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# Russian Federation

## Preliminary briefing to the UN Committee against Torture

### Introduction

Amnesty International regularly receives reports of torture or other ill-treatment in places of detention across the Russian Federation. The allegations relate to torture or other ill-treatment in police custody (known by its acronym IVS), pre-trial detention facilities, prison colonies, and the army as well as in ad hoc, unofficial or unacknowledged places of detention, in particular in regions of the North Caucasus.<sup>1</sup>

Reports of conditions of detention in police custody and overcrowded pre-trial detention facilities in some cases amount to cruel, inhuman or degrading treatment. Conditions for prisoners serving life sentences violate the absolute prohibition of torture or other cruel, inhuman or degrading treatment or punishment.

The Russian Federation has made some progress in some areas following the Committee against Torture's (CAT) previous considerations of the Russian Federation's implementation of the Convention Against Torture in 2002. However, unfortunately many of the recommendations by CAT and other human rights bodies have yet to be implemented.

The case examples included in this briefing are largely from the North Caucasus region, and where there is a political context to the case. This is because Amnesty International has undertaken detailed research on these areas since 2002, and has not researched in detail the apparently routine use of torture or other ill-treatment in other cases since 2002.<sup>2</sup>

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<sup>1</sup> Amnesty International also has received reports since 2002 relating to abuses in psychiatric institutions but has not conducted research into this area.

<sup>2</sup> Amnesty International reports on the North Caucasus region since 2002 include *Russian Federation, Chechen Republic: "Normalization" in whose eyes?* (AI Index: EUR 46/027/2004); *Russian Federation: The risk of speaking out. Attacks on Human Rights Defenders in the context of the armed conflict in Chechnya* (AI Index: EUR 46/059/2005); *Russian Federation, Chechnya: Violations continue, no justice in sight* (AI Index: EUR 46/029/2005); *Russian Federation: Briefing – Torture, "disappearances" and alleged unfair trials in Russia's North Caucasus* (AI Index EUR 46/039/2005)

## **Legislative and judicial safeguards against torture in police custody and pre-trial detention centres**

*Articles 2.1, 4, 11*

A new Criminal Procedure Code (CPC) was adopted in December 2001 and parts of it came into force in 2002. The new CPC contains provisions intending to safeguard against torture or other ill-treatment. It is possible that these provisions have been effective in some cases to prevent torture or other ill-treatment. However, Amnesty International is aware of cases where the letter or the spirit of the safeguards have not been followed, and torture or other ill-treatment has taken place.

### **Access to lawyer, family, medical treatment in police custody and pre-trial detention**

Article 16 of the CPC guarantees the right of an individual, suspected of a crime or charged with a crime, to the assistance of a lawyer. Article 49 of the CPC sets out a number of circumstances where the participation of a lawyer is obligatory. These include the moment an individual is detained as a suspect in connection with a criminal case and the moment an individual is charged in connection with a criminal case.

Article 50 of the CPC guarantees the individual, or other persons with the agreement of the individual, the right to choose their lawyer. If the lawyer of choice is unable to meet with the individual within 24 hours of them being detained (as a suspect in a criminal case or having been charged), then the authorities are required to take steps to appoint a lawyer to represent the individual (Article 50.4 of the CPC).

Article 53 provides that from the moment a lawyer is termed a “participant” in the criminal case the detainee has a right to meetings with the lawyer. Article 46.4.3 clarifies that a person who has been detained as a suspect but has not yet been charged has a right to one confidential meeting with their lawyer before the first interrogation session. This first interrogation session must take place within 24 hours of detention (Article 46.2). Once an individual is charged with a crime he or she has the right to unlimited confidential meetings with their lawyer, including prior to the first interrogation session after they have been charged (Article 47.4.9 of the CPC). The lawyer has a right to attend all interrogations and be present at all investigative procedures.

In practice the choice of lawyers for a detainee is limited. It is limited where an individual has limited financial means. It is also limited in cases which are politically sensitive, as often in such cases few local lawyers are willing to take on the case. Moreover, Amnesty International is aware of cases where the family is unaware of where their relative is being detained and is therefore unable to organize an independent defence lawyer on behalf of their relative, their relative in detention not being able to do so themselves.

Amnesty International is concerned that the right to counsel has been interfered with by the procuracy in cases in which lawyers, in the exercise of their function, have filed complaints on behalf of their clients alleging they have been subjected to torture or other ill-treatment. Part 3.2 of Article 56 of the CPC provides that “a lawyer or public defender of a suspect, accused [cannot be questioned as a witness] about circumstances which they learned in connection with a request for legal assistance or in connection with providing legal assistance”. However, in three cases reported to Amnesty International, a lawyer was called to the office of the procurator and questioned about the complaint made on behalf of their client. Following such questioning the procurator exercised their purported powers to remove the lawyer from the case, citing the fact that the lawyer had been questioned as a “witness”.

*In Kabardino-Balkaria in November 2005, three defence lawyers hired by families of young men detained following the raid by armed gunmen on the city of Nalchik in October 2005 were removed from their duties as defence lawyers. Irina Komissarova had been working as defence lawyer for **Rasul Kudaev** (see page 6), Larisa Dorogova had been representing a Mr Khamukov, and Inna Golitsyna had been representing two other men detained in connection with the above crime. The basis for their removal was that, having submitted formal complaints to the authorities on behalf of their clients alleging they were tortured and ill-treated, they were called in and questioned by the procurator’s office about their petitions. The procurator’s office then held that since they had been questioned as “witnesses” in their client’s criminal case they therefore could no longer act as defence lawyers, and ordered that new lawyers should be appointed.<sup>3</sup>*

Article 96 of the CPC states that relatives must be informed within 12 hours of detention of the fact of detention. The provision does not explicitly state that the relatives must be informed also of the whereabouts of the detainee. The article allows for an exception to be made if a procurator sanctions it in the interests of the secrecy of investigation and only in cases where the person detained is 18 years old or more. There is no maximum timeframe given by which relatives in all circumstances must be informed of the fact of detention, which is not in line with the UN Special Rapporteur on torture’s recommendation that in all circumstances, relatives should be informed within 18 hours.<sup>4</sup>

*Former Guantánamo prisoners **Airat Vakhitov** and **Rustam Akhmiarov** were detained in Moscow in August 2005 and transferred to Naberezhnie Chelni, Tatarstan. The two men told Amnesty International that while in detention, they only had contact with state-appointed lawyers, who did not communicate the detainees’ whereabouts to their families until the eve of their release five days later, and that during their time in detention, the authorities in Tatarstan had refused to confirm their whereabouts to their families.*

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<sup>3</sup> Amnesty International has a copy of the procurator’s office decision dated 11 November 2005 to appoint a new lawyer for Rasul Kudaev, citing the decision of 10 November 2005 to remove Irina Komissarova from the case, having been questioned as a “witness”. The decision is signed by an investigator of the investigation group, Main Department, Office of the General Procurator in the Southern Federal District

<sup>4</sup> E/CN.4/2003/68, para. 26, g

In practice, in particular in the North Caucasus but also in other parts of Russia, relatives are not informed of the place of detention of their relative, or their relative is moved between different detention facilities without informing the family.

There is no article in the CPC that guarantees access to a doctor for detainees in police custody. Only when a detainee is transferred to a pre-trial detention centre (SIZO) (usually having been charged) does Russian law provide for a routine medical examination by the duty doctor.<sup>5</sup> Amnesty International is concerned that the provisions for health care are not sufficient in police custody.

*Former Guantánamo prisoner Rasul Kudaev was detained in Nalchik, Kabardino-Balkaria, by law enforcement officers on 23 October 2005, allegedly on suspicion of participation in an armed raid by gunmen on Nalchik on 13 October 2005. The officers detaining Rasul Kudaev reportedly beat him in the presence of members of his family. When his mother protested against the ill-treatment and pointed out that he had serious medical conditions that needed regular medication, the officers allegedly said that the real beating had not even started. His mother attempted to hand the detaining officers his medication, but reportedly they refused to take it.*

*Rasul Kudaev was then said to have been taken to the 6th police station in Nalchik, where the Organized Crime Squad (UBOP) are based, where he was tortured, including by being repeatedly kicked in the head. At 11.20pm on 23 October medical ambulance personnel were summoned to the police station. A certificate from the visit states Rasul Kudaev was agitated, had high blood pressure and multiple bruises.<sup>6</sup> On 24 October, Rasul Kudaev was forced to sign a record of an interrogation at which Irina Komissarova, a state-appointed lawyer assigned to his case, was present. She told Amnesty International that when Rasul Kudaev signed the paper, he was semi-conscious, and so badly injured he was unable to speak properly or lift his head up to look at anyone, since his head was lolling to one side. He was reportedly then transferred to a SIZO in Nalchik.*

*The next day on 25 October 2005 a court in Nalchik ruled that Rasul Kudaev should be further detained on suspicion of “terrorism”, “participation in an armed group”, and “attempt on the life of a law enforcement official” in relation to the Nalchik raids (Article 205 part 3, Article 209 part 2, and Article 317 of the Russian Criminal Code), but without being charged. Under Russian anti-terrorism legislation a person suspected of crimes under these articles can be held for 30 days without charge. According to Irina Komissarova, when she saw her client again on 26 October, at the SIZO, Rasul Kudaev was practically carried in to see her, as he was unable to walk unassisted, had bruises on his face and was unable to sit up straight due to the pain. He had reportedly been further tortured the day before, on 25*

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<sup>5</sup> Decree of the Ministry of Justice from 12 May 2000 Number 148 «Об утверждении правил внутреннего распорядка следственных изоляторов уголовно-исполнительной системы Министерства юстиции Российской Федерации», point 16, cited in the Russian Federation State Report paragraphs 85, 154

<sup>6</sup> Amnesty International has a copy of the ambulance report

October, by being beaten on his lower torso and heels at the SIZO. On 28 October he was further beaten and tortured with electric shocks at what appeared to be an office of a law enforcement agency. Another man who was held at the same SIZO in Nalchik reportedly told Rasul Kudaev's family that Rasul had been given electric shock treatment, beaten, and bound up with tape and kicked around "like a football".

According to Rasul Kudaev's family, officials at the UBOP headquarters and the SIZO have continually refused to give them any information as to Rasul Kudaev's whereabouts and his state of health. His mother also visited the ambulance service for details of his condition and the treatment they reportedly provided him, but was initially told that the information is confidential.<sup>7</sup>

Since his re-arrest and detention on 23 October 2005, it is unclear whether Rasul Kudaev has had any access to the medication he needs. On two occasions only his mother was able to hand over his medication, but she does not know if he eventually received them. In terms of medical treatment, the family only know that the ambulance service attended him on 23 October 2005; and that subsequently Rasul Kudaev seems to have complained of pains in his heart and lower spine area to the doctor of the SIZO, who wrote on 3 November 2005 to say his health was "satisfactory".

On 27 October 2005, lawyer Irina Komissarova requested a full medical examination of Rasul Kudaev. The authorities subsequently agreed to this request, but neither she nor his family know if such an examination has taken place or its results. At the time of writing in March 2006, Rasul Kudaev remains in detention, reportedly currently in a SIZO in Piatigorsk, in neighbouring Stavropol Krai. However, his family and his lawyer do not know if he has been charged with any criminal offence, as they are being denied access to him and to his case file.

Amnesty International is very concerned that in this case, the lack of access to Rasul Kudaev by his lawyer, his family and an independent medical examination meant that he was vulnerable to torture and ill-treatment.

## **Judicial review of arrest**

Article 108 of the new CPC provides that the courts, rather than the procuracy, have the responsibility for determining whether or not a suspect or accused person will be held in detention during a criminal investigation. (Previously, the procuracy was responsible for determining whether a person would be detained pending investigation.) Judicial review of arrest is required by law to take place within 48 hours of the initial detention.

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<sup>7</sup> Amnesty International telephone conversations with the family and with Irina Komissarova, October and December 2005

The Supreme Court issued guidance for judges in 2004 relating to the implementation of some of the provisions of the CPC.<sup>8</sup> The document includes guidance relating to issues of admissibility of evidence (paragraph 2), the role of a defence lawyer (paragraph 3) and pre-trial detention (paragraphs 4-12, 16-17, 31).

Amnesty International has, however, received information suggesting that the way the authorities in some cases are implementing this aspect of the reform denies detainees the full protection intended by the safeguard of judicial supervision of detention.

*In the cases of Airat Vakhitov and Rustam Akhmiarov (see page 5), court hearings to rule on the legality of continued detention were held in the absence of the detainees, in violation of Article 108.5 of the CPC. The two men told Amnesty International they were simply handed a copy of the court decision approving their continued detention.*

## Unofficial places of detention in the North Caucasus

The law requiring a person be brought before a court within 48 hours of detention and be questioned as a suspect with the participation of a lawyer of their choice is routinely violated in the North Caucasus. Such safeguards are incapable of being an effective protection against torture or other ill-treatment in cases where the detainees are held in an unofficial or unlawful place of detention, or their detention is completely unacknowledged. In the context of the ongoing second armed conflict in Chechnya, Amnesty International has spoken to numerous men and women from the Chechen Republic during field visits in 2001, 2004 and 2005 who have reported experiencing torture and ill-treatment in different unofficial places of detention, where judicial oversight of their detention and other safeguards were absent.

This practice of arbitrary detention is closely connected with the serious and ongoing problem of “disappearances” and abductions in the region. Thousands of Chechens are believed to have been “disappeared”<sup>9</sup> since the outbreak of the second conflict in the autumn of 1999. Many were taken away from their homes during so-called “zachistki” (military raids), allegedly conducted to check the identity documents of people in a village or district, during which whole villages were surrounded for days at a time and Russian troops, sometimes accompanied by Chechen security forces, went from house to house, conducting searches and checking identity documents.

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<sup>8</sup> Determination of the Plenary of the Supreme Court of the Russian Federation No. 1 from 5 March 2004 (Постановление Пленума Верховного Суда Российской Федерации No. 1 от 5 марта 2004 г.), available at [http://www.supcourt.ru/print\\_page.php?id=1456](http://www.supcourt.ru/print_page.php?id=1456)

<sup>9</sup> Amnesty International uses the term “disappearance” when there are reasonable grounds to believe that a person has been taken into custody by state agents, yet the authorities deny the victim is held, thus concealing the victim’s whereabouts and fate and placing the victim outside the protection of the law. The word is placed in inverted commas by Amnesty International to indicate that it does not accept official explanations that these people have simply vanished. Amnesty International only uses the term “disappearance” for cases which fit this definition and involve state agents. When people have been taken away by armed groups not affiliated with the government, or when it is unclear whether state agents were the perpetrators, Amnesty International terms this an abduction.

The Russian non-governmental organization (NGO) Memorial has estimated that between 3,000 and 5,000 people have gone missing in the Chechen Republic following what they term as abductions, arbitrary arrests and detentions since 1999 when the second Chechen conflict began.<sup>10</sup> Memorial emphasizes that their statistics are based on research conducted in about one-third of the territory of the Chechen Republic, and therefore may not represent the full extent of the violations. Moreover the pervading atmosphere of fear in the region, leading to many people being reluctant to come forward, the preference in many cases of relatives to attempt to secure the safe return of their relatives through unofficial channels and the extremely dangerous conditions for independent monitors such as journalists and human rights defenders attempting to research the situation, means that there is an underreporting of cases of “disappearance”. Officials in Chechnya give the figure of those missing (including “disappeared” and abducted) since the second armed conflict as over 2000.<sup>11</sup>

There continue to be regular reports about targeted operations in Chechnya, which mostly take place at night, usually by armed men, in camouflage and often masked, who often arrive in a large number of military vehicles whose identification plates are covered, and in which one or more people are taken away in an unknown direction. In some cases the individuals are released within a few days, in other cases they remain missing, and in some cases their bodies are found bearing signs of a violent death.

It can be difficult to attribute responsibility for these abductions. The language that the armed men speak – Russian, Chechen, Ingush – the type of vehicles used, and if unmasked, their appearance, are often the few indications of their identity. The procuracy open criminal investigations under Article 126 of the Criminal Code (“abduction”) but almost always the investigations fail to identify those individuals responsible.

Nevertheless in very many cases, circumstances indicate that Russian federal forces or Chechen security forces were responsible for the “disappearance”, and there have been a number of statements attributed to officials that confirm this.

In an interview with the Russian newspaper *Izvestia* on 28 March 2003 an unnamed officer, working for the department of military intelligence of the Ministry of Defence, admitted that the Russian federal forces had turned to such methods in order to avoid control by the procuracy. While claiming that these raids in the night are necessary tools in the armed conflict which Russia describes as “war against terror”, he admitted: “sometimes innocent people end up in this.... And when we find out the truth, it turns out it is too late to correct something, the person is already gone.”<sup>12</sup> Russian federal forces include the Vostok (East) and Zapad (“West”) battalions, which are part of the Russian federal Ministry of Defence’s 42<sup>nd</sup> Motorized Infantry Division, and are permanently deployed in Chechnya. Their members,

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<sup>10</sup> Memorial, *Чечня, 2004 год. Похищения и исчезновения людей*, 7 February 2005, at <http://www.memo.ru/hotpoints/caucas1index.htm>

<sup>11</sup> Dukvakha Abdurakhimov, Chair of the Chechen parliament’s commission on “disappearances”, abductions and missing persons, quoted in *Gazeta.ru* on 24 January 2006

<sup>12</sup> <http://www.izvestia.ru/politic/article31814>, also quoted in Amnesty International, *Russian Federation: Chechen Republic “Normalization” in whose eyes?* (AI Index: EUR 46/027/2004)

who are ethnic Chechens, are alleged to be responsible for serious human rights violations, including “disappearances”.

On 6 May 2005, the Chechen President, Alu Alkhanov, was reported to have stated that in some cases, people that had been reported as missing had in fact been held as suspects in criminal inquiries by a certain sub-unit of the security forces, although he did not clarify who had carried out the detentions in these cases. He reportedly presented this as an explanation for confusion over whether someone was missing or not. President Alkhanov is said to have stated that “the percentage of people who are detained by federal forces for committing terrorist acts or other grave crimes and who later go missing, has also decreased today several times... the number of such incidents among missing people in general is about 5 to 10 per cent”.<sup>13</sup>

Increasingly Chechen security forces have also been implicated in “disappearances”. Some of the “disappearances” by Chechen security forces are alleged to have been carried out by the so-called *Kadyrovtsy*, who are effectively under the command of Ramzan Kadyrov, the Prime Minister of Chechnya. Amnesty International is aware of allegations that many of the men working in the security forces under the control of Ramzan Kadyrov were previously members of armed opposition groups, and that many were allegedly forced to join or face criminal charges. Amnesty International is also aware of allegations that members of security forces under the control of Ramzan Kadyrov have been drawn from criminal groups. The so-called “oil regiment”, a Chechen security force, formerly part of the Security Service of the President of the Chechen Republic, and headed by Adam Delimkhanov, has also reportedly been implicated in “disappearances”.

Presidential Advisor Aslanbek Aslakhonov is reported to have stated on *Ekho Moskvy* radio in April 2005 that he did not rule out the involvement of the *Kadyrovtsy* or of the federal forces in “disappearances”.<sup>14</sup> The head of the Russian forces' general staff in the North Caucasus, General Arkady Edelev, is reported to have admitted in February 2005 official involvement in “disappearances”. *AFP* quoted him as stating “members of the Russian forces and of the (pro-Russian Chechen) law enforcement agencies (to which Kadyrov's militia belongs) have unfortunately taken part” in “disappearances” of civilians.<sup>15</sup>

## **Torture and other ill-treatment of women in unofficial places of detention**

In March and June 2004 Amnesty International interviewed several women who had been detained by members of the Russian federal forces as well as by the so-called *Kadyrovtsy*. For the safety of these women and their relatives it is not possible to publish their names or the

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<sup>13</sup> Reuters, *Russian troops carry out 10 pct of Chechen kidnaps*, 6 May 2005 and Interfax, *Twenty-three missing in Chechnya since start of year – president*, 6 May 2005

<sup>14</sup> *Ekho Moskvy*, *К похищениям людей в Чечне могут быть причастны не только боевики...*, 4 April 2005, <http://www.echo.msk.ru/news/240917.html>

<sup>15</sup> *AFP*, *Family accuses Russia of backing kidnap of Chechen rebel leader's siblings*, 7 February 2005

exact place where they were kept, but Amnesty International found their accounts of the torture, including rape, to which they had been subjected, to be credible and consistent.

“Luisa”(not her real name), who was detained in June 2003 by Russian forces, told Amnesty International’s delegates in March 2004 how during interrogations she was routinely subjected to torture, including by electric shocks, when electric wires were connected to the straps of her bra on her chest; she was stripped naked on more than one occasion by a group of officers in masks, who handcuffed her to a chair or sometimes to a bed, while lying face down, and raped her by inserting a bottle in her anus.

“Aset”, a widow and a mother of four children, was detained for six days in June 2003 by Russian federal forces at an army checkpoint in Chechnya. “Aset”’s husband, who was a construction worker and did not take part in military activities during the current conflict, was reportedly killed by Russian forces at their home in April 2003. In June 2003 two officers of the Russian security forces detained “Aset” for questioning, promising her children that they would bring her home by the evening. She returned after six days with the help of well-connected relatives. According to her close relatives, “Aset” had severe bruises all over her body, including cigarette burns. She alleged that she was chained to a bed for six days in a Russian army tent and given only water and no food. The soldiers reportedly did not allow her to use the toilet for six days.

Amnesty International’s delegates spoke to a close relative of “Aset”, to whom she had given the following account of her torture: While in detention, every night, “Aset” was repeatedly gang-raped by five to seven Russian officers who took turns. During the day she was interrogated about plans to become a suicide bomber. She was also burned with cigarettes on her breasts, buttocks and back. “Aset” was also beaten all over her body with batons and machinegun butts. Upon her release, “Aset” was told that her four children would be killed if she told anybody about her treatment. Her physical condition was critical and she could not walk or stand on her feet, but out of fear of reprisals, she did not visit a hospital and spent about two weeks in bed at home. According to her close relatives, “Aset” needed an operation on her reproductive organs. As a result of the rape she suffered severe internal bruises and injuries. Two years ago “Aset” managed to leave Chechnya in search of safety for herself and her children.

In the first half of 2004, “Madina” (not her real name), a 23-year-old mother was detained by Russian federal forces in Ingushetia. “Madina” was blindfolded and allegedly taken to the Russian military base in Khankala, where she was kept for two weeks and routinely tortured, including with electric shocks every day. The electric wires were connected to the straps of her bra on her chest. According to “Madina” she was kept detained in a wagon, but she could hear the screams of many more men and women who were apparently kept in different wagons on the premises of the military base and were also subjected to torture.

“Madina” told Amnesty International: “At some point there were eight of them in camouflage uniforms. And straight away swearing, no explanation. They stretched me on the bed. My hands were swollen. I was asking ‘Where am I?’ but they would shut my mouth...

They said: ‘you are disappeared, you don’t exist and time for you has stopped.’ Time was passing by: one day, two, three... I wanted to know where I am: because I carry on living, breathing... They warned me on the first day that I will be begging to be dead. But at that time (in the beginning) I really wanted to live because I have my baby, my mother, who is ill... I could not imagine that I would ask them for death... But on that day...exhausted, tired, breathless I started to ask them to shoot me.” According to “Madina”, the soldiers told her that they would not kill her quickly.

“Madina” stated that she was stripped naked and sexually abused on several occasions by a group of officers, who forced her to assume sexually explicit positions, while fondling her body and abusing her and threatening to rape her. “Madina” was also allegedly subjected to the so-called “elephant torture”, where a gas mask is placed on the head of the detainee and the supply of oxygen is cut off. “Madina” told Amnesty International delegates in June 2004 that after they placed the gas mask on her head she was also beaten by a group of officers all over her body. “Madina” said that sometimes she was also handcuffed to the bed, while being beaten up. “Madina” was released after two weeks and was told that they had made a mistake, but if she spoke about her ordeal she would be killed.

## **ORB-2**

ORB-2, in Grozny, is run by the Operative and Search Bureau under the Russian Ministry of Interior, which primarily deals with organized crime. During the second Chechen conflict it has been used as a detention centre, although it was not initially officially acknowledged or registered as such. It has become one of the most notorious alleged “torture centres” in the Chechen Republic. It was visited in 2002 and in 2003 by the European Committee for Prevention of Torture (CPT) and mentioned as an establishment which “stands out in terms of the frequency and gravity of the alleged ill-treatment”.<sup>16</sup> An MVD order in November 2004 purported to legalize ORB-2 as a temporary holding cell (IVS). However, there are continuous reports of torture and other ill-treatment at ORB-2.

When the CPT made its unprecedented second public statement in July 2003<sup>17</sup>, concerning human rights abuses in the Chechen Republic, it paid particular attention to conditions in this facility and expressed its deep concern about the fate of persons taken into custody at the ORB-2. The CPT noted that the detainees “were extremely reluctant to speak to the delegation and appeared to be terrified” and that there was “every reason to believe that they had been expressly warned to keep silent”. The CPT recommended to the authorities to initiate a thorough and independent inquiry into the methods used by ORB-2 when

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<sup>16</sup> CPT/Inf (2003) 33, 10 July 2003: Public statement concerning the Chechen Republic of the Russian Federation.

<sup>17</sup> The first statement was made in July 2001, see: CPT/Inf (2001) 15, 10 July 2001: Public statement concerning the Chechen Republic of the Russian Federation

questioning prisoners and repeated its call upon the Russian authorities to “put a stop to ill-treatment” at this facility.<sup>18</sup>

*Amnesty International received reports that Akhmed Gisaev was kept in ORB-2 for several days in late 2003 before being transferred to the headquarters of the Russian federal forces in Khankala. Akhmed Gisaev gave the following account of his torture to Amnesty International and the human rights organization Memorial: He was detained on 23 October 2003 and taken to ORB-2. Although he was blindfolded with a shirt he noticed that he was taken to a small room on the third floor of a building where he was kept for approximately three days. The window in that room was covered with paper, so that he could not look outside. When left alone, he managed to remove the blindfold and saw that there were spots on the walls which he believed to be blood. He told Amnesty International that he was questioned about his affiliation with Chechen opposition fighters and why he had worked for the police under Chechen President Maskhadov. He stated that during the questioning he was kicked, beaten with batons and fists, burned with cigarettes and subjected to electroshock torture on his right hand and foot.*

*Before the perpetrators left the room he was fixed to a water pipe in the room. Akhmed Gisaev reported that some time later that day five or six men came into the room, blindfolded him with a plastic bag and put tape over his mouth. He was placed in the middle of the room while the men beat him from all sides and cursed at him. Akhmed Gisaev reported that one man stood on his back, while others fixed a cable to his feet and to his handcuffs. He was told that if he admitted to being a member of a group of Chechen fighters, he may survive, otherwise he would die. After about three days he was transferred to another facility, which he believed to be the headquarters of the Russian federal forces in Khankala, where he was kept in a basement and was again beaten, tortured with electric shocks, deprived of food and sleep, verbally abused and made to drink alcohol, which is against his religious belief as a Muslim. The room in Khankala was damp and inhabited by rats. Here again he saw marks on the walls, which he thought was blood. After 11 days in the basement he was transferred to another cell, where he was given food and water. He was released after his family paid a ransom. Akhmed Gisaev reported that his health seriously deteriorated during the 20 days in detention in ORB-2 and Khankala. For a few days after his release he reportedly could not walk on his own. He reportedly suffered from serious headaches, insomnia and pain in his chest when breathing.*

The effectiveness of the safeguard of being brought before a judge, providing not only review of the legality of arrest but also an opportunity for the detainee to complain about any ill-treatment, is also weakened should the detainee fear further torture or ill-treatment as reprisal for such a complaint. This, given the legacy of the lack of independence of government-appointed lawyers, can particularly be the case when, during this initial court hearing, the individual is represented by a government-appointed lawyer, rather than a lawyer hired by the family. It is often only when detainees have been formally charged and they are

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<sup>18</sup> The Russian Federation is the only Council of Europe member state not to regularly authorize the publication of the CPT reports. To date, all but one of a total of 13 reports of the CPT’s visits remain confidential.

transferred to a SIZO that families are able to arrange an independent lawyer, and detainees are prepared to make statements that they have been tortured or otherwise ill-treated. Detainees can be legally held for up to 10 days without charge in temporary detention centres under the jurisdiction of the IVS before being transferred to a SIZO; although under “terrorism”-related legislation detainees can be held for 30 days without charge, by law they can only be held for 10 of those 30 days in IVS and must be thereafter transferred to a SIZO.

In practice, while being held in SIZO individuals can be transferred to other places of detention, where they face ill-treatment, without the authorities informing their defence lawyers or their relatives of their transfer.

*Isa Gamaev* was detained on 10 December 2005 in the city of Nalchik, in the North Caucasus Republic of Kabardino-Balkaria, in connection with allegations that he was involved in the conflict in neighbouring Chechnya. In a statement made to the Russian human rights organization Memorial, Isa Gamaev said that he spent three days in detention in Nalchik and was transferred from there to Khankala, the headquarters of Russian armed and security forces in the North Caucasus, where he remained for about 10 days. From there he was transferred to another place of detention. He claims that he was tortured in all these places, including with electric shock treatment. While reportedly under duress, he made a statement to the security forces personnel about his alleged participation in armed opposition groups, naming Mekhti Mukhaev as a member of an armed group. According to Memorial, he was not brought before a court during the first 15 days of detention. In late December or early January Isa Gamaev was reportedly transferred to the Interior Ministry's Operative and Search Bureau, known as ORB-2, in the Chechen capital of Grozny, and from there to the pre-trial detention centre (SIZO 1) in Grozny, where he was able to send a letter to Memorial about the torture to which he had been subjected in detention.

*Mekhti Mukhaev*, a widower and father of five from the Itum-Kali region of the Chechen Republic, was reportedly arrested on 30 December 2005 while visiting his cousin in the town of Gikalo, near Grozny. At about 1am, a group of men in masks and camouflage uniforms allegedly broke into his cousin's house and took Mekhti Mukhaev first to the Urus-Martan district court, where he was given 15 days' administrative detention for “petty hooliganism”. The factual basis for this charge is not known. He was then taken to the Regional Police Department (ROVD) in the Chechen town of Shatoi, where he was interrogated. During the interrogation, police officers reportedly beat him and threatened to shoot him while showing him pictures of various people whom they wanted him to identify.

After 11 days in detention at the ROVD in Shatoi, Mekhti Mukhaev was transferred to ORB-2 where his interrogation continued. He was reportedly subjected to electric shock treatment, and his arms and legs were bent back into painful positions. He stated he was beaten with truncheons and was threatened that he would “disappear” if he did not confess to being a member of an armed opposition group. He reportedly lost consciousness several times and was later told by other men sharing his cell that he had been unconscious for about a day. Mekhti Mukhaev told his lawyer that after eight or nine days of such treatment he decided to “admit” to having given food and shelter to members of an armed opposition group.

*On 18 January, Mekhti Mukhaev was transferred to SIZO 1. After almost three weeks in incommunicado detention, he was granted access to a lawyer and his relatives learned about his whereabouts. When his relatives visited him, he complained about headaches, pain in his legs, his lungs and his kidneys, which was apparently the result of torture. While detained in the SIZO, Mekhti Mukhaev retracted his confession.*

*On 1 February both Mekhti Mukhaev and Isa Gamaev were returned to ORB-2, where security forces personnel reportedly beat Mekhti Mukhaev with a chair and with their fists, and kicked him, in order to force him to repeat his "confession". Isa Gamaev was apparently not ill-treated in ORB-2. Human rights organizations who had received information about the case telephoned ORB-2, and both men were returned to the SIZO the following day.*

*On 5 or 6 February Isa Gamaev was reportedly again taken to ORB-2, where he was allegedly threatened with rape if he refused to uphold his "confession". Despite Mekhti Mukhaev and Isa Gamaev withdrawing their statements, Mekhti Mukhaev was finally charged on 8 February with banditism (Article 209 of the Russian Criminal Code). Under changes to the CPC brought in under anti-terrorism legislation, a suspect can be held for 30 days without charge if suspected of "terrorism"-related crimes (listed in Article 100.2 of the CPC). Article 209 is one of these crimes.*

## **FSB building in Magas, Ingushetia**

Amnesty International has received reports that individuals are detained in the basement of the Federal Security Services (FSB) building in Magas, Ingushetia.

*Solsbek Islambekovich Gelogaev (born 1980) was detained on 20 August 2004 in Ingushetia by unidentified members of the security forces. He was allegedly taken to a basement which he believes to be the basement of the Federal Security Services (FSB) building in Ingushetia, where he was tortured. Among other things he was allegedly suspended from the ground by handcuffs and beaten with batons and sticks, had water poured over him and was subjected to electric shock treatment. He was threatened with rape and with being killed. Threats were also made towards his family members. The alleged torture was to force Solsbek Gelogaev to confess to having carried out a "terrorist" crime which allegedly he did not commit. Over the period of four days he was reportedly not brought before a judge to approve his continued detention. Reportedly, after these four days of torture, Solsbek Gelogaev agreed to sign all documents he was given, after which his blood-covered clothes were replaced and he was transferred to the Sunzhenskii district police station. There he was reportedly officially registered as having being initially detained on that day on suspicion of "terrorism". On 25 August his uncle found out that Solsbek Gelogaev was being held at the Sunzhenskii district police station. A report of a medical examination on 1 September reportedly recorded that Solsbek Gelogaev had sustained multiple injuries.*

## Other unofficial detention places in Chechnya

Chechen security forces are alleged to operate unofficial detention facilities in Chechnya. Amnesty International spoke to one individual who talked credibly and in detail of being detained in an unofficial place of detention in Chechnya in the first months of 2005; being tied up and kept in a car outside for days and nights, with a dog guarding the outside of the car; for three days being given only tea to drink once, and no food; being beaten and subjected to electric shock treatment and threatened with other forms of torture. Amnesty International spoke to a young woman in September 2005 who said she had been briefly arbitrarily detained by Chechen security forces, allegedly from the so-called oil regiment.<sup>19</sup> She had managed to escape but had feared being raped.

Reportedly, *Kadyrovsti*, members of armed groups under the control of now Prime Minister of Chechnya, Ramzan Kadyrov, operate unofficial detention places including in Tsenteroi and Gudermes.

## “Filtration points”

During the second Chechen armed conflict, Amnesty International received credible and consistent reports of secret, unofficial places of detention, sometimes referred to as “filtration points”, where Chechens detained during raids are held and often tortured. One of the unlawful places of detention, the so-called “filtration camp” at *Chernokozovo*, was registered as an official pre-trial detention centre by July 2003<sup>20</sup> and reportedly since November 2005 contains a strict regime prison colony.<sup>21</sup>

An unpublished directive of the Ministry of Internal Affairs of the Russian Federation (MVD), dating from September 2002 came to light in June 2005 in connection with the Blagoveshchensk investigation (see page 23), which appeared to sanction the detention of people in *ad hoc* detention centres or “filtration points”.<sup>22</sup>

The unpublished directive sets out instructions for action by law enforcement agencies, which, if a genuine document, provides instructions for law enforcement officials for action during vaguely defined “public emergencies” that violate Russian and international law. The directive is entitled “Instructions for planning and preparing the forces and measures

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<sup>19</sup> A Chechen security force, formerly part of the Security Service of the President of the Chechen Republic.

<sup>20</sup> CPT/Inf (2003) 33, 10 July 2003: Public statement concerning the Chechen Republic of the Russian Federation.

<sup>21</sup> *Caucasian Knot*, 25 November 2005, at <http://www.kavkaz-uzel.ru/newstext/news/id/892920.html> accessed on 31 March 2006

<sup>22</sup> «Manual on Planning and Preparation of Manpower and Material of the Internal Affairs Organs and Internal Troops of the MVD of Russia to Actions in Emergency Circumstances», Attachment № 1 to Order of the Ministry of Internal Affairs of the Russian Federation of 10 September 2002 № 870 DSP [for service use]. Amnesty International has a copy of this document

of agencies and internal forces of the Ministry of Internal Affairs for actions in public emergencies.” While the Ministry of Internal Affairs has yet to formally confirm that the Directive is an official document, reportedly there was unofficial confirmation from Ministry officials in June 2005.

The document is problematic in terms of status and content, and appears to violate Russian and international law. Russian legal experts have concluded that the directive has no legal force and actions taken on its basis are invalid. Firstly, the directive has direct implications for the enjoyment of human rights of individuals during policing operations. According to the Russian Constitution, any legal document concerning the rights, freedoms and responsibilities of man and citizen has to be officially published in order to have legal force (Article 15). Secondly the document is also unconstitutional as it effectively limits human rights by using a much broader and vaguer concept of “public emergency” than federal law. Limits on human rights can only be made through federal law (Article 55 of the Constitution).

The directive gives instructions that violate principles of Russian and international law and give rise to serious human rights concerns (including relating to the right to life, prohibition of arbitrary detention, prohibition of torture and ill-treatment, presumption of innocence, and standards relating to the use of force). Of particular concern are provisions relating to “liquidation of bandits at the place where the criminal group has gathered”. These provisions appear to license a series of operational measures which could lead to serious human rights violations, including extra-judicial executions, assault and arbitrary detention in ad hoc temporary detention places, so-called “filtration points”. Filtration points, which have also been used during the armed conflict in Chechnya, are notorious for being places where serious human rights violations such as torture and ill-treatment occur. They are not listed as places of pre-trial detention in primary Russian legislation and therefore appear to be unlawful and unregulated detention facilities.

The Russian Constitution, as well as international human rights standards to which the Russian Federation is a state party, expressly forbid arbitrary detention, torture and ill-treatment, and protect the right to life. Article 20 of the constitution of the Russian Federation states that “Everyone shall have the right to life.” Part 2 of Article 21 states that “[n]o one may be subjected to torture, violence or any other harsh or humiliating treatment or punishment...,” while Article 22 states that “[e]veryone shall have the right to freedom and personal inviolability. Arrest, detention and keeping in custody shall be allowed only by an order of a court of law....” Moreover, Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms states that “Everyone’s right to life shall be protected by law” and lays out strict principles governing the use of force by state agents. Article 3 states: “[n]o one shall be subjected to torture or to inhuman or degrading treatment or punishment,” and Article 5 prohibits arbitrary detention.

Other instructions given in the directive raise questions under international law, including relating to the right to life, prohibition of arbitrary detention, presumption of innocence, and standards relating to the use of force.

## **The new federal law “On counteracting terrorism”**

The new Federal law “On counteracting terrorism”<sup>23</sup> was signed into law on 6 March 2006 and published on 10 March. It replaces the 1998 Russian Federal Law “On the Suppression of Terrorism” in full, apart from the 1998 law’s provisions on compensation.

Some of the criticism by the Committee of Ministers of the Council of Europe of the old terrorism law, specifically relevant to torture, have not been fully met. For example, the new law fails to make explicitly clear the relation of the CPC, with all the safeguards involved, with procedures of a counter-terrorist operation. There are general provisions in the law about upholding rights of the suspect and acting in accordance with Russian law, as in the old law, but the Committee of Ministers felt these provisions were clearly inadequate.<sup>24</sup> There is also no provision making clear the obligation of the authorities to respect and protect human rights in the context of a counter-terrorist operation. This lacuna was also considered to be problematic in the 1998 law.<sup>25</sup>

## **Administrative safeguards against torture in police custody and pre-trial detention centres**

*CAT Articles 2.1, 11*

### **Jurisdiction of places of detention**

On 17 March 2006 the Duma passed in the second reading a law authorizing the transfer of all pre-trial detention centres still under the jurisdiction of the FSB to the Ministry of Justice. Once effected this transfer will be a long-overdue, positive step.

### **Visiting places of detention**

In 1998, Russia ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. In doing so, it committed itself to cooperating with the CPT, including giving it access to any place within its jurisdiction where people are deprived of their liberty. The CPT has since visited Russia on 13 occasions and issued reports and recommendations on each visit to the Russian authorities.

Although Russia has generally permitted the CPT to visit places where people are deprived of their liberty, there have been failures regarding its cooperation with the CPT. In a public statement of 10 July 2001, the CPT complained that Russia had failed to cooperate in

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<sup>23</sup> Federal law No. 35-F3

<sup>24</sup> Supplementary reply from the Committee of Ministers, adopted at the 820th meeting of the Ministers’ Deputies (4 December 2002), 6 December 2002, Doc. 9634, Paragraph 2.9

<sup>25</sup> Supplementary reply from the Committee of Ministers, adopted at the 820th meeting of the Ministers’ Deputies (4 December 2002), 6 December 2002, Doc. 9634, Paragraph 2.7

carrying out a thorough and independent inquiry into events in a detention facility in the Chechen Republic and in taking action to uncover and prosecute cases of ill-treatment of persons deprived of their liberty in the Chechen Republic. Importantly, the CPT noted that Russia had failed to disclose the existence of this detention centre in Chechnya - a clear case of non-cooperation. The CPT said it had received numerous allegations of ill-treatment relating to that detention centre. In another public statement, dated 10 July 2003, the CPT stated that "some steps forward have been made" since 2001 but that nonetheless "in spite of sustained efforts by the CPT over the last two years, the Russian authorities have failed to tackle effectively major problems related to the Committee's mandate."

Russia is the only Council of Europe country not to regularly authorize the publication of the CPT's reports. To date all but one of a total of 13 reports of the CPT's visits remain confidential. While Russia does not have an obligation to request publication of the reports of the CPT's visits, it has become an established practice of parties to the convention to do so. Both the Secretary General of the Council of Europe and the Parliamentary Assembly have repeatedly called on Russia to authorize the publication of the CPT's reports.

Given the ongoing serious problem of torture and ill-treatment in places of detention across the Russian Federation, Amnesty International considers that Russia should make a commitment to fully cooperate with the CPT, take urgent measures to implement its recommendations, and authorize, without further delay, publication of all CPT reports on Russia. Russia should also sign and ratify the Optional Protocol to the CAT.

### **Procurator General's orders for operations in Chechnya**

Procurator General's orders on Chechnya nos 46 and 80 were not enforced following the CAT recommendation - see the statement by the CPT statement on 10 July 2003, paragraph 7. However, since that time, the character of law enforcement operations has changed in Chechnya and many of the arbitrary arrests and violations in detention are attributed by human rights groups to Chechen security forces, in particular those under the control of Prime Minister Ramzan Kadyrov.

*Chechen security forces reportedly conducted a number of raids on the village of Novie Atagi, Chechnya during 2005, during which they checked identity documents and detained men who were then taken to detention facilities where they were tortured and beaten to make them "confess" to crimes they had not committed. There are allegations that security services under the jurisdiction of the then first deputy Prime Minister of Chechnya, Ramzan Kadyrov, were responsible for the raids.*

*One such raid took place after a policeman was reportedly killed in the village on 22 August 2005. On 5 September, security forces conducted a document check in the village. Then, over the course of three nights from 12 to 14 September large numbers of armed men wearing camouflage uniform came to the village and detained at least eight men. According to one media report, the men introduced themselves as being law enforcement officers.*

However, according to relatives, the men did not produce any arrest warrants or any form of identification to indicate which official body they were from.

On 15 September and for several days thereafter, villagers blocked the Kavkaz main road near Novie Atagi demanding to know where those detained had been taken, and for them to be released. During this period, some of the men who had been detained were set free. Allegedly some of them had been severely beaten while in detention, but did not dare to go to a hospital in Chechnya for treatment, travelling instead to neighbouring republics in the North Caucasus.

The picket lasted for several days until it was established that four of the detained men were being held in the police detention facility (IVS) in Shali district police station. One of the four named as Ruslan Khalaev, aged 21, was detained at 3am on 14 September. The three others detained at some point during this period were Shakruddi or Sharudin Khalaev, aged 27, Magomed Elikhanov, aged 20, and Magomed-Emi Aguev, aged 18. A fifth man, Islam Bakalov, was reportedly subsequently also found to have been detained in the IVS. The five men are said to have been charged in connection with the murder of the policeman.

According to reports, at least one of the men remaining in detention, Ruslan Khalaev, has been tortured including by being beaten with batons, having water poured over him and being tortured with electric shocks until he agreed to sign a "confession" of guilt. Witnesses are also said to have seen him being beaten by law enforcement officials who had subsequently accompanied him to the alleged scene of the August murder of the policeman.

## Systematic review

Amnesty International considers that a systematic review is needed of interrogation rules, instructions given to personal conducting interrogations and general custody arrangements in order to prevent torture. Cases cited in the state report where the authorities have taken action in individual cases seem to be about reacting to violations (from the side of the ombudsperson) rather than about any systematic changes which will effectively eliminate the use of torture.

Regrettably, it appears that little action has been taken to address CAT's concerns that the law enforcement promotion system is based on the number of convictions, despite being highlighted by the CAT as particularly problematic as it may lead to the use of torture. Statements last year by the Minister of Internal Affairs, Rashid Nurgaliev, highlighting serious and pervasive problems in the country's police force, point to a need for serious reform.<sup>26</sup>

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<sup>26</sup> *Ekho Moskvyy* radio report, 26 October 2005, Rashid Nurgaliev, Minister of Internal Affairs, reported as saying that evidence in criminal cases is being fabricated across Russia, and characterized the situation at local regional police stations as "catastrophic". <http://www.echo.msk.ru/news/275446.html>.

## **Criminalization of torture**

### *Article 4*

Article 117 of the Russian Criminal Code criminalizes torture (in Russian, *istiazanie*), defined as “the application of physical or psychological suffering by systematic beating or other violent means”. One of the aggravating circumstances is if the torture is carried out with the application of “torture” (in Russian, *pytki*). Torture, or *pytki*, is defined in a comment added to the Criminal Code on 8 December 2003 which states that “torture (*pytki*) in the current article and other articles of this Code is to be understood to mean the application of physical or emotional suffering in order to force [the individual] to give testimony, or to carry out other actions against the will of the individual, and also in order to punish [the individual] or for other purposes.” The maximum punishment under this Article is a prison term of seven years. It appears that Article 117, while containing many of the elements of the definition of torture in CAT Article 1, does not fully reflect the element of the CAT definition regarding the involvement of a public official or other person acting in an official capacity in inflicting, instigating, consenting to or acquiescing in torture.

However, Amnesty International is not aware of cases where state officials have been convicted of torture under Article 117. Instead, Amnesty International is aware of cases in which other articles of the Criminal Code have been used. These include Article 110 (“driving to suicide”), Article 111, part 3 (“intentional infliction of serious harm to health under aggravating circumstances”) and Article 286 Parts 2 and 3 (“exceeding official authority”, by state officials (part 2), and with the use or threat of use of violence, and/or with serious consequences (part 3)).<sup>27</sup>

## **Criminalization of violence and abuse in the domestic sphere**

### *Article 4*

According to official figures published in 2003 – about one woman every hour dies at the hand of her partner or a close relative. However, the Russian authorities have so far implemented only a few of the recommendations of the Committee on the Elimination of Discrimination against Women, related to preventing violence against women in the family, many of which have been reiterated by the Special Rapporteur on Violence Against Women in her report on the Russian Federation, published in advance of the 62<sup>nd</sup> session of the Commission on Human Rights. These recommendations include the adoption of specific legislation so as to ensure perpetrators are held criminally accountable. Attempts which were

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<sup>27</sup> The cases of Alexei Mikheev, Zelimkhan Muralov and police brutality in Blagoveshchensk (see pages 21 and 24 in this report).

made in the 1990s to adopt a law on domestic violence have long been abandoned, allegedly because this would not be in the interest of the Russian people. The Russian authorities should ensure protection by adopting specific legislative and taking other measures on domestic violence, providing for protection of victims, unhindered access to medical, social and legal services and temporary accommodation, and for perpetrators to be held accountable.<sup>28</sup>

## Inadmissibility of “evidence” obtained under torture

### *Article 2.1, 15*

The Supreme Court issued guidance for judges in 2004 relating to the implementation of some of the provisions of the CPC.<sup>29</sup> The guidance includes issues of admissibility of evidence (paragraph 2).

Amnesty International is concerned that people reportedly are being arbitrarily detained and held in incommunicado detention where they are subjected to torture and ill-treatment in order to force them to “confess” to crimes they have reportedly not committed, including “terrorist” crimes. Once individuals have signed a “confession” they are transferred to another detention facility where they have access to a lawyer of their choice and relatives; but the confession is used as “evidence” in court in order to secure a conviction. Amnesty International learned of such cases in Chechnya, as well as in the neighbouring republics of Ingushetia and North Ossetia.

Reportedly Nurdi Nukhazhiev, the Chechen Ombudsperson for Human Rights, stated in February 2006 that the majority of the 12, 000 convicted Chechens in prison in Russia had been falsely accused, and that the majority of the cases should be re-examined.<sup>30</sup>

## Right to investigation and remedy

### *CAT Articles 12, 13*

### **Problems relating to the Procuracy**

In 2005, the European Commission for Democracy Through Law (Venice Commission) issued an opinion concerning the procuracy in Russia in which it expressed concern that the procuracy is too big and powerful, exercises functions that belong to other state institutions, lacks transparency, and is vulnerable to political influence. It concluded that the institution

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<sup>28</sup> For further information, see Amnesty International report *Russian Federation: Nowhere to turn to – violence against women in the family* (AI Index: EUR 46/056/2005)

<sup>29</sup> Determination of the Plenary of the Supreme Court of the Russian Federation No. 1 from 5 March 2004 (Постановление Пленума Верховного Суда Российской Федерации No. 1 от 5 марта 2004 г.), available at [http://www.supcourt.ru/print\\_page.php?id=1456](http://www.supcourt.ru/print_page.php?id=1456)

<sup>30</sup> <http://www.hro.org/editions/demos/2006/03/02.php>

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requires considerable reforms that should redistribute many of its functions to the courts and the institution of the ombudsman.<sup>31</sup>

A large body of research by human rights groups illustrates that the procuracy routinely fails to ensure an effective remedy against violations of a range of rights guaranteed by the constitution and human rights treaties to which Russia is a party. This is true, among others, in cases of torture or other ill-treatment by police, violent hazing in the armed forces, and violations of the rights of civilians by military servicemen in Chechnya. In these cases, the procuracy routinely refuses to examine serious allegations of abuse or conducts lacklustre investigations that do not lead to prosecution of the perpetrators. This has contributed to an overwhelming climate of impunity in Chechnya. While official statistics vary, in December 2005, Lema Khasuev, the then Ombudsperson in the Chechen Republic, stated that there were 2,096 cases of enforced “disappearance” by unidentified security forces in Chechnya. However, Amnesty International is aware of only one conviction in connection with a “disappearance” in Chechnya, that of Sergei Lapin, convicted in March 2005 of torturing **Zelimkhan Murdalov** in detention in Grozny in January 2001; Zelimkhan Murdalov subsequently “disappeared” from the detention facility and his fate remains unknown.

In several rulings against Russia in the past year, the European Court of Human Rights pointed to serious deficiencies in the response of the procuracy to such human rights violations. For example, in the recent judgment *Mikheyev v Russia* the European Court highlighted “very serious shortcomings... especially during the course of the investigation” of the ill-treatment by police of a detainee. In the judgment *Khashiyev and Akayeva v Russia*, the Court stated that it was “struck by a series of serious and unexplained failures to act once the investigation [into the alleged killings of five ethnic Chechens] had commenced.”

*In September 1998 Aleksei Mikheev was detained and tortured by the police in Nizhnii Novgorod in order to make him confess to a crime which had never even happened. In an attempt to escape further torture he jumped out of the window of the police station. As a result of this he broke his spine. Criminal investigations related to the torture and ill-treatment of Aleksei Mikheev were opened and closed more than 20 times. Finally in December 2005 two police officers were found guilty of “exceeding their official authority” in relation to the treatment of Aleksei Mikheev. On 27 January 2006 the European Court on Human Rights published its ruling in this case that the Russian authorities had subjected Aleksei Mikheev to torture and had denied him access to legal remedies, in violation of Articles 3 (prohibition of torture and inhuman or degrading treatment or punishment) and 13 (right to a remedy) of the European Convention on Human Rights.*

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<sup>31</sup> European Commission for Democracy through Law (Venice Commission), *Opinion on the Federal Law on the Prokuratura (Prosecutor’s office) of the Russian Federation*, Adopted by the Commission at its 63rd plenary session (Venice, 10-11 June 2005), Strasbourg, 13 June 2005. CDL-AD(2005)014, Opinion No. 340/2005

The dual role of the procuracy, both responsible for investigation and prosecution of serious crimes, and supervision of the legality of actions of state officials, means that investigations into allegations of torture are often not impartial.

*According to a letter received in 2005 from S.E. Ivko, born 1979, who was detained in October 2001, he was tortured and ill-treated in Saratov's City Department for Internal Affairs and SIZO. He reportedly experienced numerous severe beatings and other torture, to force him to confess to the murder of three individuals. His lawyer reportedly saw the injuries he had sustained during interrogation in October 2001 in Saratov, including a badly bruised torso. S.E. Ivko also had surgery on his foot, after weights had been dropped on his feet during one interrogation. S.E. Ivko was allegedly warned by prisoners in the "press camera"<sup>32</sup> in cell number 3 at the SIZO not to retract his testimony in court; otherwise they would beat him until he was permanently disabled. He also wrote that an official of the SIZO administration who had intercepted a letter of complaint he had written to the General Procurator's office told him that the procurator's office was well aware of the torture and ill-treatment. Therefore, only after conviction, in March 2005 he submitted a complaint to the Office of the General Procurator, asking for an investigation to be carried out into the torture and ill-treatment by a procurator's office other than the office of the Saratov regional procurator. However in April he received a reply from the Office of the General Procurator dated 30 March 2005 stating that his complaint had been sent to the office of the Saratov regional procurator.*

Human rights organizations have begun to appeal to the courts regarding the failures of the procuracy adequately to investigate allegations of arbitrary detention and torture. Sometimes this meets with success; however, such successes do not guarantee that the procuracy will renew their investigation in a more effective way.

*In the case of Solsbek Gelogaev (see page 13), the office of the district procurator issued a decision in December 2004 refusing to open a criminal investigation into the alleged torture by FSB officers. Solsbek Gelogaev and his lawyer appealed this decision to the local district court, which ruled on 22 September 2005 that the decision of the procuracy not to open a criminal investigation had been unlawful. Solsbek Gelogaev was fully acquitted by a jury trial at the Supreme Court of Ingushetia on 20 February 2006.*

## **Retaliation against complainants**

Amnesty International has documented disturbing cases where individuals seeking redress before Russian courts or the European Court of Human Rights have faced retaliation.

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<sup>32</sup> "Press-camera" is a prison cell where a special prisoner (*pressovshchik*) is placed among the other inmates to carry out instructions by the prison officials. It is a method whereby prison officials and guards use some prisoners to control other prisoners. They can freely torture and abuse other prisoners at will with the connivance of prison warders and officials, and carry out the officials' instructions to "deal with" resistant prisoners, which invariably means ill-treating them.

In 2004, prisoners in various regions including Kursk, Ulyanovsk, Smolensk and Mordovia conducted organized protests, including hunger strikes and mass self-harm, against conditions and ill-treatment. Amnesty International has information that prisoners in the Lgov prison colony, Kursk, faced reprisals for their complaints regarding ill-treatment.

*On 27 June 2005, over 500 prisoners reportedly conducted a self-harm protest in a prison colony in Lgov, Kursk region, in protest at conditions of detention and ill-treatment including beatings by the prison guards. Reportedly, at the prison colony a so-called "discipline and order brigade" had been set up under the instructions of the prison administration, made up of prisoners whose role it was to enforce order in the colony through violence. New arrivals at the colony were reportedly subject to severe beatings by guards [and other prisoners – check] to force them to join the "brigade". Reportedly, some of the prisoners who had previously attempted to submit complaints about ill-treatment had been singled out for especially severe beatings with rubber batons and wooden bats and had been placed in the prison colony's punishment cell. When the prisoners' complaints about the beatings were not forwarded by the prison administration to the procuracy reportedly the prisoners used razor blades to slash their arms, stomachs, necks, and swallowed metal items or drove them into their bodies in protest.*

*On 4 July 2005, the prison director and two deputies were reportedly removed from their posts, following an investigation into the events by the Kursk regional procuracy and public outcry. Three hundred prisoners who complained of the beatings were each given status of "witness" in the criminal investigation that was opened into the ill-treatment, rather than being recognized as "victims" under Article 42 of the CPC (only one prisoner was recognized as a victim). Being granted "victim" status is a formal recognition that an individual has suffered physical, financial and/or mental loss as a result of a crime. The CPC sets out the rights a victim is entitled to, which includes compensation. The 300 were then subsequently reassigned to various prison colonies and pre-trial detention centres around the country, purportedly for their protection. However, according to a lawyer for one of the men, their relatives were not informed of the transfer and those moved to pre-trial detention despite having sustained serious injuries were not given medical attention.*

*However, according to their lawyer at least two men who had submitted complaints to the Russian authorities about the ill-treatment, and had submitted an application to the European Court of Human Rights, were reportedly placed in a pre-trial detention facility (SIZO) and subjected to intimidation and the threat of torture with the aim of pressuring them to withdraw their complaints.*

Police operations involving large-scale arbitrary arrests and ill-treatment, including severe beatings, are reported to have taken place in Blagoveshchensk, Bashkortostan in December 2004, and the village of Rozhdestvo, the town of Bezhetsk, both in Tver region, and in Ivanovskii village in Stavropol Territory in the first half of 2005. In the case of Blagoveshchensk, Amnesty International received information about intimidation of victims seeking redress in the Russian courts.

*Hundreds of people were subjected to arbitrary detention, beatings and ill-treatment in the Republic of Bashkortostan over a period of four days, from 10 to 14 December 2004. Special unit police officers (OMON), armed with machine guns and rubber truncheons and wearing masks, reportedly rounded up hundreds of people in the town of Blagoveshchensk and in the surrounding district from cafes, discos, streets, shops, cars and homes, without producing warrants and without proper explanation.<sup>33</sup> One estimate puts the number of people detained and beaten as high as 1000. The operation, which had the stated aim of 'stabilising the operative situation and the implementation of a range of operative-preventative measures for the prevention and halting of crimes and administrative violations on the streets and public places', was sanctioned by the Minister of Internal Affairs of the Republic of Bashkortostan. It appears to have been based on provisions in an unpublished MVD instruction (see above on page 14). OMON officers were accompanied during the operation by police officers from the Blagoveshchensk police department. 347 individuals were officially recognized as "victims" in the case by the procurator's office.*

*However, the official investigations were allegedly obstructed by the local authorities in Bashkortostan. The local district procuracy allegedly refused to organize medical examinations of victims for over two months, and created obstacles for victims who attempted to obtain an independent medical examination in Bashkortostan. There were also allegations of pressure being put on victims to withdraw their complaints. Some were reportedly visited at their home or place of work by unidentified people, who sometimes introduced themselves as members of a local youth organization loyal to the president of the Republic, and who offered inducements or threatened the victims. A local newspaper, Zerkalo, which was instrumental in reporting on the events, was reportedly closed down in May 2005 after the editorial team refused to accept the owner's demands to stop writing about the events. The father of a 16-year-old boy, who is pursuing a claim against the authorities in relation to alleged arbitrary detention and ill-treatment resulting in head injuries of his son, was reportedly fired from his job in June 2005 by the Mayor of Bashkortostan. The lawyer for the family told Amnesty International that the Mayor made it clear that the father was losing his job as a result of the family's efforts to seek redress. A lawyer representing victims of the police brutality told Amnesty International in September 2005 that, despite hundreds of people being victims of the police operation, only around 30 people were, at that time, pursuing their complaints, the majority of victims had withdrawn their complaints, presumably fearing reprisals.*

*By March 2006, only eight police officers, including members of the OMON special police unit, had been charged in connection with the events. One of the eight, a low ranking local police officer, was sentenced to three years' suspended sentence in September 2005 for "exceeding official authority" during the operation. The court case against seven other law enforcement members was ongoing at the time of writing in March 2006.<sup>34</sup> The charges*

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<sup>33</sup> See Amnesty International document Amnesty International, *Concerns in Europe and Central Asia: July - December 2004* (AI Index: EUR 01/002/2005)

<sup>34</sup> The latest court hearing was on 14 March 2006 at which the judge ordered the criminal case to be divided into two, which in her view would help expedite the process which has been subject to delays

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against them are also of “exceeding official authority... with the use of violence or the threat of violence”. The accused remain in their posts without suspension. No charges have yet been brought against the higher-ranking officials responsible for ordering the operation. In particular, the Minister of Internal Affairs of the Republic of Bashkortostan who signed the order for the deployment of the OMON officers, has not been charged and remains in post, despite a finding by the Office of the Republic’s Procurator that he bears legal responsibility for the operation.

In Chechnya, only very few cases of "disappearance", torture and ill-treatment or extrajudicial execution have reached the courts. Therefore many Chechen civilians have decided to turn to the European Court of Human Rights after the Russian judicial system has repeatedly failed to show real commitment to investigate cases thoroughly and to bring to justice those who have committed human rights violations and violations of international humanitarian law in the North Caucasus. However, Amnesty International has received reports of recent incidents of serious reprisals against applicants to the European Court of Human Rights. The reprisals include intimidation, killing and “disappearance”. (Amnesty International has previously documented a pattern of reprisals against applicants to the European Court of Human Rights.<sup>35</sup>) Due to fears for the security of the individuals concerned, the names and other details that would identify those surviving individuals is being kept confidential. Amnesty International has addressed the Russian authorities directly with its concerns in relation to reports of serious pressure, including death threats, being put on the relative of a person who “disappeared” in June 2004 in Ingushetia, in order that they withdraw their application to the European Court of Human Rights. In another case, two relatives of an individual, who was arrested in March 2004 in Chechnya and whose body was found in April 2004, have themselves recently also become the victims of serious human rights violations. The other members of the family are reportedly now so afraid that their lawyers have told Amnesty International that they are currently unwilling for any steps to be taken in response to the reprisals, including publicizing the details of the reprisals which they have suffered.

*Zalina Akhmetovna Medova submitted an application to the European Court of Human Rights following the “disappearance” of her husband, Adam Kazbekovich Medov, in June 2004 in Ingushetia. The Memorial Human Rights Centre has copies of documentation relating to the “disappearance” of Adam Medov that indicates that officers from the Chechen Republic branch of the Federal Security Service (FSB) were involved in the detention.*

*Starting in January 2005, Zalina Medova reportedly received numerous anonymous threats, passed on to her via a relative. The threats reportedly came from someone presenting himself as a former FSB major, who demanded that Zalina Medova withdraw her application to the European Court of Human Rights. The man reportedly stated that due to her application, two FSB generals faced dismissal from their posts. Zalina Medova consistently refused to withdraw her application unless Adam Medov is released. He reportedly threatened serious consequences should Zalina Medova not withdraw the complaint.*

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<sup>35</sup> Amnesty International, *Russian Federation: The Risk of Speaking Out. Attacks on Human Rights Defenders in the context of the armed conflict in Chechnya*, November 2004, (AI Index: EUR 46/059/2004).

*Following repeated threats, including that Zalina Medova's children should be pitied if their mother is killed, Zalina Medova and her two children fled the Russian Federation.*

Even some applicants to the European Court of Human Rights who have left the country are afraid to detail the nature of the threats against them and their families, fearing for their families' safety. One applicant who is now living in a western European country told Amnesty International in June 2005 that representatives from the procurator's office handling the investigation into the killing of her relatives, which was the subject of the application to the European Court of Human Rights, were continuing to visit her relatives' homes looking for her. Prior to her leaving Russia, the procurator and an investigator from the procurator's office had reportedly tried to persuade the individual to withdraw her application to the European Court of Human Rights, telling her that it would be better for her not to pursue the application. Reportedly, the investigator told her that a criminal case of illegal possession of weapons had been prepared against her. The individual had become so afraid of contact with the authorities that she went into hiding, living with friends and relatives and moving from place to place whenever she felt the authorities knew of her whereabouts, until she finally left the country.

### **Efforts to track the missing, "disappeared" and abducted**

The Chechen authorities have recently established a database of missing persons. A commission to address the issue has reportedly been set up under the Chechen presidential administration, with the participation of various law enforcement bodies in the Southern Federal District. Separately, a parliamentary commission has been established for the search for abducted and missing persons. However, it remains to be seen how these different initiatives will work together, and how effective these moves are. Any search for missing persons needs to run in parallel with efforts to identify and record bodies found buried in Chechnya, and to make this information public. The Parliamentary Assembly of the Council of Europe stated in Resolution 1479 (2006): "Moreover, the Russian authorities must take practical steps to address the issue of missing persons and 'disappeared' persons, particularly through introducing effective systems for identification and recording of bodies found and to make this information public".

Efforts by the Russian and Chechen authorities to address the issue of missing, "disappeared" and abducted persons in Chechnya must involve consolidated documenting of individuals who are missing, and careful efforts to identify and record bodies found in Chechnya.

The authorities in Chechnya announced in January 2006 that they had set up a database of missing persons, which contains data on 2548 people who have gone missing since 1991. This is an important first step. However, efforts also need to be focused on identification of bodies buried in different sites across Chechnya. Nurdi Nukhazhiyev, the chairman of the committee for defending Russian citizens' constitutional rights of the Chechen government, reportedly stated in June 2005 that there are 52 registered sites of mass

graves in Chechnya.<sup>36</sup> There are thought to be many other sites where bodies have been secretly buried or dumped.

According to information available to Amnesty International, the forensic facilities and expertise to identify bodies still need improvement. The CPT in their public statement of 10 July 2003 highlighted the shortcomings of the forensic medical services in the Chechen Republic. However, there are other, non-laboratory steps to identify and record bodies found in Chechnya in a systematic way that are also not being done. Amnesty International is also concerned at reports that information relating to discovery and identification of bodies is not being made appropriately available to those individuals searching for their loved ones.

Given the widespread human rights violations in Chechnya, Amnesty International believes that those in charge of the disinternment and investigation of these grave sites must operate with the clear mandate of investigating human rights violations, including “disappearances”, torture and extra-judicial executions, that have taken place during the two Chechen conflicts. The disinternment and investigation must be carried out fully and impartially, and in line with UN guidelines on the disinternment and analysis of skeletal remains, as set out in the Minnesota Protocol.

## Universal Jurisdiction

### *Article 5 -9*

Russia signed the Rome Statute of the International Criminal Court but has yet to ratify the statute.

## Prevention and investigation of other cruel, inhuman or degrading treatment

### *Article 16*

During the period under review, conditions in police custody and pre-trial detention centres were sometimes so poor as to amount to cruel, inhuman and degrading treatment. Amnesty International also received reports of inadequate health care provision in pre-trial detention centres and prison colonies, and was concerned about the conditions in which prisoners serving life sentences were detained.

## Conditions in police custody

*Mikhail Trepashkin* was arrested on 23 October 2003 and held in custody at the temporary detention facility at the IVS in Dmitrov for almost two weeks. After that, he was transferred

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<sup>36</sup> *Interfax*, Fifty-two mass graves registered in Chechnya, 15 June 2005

to a SIZO in the town of Volokolamsk, Moscow region. This is how he described the conditions in his two square metre cell at the IVS in Dmitrov:

*“They brought me into a cell with a dirty wooden floor (puddles of black, liquid dirt), I could not step anywhere. There were lice and bugs and it was terribly cold. I wasn’t given a mattress or a chair or even a piece of paper. The wooden floor on which I was to rest was covered in the blood of crushed bugs and excrement. In the cell there was no chair or anywhere else to sit.... Cigarette stubs, matches and chewing gum was stuck all over the concrete walls ... The walls were also covered in spider webs from which rubbish and dead bugs fell on my head constantly. Due to the cold I stood up for 2 days and could not sleep. After that I lay down in a corner, which I had cleaned with my clothes and dozed off. After 30 minutes I woke up because bugs, lice and other creatures were crawling all over my body. They went literally everywhere. During the whole time I was not allowed to take a walk. The window was closed and I completely lost my sense of time... One can only wash oneself in the lavatory pan as there is no wash-basin...”*

Mikhail Trepashkin’s statement above, supported by further information Amnesty International has received on conditions in detention in police custody in many places amounts to cruel, inhuman and degrading treatment or punishment. Such conditions are said to have had a detrimental effect on the health of Mikhail Trepashkin, who alleges that he suffered from chest pains and poor vision due to lack of natural light. Mikhail Trepashkin also claims that the Deputy Head of the temporary detention facility at Dmitrov IVS informed him that the facility had been subjected to an inspection because of his complaint to the ECHR. The official also reportedly indicated that the details of his complaint would be denied by the IVS staff.

## **Conditions in pre-trial detention centres**

The new CPC places more emphasis than the old code on alternatives to pre-trial detention, such as bail or release on recognizance. Statistics on the impact of three months of this reform were compiled by the Ministry of Justice and the Procuracy General, and cover the period from 1 July to 30 September 2002. A striking number of people were released from detention after courts decided they had been arrested without sufficient grounds. In the three months, 3,000 detainees were freed straight from the court. According to the Ministry of Justice, this was 1,000 more than were released in the whole of 2001. Law enforcement agents also appear to have arrested and detained fewer people over the three months, possibly because they knew that their actions would face judicial scrutiny. The Procuracy General said that the monthly figure for arrests dropped from 23,000 to 10,000. The number of new criminal cases opened also fell – by 20 per cent compared with the same period in 2001. The introduction of judicial supervision of arrests has had a short-term beneficial impact on average conditions of imprisonment experienced by detainees awaiting trial.

Amnesty International has not conducted detailed research on this aspect of the implementation of the CPC (use of non-custodial measures). However, it is aware of cases since 2002, when CPC provisions came into force where first time offenders who are not

charged with crimes of violence were not granted bail or release on recognizance. For example, in the cases of former YUKOS executives Mikhail Khodorkovskii, Platon Lebedev and Svetlana Bakhmina (See AI Index: EUR 46/020/2005 and EUR 46/012/2005), bail was not granted despite the individuals being charged with offences not involving violence and, to our knowledge, they were first time offenders. Platon Lebedev spent nearly 23 months in pre-trial detention before his conviction in 2005; according to his defence lawyers he suffers from various health conditions, including advanced hepatitis, uncontrolled hypertension, suspected stroke and cardio-vascular disease, leading to loss of eye-sight. Mikhail Khodorkovskii spent over 19 months in pre-trial detention before his conviction. Svetlana Bakhmina, a mother of two young children and reportedly suffering from a heart condition, has been in pre-trial detention on charges of fraud and tax evasion since December 2004. Svetlana Bakhmina had worked as a lawyer for Yukos. At the time of writing in March 2006 the trial into her case was ongoing.

*Amnesty International was concerned about reports of deteriorating health and inadequate medical provision for former Yukos associates **Platon Lebedev** and **Aleksei Pichugin**. According to reports, both men suffered a serious deterioration of their health following their arrests in mid-2003. Aleksei Pichugin reportedly lost some 25-30 kg in weight since his arrest in July 2003 up to April 2004. Platon Lebedev's health problems prior to detention included hypertension and liver disease. During detention, his health reportedly significantly worsened, with progressing liver disease and worsening hypertension, resulting in a severe deterioration in his eyesight, possible cardiac problems and other symptoms. According to Platon Lebedev's lawyers, during a court hearing on 26 December 2003, an emergency medical team was called to the court room to attend to Platon Lebedev, and he reportedly collapsed during a court hearing in early 2004.*

*According to information received by Amnesty International in 2004 both Platon Lebedev and Aleksei Pichugin repeatedly requested that they be allowed an independent medical examination due to their declining health but were refused. A Gazeta.ru report on 19 August 2005 stated that the administration of the Moscow pre-trial detention centre where Platon Lebedev awaited his appeal refused, for several months, to allow him to receive parcels of medicines, insisting that he undergo a medical examination by doctors appointed by the detention centre's administration. According to another media report, Platon Lebedev's defence lawyers said that his health seriously deteriorated, but despite this, he was moved from the hospital wing to a normal cell in the detention centre with nine other inmates. In August 2005 following conviction and while awaiting transfer to prison colony, he was moved to a punishment cell for a week at the pre-trial detention centre. In the punishment cell he reportedly was not able to observe the special diet necessary for his medical condition, including adequate supplies of mineral water.*

***Mikhail Trepashkin** may have been denied access to medical treatment whilst detained in Volokalamsk pre-trial detention centre. Mikhail Trepashkin suffers from a moderately severe form of asthma, and despite speaking with a doctor once on his arrival at the pre-trial detention centre, he claims that he was not once examined by a doctor – in spite of repeated requests. In December 2003, Mikhail Trepashkin was transferred to the*

*Matrosskaia Tishina pre-trial detention centre in Moscow. According to Mikhail Trepashkin, he was forced to share a bed with other detainees, necessitating sleeping in shifts; share a cell with heavy smokers, which has adversely affected his asthma, and was also denied access to adequate washing facilities for a month. Mikhail Trepashkin filed a complaint concerning the conditions of his detention with the pre-trial detention centre authorities. According to Mikhail Trepashkin, he was summoned to a meeting with the Deputy Head of Matrosskaia Tishina pre-trial detention centre on 24 December 2003, who threatened him with severe forms of detention, such as confinement in a punishment cell, if he continued to complain about the conditions of his detention. According to information received by Amnesty International, Mikhail Trepashkin was summoned to a meeting with the Head of Matrosskaia Tishia pre-trial detention centre on 30 December 2003 and was told that he would be transferred to a different cell with his own bed and shower facilities, provided he withdrew his complaint to the prison authorities about his conditions of detention. Mikhail Trepashkin agreed to withdraw his complaint and was indeed transferred to a different shared cell, where he described his health as having improved.*

### **Conditions of detention for detainees being transported to and from court hearings**

Mikhail Trepashkin provided Amnesty International with a description of the conditions he was subjected to when being transported to and from court buildings from the pre-trial detention centre. The cramped and unsanitary conditions and the extremely long days could amount to cruel, inhuman and degrading treatment and an interference with the detainee's right to a fair trial.

*According to **Mikhail Trepashkin**, he was transported on numerous occasions to and from court in cramped, overcrowded and unheated convoy vehicles, and held in such convoy vehicles for hours on end. Allegedly, detainees suffering from tuberculosis - including highly active forms of the illness - were not separated from non-infected detainees. In December 2003 alone, Mikhail Trepashkin reportedly attended 15 court hearings. During this period he alleges only being returned to Matrosskaia Tishina SIZO after 11pm, and sometimes as late 1am, after being unnecessarily held in overcrowded, unhygienic and unheated prison convoy vehicles for hours after the conclusion of court hearings. The prison regulation deadline for return of detainees to their place of detention is 10pm.*

*“By night the cars were literally stuffed with frozen detainees and only then were the detainees taken to their respective detention facilities...TB patients were coughing right into your face because they were unable to either cover their mouths or turn away.”*

*Mikhail Trepashkin was reportedly forced to get up at 5am to attend court hearings. The aforementioned routine - compounded by the fact that he allegedly had to sleep in shifts with other detainees - may have clearly prevented him from obtaining an adequate amount of sleep, and therefore may have hampered his ability to defend himself in court.*

*On one particular occasion on 26 December 2003, Mikhail Trepashkin describes sharing a "stakan" (one-person cubicle) with a mentally-ill detainee for four hours, in conditions that were so cramped that he was forced to balance on one leg in a slightly bent-over position. Having repeatedly asked the convoy officers to release him from the "stakan", he alleges he was beaten once around the head and chest by three convoy officers. Reportedly, on the same day a detainee of Central Asian origin was also severely beaten by some convoy officers. Mikhail Trepashkin has stated that several fellow detainees are willing to support his allegations of cruel, inhuman and degrading treatment or punishment, and reportedly has several witness statements.*

### **Conditions in prison colonies**

*Novaya Gazeta newspaper reported on 17 February 2005 that HIV-positive prisoners in the Riazan prison colony number one were not receiving any treatment for their condition, and had also been beaten by OMON (Interior Ministry riot troops) officers. Five of the prisoners reportedly slashed open their veins as a protest.*

***Mikhail Trepashkin** suffers from bronchial asthma, with asthma attacks on a daily basis, itching dermatosis and has pain in the area of his heart. However, according to him and his lawyers, he has not been provided with adequate medical treatment by the administration of prison colony IK-13 where he was transferred in July 2005. He reportedly developed itching dermatosis when he spent 13 days in the punishment cell (ShIZO) on arrival at the prison colony in July, as part of the routine procedure for intake of new inmates. Conditions in the punishment cell at that time were reportedly extremely poor, with little food, and only one cup of tea per day as drink, forcing him to drink unclean water from the tap in the cell. Mikhail Trepashkin also states that he has increased difficulties breathing and his asthma has become more severe, since his transfer to prison colony IK-13. He suspects the water and air in the prison colony are contaminated by heavy metals from the industrial site next door to the colony. Reportedly other prisoners in the colony have also developed skin conditions which Mikhail Trepashkin attributes to the poor quality of the water in the prison colony.*

*Mikhail Trepashkin has faced restrictions on his right to leave the prison colony to seek medical attention, despite being held in an open colony, which means that prisoners should be allowed to leave the confines of the colony to purchase food, medicine and other items in the nearby town. In particular from 21 September until 20 October 2005 Mikhail Trepashkin reportedly was refused permission to leave the colony in order to have a medical examination and purchase medicine. Only on 20 October was Mikhail Trepashkin finally allowed to leave prison colony IK-13, and was seen by a doctor in Nizhnii Tagil. The doctor diagnosed Mikhail Trepashkin as suffering from a moderate form of bronchial asthma with periods of increased severity as well as itching dermatosis. The doctor recommended for him to be admitted to a hospital for constant monitoring and treatment. However, instead, prison colony guards accompanied him once to a chemist in the town to buy medicine. Reportedly,*

*this treatment was inadequate but Mikhail Trepashkin has not been permitted to purchase more medicine and has not received any further medical care.*

## **Punishment cells in prison colonies**

*According to information received by Amnesty International, on 17 January 2006 **Mikhail Trepashkin** was placed in a punishment cell for three days, allegedly for having raised his voice at the prison doctor. Mikhail Trepashkin had asked the doctor to provide him with adequate medication. The punishment cell, according to Mikhail Trepashkin's lawyer, was in a new building which was not adequately heated. Therefore conditions in the punishment cell were very cold, reportedly well below the 16 degrees minimum prescribed by Russian regulations, as there were sub-zero temperatures outside at the time, as low as minus 35 degrees centigrade. On 31 January Mikhail Trepashkin was again placed in a punishment cell for five days, for being an "inveterate violator" of the prison regime. He had allegedly sworn at a representative of the office of the procurator on 26 January. Reportedly he was placed in a punishment cell a third time on 17 February for three days, allegedly for having sent letters containing complaints about his treatment out of the prison colony without going via the prison administration. Such treatment would appear to put Mikhail Trepashkin in danger of suffering from hypothermia which can have serious adverse effects and can lead to breathing difficulties in persons with asthma. The organization is concerned therefore that placing Mikhail Trepashkin in such conditions appears to be in direct contradiction of the prison administration's duty of care towards Mikhail Trepashkin by endangering his health. Amnesty International is particularly concerned at allegations that the prison administration is using the punishment cell as part of a wider effort to intimidate Mikhail Trepashkin into withdrawing his complaints against the Russian authorities relating to his criminal conviction and his treatment while a prisoner.*

*Reportedly **Mikhail Khodorkovskii**, imprisoned in prison colony IK-10 in Chita region, was placed in a punishment cell (ShIZO) on 24 January 2006 for having had in his cell a copy of the Ministry of Justice's rules for prisoner conduct. According to his lawyers this document is not usually considered restricted material. If it is the case that the documents in Mikhail Khodorkovskii's possession related to the rights of prisoners and were not confidential, then the actions of the prison authorities in this case constituted a violation of freedom of expression.*

## **Conditions for life prisoners**

Amnesty International is concerned that conditions for prisoners serving life sentences in the Russian Federation amount to cruel, inhuman or degrading treatment or punishment. Life imprisonment in the Russian Federation constitutes imprisonment for the duration of a prisoner's natural life, and every aspect of their imprisonment has been designed to ensure their isolation from the outside world and other prisoners. Life sentence prisoners serve out their terms of imprisonment on "special regime", which is the harshest category of

imprisonment in the system of corrective labour colonies. Under the 1997 Punishment-Implementation Code, they are housed separately from other “special regime” prisoners, who serve their sentences in barracks.

They are held in cells, either alone or in the company of one other prisoner. They exercise together in a separate enclosed yard outside their cell for 90 minutes each day, and are given work assignments inside a separate workshop. The money they earn on work assignments can be spent each month on items from the prison kiosk. Work is, however, not always available, so prisoners without work have no way of occupying their time and have no self-generated source of income. While life sentence prisoners are entitled to study, they may not take part in education classes with other prisoners, studying instead in their cells on their own.

Prisoners serving life sentences face major difficulties in maintaining contact with their family, especially given the enormous size of the Russian Federation and the severe limitations placed on the frequency and length of visits. Whereas prisoners sentenced to milder regimes are sent to colonies in their home region, this provision does not apply to prisoners on “special regime”, according to Article 73(3) of the Punishment-Implementation Code. Life sentence prisoners are entitled in principle to have a three-hour visit twice a year and to receive one parcel and one small package a year.

The sudden influx of prisoners sentenced to terms on “special regime” since executions stopped in 1996, either sentenced to 25 years or life, put pressure on the places available and prompted the authorities to open new institutions. One is institution OE 265/5, which accommodates 156 people with commuted death sentences, according to statistics provided by the Ministry of Justice to a delegation of State Duma deputies visiting the prison in February 2002. Since the first prisoner arrived in the colony in February 1994, the Ministry in 2002 reported that 32 prisoners had died, four of whom committed suicide. This is a mortality rate of around 20 per cent in eight years.

There appear to be no centralized rules on the day-to-day requirements of prisoners on “special regime”, which allows colony directors too much discretion. Parliamentarians and human rights activists who have visited these colonies describe regimes that are needlessly restrictive in some places and downright humiliating in others. Life sentence prisoners in Perm, Vologda and Mordovia, for instance, are handcuffed each time they are moved from their cell, no matter who the prisoner is or how short the distance. Life sentence prisoners in Mordovia are made to adopt a special walk in front of prison staff, with bowed heads and small steps. The purpose of this treatment is not clear. Amnesty International believes that rules that conform to international standards should be adopted and implemented as soon as possible.<sup>37</sup>

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<sup>37</sup> For further information please see *Rough Justice: The law and human rights in the Russian Federation* (AI Index: EUR 46/054/2003). This report can be found at <http://web.amnesty.org/library/index/engeur460542003>

## Non-refoulement

### *Article 3*

Amnesty International has documented several cases of people forcibly returned to former Republics of the Soviet Union in Central Asia, including to Uzbekistan, where they are at serious risk of being subjected to torture or other ill-treatment.

*In October 2005 police in Tatarstan had tried to pressure **Marcel Isaev**, a student from Uzbekistan, into making a false statement incriminating someone else. After he had refused to do so, the authorities did not renew his visa and he was deported to Uzbekistan, despite the fact that Marcel Isaev's request for political asylum in the Russian Federation was pending.*