



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Committee against Torture**

**Concluding observations on the sixth periodic report of the  
Russian Federation**

**Addendum**

**Information received from the Russian Federation on follow-  
up to the concluding observations\***

[Date received: 13 August 2019]

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\* The present document is being issued without formal editing.



**Information on the implementation of the recommendations contained in paragraphs 15, 17 and 29 of the concluding observations on the sixth periodic report of the Russian Federation on the fulfilment of its international obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

**Paragraph 15 of the concluding observations**

1. In 2018, 2,680 criminal complaints recorded by the investigative authorities led to 64 criminal proceedings being initiated under article 286 (3) of the Criminal Code against staff of the penal correction system. Following investigation of these cases, 44 persons were prosecuted and 22 were convicted. In the same year, 394 members of the penal correction system staff underwent disciplinary proceedings for non-compliance with the procedures and permissible grounds for the use of physical force and non-lethal weapons.
2. In 2018, the Commissioner for Human Rights received 152 complaints of ill-treatment in penal correction facilities.
3. In the first half of 2019, 11 criminal proceedings were initiated against penal correction system personnel for incidents involving violence against convicted prisoners and persons remanded in custody.
4. The Investigative Committee of the Russian Federation places particular focus on examining reports of offences involving staff of the penal correction system who have exceeded their authority and on organizing criminal investigations into this category of offence.
5. Measures to provide less harsh detention conditions for persons remanded in custody or serving sentences of deprivation of liberty and to strengthen safeguards for their rights and legitimate interests, in accordance with international standards, are among the priority objectives of Policy Outline No. 1772-r of 14 October 2010 on the development of the penitentiary system of the Russian Federation over the period to 2020.
6. The improvement of measures to prevent criminal acts by staff of the penal correction system against convicted prisoners and persons remanded in custody is one of the main preconditions for achieving the goals of the Convention, given that the criminal overstepping of authority by such officials often endangers human life and health, the primary subjects of State protection.
7. Since crimes committed by personnel of the Federal Penal Service in connection with their professional duties take place in closed facilities, which practically rules out the possibility of there being any impartial witnesses to criminal conduct that violates the rights of convicted prisoners or detainees, the investigation of such criminal cases is assigned to the most experienced investigators. For example, in a number of investigation departments, reports of such offences are screened and the investigations in the respective criminal cases are conducted by highly qualified investigators or deputy chiefs of investigating agencies. They focus on ensuring that the preparatory phase of the procedural verification and pretrial investigation is conducted thoroughly and they must schedule any urgent actions in a way that takes account of the specific characteristics of the perpetrator.
8. In some investigation departments, such cases are investigated only by specialized personnel who are members of standing task forces or only within the department by investigators from agencies specialized in the investigation of crimes committed by law enforcement officials.
9. At the same time, many investigative subdivisions organize procedural supervision by specialism, so that a specific inspector from the relevant agency supervises the screening of reports and the investigation of criminal cases. The case files from the screening and investigation are systematically analysed within the department.
10. In some cases, special forms and methods of procedural supervision are set out in the organizational and administrative documents issued by the heads of the investigative subdivisions.

11. In investigation departments that serve areas with a high concentration of correctional establishments, the corresponding inter-agency organizational measures are taken.

12. For example, the investigation department for Novosibirsk province has, together with the local offices of the Federal Security Service, the Ministry of Internal Affairs, the Federal Penal Service and the Federal Court Bailiff Service, issued a joint order on the procedure for cooperation in detecting and investigating crimes committed by law enforcement personnel. The document lays out the procedure for cooperation between the aforementioned law enforcement agencies in the detection of crimes committed within the penitentiary system. For example, it stipulates that the deputy head of the regional office of the Federal Penal Service is required to provide the investigation department with information about any internal investigations conducted to determine whether there is evidence of a criminal offence and verify it in accordance with the applicable procedures. The order also includes a description of the mechanism used to prevent any cover-up of such incidents and any violations of the rights of convicted prisoners and persons remanded in custody.

13. The work of civil institutions in conducting public oversight in this area is an important factor in preventing such offences and is a source of information on incidents that constitute a crime. The public councils that work within investigative subdivisions are an example of this. The investigation department for the Republic of Mordovia has experience in this area: the activities of its public council include involving citizens, voluntary associations, human rights defenders and other organizations, such as the public oversight commissions that monitor respect for human rights in places of detention, in the implementation of relevant government policy.

14. The concerted efforts to establish effective mechanisms to enable the investigative authorities to respond to incidents of misconduct by Federal Penal Service employees also include the memorandums that are drafted and circulated to the investigative subdivisions of the Investigative Committee.

15. For example, one memorandum on a relevant subject sent by the Investigative Committee to all local investigative subdivisions concerns the legal position of the European Court of Human Rights and the main focus of its decisions. The memorandum directs the investigative authorities to provide redress for complainants, carry out effective investigations and overturn illegal procedural decisions regarding reports of crimes in the category concerned.

16. Moreover, the Investigative Committee has given instructions that reports of deaths in temporary holding facilities and remand centres and in any premises of the penitentiary system must be investigated (except for deaths due to illness that occur in specialized medical units).

17. The Federal Penal Service monitors the legality of the use of physical force and non-lethal weapons by penal correction system personnel on suspects, accused persons and convicted prisoners. Ensuring that any such use is legal is one of the main concerns in organizing the Service's supervision of the institutions under its control.

18. As part of this departmental supervision, every local office of the Federal Penal Service has a standing commission that verifies the legality and reasonableness of the use of force and non-lethal weapons against suspects, accused persons and convicted prisoners. The commissions carry out an in-depth study of each report on the use of physical force or non-lethal weapons and of the information received from static video surveillance equipment and personal video cameras.

19. Federal Penal Service personnel conduct targeted visits to penal correction facilities to verify the information about human rights violations contained in complaints, statements and communications received from suspects, accused persons and convicted prisoners or from officials. Effective cooperation with members of the public monitoring commissions is ensured.

20. The local offices of the Federal Penal Service have received instructions to hold monthly public meetings and drop-in sessions, to which the members of the public councils

within those local offices, members of the public monitoring commissions and journalists should be invited.

21. One of the methods used to monitor the use of physical force and non-lethal weapons is to install video surveillance equipment in penal correction facilities and to issue staff with personal video cameras. Special emphasis is placed on the mandatory use of such equipment. During the reporting period in the current year, internal investigations into incidents of physical force and non-lethal weapons being used on suspects, accused persons and convicted prisoners without the use of a portable video camera have resulted in disciplinary proceedings against 75 members of the penal correction service staff.

22. Data collection and analysis for the purpose of preventing torture and other cruel, inhuman and degrading treatment or punishment is carried out using the statistical reporting procedures established in Federal Penal Service Orders No. 566 of 2 June and No. 43 of 25 January 2019.

23. The Federal Penal Service coordinates the activities of the assistant directors of its local offices responsible for ensuring respect for human rights in the penal correction system who, as stipulated by Federal Penal Service directives, are members of the commissions that investigate any use of physical force or non-lethal weapons.

24. In the first half of 2019, the assistant directors considered more than 80 complaints from suspects, accused persons and convicted prisoners concerning the improper use of physical force or non-lethal weapons. Following inquiries, three cases were referred to the investigative authorities.

25. Since the beginning of 2019, the assistant directors of local offices have participated in over 350 inspections of the penal correction facilities under their supervision, identifying three violations which involved non-compliance with the procedures for using physical force and non-lethal weapons.

26. In the current year, the assistant directors and members of the public monitoring commissions have conducted more than 40 individual interviews to review the legality of the use of physical force and non-lethal weapons.

27. Furthermore, in accordance with the Regulations on the Federal Penal Service, approved by Presidential Decree No. 1314 of 13 October 2014, the Service must promptly and comprehensively examine oral and written communications from citizens on matters related to the work of the penal correction system, adopt the appropriate decisions and reply within the legally prescribed time frame.

28. Pursuant to Federal Act No. 503-FZ of 28 December 2016, amending the Act on institutions and agencies enforcing criminal penalties in the form of deprivation of liberty and the Federal Act on the remand in custody of suspects and those accused of having committed offences, amendments have been made to the procedure for the use by penal correction personnel of physical force, non-lethal weapons and firearms.

29. In accordance with current national legislation, penal correction personnel may use physical force, non-lethal weapons and firearms on the premises of correctional facilities, remand centres and adjacent areas in which special security requirements are applicable, on secure sites of the penal correction system, while carrying out prisoner escort duties and in other circumstances provided for by law.

30. In addition, prohibitions and restrictions on the use of non-lethal weapons are defined in law.

31. Penal correction staff may not use non-lethal weapons on visibly pregnant women, persons with obvious disabilities or juveniles whose age is evident or is known to the staff member, except when such persons are engaged in armed resistance, committing a group or other type of attack, threatening the life or health of a penal correction staff member or other person or rioting.

32. The procurator must be notified promptly of every case of bodily injury or death of a convicted prisoner or person remanded in custody caused by the use of physical force, non-

lethal weapons or firearms by staff of the penal correction system. The relevant materials must be sent to the procurator within 24 hours of such use.

33. Pursuant to Federal Act No. 203-FZ of 19 June 2018, amendments have been made to article 18.1 of the Federal Act on the remand in custody of suspects and those accused of having committed offences and the Federal Act on public monitoring of arrangements to uphold human rights in places of detention and measures to assist persons held in such places. The purpose of these amendments is to expand the rights of the members of public monitoring commissions in their visits to places of detention and to improve regulation of the commissions' work in overseeing respect for human rights in places of detention.

34. This includes the legal regulation of film, photography and video recording of persons in places of detention and of the safety and security installations in places of detention by the members of public monitoring commissions.

35. The Federal Act also stipulates that members of public monitoring commissions have the right to use environmental monitoring devices in living spaces and work areas during their visits to places of detention.

36. To improve the effectiveness of public monitoring, the commission members have also been granted the right to visit health-care institutions that carry out forensic psychiatric assessments and others that provide general, specialized or intensive inpatient psychiatric care.

37. To give effect to the provisions of the Federal Act, the Federal Penal Service issued Order No. 203 of 18 March 2019, amending the regulations approved by its Order No. 652 of 28 November 2008 on the procedure for visits to penal correction facilities by members of public monitoring commissions.

38. In accordance with the new Order, film, photography and video recording in places of detention by members of public monitoring commissions must be carried out using equipment listed on the inventory of the penal correction facilities. If this equipment is missing or proves to be defective, the film, photography and video recording is carried out using the equipment of the public monitoring commission members. The officials of the penal correction facility view the resulting images and recordings together with the public monitoring commission members. If a violation of the rights of suspects, accused persons or convicted prisoners is identified, a copy is provided to the public monitoring commission members. The images and recordings are stored in the penal correction facilities for two years.

#### **Paragraph 17 of the concluding observations**

39. In the case of the ill-treatment of the convicted prisoner Mr. E. A. Makarov by employees of correctional colony No. 1 of the Yaroslavl provincial division of the Federal Penal Service, criminal proceedings were initiated on 20 July 2018 under article 286 (3) (a) and (b) of the Criminal Code against 15 staff members of the facility. To date, 18 staff members who were involved in the incident have been dismissed by the penal correction authorities.

40. The chief of the Yaroslavl provincial division of the Federal Penal Service and the person who acted as his deputy between 24 January 2015 and 2 October 2017 have also been dismissed.

41. Official protection measures have been put in place for Ms. I. A. Biryukova and her minor daughter V. E. Biryukova and for Mr. Makarov himself.

42. On 21 November 2018, a letter of thanks was received from the lawyer Ms. Biryukova for assistance in providing her with State protection.

#### **Paragraph 29 of the concluding observations**

43. As at 5 August 2019, the register of non-profit organizations acting as foreign agents contained the details of 74 organizations, which amounts to 0.04 per cent of the total number of non-profit organizations registered in the Russian Federation. Of those organizations, 17 engage in human rights work.

44. In its decision No. 10-P of 8 April 2014, the Constitutional Court found that the determination that specific Russian non-profit organizations were acting as foreign agents was based objectively on the fact that the legal relations defined in Federal Act No. 7-FZ of 12 January 1996, the Non-Profit Organizations Act, involving the receipt of cash or other assets from foreign sources, actually applied to those organizations. The intended purpose was to identify them as specific political actors in the territory of the Russian Federation, without there being any implication that such organizations represent a threat to any given State or social institution, even if they act on the instructions or in the interests of the foreign sources. There can therefore be no constitutional or legal basis for interpreting the expression “foreign agent” with negative connotations based on stereotypes dating from the Soviet period, which have become meaningless in the world of today.

45. The obligation on non-profit organizations acting as foreign agents to apply for inclusion in the register of non-profit organizations acting as foreign agents does not prevent them from receiving financial support, in the form of cash or other assets, from foreign and international organizations, foreign nationals and stateless persons. Nor are they precluded from participating in political activities in the territory of the Russian Federation. They are therefore not discriminated against in comparison to non-profit organizations that do not receive foreign funding. Accordingly, the obligation on non-profit organizations acting as foreign agents to apply for inclusion in the relevant register before engaging in political activities is intended only to ensure greater transparency in the activities of such organizations. It does not prevent them from seeking and receiving funding from either foreign or Russian sources and does not entail different treatment for non-profit organizations involved in political activities based on the aims, forms and methods of such activities. This obligation is not per se a violation of rights and does not limit the activities of the non-profit organizations.

46. In view of the above, it would be misleading to view the concept of non-profit organizations acting as foreign agents as a crackdown on organizations funded by foreign sources.

47. Regarding paragraph 29 (b) and (c), article 144 of the Criminal Code criminalizes interference with the lawful professional activities of a journalist through compulsion to disseminate or to refrain from disseminating information. It is considered an aggravating factor if such actions are committed by a person in his or her official capacity or with the use or threat of violence against the journalist or his or her family, destruction of or damage to their property, or the threat thereof.

48. Furthermore, criminal procedural law includes a safeguard for the rights of lawyers, in the form of a special procedure for initiating criminal proceedings against them, formally charging them and conducting searches and seizures in residential and office spaces used to practise law (Code of Criminal Procedure, chap. 52).

49. Similarly, procurators must undertake and organize an inquiry into any reports of this type, but they do not have the right to carry out the investigation. If a report from a member of the public contains sufficient indication that a crime has been committed, the procurator issues a reasoned order, referring the case to the agencies responsible for pretrial investigation.

50. The investigative subdivisions of the Investigative Committee make the necessary organizational arrangements for thoroughly investigating and solving crimes committed against lawyers, journalists, human rights defenders and opposition politicians in connection with their professional activities and establishing the circumstances that gave rise to them.

51. Investigations of criminal cases involving this category of persons are assigned to the most experienced investigators, and investigation teams are set up to solve the crimes, making extensive use of data from police operations and available expertise as well as opportunities for international legal cooperation.