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Meeting: 1294th meeting (September 2017) (DH)

Communication from a NGO (26/05/2017) in the cases of KALASHNIKOV and ANANYEV AND OTHERS v. Russian Federation (Applications No. 47095/99, 42525/07)

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1294^e réunion (septembre 2017) (DH)

Communication d'une ONG (26/05/2017) dans les affaires KALASHNIKOV et ANANYEVET AUTRES c. Fédération de Russie (Requêtes n° 47095/99, 42525/07) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

DGI

26 MAI 2017

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

**The execution of the European Court of Human Rights pilot judgment
on the case of Ananyev and others vs. Russian Federation
(applications nos.42525/07 and 60800/08) and the judgments in the
Kalashnikov group of cases**

Memorandum of the Russian NGO Public Verdict Foundation

(Submitted under Rule 9(2) of the Rules of the Committee of Ministers for the
supervision of the execution of judgments and of the terms of friendly settlements)

Moscow

May 2017

Introduction

1. The Public Verdict Foundation, Russian NGO specializing on prevention of torture and other human rights abuse in police and other law enforcement bodies and providing legal assistance to victims of such abuses, submits the present memorandum under Rule 9(2) of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

2. This Memorandum has been prepared by the Public Verdict Foundation and based on publicly available data, such as the findings of PMCs in Krasnoyarsk Territory, Irkutsk Region, Sverdlovsk Region, Kaliningrad Region, as well as information provided by the Association of Independent Observers, Committee Against Torture NGO and Russia Behind Bars Movement for Prisoners' Rights.

3. The memorandum is devoted to execution of the pilot judgment of the European Court of Human Rights (hereinafter – “the Court”) on the case of *Ananyev and others vs. Russian Federation*, applications nos.42525/07 and 60800/08 and the judgments in the Kalashnikov group of cases (hereinafter – “the pilot judgment”).

4. In the pilot judgment the Court concluded that improper conditions of detention in Russian remand centers is a systemic problem resulting in recurrent violations of the Article 3 of the Convention¹. The Court also found that the Russian legal system does not allow individuals either to put an end to detention in conditions incompatible with the Article 3 of the Convention or to obtain adequate compensation for a period of detention that has already ended². Taking into account that poor material conditions in remand centers affect the large number of people, the Court concluded that the respondent State must develop a combination of effective domestic legal remedies having preventive and compensatory effects³.

5. In April 2017, the Russian Federation submitted yet another Action Plan for the execution of the European Court's pilot judgment in *Ananyev and others v. Russia* and the judgments in the Kalashnikov group of cases⁴.

6. Submitting present memorandum the Public Verdict Foundation would like to provide independent evaluation of measures proposed by the respondent State, to share concerns related to detainees' access to legal remedies, and to share overview of current conditions in remand centers and penitentiary institutions

7. The fact that the Action Plan has been prepared and submitted to the Committee of Ministers of the Council of Europe confirms that the Russian Federation is committed to observing the Convention and taking steps to ensure proper execution of the European Court of Human Rights judgments. It should be noted, however, that this Action Plan has never been published in the Russian language, and we are not aware of any public discussion of this Plan involving civil society, which contravenes the Committee of Ministers' position, stated, in particular, in Recommendation CM/Rec(2008)2 of the Committee of Ministers to member states on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights (Adopted by the Committee of Ministers on 6 February 2008 at the 1017th meeting of the Ministers' Deputies) and Brighton Declaration adopted at the High Level Conference on the Future of the European Court of Human Rights on 19 and 20 April 2012.

¹ See *Ananyev and others vs. Russian Federation*, nos.42525/07 and 60800/08, §§ 184-189.

² *Ibid.*, § 210.

³ *Ibid.*, §§ 232-234.

⁴ See Communication from the Russian Federation concerning the cases of KALASHNIKOV and ANANYEV AND OTHERS v. Russian Federation (Applications No. 47095/99, 42525/07), Action plan (19/04/2017)

The Code of Administrative Procedure

8. The Action Plan describes in detail the possibilities for challenging inadequate conditions of detention in remand prisons pending trial and in penitentiary institutions by relying on provisions of the Code of Administrative Procedure adopted in 2015 (Federal Law No. 21-FZ of 8 March 2015, hereinafter, CAP). Indeed, the procedure established by CAP has certain advantages over the procedure available under the Code of Civil Procedure (hereinafter, CCP). Notably, the CAP provisions strengthen the role of courts, introduce instruments for holding the authorities accountable (such as fines for failure to appear in court, possibility of being brought to court, etc.), shift the burden of proof to the authorities whose actions are challenged, and include provisional measures. We welcome these reforms, generally aimed at strengthening the role of judicial proceedings for the benefit of individuals, including detainees.

9. However, as the new CAP provisions were introduced, there was no published commentary or explanation by government officials to indicate that these steps had been taken, *inter alia*, to execute the Court's judgments. In fact, including these steps in the Action Plan constitutes a 'secondary interpretation' of Russia's administrative justice reform and targets an external audience located outside Russia. Internally, however, the newly adopted CAP and its procedures have never been described as part of the country's obligations under the Convention and the Court's judgements. This withholding of information not only has a negative effect on Russian society's awareness and understanding of the role of the Court and Convention; moreover, it does not promote a change of practices and attitudes of the law enforcement agencies, including judges who will apply the CAP.

10. Moreover, no advice has been provided to detainees – regular suppliers of complaints to the Court about inadequate conditions of detention – that the new administrative procedure can be used, *inter alia*, for appealing against the conditions of detention. This means that the respondent State has failed so far to comply with the key objective of creating an effective remedy capable of addressing poor conditions of detention in the domestic jurisdiction and thus reducing the flow of recurrent complaints to the Court. Russia's lack of effort in promoting the new remedy available at the domestic level indicates that the State has not been taking the steps needed to prevent repetitive complaints and therefore has not adequately contributed, as a responsible party to the Convention, to further reform of the European human rights system.

11. In order to use the CAP provisions for challenging the conditions of detention, detainees need to know that in the CAP terminology, inadequate conditions are understood as actions or inaction (omission) of a State authority or official, and that appealing against the conditions of detention means challenging certain acts or inaction of authorities responsible for ensuring proper conditions of detention. Individuals cannot make a claim for compensation under the CAP. In practice, this means that a detainee first needs to successfully appeal an authority's action or inaction under the CAP and only then make a claim for compensation of pecuniary and/or non-pecuniary damage under a different procedure stipulated by the Civil Procedural Code of the Russian Federation (CCP RF).

12. So, while the new administrative procedure for appealing against inadequate conditions of detention is in place, it fails to resolve the situation where the satisfaction of an individual's (detainee's) claim for compensation depends on the finding under a different procedure that the relevant authorities' actions/inaction have been proven unlawful. Although the burden of proof has been shifted to the authority whose actions are challenged, the conditions of detention will be found inadequate only if the actions of such authority are proven unlawful. In addition to this,

the procedure under the CAP does not permit simultaneous examination of complaints about the conditions of detention and related claims for compensation.

13. The State, in order to comply with the Court's judgment concerning general measures, needs not only to develop and adopt relevant procedures, but also to prove their effectiveness in practice. As regards the procedure for using the CAP to challenge inadequate conditions of detention in remand prisons and penitentiary facilities, Russia's Action Plan fails to provide any such proof or any information as to how the State plans to monitor and evaluate the effectiveness of this administrative procedure as a remedy for inadequate conditions of detention.

14. The Action Plan does not specify how the State will monitor the application of the new procedure available under the CAP, nor does it foresee any potential barriers to its use for challenging the conditions of detention in remand prisons and penitentiary facilities. As a consequence, the Action Plan also fails to list and explain any steps that the State intends to take to minimise such barriers.

Potential barriers to using new procedure for appealing conditions of detention

15. The timeline for filing a complaint with a domestic court under the CAP has been established at three months following the action (inaction) in question. However, it is well known from the Public Verdict Foundation and other human rights groups' practice that many detainees take longer than three months to seek help. This is due to a number of reasons. Notably, an individual may need extra time to decide to challenge the actions of officials in a situation where he or she is under control of such officials, restricted in his/her freedom and vulnerable to pressure. Detainees' correspondence is subject to censorship and letters may get delayed in the mail. Considering that little effort has been made to explain the newly available remedy to the group of people most likely to be interested in using it, i.e. detainees, making them aware of the three-month deadline is an extremely important factor. Even if detainees are informed of the timelines for filing complaints, the deadline itself is too tight and can be a major limitation diminishing the effectiveness of the new remedy.

16. Another important limitation of the CAP procedure is the requirement that the plaintiff's representative must have confirmed legal education and training. Plaintiffs in this category of cases are not provided with free legal aid from the State. For detainees with limited financial means, finding a lawyer representative can be a major problem.

17. To minimise the potential negative consequences described above and other barriers to the use of the remedy under the CAP, adequate explanations should be provided to detainees in an accessible form. To date, no such explanations have been offered in full and at adequate levels.

Current provisions under the Civil Procedural Code of the Russian Federation regarding compensation for inadequate conditions of detention

18. The Action Plan gives an idea of the number of domestic court rulings on claims for compensation of pecuniary and non-pecuniary damage related to conditions of detention in remand prisons and penitentiary facilities, and quotes the total amount of compensations awarded for 2016. However, even without regard to the low average compensation of 21,785 rubles (approx. 370 euro), these numbers do not make it possible to fully assess the effectiveness of compensation as a remedy. For example, according to the State, some 4,400 claims have been filed, of which 2,800 have been satisfied; yet no reasons are given as to why more than a thousand claims have been rejected. Perhaps the unresolved problem with the

requirement to prove the guilt of a particular authority or official before claiming compensation is the real reason behind the high rejection rate. No details are given as to whether the claims for compensation were filed against the Russian Treasury or the official responsible and what were the consequences of inadequate conditions of detention in each case, which is key for assessing the adequacy of compensation.

Draft Law on Compensation for Inadequate Conditions of Detention

19. The Action Plan provides information on the new Draft Law on Amending Certain Legislative Acts of the Russian Federation Regarding the Improvement of the Compensatory Remedy Against Violations Associated with Failure to Ensure Proper Conditions of Detention in Detention Facilities. We welcome these legislative developments and hope that they can support Russia's progress towards a full implementation of all measures aimed at addressing the structural problems indicated in the Court's pilot judgment, such as lifting the requirement of proving the unlawfulness of authorities' actions and allowing simultaneous examination of complaints about inadequate conditions of detention and claims for compensation.

20. However, we need to note that the only public information available in Russia about this Draft Law is a mere mention and an indication of improvements it is expected to bring about. No public debates or expert consultations of proposed changes have been conducted.

Judicial practice of ordering detention on remand

21. No significant changes have been observed in judicial practices of ordering detention pending trial in respect of individuals suspected or accused of criminal offences. In its pilot judgment in *Ananyev and Others v. Russia*, the Court indicates that changing this practice is an important preventive measure. Despite the fact that according to the Code of Criminal Procedure, detention on remand may only be used where other measures – such as bail, house arrest, undertaking not to leave or personal surety – would be inappropriate, practice reveals that Russian judges tend to examine applications for detention orders without due thoroughness. In particular, courts tend to dismiss without due consideration defence arguments as to why a defendant has no possibility of absconding or influencing the investigation, and Russian judges are generally reluctant to order alternatives to detention.

22. The recent three-year trend of detention and house arrest orders by first-instance courts indicate a noticeable increase in the number of house arrests only in 2016. It appears that Russian prosecutors have increasingly requested house arrest, which appears to be a positive change.

	2014 ⁵	2015 ⁶	2016 ⁷
detention order granted	133755	140457	121796
detention order denied	12183	12260	11824
house arrest granted	3333	4676	19514
house arrest denied	379	499	682

⁵ http://www.cdep.ru/userimages/sudebnaya_statistika/2014/f__N__1_2014.xls, section 4

⁶ http://www.cdep.ru/userimages/sudebnaya_statistika/2015/F1-ug_pr-vo_1_inst-2015.xls, section 4

⁷ http://www.cdep.ru/userimages/sudebnaya_statistika/2016/F1-svod-2016.xls, section 4

23. It can be seen from the above statistics that the percentage of denials of detention orders has not changed much and has remained in the range of 8 to 9 percent, suggesting that perhaps the practice of judicial examination of applications for detention orders has not yet changed significantly in Russia.

Conditions of detention in remand centres (SIZO), correctional facilities (IK), and other detention facilities

24. It needs to be noted that in recent years, Russia has made some improvements with regard to conditions of detention. However, certain problems persist.

25. Today, Russia's FSIN (federal penitentiary) system operates facilities of varying age and extent of wear and tear. Alongside recently constructed or completely renovated buildings (such as SIZO-2 in Nizhny Novgorod, SIZO-6 in Angarsk, Irkutsk Region, and the Federal Prison in Saratov Region) which generally meet the minimum standards for detention facilities, the FSIN continues to use buildings constructed in the 15th to 19th centuries (in Kaliningrad Region and Krasnoyarsk Territory), the 18th century (in Kaluga Region), and the early 20th century (in Nizhny Novgorod, Sverdlovsk and Irkutsk Regions). At 70% to 90% of depreciation, these facilities are beyond repair. Problems affecting most of these prisons include pervasive, overgrown mould, damp walls, leakages and lack of proper heating in the cold season. For example, detainees at SIZO-1 in Nizhny Novgorod use a hot water tank for heating their cell in winter. These facilities are not suitable for accommodating people and must be closed.

1. Cell toilets

26. According to Prison Monitoring Commissions (PMC), toilets in most facilities which were constructed in Soviet times are not properly equipped. There is no sewage installation in IK-56 (Black Berkut, Ivdel, Sverdlovsk Region), so outhouse toilets have to be used, and inmates confined to their cells have to use a bucket as toilet. Sewage installations at IK-11 (Bozoy, Irkutsk Region) are so old and worn-out that they often breaks down, and then the female prisoners are forced to use an outhouse toilet. It needs to be noted that in Irkutsk Region, winter temperatures can be as low as minus 30-40 degrees Celsius.

27. In addition to this, cell toilets do not offer privacy, since their shielding is inadequate. Many cells have a single partition separating the toilet from the living area. According to FSIN Order no. 512, the partition must be one meter high; therefore it provides shielding only from one side, leaving the rest uncovered. Most toilets are equipped with steel Genoa bowls mounted on platforms raised by one or two steps (since obsolete sewage systems rely on natural drainage). Taking into account the height of the platform and the one-meter partition, the person using the toilet is in full view. Inmates often construct their own screens out of plywood, cardboard, hanging sheets or rags to shield the toilet. Such cells have been found in the remand prison in Ivanovo, in the administrative detention centre in Kaluga Region, in the punishment cells of SIZO-1, IK-13, IK-9 and IK-8 in Kaliningrad Region, in Novosibirsk Region, Irkutsk region, Sverdlovsk Region, and others.

28. Only new remand facilities built as part of federal programmes are equipped with fully standards-compliant toilets, providing proper shielding and odour control. However, odour control is impossible in older buildings, where cell toilets are separated from the living space only by single partitions. Obsolete sewage systems and poor flushing (usually via a pipe connected to the sink) lead to unbearable odour, which inmates try to control by blocking sewage pipes with old clothes, empty plastic bottles, etc. Thus, toilets in the cells of SIZO-1 in Nizhny Novgorod Region are always clogged, and inmates use improvised stoppers (such as

milk cartons filled with garbage) to cover the drains. In two units of correctional treatment facility LIU-23 in Sosva, Sverdlovsk Region, toilets do not flush, and inmates have to use a bucket of water for manual flushing. In the punishment cells of the same facility, thin water pipes connected to the sink are used for toilet flushing; the water pressure in them is too weak for effective flushing, leaving the waste stuck in the toilet bowl; inmates have to stuff rags into the toilet to keep the odour and rats out (findings from the PMC visit of 29 April 2017). A similar situation was found in IK-26 in Tavda, Sverdlovsk Region. Generally, odour problems resulting from poorly functioning sewerage systems, irregular water supply and obsolete and worn-out sanitary equipment are common problems.

29. Some institutions do not have toilets and washing facilities installed inside cells. In particular, this situation was observed in the temporary holding centre for foreigners (THCF) in Kaluga and in Sverdlovsk Region.

2. Bath days

30. According to the new rules (Ministry of Justice Order no. 295), bath days should be provided to prisoners twice a week. But remand prisons and penitentiary colonies in most regions are not yet capable of meeting this requirement. Even in summer, certain penitentiary facilities allow prisoners to have a bath only once a week and sometimes once in 10 days. This is the situation in LIU-23, IK-53 and IK-56 in Sverdlovsk Region.

31. Certain facilities lack sinks in cells (such as the THCF in Kaluga Region, IK-3 in Krasnoturynsk, Sverdlovsk Region; punishment cells in IK-13 in Kaliningrad Region). In some cases, a hose is installed above the toilet instead of a sink, and inmates have to wash themselves over the Genoa bowl (i.e. over the toilet). This situation was observed in some cells of the special regime wing in IK-13 in Kaliningrad Region, in remand facilities and punishment cells in Nizhny Novgorod Region, in IK-3 in Krasnoturynsk, Sverdlovsk Region, and others.

32. Worn-out pipes and sanitary installations in some facilities cause problems with water supply and also with the quality of water, including drinking water. Water supply interruptions have been reported in IK-53 in Verkhoturys, Sverdlovsk Region, and in SIZO-1, IK-5 and IK-7 in Nizhny Novgorod Region. Drinking water is not available in the punishment cells of IK-7, IK-9 and IK-13 in Kaliningrad Region, and the quality of drinking water does not meet the sanitary standards in the THCF in Kaluga Region.

3. Availability of toiletries and detergents

33. In most cases, the prison administration controls access to detergent products and personal hygiene articles. This is the case in Sverdlovsk, Irkutsk and Kaliningrad Regions, and some others. In particular, the prison authorities in IK-9 and IK-13 in Kaliningrad Region do not always provide detergents to inmates. According to observers, prison administrations often refuse to issue detergent products to detainees, even those which have been brought by their families (SIZO-1 in Novosibirsk Region). Many facilities in Irkutsk Region provide detergent products inconsistently, and inmates in penitentiary colonies and settlements have to purchase detergents at their own expense. Detainees at the THCF in Kaluga Region have to clean their own cells, yet cleaning supplies are dispensed to them irregularly, water supply interruptions are common, and cells do not have toilets and sinks. Prisoners as well as their families are generally dissatisfied with the quality of toiletries available.

4. Access to natural light and fresh air. Cell windows

34. Although new insulated windows have been installed in a centralised manner in prison facilities, in some institutions they still do not provide access to fresh air. Notably, in Nizhny Novgorod Region, following the installation of new plastic windows, the prison authorities removed the window handles, and the inmates now cannot open the windows independently to let fresh air in. Similarly, the new plastic windows in the THCF in Kaluga Region are kept shut tightly, and the detainees cannot open them.

35. Cells which have not been refurbished still have old windows installed. In particular, in SIZO-1 in Novosibirsk, cell windows have four layers of netting: one on the inside and three on the outside, blocking access to natural light. In SIZO-1 in Kaluga, many cells, including those accommodating women and children, provide virtually no access to natural light. Making this situation even worse, the detainees have limited access to natural light even during outdoor exercise, as the exercise yard located on the roof of SIZO-1 is a windowless concrete bunker aired through small crevices between the wall and the ceiling, which are very narrow to prevent detainee escapes.

36. Window openings are often disproportionately small for the cell area, limiting access to both natural light and air. Notably, cell windows in the IVS (temporary detention ward) in Zalari, Irkutsk Region, measure 20 by 20 cm (vs. 90 by 60 cm required by regulations), and in the IVS in Usolye-Sibirskoe, Irkutsk Region, windows in some cells measure 50 by 50 cm and in some others 30 by 50 cm. Many temporary detention wards at police stations in Kaliningrad Region have smaller window openings than required, as do certain penitentiary facilities, such as the special regime wing of IK-18 in Kaliningrad Region.

37. At some facilities, window shields and blinds have not yet been removed. Punishment cells in IK-9 in Kaliningrad Region have shields/blinds blocking the windows. Windows in punishment/confinement cells of penitentiary facilities in Nizhny Novgorod Region usually have metal bars, and in some cases shields on the windows are too wide, contrary to requirements, and block access to natural light.

38. Shockingly, cells without any windows continue to be used. This has been observed in police temporary detention wards in Nizhny Novgorod Region; moreover, forced-air ventilation in many such cells is out of order. In Kaluga Region, both the IVS in Obninsk and the detention ward of the FSB Office in Kaluga have only windowless accommodation.

6. Individual sleeping places

39. Detention facilities make various efforts to provide each prisoner with an individual sleeping place. Where they cannot fit in more beds due to lack of space in the cell, prison authorities find other solutions. Notably, in the remand prison in Ivanovo, an additional tier of bunk beds has been installed in a few cells. In some institutions, folding beds are placed in aisles. In some others, no extra beds are available and prisoners are issued mattresses and bedding to spread on the floor in the aisle. This situation was observed in IK-19 in Irkutsk Region, where decking was installed instead of beds, and in SIZO-1 in Yekaterinburg. PMC inspections found many cells in remand facilities where detainees had to sleep on the floor, spreading their mattresses and bedding in the aisles. In IK-3 in Krasnoturyansk, Sverdlovsk Region, many cells are narrow, leaving no passage between beds when people sleep on the floor; one can only step on the table or on the toilet.

40. Facilities for holding foreigners must be designed to hold 2 to 6 people in one cell at any given time. Cells of the THCF in Nizhny Novgorod Region hold 10 to 12 persons each, of whom six sleep in beds and the others on mattresses spread on the floor.

41. Sleeping accommodations in some facilities are located too close to the toilet. Notably, sleeping places in some cells at the facility for administrative detainees in Kaluga and in punishment cells of IK-7 in Kaliningrad Region are installed at 50 cm from the toilet. A similar situation was observed in Nizhny Novgorod Region in some cells, including punishment cells, of SIZO-1 and SIZO-3, and in a few cells at the THCF. In some punishment cells of IK-20 and IK-7, folding iron beds, when lowered, lean on the partition separating the toilet from the living area and thus block access to the toilet; prisoners cannot use the toilet at night-time, as only prison staff can control the raising and lowering of folding beds. Some inmates told PMC members that they usually asked prison staff not to lower one of the beds to allow access to the toilet, and took turns sleeping on the other bed.

7. Bedding

42. The quality of bedding is mostly unsatisfactory: worn-out sheets, unusable mattresses and substandard pillows and blankets. At some institutions, laundry is washed at temperatures below the sanitary requirements. In particular, this was observed in Kaluga Region. Bedding at the temporary detention ward in Zalari, Irkutsk Region, was visually dirty, pillows and mattresses full of dust and lumpy from wear and sanitation. Bedding and mattresses at IK-7, IK-6, IK-1 and IK-17 in Nizhny Novgorod Region were very old and looked dirty even after proper sanitation.

43. As before, there is still a problem with making sufficient bedding available to all detainees. In particular, some detainees in SIZO-1 and SIZO-3 in Nizhny Novgorod Region do not have their own, individually issued bedding.

8. Overcrowding of cells and units at penitentiary facilities

44. Despite the authorities' efforts to provide the required personal space to each detainee, the overcrowding problem persists. In particular, in SIZO-1 in Kaluga, a few cells are overcrowded beyond the Russian sanitary norm of four square metres per person. Overcrowding has been reported in IK-9 in Kaliningrad Region – its inmates have repeatedly appealed against their conditions of detention to Russian authorities. In SIZO-1 in Yekaterinburg, 16 people were accommodated in a cell with 10 sleeping places (inspection of 7 February 2017), 12 people in a cell measuring 16.2 square metres, and two people in a cell measuring 4.3 square metres (inspection of 13 April 2017).

45. The overcrowding problem also persists in temporary holding centres for foreigners (THCF), observed in particular in Kaluga and Nizhny Novgorod Regions. Moreover, the THCF in Nizhny Novgorod does not have rooms of at least 15 square metres available for family accommodation. In result, a foreigner was placed in the THCF, while her two minor children were separately accommodated at different orphanages in 2016.

9. Suitability of temporary detention wards at police stations for long-term detention

46. Still common is the use of unsuitable cells at police stations for prolonged/overnight detention. Specifically, temporary detention wards at all police stations in Irkutsk Region are not designed for overnight detention; in Nizhny Novgorod Region, rooms for detainees are equipped with wooden benches 40 to 70 cm wide, which serve as beds for persons detained overnight; mattresses are generally unavailable, and bedding is rarely available.

47. Cells offering detainees no privacy whatsoever continue to be used. Open-view cells with bars replacing one of the walls are used in Kaluga Region (police stations in Tarussa, Vorotynsk and Dzerzhinsky District of Kondovo), and at police station no. 3 in Kaliningrad (doors of metal

bars in two cells). Plexiglas sheets are sometimes used instead of metal bars. Notably, the police station of Arzamas District, Nizhny Novgorod Region, has several cells with walls and doors of Plexiglas. These cells resembling aquariums are poorly ventilated, with no windows or lighting inside (there is only artificial light coming from the corridor).

48. In a number of regions, punishment cells in penitentiary facilities fail to meet the standards for prisoners' accommodation due to insufficient lighting and ventilation, low temperatures in winter, concrete floors, black mould on walls, damp air, toilets lacking separation from the living area, and no sinks. These problems have been reported in Sverdlovsk, Kaliningrad, Nizhny Novgorod and Irkutsk Regions, and in Krasnoyarsk Territory. In particular, in IK-3 in Krasnoturynsk, Sverdlovsk Region, the conditions of detention are unbearable, unhealthy and life-threatening due to overcrowded cells, very low winter temperatures, single-pane windows, no ventilation, concrete floors in some cells, damp walls, black mould, toilets lacking separation from the living area, no sinks, dim light, and insufficient floor space per person.

10. Separating smokers from non-smokers

49. Separating smokers from non-smokers remains a problem, according to human rights defenders and PMC members in Krasnoyarsk Territory and Kaliningrad, Nizhny Novgorod, Sverdlovsk, Kaluga and Irkutsk Regions. While the new Internal Regulations adopted in January 2017 require separate placement of smoking and non-smoking prisoners and prohibit smoking in the cells, compliance with these rules is not universal.

11. Medical assistance

50. Reports from PMC members in Irkutsk and Kaluga Regions and Krasnoyarsk Territory indicate that prisoners with communicable diseases, such as fungal infections and scabies, are sometimes placed together with other prisoners.

51. Generally, PMC members in Irkutsk, Kaluga, Kaliningrad, Nizhny Novgorod and Sverdlovsk Regions and Krasnoyarsk Territory report problems with the availability of medical personnel and access to medical assistance. Prisoners have to make appointments repeatedly and wait for long periods to be seen by a medic; medicines are in short supply, as well as devices such as blood glucose and blood pressure monitors, and in some places, e.g. in Sverdlovsk and Nizhny Novgorod Regions, inmates cannot access treatment for HIV and TB. Prisoners with mobility problems are not always provided with wheelchairs and other mobility support devices (IK-6 in Irkutsk Region, Krasnoyarsk Territory).

12. Access to lawyer/defender

52. The authorities do not always give lawyers and defenders unhindered access to their clients in prisons. Notably, denials of access to lawyers and defenders are common in SIZO-1 in Yekaterinburg and SIZO-1 in Irkutsk Region. In Kaluga Region, lawyers complained about having to wait in line to meet their clients at SIZO-1, because the remand prison does not have enough rooms to accommodate numerous meetings.

53. Not all facilities are equipped with rooms for meetings between detainees and lawyers/defenders. Notably, defenders meeting with their clients at the THCF in Kaluga Region have to use the room intended for family visits (and also used as a social space). Such rooms do not offer privacy. Notably, at the THCF, the room does not have sufficient lighting for working with documents, has just one table and one chair, and a member of the administration is always

around. At SIZO-1 in Novosibirsk, detainees meet their defenders in a common room divided by bars and providing no privacy.

54. In some facilities, separate rooms are available for meetings between prisoners and their lawyers, but there are not enough such rooms to meet the needs of all inmates; very often, there is only one room. For example, in IK-13 in Nizhny Tagil, Sverdlovsk Region, accommodating 2000 detainees, just one room is allocated for meetings between detainees and lawyers.

55. Prisoners who have been beaten in detention face particular difficulties with access to lawyers. Notably, although the Court indicated Interim measures in *Vakhapov and Others v. Russia* and explicitly urged Russia to ensure that the prisoners have unhindered access to their lawyers, the latter's repeated attempts to meet with their clients have been unsuccessful.

Recommendations

56. Ensure that the most recent version of the Russian Government's Action Plan is translated into Russian and accessible to public.

57. Ensure that prisoners are informed, in an accessible and easy to understand manner, about the provisions and key features of the new appeal procedure under the RF CAP.

58. Design a set of measures aimed at assessing the effectiveness of the procedure under the RF CAP for appealing against inadequate conditions of detention, undertake such assessment and present the findings as part of executing the Court's pilot judgment in *Ananyev v. Russia*.

59. Conduct a broad public discussion of the Draft Law on Amending Certain Legislative Acts of the Russian Federation, involving representatives of the human rights community; if necessary, make changes to the draft law based on the feedback from this discussion.

60. For the Plenary of the Supreme Court: issue an explanation concerning the use of detention on remand pending trial, emphasising that this measure must be the exception rather than the norm and alternatives to custody should be preferred.

61. Design and implement measures to support the use of alternatives to detention on remand, especially in cases of nonviolent offences.

62. Close all institutions of the FSIN system based in non-repairable facilities built in Middle Ages, 18 – early 20 centuries, unsuitable for accommodating prisoners and penitentiary staff for prolonged periods.

63. Ensure in practice that the conditions of detention in all punishment/confinement cells meet the minimum standards compatible with respect for human dignity. Pay special attention to proper toilet facilities, sinks and windows. Where ensuring the minimum standards is impossible, the facilities must not be used for holding prisoners.