.: <https://tass.ru/obschestvo/17295313>.

² Ministry of Justice proposes to set up combined FSIN institutions in Chita and Ulan-Ude to replace the old ones, TASS, March 14, 2023. URL: <https://tass.ru/obschestvo/17264951>.

³ Country factsheet, Russian Federation and Council of Europe, URL.L <https://www.coe.int/en/web/execution/russian-federation>.

⁴ All Russian Government Action Plans, options for draft compensatory mechanisms, description of the pilot regulation, etc. see <https://hudoc.exec.coe.int/eng?i=004-14142>.

⁵ Compensation for improper conditions in the places of confinement: analysis of the court of cassation case law, 2022, URL.: <https://citwatch.org/en/conditions-in-the-places-of-confinement-court-of-cassation/>.

⁶ Report No. 10.1 on the number of persons brought to criminal responsibility and types of criminal punishment for 2021, URL.: <http://www.cdep.ru/index.php?id=79&item=6121>.

⁷ Report No. 10.1 on the number of persons brought to criminal responsibility and types of criminal punishment for 2020, URL.: <http://www.cdep.ru/index.php?id=79&item=5669>.

⁸ Short Profile of the Penitentiary System on January 1, 2023, Federal Penitentiary Service, URL.: <https://fsin.gov.ru/structure/inspector/iao/statistika/Kratkaya%20har-ka%20UIS/>.

⁹ Being born behind bars. How pregnant women and women with babies in their arms are serving time in Russian prisons, Secret of a firm, December 15, 2022. URL.: <https://secretmag.ru/criminal/roditnya-za-reshyotkoi.htm>.

pregnant women-detainees, of women giving birth in places of detention, and women-detainees, who gave up their children after childbirth are not published.

- 7. Russia should publish statistics on the number of pregnant women-detainees, of women giving birth in places of detention, and women-detainees, who gave up their children after birth.**
8. There are unresolved problems related to the treatment of foreign nationals in temporary detention centres for foreign nationals. These centres are not part of the penitentiary system run by the Federal Penitentiary Service; they are run by a separate set of rules by the Ministry of the Interior. The main problems are long detention periods, humiliating conditions, lack of medical care and family separation. Detainees in these centres await deportation; if deportation is delayed or impossible, detainees may spend months or even years there. In 2017, the Constitutional Court (CC) of the Russian Federation ruled that if deportation is not possible, the grounds for detention must be reviewed at least every three months (Ruling of 23 May 2017 No 14-P). Despite this ruling, periods of detention may be too long. Moreover, if deportation to a particular state is impossible, the foreign citizen or a stateless person can be released and then returned to the centre (Decision of the Constitutional Court of the Russian Federation of 23.07.2020 No. 1659-O). In 2022, due to the termination of diplomatic relations between Russia and Ukraine, detained Ukrainians spend an average of four months¹⁰ and in at least one case a year and three months in detention without any prospect of deportation to Ukraine.¹¹ Detention conditions in the centres might be degrading with limited privacy and access to medical aid.¹² Detainees are only entitled to free emergency medical care and medication, more specialised medical care must be organised specifically and paid for by the detainee. Such conditions are often impossible to meet. Moreover, there are often no family units in the centres and the husband, wife and their children are detained separately.
- 9. Russia should not detain foreign nationals if the deportation to their country of origin is impossible, the law should guarantee that the period of detention should not last more than 3 months and the grounds for detention should be checked in the court.**

List of recommendations:

- 10. improve conditions of detention, envisage effective preventive and compensatory remedies for degrading conditions of detention;**
- 11. publish statistics on the number of pregnant women-detainees, of women giving birth in places of detention, and women-detainees, who gave up their children after birth.**
- 12. stop detaining foreign nationals if the deportation to their country of origin is impossible, the law should guarantee that the period of detention should not last more than 3 months and the grounds for detention should be checked in the court.**

¹⁰ POCs says Ukrainians detained for migration offences are not expelled from Russia, 7.09.2022, TASS, URL.: <https://tass.ru/politika/15684527>.

¹¹ Protection of the rights of detainees, ADC Memorial, 14.03.2023. URL.: https://adcmemorial.org/strategy_cases/zashhita-prav-zaklyuchennyih-suvsig-ru-ru/.

¹² Situation of the foreign citizens in the Centres of Temporary Detention of Foreign Citizens in Russia, Citizens' Watch, 2023. URL.: <https://citwatch.org/polozhenie-inostrannyh-grazhdan-v-czvsig/>.

