

The Crew Against Torture (CAT) is a Russian non-governmental organization that continues the activities of the liquidated NGO “Committee Against Torture”, founded in Nizhny Novgorod in 2000. At the moment, the CAT operates in the territory of central and southern Russia, as well as in the Republics of the North Caucasus with the population of the regions covered around ¼ of the entire country.

The CAT’s goals include combating torture and ill-treatment committed by law enforcement officials; providing legal, medical and social assistance to victims of torture, monitoring the situation with torture and raising public awareness. Its lawyers have experience working in the Public Oversight Commissions (the POCs).

1. Places of forced detention in Russia are characterized by closeness that is aggravated by several factors. First of all, one can observe a lack of public official (in particular, statistical) information about the situation with human rights in such places, about violations committed by the employees of these facilities' management and about the State’s reaction to such violations. Besides, one can note the low efficiency of the activities of supervisory and investigative bodies, as well as institutions of public control.

2. The Federal Penitentiary Service of the Russian Federation (the FSIN), which is in charge of correctional colonies and pre-trial detention centers, remains a significantly closed structure in terms of information. Public data on the observance of human rights in the facilities of this agency is limited to reviews of petitions and complaints submitted by citizens, including convicted persons and individuals who are in custody. Moreover, such reviews are posted on the official website of that agency only for the past quarter of the calendar year. There is no web archive of previous reviews on its site, so it is virtually impossible to analyze dynamics of the relevant petitions and to properly work with the texts. For instance, as of 13 November 2023, the FSIN website contains only the relevant review for the third quarter of 2023¹.

Furthermore, the review itself gives only a superficial idea of what exactly the detainees complained about, and there is purely no information regarding complaints about the unlawful use of violence by employees of the relevant facilities.

The review also contains a general phrase that the complaints were followed up by internal inquiries, “as a result of which the guilty officials were brought to disciplinary actions.”

3. The main supervisory body in the field of observance of human rights in places of forced detention is the Prosecutor General's Office of the Russian Federation; in its system, there have been created some specialized prosecutor's offices with the relevant functions. However, official public information about the results of the prosecutors' activities in this area is rather sporadic.

Every year, the Prosecutor General appears in the Federation Council (the upper house of the Russian Parliament), presenting a report on the state of law and order in the country and on the Office's activities. In the 2020 report², the Prosecutor General never mentioned the topic of respecting the rights of individuals held in places of detention.

In 2021, there were high-profile scandals related to the disclosure of a huge number of videos of torture and ill-treatment of individuals held in various places of forced detention in several regions of Russia. The circumstances that came to light prompted the authorities to open dozens of criminal cases; the head of the FSIN and other officials of that agency lost their posts³.

¹ <https://fsin.gov.ru/structure/management/obzor-obrashcheniy-grazhdan/>

² <https://epp.genproc.gov.ru/web/gprf/mass-media/interviews-and-presentations?item=73345383>

³ <https://www.dw.com/ru/direktor-fsin-rf-otpravlen-v-otstavku-iz-za-pytok-v-kolonijah/a-59931199>,
<https://www.vedomosti.ru/society/news/2021/12/23/902302-rassledovanii-17-del-pitkah>

It was problematic to ignore this topic; therefore, in the 2021 report⁴, the Prosecutor General expressed “serious concern” about the state of the law in correctional colonies and pre-trial detention centers, having underlined that during their inspections, prosecutors found almost 136 000 violations of different laws.

Having mentioned some cases of ill-treatment of persons serving sentences, which caused a wide public outcry in 2021, the Prosecutor General indicated that “supervision in this area has been radically restructured,” “the necessary personnel decisions have been made,” and that prosecutors “cooperate closely with authorities and civil organizations” while ensuring the rights of prisoners. Besides, the PG expressed confidence that the measures taken would give a “positive result.”

However, already in 2022⁵, the Prosecutor General did not touch upon the problem of compliance with the law in places of forced detention. At an extended meeting of the board of the PG’s Office held in March 2023, at which the President of the Russian Federation and the Prosecutor General summed up the results of the Office's activities in 2022, the PG only mentioned that issues of ensuring the constitutional rights of participants in criminal proceedings, as well as individuals serving criminal sentences, “are not removed from control”⁶.

4. The Russian Ombudsperson pays more attention to the problem of observance of human rights in places of forced detention, than other federal bodies and state officials.

As a rule, the annual reports of the Ombudsperson contain a detailed analysis of the topics and dynamics of complaints about human rights violations in places of detention, illustrative examples and information about current problems of the relevant agencies⁷.

5. At the same time, there are no public statistics on the number of the FSIN officers involved in the use of violence, as statistics on sentences maintained by the Judicial Department of the Supreme Court of the Russian Federation do not provide a breakdown by departmental affiliation of the entire number of convicted officials.

In that situation, analysis and assessment of the issue is extremely difficult, and if such an analysis is possible, it is only at the cost of some significant efforts – e.g. through a special search and selection (manually or using parsing systems) of relevant courts' rulings.

As an example of such assessment, one can cite the following publication whose author studied 30 sentences adopted between 2016 and 2020 in relation to the employees of the FSIN found guilty for excess of authority with the use of violence (until mid-2022, the Russian criminal law qualified the use of torture and other types of ill-treatment under that provision)⁸.

Based on the results of the analysis, the researcher notes that:

1) During the investigation and consideration of the cases in court, most often the accused is given a written undertaking not to leave the place of living, it happens in 60% of cases; in another 20% there is a ban on certain actions; house arrest and pre-trial detention are adopted in 10% of cases each. That state of affairs exists despite the fact that the FSIN employees, by virtue of their official position, have the opportunity to put pressure on both victims and witnesses.

⁴ <https://epp.genproc.gov.ru/web/gprf/mass-media/interviews-and-presentations?item=73355996>

⁵ <http://council.gov.ru/events/multimedia/video/233365/>

⁶ <http://www.kremlin.ru/events/president/transcripts/70678>

⁷ <https://rg.ru/2021/04/01/rg-publikuet-doklad-o-deiatelnosti-upolnomochennogo-po-pravam-cheloveka-za-2020-god.html>, https://cdnstatic.rg.ru/uploads/attachments/2022/06/01/doklad_ombudsmena_2021_e73.pdf

⁸ Poshelov P.V. - Analysis of courts' case law on crimes under Part 3 of Art. 286 of the Criminal Code of the Russian Federation, committed by employees of the Federal Penitentiary Service of the Russian Federation // Russian Judge (*Российский судья*). 2022, No. 6, pages 25 – 28.

2) In 50% of cases, the accused did not admit their guilt, and the defense's position usually boiled down to two main explanations: a) the individuals held in places of forced detention were the first to use violence, so the violence on the part of the employees was a way to stop unlawful behavior; b) the victim inflicted injuries on himself / herself in order to discredit the honor of the employee, unlawfully accusing the officer of committing a crime.

3) In fact, in almost all the cases examined, the use of violence by those employees of the FSIN was revenge for disobedience on the part of detainees, a way of forcing them to obey.

4) As a rule, victims themselves do not report the officers' use of violence against them, fearing negative consequences; the disclosure of such facts usually occurs only as a result of a prosecutor's inspection or the publication of video recordings of that ill-treatment on the Internet. Many sentences contain references to the results of previously conducted internal inquiries, which ostensibly did not reveal any violations in the actions of the FSIN employees, for which they were subsequently convicted by the courts.

5) In 76% of cases, the FSIN employees were sentenced to suspended imprisonment, and only in 24% of cases, they were sent to serve their sentences in a correctional colony.

6. The results of our work show that the FSIN employees are punished for the use of violence less often than the representatives of other law enforcement agencies. This situation is due to very prosaic reasons: the places of forced detention are closed institutions within which possible evidence of committed crimes is concentrated; at the same time, the employees themselves have a lot of opportunities to put pressure on witnesses and destroy material and other evidence; besides, the authorities that are to carry out supervisory functions do not perform their job effectively enough.

7. One of the essential types of evidence in relation to places of forced detention is recordings from surveillance cameras and portable wearable devices of the FSIN employees. The degree of importance of this type of evidence fully corresponds to the degree of difficulty in obtaining it.

Both we and our colleagues have repeatedly encountered situations where, for instance, recordings from CCTV cameras in closed facilities turn out to be unsaved due to some "technical failures." Needless to say that, by a strange coincidence, such failures happen simultaneously with the alleged use of violence against a victim.

Furthermore, in those cases where video surveillance recordings are physically preserved, it becomes significantly more difficult to gain access to them by both representatives of public control (members of the POCs) and attorneys representing the interests of detainees. Actually, such decisions issued by the representatives of the facilities' management refusing to provide video recordings to the individuals mentioned above are not isolated situations.

The issue of improving the video recording system in the places of detention and solving the problem of prompt access to the records by supervisory authorities has long been the subject of discussion among the Russian human rights defenders.

Some of the proposals developed on this topic back in 2018 were announced in the form of Recommendations of the Presidential Council on the development of civil society and human rights⁹. It was proposed, *inter alia*: to introduce mandatory recording of the use of special equipment and physical force via portable video recorders; to conduct mandatory video recording of a medical examination of an individual who has reported violence against him or her; to develop and implement a special automated system that allows to centrally receive video information in real time from all facilities of the FSIN.

⁹ <https://www.advgazeta.ru/mneniya/rekomendatsii-spch-po-soblyudeniyu-printsipov-otkrytosti-i-zakonnosti-v-uchrezhdeniyakh-uis/>

There are different opinions about those who should have access to such an automated video surveillance system. One proposal is to provide such access to prosecutors' offices and Ombudspersons (federal and regional ones).

Anyway, the issues of video recording have remained, for the most part, a subject of discussion in the human rights community; at the level of legislation, departmental rule-making and the development of a technical solution, that problem still remains unresolved.

8. Other notable problem is the effectiveness of public control. Since 2008, Russia has had a system of the Public Oversight Commissions (the POCs), the creation of which was initially a significantly progressive step. As planned, the POCs were civil structures with a fairly wide range of capabilities for monitoring the observance of human rights in places of detention. However, over time, the human rights potential and effectiveness of these structures have drastically decreased.

In particular, the situation of non-admission of human rights defenders to the POCs is extremely alarming. In the last periodic review, the Russian Federation accepted recommendations to ensure the independence of the POCs, as well as the transparency of their selection¹⁰. The purpose of POCs is participation of civil society organisations in public control over ensuring human rights in places of detention, assistance to persons in places of detention, including facilitation of their re-adaptation to social life. The mandate of a member of the committee is valid for 3 years. A candidate is nominated by a public association (there are requirements for the candidacy and the association, for example, as the age limit). Then the federal council of the Public Chamber assesses the applications and reports the result of the assessment; the reasons for rejecting the candidate are not reported.

In the 2019 convocation, the number of independent human rights defenders elected to POCs significantly reduced. Candidates of independent defenders having been the members of the previous convocation did not receive support in the Public Chamber.

In 2022 elections were held for the POCs in 43 regions of Russia. However, independent human rights activists did not get into the new compositions at all, they received zero support from the Public Chamber¹¹. According to human rights defenders, this convocation has an unprecedented number of elected members from among former law enforcement officers.

In 2022, human rights defenders carried out the analysis of the draft of amendments to the Law "On Public Control"¹² and submitted their proposals to deputies of the State Duma. Unfortunately, the amendments proposed by human rights organizations were not supported. For example, the final version of the adopted law (signed by the Russian President on 5 December 2022, entered into force on 4 June 2023) does not recognize escort premises of courts and specialized facilities for providing assistance to persons who are in a state of alcoholic, narcotic or other toxic intoxication as places of forced detention. Besides, amendments on the transparency of elections to the POCs, in particular, the proposal to include a requirement to notify the organisation that nominated the candidate about the specific grounds for rejecting that candidate and the obligation to publish the results of the elections, were also not adopted.

¹⁰ UNHRC, [Report of the Working Group](#), 12 June 2018, UN Doc. A/HRC/39/13, Recommendation 147.133.

¹¹ News.ru, 'The ranks have been cleared out': human rights defenders are outraged by not getting into the POCs', 29 September 2022 (in Russian), available at: <https://news.ru/society/ryady-zachistili-pravozashitniki-vozmutilis-nepopadaniem-v-onk/>

¹² Lenta.ru, "Known Russian human rights activists were not included in the new composition of the POCs", 28 September 2022 (in Russian), available at: <https://lenta.ru/news/2022/09/28/pravozzz/>

¹³ Tass.ru, "The POC commented on the information about the vote on the expulsion of Ms. Litvinovich", 7 March 2021 (in Russian), available at: <https://tass.ru/obschestvo/10853225>

¹⁴ Draft law No. 99435-8 "On amendments to Federal Law "On public control regarding respect for human rights in places of detention and on providing assistance to persons in places of detention".

It is fair to note that the 2022 amendments provide for some positive developments as the reimbursement of expenses of members of the POCs by the public chambers of the regions, and introduction of the principle of independence of the Committees, which had been previously recommended to the authorities¹³.

9. When talking about public control over the observance of human rights in places of forced detention, it is impossible to ignore the issue of the National Preventive Mechanism (the NPM). To date, Russia has not ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which entered into force in 2006, providing for the creation of the relevant NPM.

Meanwhile, in recent years, this issue has been periodically raised by the Russian Ombudsperson, Tatyana Moskalkova. She voiced a proposal to create an NPM based on the “Ombudsman+” model, when monitoring of human rights in places of forced detention is carried out not only by the Ombudsperson, but also by the representatives of civil society who have received a corresponding mandate from the Ombudsperson.

However, while maintaining the current paradigm of the State’s attitude towards the institutions of civil society and means of public control, the effectiveness of any model of the National Preventive Mechanism seems problematic.

In any case, the ratification of the Optional Protocol in the near future seems quite unlikely, given the present situation.

10. Against the backdrop of the lack of effective means of state supervision and public control, the problem of access of attorneys to places of detention has a special significance. Back in 2019, the Federal Chamber of Advocates conducted a study in which 30% of the attorneys surveyed stated that they had encountered problems with access to their clients in pre-trial detention centers¹⁴.

Over time, the relevance of the problem did not disappear¹⁵, but the problem of banning attorneys on entry to police stations was added to it. This issue became especially acute at the beginning of 2021, when participants of mass protests were being arrested all over the country¹⁶. A number of human rights organizations have launched work on a number of such cases, challenging the attorney's bans on entry before the courts, including the highest courts (the Supreme and Constitutional Courts)¹⁷.

11. Legislative activities in the field of protecting human rights in places of detention deserve particular comment.

Currently, two bills (introduced by various subjects of legislative initiative) that limit the use of pre-trial detention as a preventive measure for individuals accused of committing non-violent crimes are under consideration in the State Duma of the Russian Federation (the lower house of the Russian Parliament). That fact in itself can be considered as a positive moment.

However, it is necessary to pay attention to the fact that some bills that humanize the penal sphere remain in the Parliament without any movement for a long time.

For instance, since 2018, a bill has been under consideration banning the placement of suspects, accused or defendants in protective booths in the courtrooms, as well as the use of other structures that prevent these individuals from communicating with their attorneys; since

¹³ UNHRC, [Report of the Working Group](#), 12 June 2018, UN Doc. A/HRC/39/13, Recommendation 147.133.

¹⁴ <https://advdefence.ilpp.ru/penitentiary#h7>

¹⁵ <https://pravo.ru/story/229060/>

¹⁶ <https://advstreet.ru/news/spch-pozhaluetsya-mvd-na-nedopuski-advokatov/>

¹⁷ <https://advstreet.ru/process/shturm-kreposti/>

2021, there has been a bill introducing the concept of a criminal misdemeanor; since 2022 – a bill granting convicts serving a sentence of one year or more under strict conditions the right to one telephone conversation per year.

12. Based on above, we propose the following recommendations to the Government:

1) To amend Federal Law “On Public Control”¹⁸, introducing transparency in the election of members of the POCs and expanding the mandate of the POCs to cover all places of detention and closed institutions.

2) To ratify the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

3) To ratify the Istanbul Protocol.

4) To adopt a federal law on the non-use of pre-trial detention as a preventive measure for persons accused of committing non-violent crimes.

¹⁸ Federal Law No. 76-FZ of 10 June 2008 “On public control regarding respect for human rights in places of detention and on providing assistance to persons in places of detention”