



# PRISONER TRANSPORTATION

## IN RUSSIA:

TRAVELLING INTO THE UNKNOWN

AMNESTY  
INTERNATIONAL



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**Cover photo:** View from a compartment on a prisoner transportation carriage.

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# EXECUTIVE SUMMARY

Detainees are at their most vulnerable during transportation, and in many countries the conditions during transportation fall below Council of Europe human rights standards. For instance, the Council of Europe Committee for the Prevention of Torture has found that conditions during prisoner transport fall below Council of Europe standards in France, Hungary, Ireland, Lithuania, Spain, Ukraine, and the United Kingdom.

The problems of prisoner transportation in Russia are therefore not unique, but they are exacerbated by both history and geography. From the Soviet GULAG the Russian Federal Penitentiary Service (FSIN) has inherited a network of penal colonies many of which are located in sparsely populated parts of the country such as the Far North and Far East due to their origins as labour camps for the extraction of raw materials. The practice of sending prisoners into exile in distant parts of the country is a tradition that was established centuries before the Soviet period and has led to a unique penal culture in Russia that combines imprisonment and exile.<sup>1</sup> The size of the country combined with the location of the penal colonies means that prisoners must be transported over great distances to reach the colonies where they are to serve their sentences. They will also need to be transported between colonies, to hospitals for treatment and to and from courts for hearings. Prisoners are transported in specially designed train carriages and prison trucks sometimes spending weeks in transit cells at various stages – or *etap* - on their way to the prison colonies. The prison carriages or “Stolypins” are hitched to passenger trains and will often take circuitous routes. It is common for journeys to last a month or more.

FSIN treats all information about prisoner transportation and their whereabouts with the utmost secrecy. Neither the prisoner, nor their families or lawyers are informed about the end destination before the transfer begins. According to Article 17 of the Criminal Executive Code the Federal Penitentiary Service must inform the family within 10 days of a prisoner’s arrival at their place of punishment. Prisoners are effectively deprived of the possibility of contacting the outside world while they are being transported. They may sometimes manage to use informal channels such as asking a fellow prisoner to call their relatives or they may succeed in sending a letter from a transit cell, but no provisions are made for them to communicate. Lack of information about their whereabouts increases their vulnerability because prison monitoring bodies and lawyers will not be able to locate the prisoners in order to visit them while they are travelling. The fact that the authorities do not disclose where prisoners are for such lengthy periods of time can result in situations that effectively amount to enforced disappearances.

In the case of *Yrusta vs. Argentina* the UN Committee on Enforced Disappearance found that the applicant had been subjected to an enforced disappearance during transfer from one prison to another. The Committee found that he had been placed outside the protection of the law and subjected to an enforced disappearance because a) he was not able to receive visits from anyone, and b) neither he nor his family had access to a court where they could challenge the lawfulness of his situation when he was transferred from the prison where he had been held.<sup>2</sup> In this case the authorities failed to inform the family of his whereabouts for over seven days.

During transportation, prisoners are placed in overcrowded train carriages and trucks in conditions that often amount to cruel, inhuman or degrading treatment. The national standards for the transportation of prisoners

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<sup>1</sup> “*The Topography of Incarceration: The Spatial Continuity of Penalty and the Legacy of the Gulag in Twentieth- and Twenty-First Century Russia*”, Judith Pallot, *Laboritorium* 2015, 7 (1):26-50

<sup>2</sup> See *Yrusta vs Argentina*, UN Committee on Enforced Disappearance, Communication No. 1/2013, para 10.4, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CED/C/10/D/1/2013&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CED/C/10/D/1/2013&Lang=en)

are laid out in internal instructions which are confirmed by a Joint Order of the Ministry of Justice and the Ministry of Interior dated 24 May 2006. According to Point 167 of the instructions, there should not be more than twelve people in a large railway compartment or five people in a small compartment. The large compartments mentioned in the order are the size of a normal compartment that carries four people, and are equipped with only six bunks and one half bunk. The standards therefore allow for there to be twice as many prisoners as sleeping spaces in a train compartment. During transportation, prisoners have limited access to toilets, and during lengthy waits on sidings, no access at all. Prisoners are kept in special transit cells for days or weeks in between train trips, and the conditions are reportedly worse than in normal cells in pre-trial detention which are worse than in correctional colonies and below international standards.

Despite legislation that broadly states that prisoners should serve their sentences close to home to facilitate rehabilitation, most prisoners, in particular, women serve their sentences very far from their home and family. This contributes to the length of the journeys they must take and increases the difficulties for family members to visit them. In 2013, the European Court of Human Rights (ECtHR) ruled that there had been a violation of Article 8 of the European Convention (“Everyone has the right to respect for his private and family life, his home and his correspondence”), because Mikhail Khodorkovsky and Platon Lebedev<sup>3</sup> were sent so far away from their families that it was extremely difficult for their families to visit.<sup>4</sup> In the case of Polyakova and others v. Russia<sup>5</sup> the ECtHR also found a violation of Article 8 because the respondents or their relatives (where the relatives had applied on behalf of the prisoners) had been sent to serve their sentences thousands of kilometres from their homes.

This state of affairs comes to the world’s attention periodically when a well-known figure such as imprisoned oligarch, Mikhail Khodorkovsky, Nadezhda Tolokonnikova of the Pussy Riot group, or imprisoned peaceful protester Ildar Dadin are being transported and effectively “disappear” for weeks at a time. However, such long journeys and the total lack of communication with the outside world is not an exceptional practice meted out as a form of punishment to high profile prisoners, but standard practice within the Russian penal system. There has been investment in the prison system and improvements have been made, but the location of prisons in far flung parts of the country is a structural problem which means that prisoners are subjected to the human rights violations indicated above, the distance impedes visits from their family members and hinders their rehabilitation. It is time for the Russian authorities to remove the last vestiges of the GULAG and bring their prison system in line with international human rights standards.

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<sup>3</sup> Mikhail Khodorkovsky, the former head of Yukos (at the time one of the largest oil companies in Russia) and his business partner Platon Lebedev were initially convicted on charges of fraud and tax evasion in 2005. Mikhail Khodorkovsky was sent to serve his sentence in Krasnokamensk in the Zabaikal area which is 6,800 Km from Moscow, and Platon Lebedev was sent to serve his sentence in Kharp in the Yamalo-Nenetsky Autonomous Region which is over 4,000km from Moscow. Both had previously been living in Moscow and their families were based in Moscow.

<sup>4</sup> ECtHR Judgment, *Khodorkovsky and Lebedev v. Russia*, 25 October 2013. available at: <http://hudoc.echr.coe.int/eng?i=001-122697>

<sup>5</sup> ECtHR Judgment, *Polyakova and others v. Russia*, Application 35090/09, 7 March 2017, available at: <http://hudoc.echr.coe.int/eng?i=001-171774>

# MAIN RECOMMENDATIONS

Amnesty International makes the following recommendations to the Russian authorities:

## DISTANCE FROM HOME AND FAMILY

- Uphold the principle that wherever possible prisoners should be sent to serve their sentence in the same region as their home;
- Invest in the construction of penal institutions closer to the highly populated regions of Russia;
- Increase the number of spaces for women in penal colonies to ensure that women prisoners are able to serve their sentences closer to their homes and families.

## TO COMBAT CRUEL, INHUMAN OR DEGRADING TREATMENT

- Introduce a maximum travel time of seven days for prisoner transport and ensure compliance;
- Amend Point 167 of the internal instructions confirmed by the Joint Order of the Ministry of Justice and the Ministry of Interior dated 24 May 2006 concerning the transportation of prisoners in accordance with the standards of the Committee for the Prevention of Torture to ensure that no more than six prisoners may be transported in a large compartment and three prisoners in the small compartment on trains;
- Ensure with immediate effect that the conditions during prisoner transportation do not amount to cruel, inhuman or degrading treatment, including sanitary conditions, such as access to clean water, toilet facilities, and ventilation.

## CONTACT WITH THE OUTSIDE WORLD

- Make the necessary legal amendments to ensure that the family or legal representative are informed about plans to move a prisoner and their intended destination before they are moved as well as their whereabouts at every stage of the journey except where there are pressing security reasons not to reveal such information.

# METHODOLOGY

This report is based on desk research and interviews with former prisoners and human rights defenders conducted mainly via telephone and skype in January to May 2017. It was not possible to interview prisoners who were still serving their sentences, and their stories are related by their relatives, lawyers or local human rights defenders. The Amnesty International researcher who compiled this report was banned from the country during that period.<sup>6</sup> The report outlines the main human rights violations arising during the transportation of prisoners in Russia: violation of the right to family life, cruel, inhuman or degrading treatment and enforced disappearances. It provides recommendations to the Russian authorities on how to eliminate these violations. These findings and recommendations have been communicated to the Ministry of Justice, the Ministry of Internal Affairs, the Federal Prison Service, the Human Rights Ombudsman and the Presidential Committee for the Development of Civil Society and Human Rights. Amnesty International received comments from the Federal Penitentiary Service which have been included in this report. Amnesty International is grateful to the former prisoners who expressed willingness to tell their stories in the interests of improving the system for others.

## TRANSFERRING A PRISONER FROM A PRISON VAN TO A TRAIN



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<sup>6</sup> In September 2016, Heather McGill was refused an invitation for visa purposes on the grounds that she had committed two offences against migration legislation by carrying out activities that were not in line with her visa and for being illegally employed. It was claimed that she had a business visa, but had not carried out commercial activities on behalf of the human rights organization Memorial, that had invited her. These unfounded charges were overturned on appeal in December 2016.



# 1. BACKGROUND: RUSSIAN PENAL SYSTEM

The penal system is now run by the Federal Penitentiary Service (FSIN) which is under the jurisdiction of the Ministry of Justice. Russia has the third highest prison population in the world after the United States and China - according to the FSIN website, on 1 April 2017 there were 623,242 people held in remand prisons and penal colonies in Russia, and of these 48, 830 were women.<sup>7</sup> Prisoners serve their sentences in corrective colonies, colony settlements, educational colonies or prisons. Within the corrective colonies there are various regimes - general regime, strict regime, special regime and special regime for those serving life sentences. In corrective colonies prisoners are accommodated in large dormitories and are expected to work until they reach retirement age. Prisoners serving their sentences in colony settlements are also accommodated in dormitories, but are allowed to move freely within the confines of the settlement during the day, and may live with their families on the territory of the settlement. There are eight prisons (тюрьма) in Russia where prisoners are confined to cells, and these are reserved for prisoners convicted of crimes while serving their sentences, repeat offenders, and those sentenced to life. There are also hospitals run by FSIN.

Despite efforts to humanize the system, conditions in most corrective colonies and remand prisons remain among the worst in Europe, and in 2016 alone there were 64 judgments of the ECtHR against Russia relating to inhuman or degrading treatment in places of detention.<sup>8</sup> NGOs working on prison conditions report that torture and other ill-treatment continues to be a problem in certain corrective colonies, and at the end of 2016 Amnesty International reported on the torture and ill-treatment of a peaceful protestor, Ildar Dadin, in Segezha corrective colony in Kareliya.<sup>9</sup>

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<sup>7</sup> See <http://www.fsin.su/structure/inspector/iao/statistika/Kratkaya%20har-ka%20UIS/> accessed in July 2017

<sup>8</sup> See [http://www.echr.coe.int/Documents/Stats\\_violation\\_2016\\_ENG.pdf](http://www.echr.coe.int/Documents/Stats_violation_2016_ENG.pdf)

<sup>9</sup> For further information see the Amnesty International statement: *Russia: Shocking new torture allegations by prisoner of conscience must be investigated*, available at: <https://www.amnesty.org/en/latest/news/2016/11/russia-shocking-new-torture-allegations-by-prisoner-of-conscience-must-be-investigated/>

# 2. DISTANCE FROM HOME AND FAMILY

**“Distance – it is one of the ways of psychologically preparing prisoners. They are very far from support, from help,”**

Aleksei Sokolov, Urals Human Rights Group.

The practice of sending prisoners into exile in distant parts of the country is a tradition that stretches back at least to the 18<sup>th</sup> century and has led to a unique penal culture in Russia that combines imprisonment and exile.<sup>10</sup> During the decades since the end of the Soviet Union the Russian authorities have failed to overcome this tradition of exile. This is partly due to lack of investment in building penal institutions closer to where most of the population lives, but it is also because of a deeply imbedded penal culture formed by history and geography. This means that prisoners continue to serve their sentences in the periphery far from their homes.

Moscow Region, the most densely populated region in the country, has just six penal institutions whereas, for comparison, the Komi Republic in the far North has 13 penal institutions. Moscow city has none. Despite provisions in law that prisoners should serve their sentences close to home prisoners continue to be sent to serve their sentences thousands of kilometres from their homes and family. Article 73 of the Criminal Executive Code establishes a basic principle that prisoners should serve their sentences in the region in which they reside, but the law also provides a great number of exceptions to the basic principle of keeping prisoners in the region in which they reside.

The type of prison regime that a convicted prisoner will be sentenced to is included in the judge's verdict (i.e. whether general regime, strict regime or special regime), but the decision as to which penal institution a prisoner will be sent to is taken by the Federal Penitentiary Service. The Administration of the pre-trial detention centre will be informed which region a particular prisoner is destined for and the local department of the Federal Prison Service which assign prisoners to penal institutions in that region.

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<sup>10</sup>See “*The Topography of Incarceration: The Spatial Continuity of Penalty and the Legacy of the Gulag in Twentieth- and Twenty First-Century Russia*”, Judith Pallot, *Laboritorium* 2015, 7 (1):26-50.



## ARTICLE 73 OF THE CRIMINAL EXECUTIVE CODE OF THE RUSSIAN FEDERATION

According to Article 73 of the Criminal Executive Code of the Russian Federation convicted prisoners should serve their sentence “in penal institutions within the boundaries of the territorial unit of the Russian Federation in which they had been living or were sentenced.” However, the legislation provides so many exceptions to this rule that in reality most prisoners are sent very long distances to serve their sentences. The legislation states that prisoners may be sent to serve their sentence in another region:

- a) in exceptional circumstances for reasons of health or personal security;*
- b) if there is no appropriate penal institution in their own region;*
- c) women and juveniles will be sent to serve their sentences wherever there are appropriate penal institutions;*
- d) prisoners sentenced for particularly serious crimes such as abduction (Article 126), kidnapping, people trafficking, terrorism, organization of an armed group, organization of an extremist group, treason, armed rebellion, attempts on the life of an official or police officer will serve their sentences at the discretion of the Federal Penitentiary Service.*

In many cases there seems to be no justification in law for prisoners to be sent far from home. According to Ernest Mezak, a lawyer working with the human rights organization Public Verdict Foundation, who has made a special study of prisoner transportation conditions and taken many cases to the ECtHR, prisoners are sent to distant colonies quite arbitrarily:

“They (FSIN) should justify the reason for sending people far from home. It is completely arbitrary. For instance, women from Murmansk who are repeat offenders are sent to Komi. There is no justifiable reason for this.”<sup>11</sup>

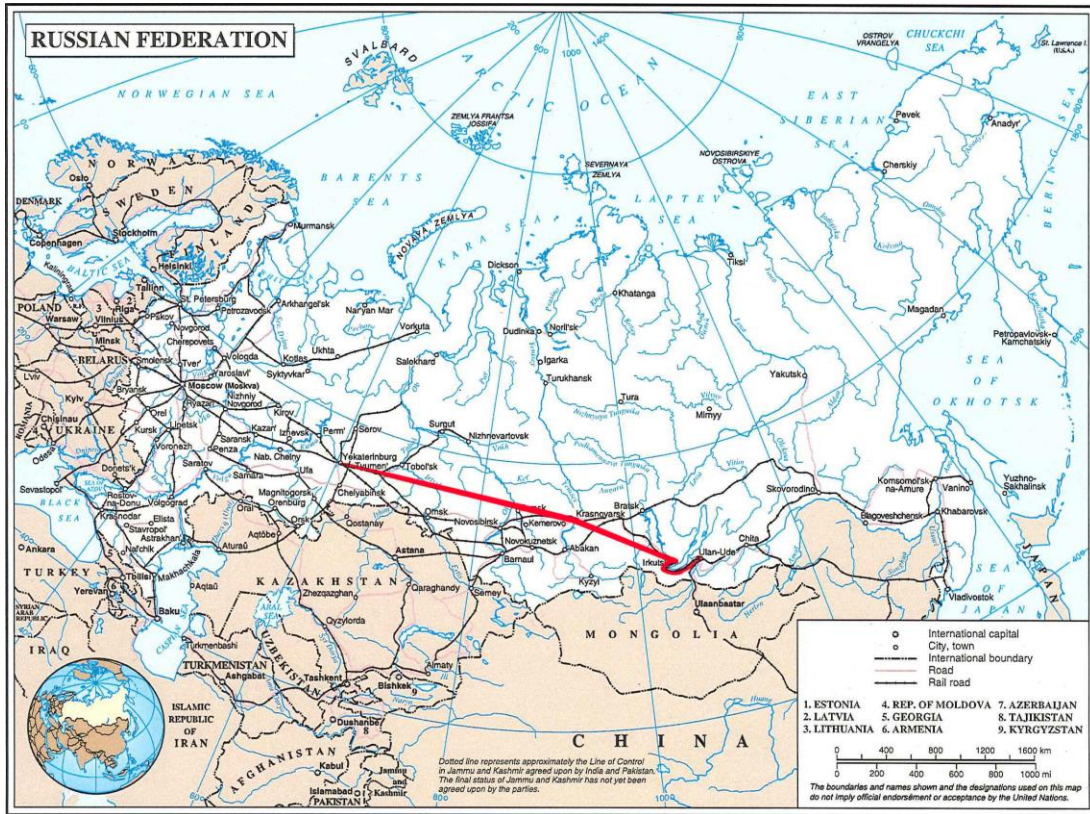
In its response to Amnesty International the Federal Prison Service confirmed that there are no women’s colonies in Murmansk region. Lawyers and former prisoners have told Amnesty International that it is not unknown for prisoners to offer bribes in order to be sent to a colony closer to home.

When a prisoner is sent far from home this means that family members face long and expensive journeys in order to visit their imprisoned relatives. Family visits are not just an aid to rehabilitation, but they are also a vital lifeline for many prisoners in Russia. Conditions in Russian penal colonies are harsh and relatives bring much needed medications and food. Family visits can often help to reduce tension in penal establishments, and it is therefore in the interests of the prison authorities to facilitate such visits.<sup>12</sup> Prisoners are allowed short visits of four hours and long visits of three days for which special accommodation blocks are provided in the prison colonies. The number of such visits depends on the severity of the sentence and ranges from six to one of each type of visit a year. The distance and the cost involved, however, means that family members are often not able to make all the visits that are allowed, and journeys of several days make short four hour visits unfeasible.

<sup>11</sup> Interview with Ernest Mezak in February 2017.

<sup>12</sup> See the CPT report on a visit to Hungary in 2013, *Report to the Hungarian Government on the visit to Hungary carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 3 to 12 April 2013*, CPT INF (2014) 13, paragraph 39, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680696b7f>

## MAP 1: CASE OF ALEKSANDR MELNIKOV



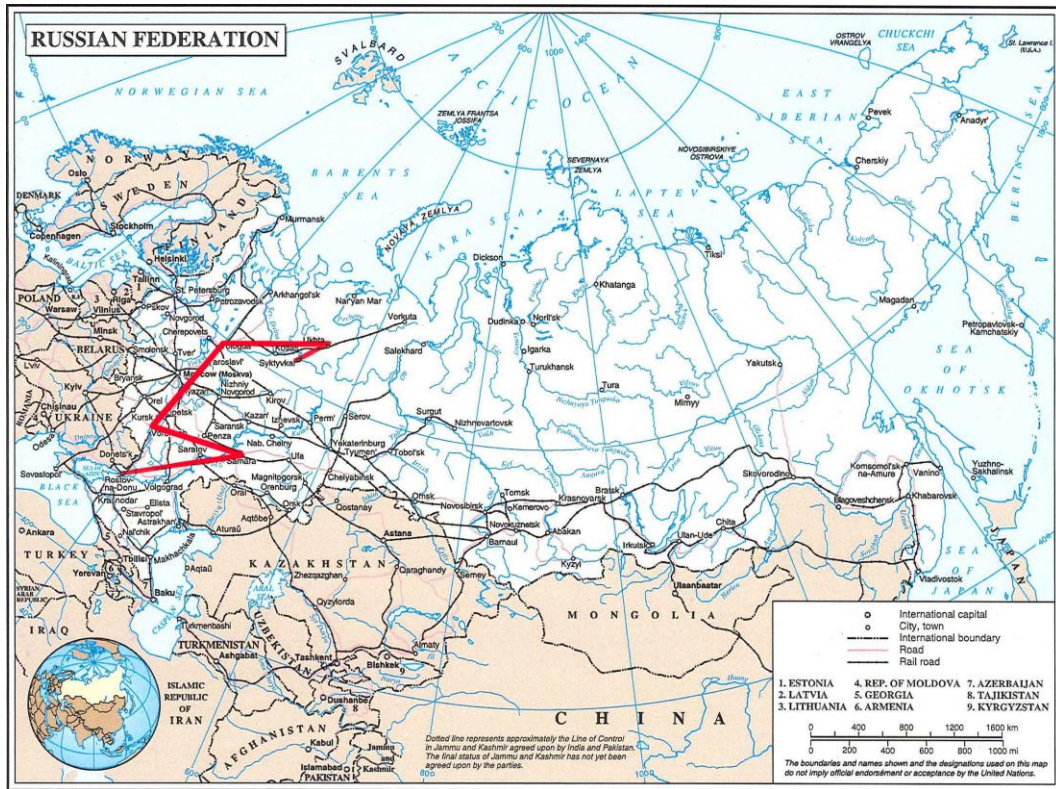
 ↑ Route taken by Aleksandr Melnikov from Krasnouralsk to Ulan Ude.

Aleksandr Melnikov from Krasnouralsk was sentenced to nine years for abduction under Article 126 of the Criminal Code. His crime fell under the list of crimes that exempted him from being sent to a colony close to home. He was sent to serve his sentence in Ulan Ude, which is 5,600km from Krasnouralsk. His wife, Svetlana Melnikova, tried to argue that he should serve his sentence in a prison colony closer to home because she had just had a baby, but the request was refused. Despite the three day train journey or six hour flight, Svetlana continued to visit her husband as often as it was permitted, but after he had been beaten in detention the visits were restricted: “After he was beaten I started complaining and he was disciplined and put in a punishment cell and then moved to more strict conditions where he was only allowed one visit a year. I went once a year. It is very little”. The difficulty of staying in touch was increased by the fact that despite the legal requirement to allow prisoners a certain number of phone calls, the phones at the prison did not function for the duration of his sentence and despite Svetlana’s complaints, Aleksandr had no possibility to call home. Svetlana Melnikova told Amnesty International that she believes the practice of sending prisoners to distant correctional labour colonies is contrary to the Russian Constitution and impedes rehabilitation: “Our Constitution gives us the right to a family and when a man is close to his family, he is more likely to improve and he will want to be released. Not every wife can travel 4,000 km once a year for a long visit. When he is close by you can come every two months or every three months for a short visit.”

In the case of prisoners with serious health problems family visits are vital because family members can bring medications and special food that the prison service does not provide. Amur Khakulov, from Nalchik in Kabardino-Balkaria was sent to serve his sentence in Kirov region over 2,000km from his home in March 2016. He had been in pre-trial detention since October 2005 when he was arrested in connection with a “terrorist” attack in Nalchik in 2005, and in November 2015 he had been diagnosed with terminal kidney

disease. He claimed that he had been tortured along with the other defendants including severe beatings to his kidneys. His lawyers made numerous requests to courts for him to be released on health grounds, but no court granted him release, and he died in a prison hospital in October 2016. The only way he could receive vital medication was for his mother to bring it to him despite the cost and difficulty of the trip.

## MAP 2: CASE OF HENNADIY AFANASIEV



↑ Route taken by Hennadiy Afanasiev from Rostov-on-Don to Syktyvkar in Komi during transportation.

In some cases the decision to send a prisoner very far from home seems to be motivated by the desire to inflict additional punishment or revenge. Hennadiy Afanasiev, a resident of Simferopol in the occupied territory of Crimea, was sent to serve his sentence in Syktyvkar in Komi which is over 2,500 km from Simferopol. He was sentenced to seven years on 17 December 2014 by a military court for purportedly being a member of a “terrorist group” (Article 205.4 Part 2) for having damaged the doors of a Russian community centre in Simferopol in Crimea. Hennadiy Afanasiev pleaded guilty and initially agreed to testify against Oleg Sentsov, a Ukrainian film director from Crimea, and his co-defendant Aleksandr Kolchenko.<sup>13</sup> When he was brought from a pre-trial detention centre in Moscow to Rostov-on-Don to testify against them, he withdrew his testimony in court stating that he had been forced to testify. On the eve of testifying he was threatened that if he did not stick to his testimony he would serve the rest of his sentence “with the polar bears”. After the trial he was transported 2,500 km away from Simferopol to Syktyvkar in Komi. Hennadiy Afanasiev was released as the result of a prisoner exchange between Russia and Ukraine on 14 June 2016, but Oleg Sentsov and Aleksandr Kolchenko are still serving their sentences in Yakutsk (over 9,000 km from Simferopol) and Chelyabinsk (2,800 km from Simferopol) respectively.<sup>14</sup>

<sup>13</sup> See Amnesty International blog: ‘The system does not forgive’ – Crimean activists hauled before a Russian military court, <https://www.amnesty.org/en/latest/news/2015/08/crimean-activists-hauled-before-a-russian-military-court/>. At the end of August 2017 Oleg Sentsov was transported from Yakutsk and was believed to be in transit to Kharp in the Yamalo-Nenets Autonomous District, beyond the Arctic Circle.

<sup>14</sup> In their response to Amnesty International the Federal Penitentiary Service stated that the information given in this report about the number of convicted individuals in the compartments, and the conditions of transportation experienced by Dmitry Vasiliev, Hennadiy Afanasiev and Natalya Kostromina “do not correspond to the actual state of affairs”. However, the reply did not specify what the inaccuracies were.

## 2.1 GENDER AND DISTANCE

**“Women very often face the additional punishment of being very far from their home and family. They get sent to distant colonies, which means that they are far from specialized medical services, and the colonies are often in regions where the climate is very harsh. The government should be doing all it can to ensure that women are sent to camps that can be accessible within a 12 hour journey on public transport. This could be done at no great cost by adapting existing colonies to include a women’s brigade.”**

Olga Gnezdilova, lawyer working with the Project “Legal Initiative”.

As noted above, women are among the prisoners who can be sent to penal colonies away from their home and family. This is explained by the fact that only 46 of Russia’s 760 penal institutions accommodate women. According to the most recent census carried out in 1999 by the Federal Penitentiary Service, 12 per cent of all prisoners were incarcerated in a region other than the one they were registered and resided in, but the figure for women was 44 per cent.<sup>15</sup> As a result, women are more likely to be subjected to long journeys to reach the penal colonies.

In some cases, the Federal Prison Service sends women to serve their sentences far from home despite the availability of a corrective colony in their home region. Saida Khalikova, a twenty-five year old medical student from Dagestan, was sentenced to five and a half years in 2014 under charges of financing terrorism after a trial that according to her lawyer was unfair. The sentence was reduced to five years on appeal. She is serving her sentence in Volgograd, over 1,000 km from her home, despite the fact that there is a women’s colony in Dagestan. Her mother, Raziyat Isabekova, makes the 24 hour bus journey four times a year to visit her and to bring her Halal food:

“The girl is Muslim and there (in the colony) they cook mostly pork. She won’t eat their food. I have to buy Halal food and take her only Halal food. She only eats what I bring. She doesn’t eat at lunch and goes hungry because she is not allowed to bring her own food at lunchtime (while working in the prison factory).”<sup>16</sup>

Raziyat who lives on a disability pension because of a heart condition has applied for Saida to be transferred to the women’s colony in Dagestan because the journey is financially and physically difficult for her.

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<sup>15</sup> “Disciplined mobility and carceral geography: prisoner transport in Russia,” Dominique Moran, Laura Piacentini and Judith Pallot, Transactions of the Institute of British Geographers, Royal Geographical Society, 2011.

<sup>16</sup> Interview with Raziyat Isabekova in April 2017.

## 2.2 LEGAL CHALLENGES ON DISTANCE

In many cases lawyers have challenged the decision to allocate their clients to penal colonies far from home and have attempted to remind the authorities of the provisions of Article 73 of the Criminal Executive Code. As a first step they apply to the Penitentiary Service and if this is refused they apply to the courts. In February 2017, 23 year old Viktor<sup>17</sup> wrote to the Krasnoyarsk Department of the Penitentiary Service to ask for his wife, Olga, to be transferred closer to home because they have a five month old baby. Viktor lives in Khabarovsk and his wife has been sent to serve her sentence in Krasnoyarsk region over 4,000km from Khabarovsk. The colony (Colony of the settlement type No. 48) has recently been found unfit for the accommodation of young children, and women have been told to put their children in the care of relatives or to give them up to a children's home until the end of their sentence. The Penitentiary Service turned down the request on the grounds that "prisoners could only be transferred in the case of illness, for personal security, because of reorganization or liquidation of the prison, or for other exceptional circumstances." The letter also quoted an internal instruction according to which "the place of residence of the family and the difficult material circumstances of the family cannot be the reason for the transfer of a prisoner from one penal institution to another."<sup>18</sup>

Olga gave birth to her first child shortly before being sentenced and to her second child while in the colony. She only saw her older child for the first 20 days of his life after which she has seen him once during a visit.

To date Amnesty International has come across only one domestic court case that has successfully challenged the placement of a prisoner far from home. On 9 March 2016, the Syktyvkar District Court in the Republic of Komi found that the Federal Penitentiary Service had violated Article 8 of the European Convention (right to respect for private and family life), by sending Hennadiy Afanasiev so far from his home without a reasoned justification, and asked the Federal Penitentiary Service to find a penal colony closer to Crimea. Despite the fact that Hennadiy Afanasiev was released within months of this decision, the Federal Prison Service appealed and the decision was overturned.

## 2.3 INTERNATIONAL HUMAN RIGHTS STANDARDS

As a state party to the International Covenant on Civil and Political rights Russia is obliged not only to ensure that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person",<sup>19</sup> but also to ensure that the aim of the penitentiary system is to ensure the "reformation and social rehabilitation" of offenders.<sup>20</sup>

International human rights standards also recommend that prisoners should be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation.<sup>21</sup> Furthermore, according to Article 8 of the European Convention on Human Rights (to which Russia is a state party), "Everyone has the right to respect for his private and family life, his home and his correspondence." The ECtHR has ruled that states should assist prisoners as far as possible to create and sustain ties with people outside prison in order to promote prisoners' social rehabilitation.<sup>22</sup>

In 2013, the ECtHR ruled that there had been a violation of Article 8 of the European Convention, because Mikhail Khodorkovsky and Platon Lebedev<sup>23</sup> were sent so far away from their families that it was extremely difficult for their families to visit.<sup>24</sup> The journey to Kharp required a 48 hour train journey, or a six hour flight to Salekhard. Once in Salekhard whether travelling by air or train visitors would need to face the

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<sup>17</sup> Viktor asked for his name and the name of his partner to be concealed.

<sup>18</sup> Copy of letter on file with Amnesty International.

<sup>19</sup> Article 10(1), International Covenant on Civil and Political Rights.

<sup>20</sup> Article 10(3), International Covenant on Civil and Political Rights.

<sup>21</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), Rule 59, available at: <https://www.penalreform.org/wp-content/uploads/2015/05/MANDELA-RULES.pdf>

<sup>22</sup> See Judgment of the ECtHR, *Messina v. Italy (no. 2)*, no. 25498/94, 28 September 2000, available at: <http://hudoc.echr.coe.int/eng?i=001-58818>.

<sup>23</sup> Mikhail Khodorkovsky, the former head of Yukos (at the time one of the largest oil companies in Russia) and his business partner Platon Lebedev were initially convicted on charges of fraud and tax evasion in 2005. Mikhail Khodorkovsky was sent to serve his sentence in Krasnokamensk in the Zabaikal region which is 6,800 Km from Moscow, and Platon Lebedev was sent to serve his sentence in Kharp in the Yamalo-Nenetsky Autonomous Region which is over 4,000km from Moscow. Both had previously been living in Moscow and their families were based in Moscow.

<sup>24</sup> Judgment of the ECtHR, 25 October 2013, *Khodorkovsky and Lebedev v. Russia*, available at: <http://hudoc.echr.coe.int/eng?i=001-122697>

additional challenge of crossing the Ob River which in summer can be crossed by ferry and in winter by an ice road, but in autumn and spring the river can only be crossed by hovercraft. In their reply to the ECtHR, the Russian authorities claimed that Mikhail Khodorkovsky and Platon Lebedev, were sent so far away for their own protection and that it was thus in accordance with the law.

In its report on Hungary and Ukraine the European Committee for the Prevention of Torture (CPT) has criticized governments for holding prisoners so far from their families that it impeded visits. In its report on a visit to Hungary in 2013 the CPT drew attention to the fact that less family visits also “led to tension between staff and inmates, as well as among prisoners themselves”.<sup>25</sup> In its report on a visit to Ukraine in 2009 the CPT criticized the practice of holding prisoners sentenced to life imprisonment far from their families, and asked for measures to improve the conditions of visits to prevent the breakdown of family ties.<sup>26</sup>

In order to ensure that the penitentiary system carries out its goals of reformation and rehabilitation in accordance with international standards and that prisoners’ right to a family life is preserved as far as is possible in the conditions of imprisonment the Federal Penitentiary Service must ensure that decisions about the placement of prisoners are taken in line with Article 73 of the Criminal Executive Code. Furthermore, the provisions of Article 73 should be changed to reduce the number of exemptions to the basic principle that prisoners should serve their sentence close to their home, and in particular efforts should be made to increase the number of juvenile and women’s penal institutions to ensure that they are no longer exempted from being sent to a colony in their home region. Wider use should be made of alternatives to custodial sentences if women cannot be accommodated closer to their families.

#### **INTERIOR OF ONE OF THE 26 NEW MODEL PRISONER TRANSPORTATION CARRIAGES BROUGHT INTO SERVICE SINCE 2015**



© Tverskoi Vagonostroitelny Zavod

<sup>25</sup> Report to the Hungarian Government on the visit to Hungary carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 3 to 12 April 2013, CPT INF (2014) 13, paragraph 39, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680696b7f>

<sup>26</sup> Report to the Ukrainian Government on the visit to Ukraine carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 21 September 2009, CPT/Inf (2011) 29, paragraph 92, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680698430>



# 3. CRUEL, INHUMAN OR DEGRADING TREATMENT

**“We travelled for four days to Samara without bedding, in the clothes we came in, without anything. They didn’t even give us the chance to brush our teeth. It was 40 degrees, there was no water in the water container or in the toilet. Forty degrees. The train stopped and a fire engine drove up. It sprayed the “Stolypin” with water - it was covered in steam. Fifteen minutes later we were suffocating again. It is a metal box.”**

Hennadiy Afanasiev, describing his journey by train.

Once it is decided where a prisoner is to be sent to serve his or her sentence they are usually transported by train. The prison train carriages, known as “Stolypins” are coupled to ordinary passenger trains, and the prisoners are often transported via complicated routes to their final destination depending on the trains available. The journey can take from two weeks to a month or more, and prisoners are accommodated in transit cells in pre-trial detention centres during the journey, sometimes for weeks at a time, before they are escorted to a train for the next leg of the journey. At each of the *etap* on the journey the prisoners will be unloaded from the train, transported by prison van to the transit prison and searched. A process which can take the whole day. Aleksandr Melnikov described his arrival at Yekaterinburg transit prison when he was being transported to Ulan Ude:

“You arrive at 4am, they start unloading the Stolypins. That starts at 10am or 11am. The whole time we are just sitting. There were 20 of us in a compartment. They search you - it takes three hours maybe five - however long it takes - then they send you to the cells. We only got to the cells at 6pm. The cells are overcrowded.”

Aleksandr also described how an anal search was carried out in Krasnoyarsk transit prison:

“They take a hot water bottle, fill it with water, it is attached to a long tube which is put in your behind and then they stamp on the hot water bottle.”<sup>27</sup>

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<sup>27</sup> Interview with Aleksandr Melnikov 14 February 2017.

The train compartments are often overcrowded and even the national standards for transportation allow up to 12 people and all their luggage in a railway carriage designed to accommodate six people. None of the former prisoners Amnesty International spoke to reported having been given bedding and all commented on the inhuman conditions during transportation. In a response to this report dated 29 September the Federal Prison Service confirmed that there were no provisions for bedding during transportation on trains.



### RUSSIAN LEGISLATION AND STANDARDS

The national standards for the transportation of prisoners are laid out in a Joint Order of the Ministry of Justice and the Ministry of Interior dated 24 May 2006.

The order is a document internal to the two agencies concerned which is not available to the public, but the contents of the instruction have been quoted at length in court decisions.

According to Point 167 of this order:

*(1) the normative occupancy rate of a railway carriage must not exceed twelve people in a large compartment or five people in a small compartment;*

*(2) if the transfer time is below four hours, it is permissible to place up to sixteen people in a large compartment, or up to six people in a small compartment;*

*(3) a prison van with a carrying capacity of up to 2 tons may carry up to thirteen prisoners; a van up to 3 tons may carry up to twenty-one prisoners; and a van with a capacity of up to 4 tons may transport up to thirty-six prisoners.*

The Federal Penitentiary Service transports prisoners across 6,000 km and 11 time zones to its 760 penal institutions. This task is carried out by a dedicated Convoy Unit with over 20,000 staff which belongs to the Federal Penitentiary Service. Together with the Ministry of Internal Affairs it owns a fleet of special train carriages and trucks for transporting prisoners. Very little is known about this service and what information there is can be gleaned from the websites of the regional branches of the Federal Penitentiary Service. For instance, the Kirov region Convoy Unit posted on its website in celebration of the Day of Convoy Units in January 2016 that in 2015 its guards had carried out 47,752 prisoner transfers in Kirov region alone.<sup>28</sup>

## 3.1 TRANSPORTATION BY TRAIN

Special train carriages for the transportation of prisoners consist of five larger compartments, and three to four smaller compartments. The basic design has not changed since Soviet times - the larger compartments are 3.5 square metres (the size of a normal Russian railway compartment that accommodates four people). The carriage has six and a half individual sleeping spaces – three bunks on each side and a seventh bunk that bridges the gap between the two middle bunks but which is not full length. It also makes it impossible to stand upright in the compartment. The smaller compartments are two square metres and have three bunks on one wall. The internal instructions therefore allow for there to be up to twelve prisoners in the larger compartments which allows for 0.29 square meters per person. The overcrowding is also exacerbated by the fact that each prisoner must carry with him or her all their belongings, and there is no provision for baggage in the compartments. The compartments have no windows and there is a grating which gives on to the train corridor. Prisoners are issued with powdered rations that they dilute with hot water issued to them three times a day. One former prisoner remarked that the water was rarely hot enough to dilute the food correctly.

<sup>28</sup> See website of the Kirov region prison service, [http://43.fsin.su/news/detail.php?ELEMENT\\_ID=233013](http://43.fsin.su/news/detail.php?ELEMENT_ID=233013), accessed in March 2017.

## TRANSPORTATION BY TRAIN



*A large compartment on a prison train carriage showing the small seventh bunk, between the two middle bunks, in position.  
© Ernest Mezak*

The basic design has not changed since Soviet times - the larger compartments are 3.36 square metres (the size of a normal Russian railway compartment that accommodates four people). The internal instructions allow for there to be up twelve prisoners in the larger compartments which allows for 0.29 square meters per person.

Almost all the former prisoners Amnesty International interviewed said that they had travelled in large train compartments with twelve people or more. In November 2012 Dmitry Vasiliev was transported from a penal colony in Novaya Lyalya in Sverdlovsk region to a pre-trial detention centre in Yekaterinburg. During the eight hour train journey to Yekaterinburg Dmitry Vasiliev was in a compartment measuring 3.5 square metres (i.e. a large railway compartment) with between nine and thirteen other prisoners and all their baggage. The compartment was lit only through the barred window giving on to the corridor and there were no mattresses or bedding provided. The prisoners were able only to sit and could not lie down. The total length of the journey including buses to and from the station and hours spent waiting in sidings and for police escorts was fourteen hours. During the return journey Dmitry Vasiliev was in the same type of train compartment with between nine and eleven other prisoners. Hennadiy Afanasiev told Amnesty International that during his transfer from Rostov-on-Don to Syktyvkar penal colony which took five and a half weeks, he was in railway compartments for most of the journey with 12 – 13 other prisoners.

The Federal Prison Service informed Amnesty International that since 2015 out of a total fleet of approximately 180 train carriages, 26 new carriages have been brought into operation. Unlike the older carriages the corridors and staff quarters are air conditioned. The letter also refers to improved water provision, sanitary conditions, lighting and video surveillance.

## 3.2 TRANSPORTATION IN PRISON VANS

Prisoners are transported to and from train stations and from detention centres to the courts in prison vans. Although the time spent in such vehicles is generally shorter, extreme overcrowding can amount to cruel, inhuman or degrading treatment. The vans consist of two larger compartments accommodating 10 prisoners with an area of three square meters, and one small isolation compartment or “stakan” (glass) that has an area of between 0.3 and 0.5 square metres, which is used to accommodate ‘vulnerable’ prisoners (among those classed as vulnerable are women, and former prison officers).

## TRANSPORTATION IN PRISON VANS



Igor Sazhin, a member of the board of Memorial, demonstrating the dimensions of an isolation compartment in a GAZ 3307 prison truck.  
© Ernest Mezak

The vans consist of two larger compartments accommodating 10 prisoners with an area of three square meters, and one small compartment or “stakan” (glass) that has an area of between 0.3 and 0.5 square metres.

Between 25 June and 18 July 2010 Natalya Kostromina was transported between a correctional facility in Ivanovo region and a remand prison in Syktyvkar in Komi region. She was placed in a prison van on seven occasions to and from railway stations, and on each occasion she was placed in the single isolation compartment with one other woman for one hour journeys and on one occasion for a two hour journey. Her discomfort was aggravated by the fact that she suffers from diabetes and obesity caused by her condition. The two women were also required to keep their belongings with them in this extremely confined space. Natalya Kostromina has submitted a complaint to the ECtHR claiming that the conditions of transportation were equivalent to torture and other ill-treatment.<sup>29</sup>

There are also smaller UAZ vans which have isolation compartments that have an area of 0.4 square metres. In May 2017, the ECtHR ruled that Anna Lozinskaya and Valery Tokarev had been subjected to cruel, inhuman or degrading treatment because they were repeatedly transported in such small compartments. Between December 2013 and April 2014 Anna Lozinskaya was transported 15 times between remand prison and court house in such a small compartment for up to two hours each time.<sup>30</sup>

<sup>29</sup> *Natalya Kostromina v Russia*, Application no. 10270/11.

<sup>30</sup> See ECtHR Decision, May 2017, *Kavalerov and others v. Russia*, Application no. 55477/10 and 7 others. The court ruled that there had been a violation of Article 3 of the European Convention because of the “inadequate conditions” of transportation.

## TRANSPORTATION IN PRISON VANS



*Nikolai Didyuk, of the Komi Public Monitoring Commission demonstrates the dimensions of an isolation compartment on an UAZ prison van.*  
© Ernest Mezak

There are also smaller UAZ vans which have isolation compartments that have an area of 0.4 square metres.

### 3.3 LEGAL CHALLENGES ON CONDITIONS

There have been a number of challenges to these standards in Russian courts. In 2012, in a case brought by three prisoners, the Supreme Court agreed that it was against international human rights standards to transport 16 prisoners in a large train compartment with 7 berths, but held that it was permissible to transport six people in a small compartment with three berths. It called for a change to the instructions to disallow the transportation of 16 prisoners in the large compartments.<sup>31</sup> Former prisoners with long experience of prison transfers remarked that there was less overcrowding in recent years.

The ECtHR has ruled in at least two cases that the overcrowding during the transportation of prisoners in the Russian Federation equates to cruel, inhuman or degrading treatment. Most recently on 5 May the ECtHR ruled that eight prisoners had been kept in conditions that amount to cruel, inhuman or degrading treatment during transportation between remand prisons and court rooms including Anna Lozinskaya (see above), and awarded them 5,000 euros compensation. On 5 February 2002, Magsud Guliyev was transported by train from Nizhny Novgorod to Ruzayevka in the Republic of Mordovia, a journey that took 12 hours. He was placed in a small railway compartment of two square metres with four other inmates. The ECtHR found that allowing just 0.4 square metres per inmate was an unacceptable level of overcrowding and ruled that there had been a violation of Article 3 of the European Convention because of the inhuman conditions during transportation.<sup>32</sup>

Doniyor Khudoyorov was detained for alleged drug offences on 30 January 1999 and was in detention until 21 March 2005 when he was acquitted. During that time he was transported from the remand centre to the Vladimir Regional Court on 205 occasions. He was placed in a prison van that had one large compartment designed to hold four prisoners and six individual compartments with an area of 0.4 square metres<sup>33</sup> designed to hold one prisoner. On each occasion he made the one hour journey in an individual compartment with one other prisoner where “owing to the lack of space, one of them would sit on the bench

<sup>31</sup> Decision of the Supreme Court, 17 April 2012, [http://vsrf.ru/vscourt\\_detale.php?id=8299&w\[\]=%C3%CA%CF%C811&w\[\]=1774](http://vsrf.ru/vscourt_detale.php?id=8299&w[]=%C3%CA%CF%C811&w[]=1774)

<sup>32</sup> Judgment of the ECtHR, 19 June, 2008, *Guliyev v. Russia*, Application number 24650/02, <http://hudoc.echr.coe.int/eng?i=001-87045>

<sup>33</sup> The ECtHR application states that the compartment had an area of one square meter, but in reality it was only 0.4 square metres.

and the other on his lap.” The Court found that this treatment “exceeded the minimum level of severity and that there has been a violation of Article 3 of the Convention.”<sup>34</sup>

## 3.4 ACCESS TO MEDICAL CARE

**“You don’t have access to your medication during transfer. The pills and medication are given to the guards and they don’t hand it over. You ask the convoy and they say yes, yes, but they don’t hand over the pills.”**

Igor, former prisoner interviewed by Amnesty International.

Former prisoners told Amnesty International that medication is usually not given to prisoners during their transportation and this means that prisoners with chronic illnesses are particularly at risk during transportation when they can be without their medication for a month or more. In March 2016, Amur Khakulov’s lawyers and his mother fought to delay his transportation from Nalchik in Kabardino Balkaria to an unknown destination because he was suffering from terminal kidney disease and urgently needed haemodialysis. Despite their efforts, he spent almost a month in transportation and did not receive the essential treatment. On 17 March the ECtHR granted interim measures and ordered the Russian authorities to delay the transportation and ensure that Amur Khakulov was given haemodialysis. Tragically, he had already been put on a train on 15 March and was out of contact with the outside world until he reached his final destination in Kirov region on 12 April 2016. He died in a prison hospital in Kirov region in October 2016.

## 3.5 ACCESS TO TOILETS

Aside from the overcrowding, prisoners suffer other kinds of ill-treatment. Hennadiy Afanasiev and Dmitry Vasiliev both drew attention to the problem of access to toilets in transit. Transit prisoners are allowed access to the toilets every 5-6 hours, and not at all when the train is stationary. Prison carriages are parked for many hours on sidings when prisoners will not have access to the toilets at all. Dmitry Vasiliev described the trauma he suffered on his first transport when he did not know about the problems of access to toilets:

“The problem is not how much water, but how often you are taken to the toilet. I suffered a lot because they said they would not take us to the toilet at night. Later I learnt what to do. Prisoners take plastic bags and if they can, they take plastic bottles. I held out, but it was a very stressful situation. I suffered. I was forty-nine at the time. Water is also a problem, but people try not to drink. If I had known the day before I would have stopped drinking and I would have controlled my water intake. It is better to be thirsty than to suffer on the train.”

Aleksei Galkin travelled frequently between Verkhnekamensk in Kirov region and Kirov during 2016. He described numerous journeys by train and prison truck: “The journey is overnight, about 200 km. Once I remember we waited on a siding at Yar for eight hours. During that time there was no access to a toilet.” He remembered the exact date that he had used a toilet on a prison train: “In all my 17 years in the colonies I remember that I only ever went to the toilet on the train once on 17 December 2016.”

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<sup>34</sup> Judgment of the ECtHR, *Khudoyorov v. Russia*, Application number 6847/02, ECtHR, Strasbourg 8 November 2005, <http://hudoc.echr.coe.int/eng?i=001-70865>

## 3.6 INTERNATIONAL HUMAN RIGHTS STANDARDS

The European Convention for the Protection of Human Rights and Fundamental Freedoms and the International Covenant on Civil and Political Rights both prohibit torture and cruel, inhuman or degrading treatment or punishment. Harsh detention conditions may amount to cruel, inhuman or degrading treatment and when imposed intentionally or purposefully (for example to force accused detainees to confess or to cooperate with the authorities) they may amount to torture.<sup>35</sup> In any case the absolute prohibition on torture and other ill-treatment is a peremptory norm (*jus cogens*) of customary international law, and as such is binding on every state whether or not it has agreed to any particular treaty.<sup>36</sup>

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) prohibits the transportation of prisoners in vehicles without adequate light or ventilation and stipulates that they should not be subjected to unnecessary physical hardship.<sup>37</sup>

In its three published reports on visits to Russia, the Committee for the Prevention of Torture has not reported on visits to prisoner transport trains or transit cells in Russia.<sup>38</sup> However, its reports on visits to other former Soviet countries are very informative. In 2000, the Committee for the Prevention of Torture of the Council of Europe (CPT) carried out a visit to Lithuania where it also inspected the conditions in which prisoners were transported by train. It is clear from the description that Lithuania had inherited its convict trains from the Soviet Union as the compartments are of the same dimension (3.5 metres squared) and the standards were the same as those in force in the Russian Federation at the time, namely, that each large compartment of 3.5 metres square could accommodate up to 16 prisoners. The CPT recommended to the government: “the maximum number of prisoners who can be held in each compartment in the wagon used for transport by rail be significantly reduced: the 3.5 m<sup>2</sup> compartments should never be used to transport more than six persons; compartments measuring 2 m<sup>2</sup> should not be used for more than three persons.”<sup>39</sup>

The Russian authorities must change the standards for the accommodation of prisoners on trains and prison vans to ensure that no more than six prisoners are accommodated in large compartments and no more than three prisoners in the small compartments, and ensure that the conditions are brought into line with international standards.

Ivan Pavlov, a human rights lawyer, has suggested that the amount of travel time should be reduced: “I think that one of the corrections to existing legislation could be an instruction that *etap* times should be shortened. You could establish a rule: the length of transportation should not exceed one week. That is how long it approximately takes a train to travel from Moscow to Vladivostok.”<sup>40</sup> By reducing the length of journeys the Federal Penitentiary Service would reduce the risk of exposing prisoners to cruel, inhuman or degrading treatment and other grave human rights violations.

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<sup>35</sup> Concluding Observations of CAT: Spain, UN Doc. CAT/C/CR/29/3 (2002) §11(d); HRC: *Buffo v Uruguay*, UN Doc. CCPR/C/OP/1 (1984) §63; *Carmen Amendola Masslotti and Graciela Baritussio v Uruguay*, UN Doc. Supp. No. 40 (A/37/40) (1982) §187; *Hiber Conteris v Uruguay*, UN Doc. Supp. No. 40 (A/40/40) (1985) §196; African Commission: *Huri-Laws v Nigeria*, (2000) §40; *Ouko v Kenya*, (2000) §§24-25; European Court: *Dougoz v Greece* (40907/98), (2001) §46; *Gavazov v Bulgaria* (54659/00), (2008) §§103-116; *Trepashkin v Russia* (36898/03), (2007) §§93-95; *Karalevičius v Lithuania* (53254/99), (2005) §36.

<sup>36</sup> *Prosecutor vs. Anto Furundzija*, International Criminal Tribunal for the former Yugoslavia, Case no. IT-95-17/1-T10, Trial Chamber Judgment of 10 December 1998, para 153-154.

<sup>37</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rule 73.2, [http://www.unodc.org/documents/commissions/CCPCJ/CCPCJ\\_Sessions/CCPCJ\\_24/resolutions/L6\\_Rev1/ECN152015\\_L6Rev1\\_e\\_V1503585.pdf](http://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_24/resolutions/L6_Rev1/ECN152015_L6Rev1_e_V1503585.pdf)

<sup>38</sup> The CPT has published only three out of 23 reports on visits to Russia. The state in question must notify the CPT of its desire to publish, or offer a commitment to automatically publish all reports.

<sup>39</sup> Report to the Lithuanian Government on the visit to Lithuania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 14 to 23 February 2000, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680697331>

<sup>40</sup> See his post: <https://www.facebook.com/pavlov.svobodainfo/posts/672379229589691>

# 4. LACK OF COMMUNICATION WITH THE OUTSIDE WORLD

**“All this time the prisoner does not know where he is being taken, his relatives are left completely in the dark about where he is. The prisoner is basically denied all his basic rights, including the right to a lawyer and to communicate with his family. He becomes a package that is sent from point A to point B along some cunning logistical route.”**

Ivan Pavlov, human rights lawyer and director of the NGO “Team 29” writing on Facebook in January 2017.<sup>41</sup>

As mentioned above, most penal colonies are located in sparsely populated parts of Russia, in the far north or Far East, and therefore the prisoners are often in transit for weeks and months at a time. All former prisoners interviewed by Amnesty International for this briefing had experienced journeys of a month or more. Neither the prisoners themselves nor their families or legal representatives are told where they are destined for when they set out. The prisoners interviewed by Amnesty International were informed by the convoy staff only once they were on the journey. The disorientating effect of being transported to an unknown destination via an unknown route is compounded by the sensory deprivation of the journey: the ‘Stolypin’ carriages on the trains do not have windows, neither do the prison vans,<sup>42</sup> and prisoners are not allowed to have their watches with them. During these long journeys there is no possibility for prisoners to reliably contact the outside world and no legal obligation on the prison authorities to keep them or a third party informed of their whereabouts. Prisoners effectively ‘disappear’ for weeks or even months at a time.

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<sup>41</sup> As above, <https://www.facebook.com/pavlov.svobodainfo/posts/672379229589691>

<sup>42</sup> “The Topography of Incarceration: The Spatial Continuity of Penalty and the Legacy of the Gulag in Twentieth- and Twenty-First Century Russia”, Judith Pallot, *Laboritorium* 2015, 7 (1):26-50



## 4.1 INFORMING THE RELATIVES

According to the Criminal Executive Code of the Russian Federation the prison administration must send notification to the relatives or legal representative of the prisoner about their arrival at the prison within 10 days of the prisoner's arrival at that institution.



### ARTICLE 17 OF THE CRIMINAL EXECUTIVE CODE OF THE RUSSIAN FEDERATION

*Criminal Executive Code, Article 17, Informing about the place where a sentence is to be served:*

*Concerning arrival of a convicted prisoner at the place where the sentence is to be served, the administration of the penal institution is obliged to inform one relative of the prisoner's choice and the victim or the legal representative of the victim, if the prisoner's file contains a court decision or a copy of an instruction to inform the victim or their legal representative, no later than 10 days from the day of arrival at the penal institution.*

Relatives of prisoners who may have genuine grounds to fear for the health or well-being of the prisoners are left in the dark and even very determined efforts to find out where a prisoner is destined or where he is located rarely meet with success.

For example, Ildar Dadin was able to pass a letter to his wife Anastasiya Zotova detailing the torture he had suffered in Segezha corrective colony in Karelia, and she therefore had legitimate concerns about his physical and mental well-being during his transfer from Segezha. He was transferred from from Segezha on 2 December 2016, but he did not know where he was being moved to, and was not given the chance to inform Anastasiya that he was being moved. Despite her determined efforts to find him she only received final confirmation of where he was on 8 January. For over a month, his friends and family, did not know where he was. Anastasiya sent numerous requests to the authorities and started a public campaign demanding to know where her husband was, but received no official information. On 4 December, she received information from unofficial sources that he was in Vologda and then on 5 December she heard that he had been moved to Kirov. When the Prison Monitoring Committee for the Kirov region visited both pre-trial detention centres in Kirov on 7 December they were told that he was not there. On 13 December she received a letter from Ildar Dadin dated 4 December and sent from the pre-trial detention centre in Vologda confirming that he had been there. On 20 December, it was reported in the press that Ildar Dadin was in a penal colony in the Altai region (over 4,000 km from Segezha). On the same day Anastasiya phoned the deputy head of FSIN, who informed her that her husband would arrive at his final destination before the end of the year, but declined to tell her where that was. On 22 December, she rang all the prison colonies in the Altai region, but didn't find him. She then received an answer from the prison service in Kirov region dated 20 December which informed her that "in accordance with the Federal Law on Personal Data, information about an individual [*i.e. the location of her husband – AI*] cannot be released to a third party without that person's permission." On 26 December, she was informed by a member of the prison monitoring commission that Ildar Dadin was not in Altai, however, on 4 January, somebody else told her that Dadin was in penal colony No. 5 in Altai region, and on the same day she received a phone call from the deputy head of FSIN to tell her that Ildar Dadin was on a train.

Sometimes, it can take well over the statutory 10 days for families to be informed when the prisoner reaches their final destination. When Aleksandr Melnikov was being transported from Voronezh to Ulan-Ude in Buryatiya, it was not until he reached Krasnoyarsk, more than half way through the journey, that prison guards told him where he was actually heading. His wife never received any notification about his exact whereabouts:

"I was told that he had been sent to Buryatia but they didn't say exactly where he was and I phoned around every prison in Buryatiya and only two weeks after that I was told he had arrived in Irkutsk [which is not in Buryatiya, but also in eastern Siberia – AI]. A month later I finally found out that he had been transferred to the penal colony. They claimed they had sent a notification by post to his mother, but she never received anything."

Svetlana suggested that the FSIN should set up a database where news about prisoners' transfers could be posted for relatives to see.

## 4.2 CONTACT WITH THE OUTSIDE WORLD

Although there is no formal prohibition on correspondence or phone calls during transportation, there is no practical possibility to contact the outside world. According to Article 92 of the Criminal Executive Code, prisoners serving their sentences in prison colonies in Russia have the right to phone calls, but this can be restricted to six calls a year for technical reasons, such as the limited number of public telephones in prison colonies. However, prisoners in transit from one penal colony to another or from pre-trial detention to a prison colony are held often not in prison colonies, but pre-trial detention centres (SIZO), and special transit cells operate under more restrictive standards. According to the Law on the Detention of Suspects and Those Accused, those detained in SIZOs have the right to make phone calls “where the technical possibility exists,” and under the control and with the permission of the administration. In many cases this requires the written permission of the director of the SIZO (which is impractical if the prisoner is in transit there for a short time). Human rights defenders have pointed out to Amnesty International that there are very few telephones available and the few available are generally in constant use by the staff. This effectively means that prisoners are deprived of communication with the outside world while they are in transit. Some prisoners may succeed in posting a letter and in some cases fellow prisoners will inform the family on their behalf that they are in a certain location (usually using an illegal mobile phone).

In 2001 Igor<sup>43</sup> was in transit from Belarus to Sverdlovsk region for about four months. After having been sentenced for a crime in Russia, he escaped to Belarus and was rearrested in Belarus and served a further sentence there for some time. He told Amnesty International: “My family was very worried. They had been told I had left Belarus but then they couldn’t find me for four months. My mother was very worried. I had the chance to send a letter from Novaya Lyalya [*Sverdlovsk region - AI*]. To my surprise the letter arrived, and my mother immediately came to see me with my sister and my brother. They (FSIN) didn’t want to let them see me, but my relatives said they would complain to the prosecutor and then they allowed a short thirty minute meeting.”

## 4.3 IMPORTANCE OF PUBLIC SCRUTINY

**“A person can be beaten during transportation, can be badly beaten and nobody will find out. They can torture him beat him, and nobody finds out what has happened.”**

Aleksei Sokolov, Urals Human Rights Group

The fact that there is no information about the whereabouts of a prisoner during transfer from one penal institution to another not only causes distress to relatives, but also puts prisoners at greater risk. The ability to communicate with the outside world and the obligation on authorities to keep third parties informed of the whereabouts of prisoners, is one of the most important safeguards against torture and other ill-treatment and other abuses. Furthermore, public scrutiny of detention facilities is one of the most effective ways to prevent torture and other ill-treatment of detainees, yet public oversight of detention facilities during transportation presents significant challenges for public oversight bodies in any country.<sup>44</sup> The Russian Public Monitoring Commissions<sup>45</sup> that regularly visit prison colonies and remand prisons rarely see inside train carriages because of the secrecy surrounding their location, and the difficulty of locating the vehicles.

<sup>43</sup> Interview by skype with the office of the Urals Human Rights Group in February 2017. Igor chose not give us his surname.

<sup>44</sup> The newly established Lay Observers specifically monitoring prisoner transport and custody services in the UK reported in their first report on 2015-16 that until they agreed that they could contact the Control rooms of the company contracted to transport prisoners, they were forced to wait at prison reception areas at random times in the hope that vans would arrive. For full report: <http://layobservers.org/chair-pecs-lay-observers-publishes-annual-report/>

<sup>45</sup> The Public Monitoring Commissions were set up in 2008 to monitor places of detention. They operate in all regions of the country with varying degrees of effectiveness and independence.

## 4.4 INTERNATIONAL HUMAN RIGHTS STANDARDS

The European Prison Rules require that prisoners should have the right to inform a third person if they are transferred from the initial place of detention.<sup>46</sup> As a general rule prisoners should be able to communicate regularly with the outside world through correspondence and where possible by telephone and other means.<sup>47</sup> The right to notify a third person of their whereabouts is a key safeguard against torture and other ill-treatment.

When a person is deprived of liberty by state officials who either fail to acknowledge this fact or conceal the whereabouts or fate of that person, the individual is in fact placed outside the protection of the law. This means that person can be said to have been forcibly disappeared.<sup>48</sup>

Even if the initial detention is acknowledged, subsequent concealment of the fate or current whereabouts of an individual can of itself give rise to an enforced disappearance. The state is obliged to provide family members and other interested persons with *all three items of information*: whether the person is in custody, whether they are alive or dead, and their current location. A failure to reveal any *one* of these items of information is an element of an enforced disappearance.<sup>49</sup>

Furthermore, the international definition of “enforced disappearance” does not explicitly require that the *intent or purpose* of the secrecy was to place the person outside the protection of the law, only that the *effect* is to place the person outside the protection of the law.<sup>50</sup>

Enforced disappearances constitute crimes under international law and are prohibited at all times under both international human rights law and international humanitarian law.<sup>51</sup> Even the concealment of the whereabouts of a prisoner by the authorities for as short a period as seven days can qualify as an enforced disappearance. In the case of *Yrusta vs. Argentina* the UN Committee on Enforced Disappearance, the Committee found that the applicant had been placed outside the protection of the law and subjected to an enforced disappearance because a) he was not able to receive visits from anyone, and b) neither he nor his family had access to a court where they could challenge the lawfulness of his situation when he was transferred from the prison where he had been held.<sup>52</sup>

The “disappearance” of prisoners in Russia for weeks at a time during transportation can be viewed under international law as an enforced disappearance, and as such it is a grave human rights violation. The Federal Penitentiary Service has a policy of not informing prisoners or their relatives of their destination, who are only told that a prisoner has been transported. While travelling prisoners have no effective means of communicating with the outside world. This means that they cannot complain about any further (to the transportation conditions) ill-treatment should it occur and they are effectively outside the protection of the law. Their detention has been acknowledged, because in most cases they have been convicted by a court, but their whereabouts are then concealed for a considerable amount of time. In order to rectify this situation the Federal Penitentiary Service must urgently amend their internal instructions to make it obligatory to inform the family and the lawyer when a prisoner is leaving a place of detention and informing them and the prisoner of the destination. A further important step would be to cut down the journey times.

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<sup>46</sup> See Rule 24.8 of the European Prison Rules, available at: <https://rm.coe.int/16806f3d4f>

<sup>47</sup> As specified in the European Prison Rules and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules),

[http://www.unodc.org/documents/commissions/CCPCJ/CCPCJ\\_Sessions/CCPCJ\\_24/resolutions/L6\\_Rev1/ECN152015\\_L6Rev1\\_e\\_V1503585.pdf](http://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_24/resolutions/L6_Rev1/ECN152015_L6Rev1_e_V1503585.pdf)

<sup>48</sup> Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance: “For the purposes of this Convention, “enforced disappearance” is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law”. See also, “No impunity for enforced disappearances. Checklist for effective implementation of the International Convention for the Protection of All Persons from Enforced Disappearance”, Amnesty International, November 2011, IOR 51/006/2011, available at: <https://www.amnesty.org/en/documents/IO51/006/2011/en/>

<sup>49</sup> Incommunicado, unacknowledged, and secret detention under International Law, APT, 2 March 2006,

[http://www.apr.ch/content/files\\_res/secret\\_detention\\_apr1-1.pdf](http://www.apr.ch/content/files_res/secret_detention_apr1-1.pdf)

<sup>50</sup> Report of the Working Group on Enforced or Involuntary Disappearances, *Best practices on enforced disappearances in domestic criminal legislation*. A/HRC/16/48/Add.3 (28 December 2010), paras. 29-32 and 62 (d)

<sup>51</sup> Enforced disappearances can be prosecuted as one of the underlying offences of crimes against humanity if committed as part of widespread or systematic attack against civilian population (Article 7(1) (i) of the Rome Statute of the International Criminal Court). They should also be criminalized as a separate, stand-alone offence in other situations not amounting to crimes against humanity.

<sup>52</sup> *Yrusta vs Argentina*, UN Committee on Enforced Disappearance, Communication No. 1/2013, para 10.4.

# 5. CONCLUSIONS AND RECOMMENDATIONS

The Russian authorities have made progress towards reforming the prison system to bring it in line with international human rights standards, and one of the positive changes is the introduction of three-day residential family visits which could serve as an example for other countries. However, the Russian authorities will not be able to overcome the legacy of the GULAG until they invest in significant structural change by building penal institutions closer to the major population centres. As a matter of priority they must improve conditions during transfer and bring them into line with CPT standards by changing the regulations regarding the number of prisoners transported in trains and prison vans, by reducing journey times, and by ensuring regular access to toilets, and health care. They must introduce a maximum journey time to reduce the possibility of cruel, inhuman or degrading treatment, and finally, to avoid the “enforced disappearance” of convicted prisoners during transportation families and lawyers must be informed where they are destined, and be kept informed of the whereabouts of prisoners during transportation.

Amnesty International makes the following recommendations to the Russian authorities and to the Council of Europe:

## 5.1 TO THE RUSSIAN AUTHORITIES

### GENERAL RECOMMENDATIONS

- End the secrecy surrounding the transportation of prisoners in Russia, and ensure public scrutiny by enabling visits by the Public Monitoring Commissions.
- Give consent for the publication of all CPT reports on visits to Russia in the interests of transparency and to share good practice as well as criticism.

### DISTANCE FROM HOME AND FAMILY

- Uphold the principle that wherever possible prisoners should be sent to serve their sentence in the same region as their home and family, and review Article 73 of the Criminal Executive Code to reduce the number of grounds according to which a prisoner can be sent to serve their sentence away from the region where they reside or where they were sentenced;
- Invest in the construction of more penal institutions closer to the highly populated regions of Russia;
- Increase the number of spaces in penal colonies available to women and ensure that women prisoners are able to serve their sentences closer to their homes and families.

## **TO COMBAT CRUEL, INHUMAN OR DEGRADING TREATMENT**

- Introduce a maximum travel time of seven days for prisoner transport and ensure compliance;
- Amend Point 167 of the Joint Order of the Ministry of Justice and the Ministry of Interior dated 24 May 2006 concerning the transportation of prisoners in accordance with the standards of the European Committee for the Prevention of Torture to ensure that no more than six prisoners may be transported in a large compartment and three prisoners in the small compartment on trains;
- Ensure, with immediate effect, that the conditions during prisoner transportation do not amount to cruel, inhuman or degrading treatment, including sanitary conditions, such as access to clean water, toilet facilities, ventilation, and natural light.

## **CONTACT WITH THE OUTSIDE WORLD**

- Make the necessary legal amendments to ensure that the family or legal representative are informed about plans to move a prisoner and their intended destination before they are moved as well as their whereabouts at every stage of the journey except where there are pressing security reasons not to reveal such information;
- Amend Article 17 of the Criminal Executive Code to ensure that the administration of the place of detention must inform the family or legal representative of the prisoner about their whereabouts immediately upon arrival at the place of detention;
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

## **5.2 TO THE COUNCIL OF EUROPE**

The Council of Europe should monitor conditions during transportation of prisoners in member states more systematically and compile a fact sheet of standards relating to the transportation of prisoners.

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IS A GLOBAL MOVEMENT  
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WHEN INJUSTICE HAPPENS  
TO ONE PERSON, IT  
MATTERS TO US ALL.**

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# PRISON TRANSPORTATION IN RUSSIA:

## TRAVELLING INTO THE UNKNOWN

From the Soviet GULAG the Russian Federal Penitentiary Service (FSIN) has inherited a network of penal colonies many of which are located in sparsely populated parts of the country such as the Far North and Far East. The size of the country combined with the location of the penal colonies means that prisoners must be transported over great distances to reach the colonies where they are to serve their sentence.

The journeys in specially designed train carriages and prison trucks often last a month or more and prisoners spend weeks in transit cells at various destinations – or *etap* - on their way to the prison colonies. Prisoners are placed in overcrowded train carriages and trucks in conditions that often amount to cruel, inhuman or degrading treatment in violation of international human rights standards. Neither their families nor their lawyers are informed of their whereabouts during this time and prisoners effectively disappear for weeks at a time.

Such long journeys and the total lack of communication with the outside world is not an exceptional punishment, but standard practice within the Russian penal system.

This report shines a spotlight on the conditions of prisoner transportation in Russia and calls on the Russian authorities to remove the last vestiges of the GULAG and bring their prison system in line with international human rights standards.