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Information on human rights violations regarding failure to provide medical care and ill-treatment

Information on human rights violations regarding failure to provide medical care and ill-treatment in the cases of Igor Baryshnikov, Evgeny Bestuzhev, Alexey Moskalev, Maria Ponomarenko and Lyudmila Razumova for the Special Rapporteur on the situation of human rights in the Russian Federation provided by OVD-Info.

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INTRODUCTION

OVD-Info is an independent human rights project aimed at monitoring cases of political persecution in Russia and providing legal assistance to victims of such persecution. OVD-Info was founded during the mass protests of December 2011 as a volunteer project with the purpose of publicising information on arrests of protesters. Today, OVD-Info operates a 24-hour federal hotline to collect

information on all types of political persecution and coordinate legal assistance to its victims. It also provides legal education to activists, researches different types of political persecution in Russia, conducts advocacy and strategic litigation campaigns.

Currently, many political prisoners in Russia suffer from illnesses and do not receive timely medical assistance. They are also sent to punishment cells (in Russian — *ShIZO* (*ШИЗО*)) and similar regimes) for unjustified reasons. Poor conditions of detention, which are widespread in Russian penitentiary institutions, exacerbate the health issues of prisoners and put their lives at risk. The death of opposition leader Alexei Navalny, who was repeatedly put into punishment cells and denied medical care, accentuates this extensive practice.

We are providing information about five political prisoners currently in detention and suffering from health conditions or being treated inhumanely, as well as information on the perpetrators responsible for the violation of their human rights. All five victims are criminally prosecuted for their legitimate anti-war expression. In conclusion, we are indicating our recommendations concerning these particular cases of the victims and the general situation in Russia on the matter.

DESCRIPTION OF THE VICTIMS' HEALTH CONDITION

1. Igor Baryshnikov

On 22 June 2023, Igor Baryshnikov was sentenced to seven and a half years in a general regime colony under paragraph «e» of part 2 of article 207.3 of the Criminal Code («dissemination of deliberately false information about the armed forces of the Russian Federation motivated

by hatred») for his anti-war expression. He published posts about the shelling of a maternity hospital in Mariupol, the killing of residents of Bucha, the sinking of the cruiser Moskva, the Russian military shooting Ukrainian civilians, and other reports on the war.

The first-instance court declined the defence's petition to conduct a forensic examination of the defendant's health despite his attending physician testifying under oath that imprisonment may prove fatal for Baryshnikov. The court's press release claimed that the judge considered his medical condition in its decision and reduced the sentence by only six months from that requested by the prosecution.

Since the beginning of his detention, Baryshnikov has not received timely medical care and necessary examinations (see submission i8tizzt8). In particular, due to his illness (stage II benign prostatic hyperplasia), he is unable to void without the use of an installed suprapubic catheter (epicystostomy), which is impossible to operate when shackled to a guard. In addition, the catheter needs to be replaced at least monthly, but prison authorities deny Baryshnikov timely replacements. Any delay is gravely dangerous as it may lead to a sharp progression of the disease, with the development of lethal complications, the most common of which is ascending urinary tract infection with kidney damage and renal failure. Baryshnikov's disease can only be treated surgically at stage II. Additionally, tests indicated that he also had a suspected cancer.

As a result of inadequate treatment, Baryshnikov was hospitalised on 14 September 2023 due to an overfilled bladder about to burst. According to his attorney, the hospitalisation was delayed by 3 hours because of the prison personnel's negligence consisting of tardiness.

In late December 2023, Baryshnikov's lawyer reported that the prisoner's health condition had worsened. Namely, his hands and nails had turned black due to a severe fungal

infection. He also suffered from pain and constant urges to urinate, which left the activist unable to sleep, lie down or sit up.

At the end of December 2023, after mass appeals to the Kaliningrad region prosecutor, led by OVD-Info, Baryshnikov started receiving some medical attention. On 29 December 2023, he was prescribed antibiotics, ointment and diuretics, but this medication was not provided for several weeks. His suprapubic catheter was also replaced. However, it wasn't replaced professionally enough and was leaking, forcing him to get up in the middle of the night to change his underwear. It was also impossible to wash the catheter in time, as there was one washbasin per 65 people in the unit.

From 2 January 2024 to 4 January 2024, he was freezing at 15 degrees Celsius while sleeping in a jail cell, which caused a high fever. Moreover, the administration of the Pretrial Detention Centre No. 1 of the Federal Penitentiary Service of the Russian Federation for the Kaliningrad Region deliberately let his food deliveries spoil.

At the end of January 2024, Baryshnikov was finally moved to a hospital for examination, where he stayed till 12 February. Due to suspected cancer, on 26 January, Baryshnikov underwent an MRI and then, on 5 February, a biopsy. He did not receive any documents with test results, apart from the verbal response from the doctor on 14 March that the biopsy results «are ok». After reviewing the medical records, his lawyer uncovered the biopsy results in early April. The results were inconclusive.

On 25 March 2024, Baryshnikov was again moved to the hospital at Penal Colony No. 8, where he stayed until 13 April. However, the surgery was not done in the hospital.

His lawyer reported that a urologist at the Kaliningrad Regional Hospital recommended Baryshnikov undergo surgical treatment no sooner than three months from the

date of the prostate biopsy. As of 27 June 2024, the surgery still needs to be done. Baryshnikov is under the supervision of doctors. He is given a drug (fitolizin), which, in our opinion, is not an adequate treatment for Baryshnikov, but there is no other alternative in the medical unit.

2. Evgeny Bestuzhev

Evgeny Bestuzhev is criminally prosecuted under paragraph «d» of part 2 of article 207.3 of the Criminal Code for his anti-war expression on social media. The prosecution referred to the publications in VKontakte, published on Bestuzhev's personal page, and «interviews with representatives of Ukrainian YouTube channels.» In them, Bestuzhev expresses support for Ukraine and emotionally criticises the Russian authorities for the full-scale invasion. His case is still under investigation. He has been in pretrial detention since 9 November 2022.

Bestuzhev has a serious medical condition: coronary artery disease, anteroseptal myocardial infarction (2008), percutaneous coronary intervention to left anterior descending artery (2012), stable angina, hypertension. He suffered from a myocardial infarction and underwent heart surgery in 2008. Bestuzhev requires constant and regular medication and medical supervision, which cannot be provided in a pretrial detention centre. Despite the defence's arguments supported by medical documents, a judge imposed pretrial detention.

In the two months after his detention in November 2022, Bestuzhev's health deteriorated: he repeatedly complained to his lawyer about heart and leg pain. In March 2023, a doctor in the pretrial detention centre verbally diagnosed him with superficial vein thrombosis and developing thrombophlebitis but did not provide any documents. Prescribed medications had no effect. The doctor in the pretrial detention centre recommended surgery for

thrombophlebitis, but performing such surgery in a pretrial detention centre is impossible.

In early June 2023, Bestuzhev was sent to the hospital for a medical examination. After the examination, he was returned to the pretrial detention centre, and the results of the examination were not provided.

On 9 August 2023, during transport to a court hearing, the sharp breaking of the convoy car broke his teeth. The administration of the pretrial detention centre said that a dentist in the centre could only pull out his teeth in about six months, but treating them in the pretrial detention centre was impossible due to a lack of specialised equipment and materials.

Bestuzhev continues to suffer from minor heart attacks and developing thrombophlebitis, which, without surgical intervention, threatens thrombus detachment.

3. Alexey Moskalev

See WGAD Opinion No. 76/2023

Alexey Moskalev was charged under part 1 of article 280.3 of the Criminal Code («repeated public actions aimed at discrediting the use of the armed forces of the Russian Federation») for the anti-war posts on his page on the social media site Odnoklassniki, including those about the killings of residents of Bucha and Ukrainian prisoners of war in Olenivka. On 28 March 2023, a judge in the Tula region sentenced Moskalev to two years in a penal colony. The court ordered to hand over his daughter to the guardianship authorities. On 19 February 2024, the appeal court reduced the term to one year and ten months.

In Penal Colony No. 6 in the Tula region, authorities placed Moskalev in a punishment cell five times for a total of 63 days.

On 4 August 2023, he was first placed in a punishment cell for six days, the formal reason being that he did not get up immediately after waking up. Then, right upon his release, on 10 August, Moskalev was sent to a punishment cell for 13 days for «introducing himself inappropriately».

On 23 August 2023, prison authorities sent Moskalev to a punishment cell for 15 days for the third time. The reason was that he did not keep his hands behind his back when leaving the cell, although the officer asked him to bring out the leftovers.

The fourth punishment started on 7 September and lasted 15 days. The reason given was «for being at the sleeping place outside the allotted sleeping hours.»

The fifth time prison authorities placed him in a punishment cell was on 22 September 2023 for 14 days because he leaned on his arm while sitting at the table, charged with «arranging a sleeping place at the table».

Prolonged stays in punishment cells can be equated to torture conditions, as during the day (at least for 14 hours) the sleeping place is raised, and sitting on the floor is prohibited. Thus, a prisoner is forced to stand without the possibility to sit down. This led Moskalev to develop pain in the leg joints. Poor lighting in the cell has led to a deterioration in vision. Also, the constantly low temperature in the punishment cells led to a general deterioration of health.

As of April 2024, after numerous lawyer's complaints, Moskalev's placement in the punishment cell has temporarily stopped, his condition has improved, and the lawyer noted an improvement in his appearance.

4. Maria Ponomarenko

Maria Ponomarenko is a journalist at RusNews and a mother of two children, aged 18 and 15. On 15 February 2023, she was sentenced to six years of imprisonment under paragraph «d» of part 2 of article 207.3 of the Criminal Code for posting on her Telegram channel about Russian forces destroying the Drama Theatre in Mariupol. Ponomarenko has been detained since 27 April 2022.

Her detention conditions were unsatisfactory from the beginning. Ponomarenko was transported to Pretrial Detention Centre No. 1 in Barnaul in a crowded railroad carriage (the so-called «Stolypin wagon») without ventilation, where there was not enough space to sleep (6 sleeping places for ten persons).

On 2 June 2022, she was subjected to compulsory psychiatric treatment at Altai Regional Clinical Psychiatric Hospital, named after Y.K. Erdman, although the court sent her to the clinic only for a mental health assessment. The lawyer said he could not disclose the grounds for the examination, fearing criminal prosecution for «disclosing the data of a preliminary investigation». According to Ponomarenko, in the hospital, she was forcibly injected with an unknown substance for demanding personal clothing, utensils, hygiene products and pads.

In Pretrial Detention Centre No. 1 in Barnaul, she was kept for two months in a cell with the windows taped shut, which prevented sunlight and caused an attack of claustrophobia. Due to this, Ponomarenko broke a window, for which she was placed in a punishment cell (*kartser* (карцер)) for a week. After that, in September 2022, her mental health condition deteriorated, and she cut open her wrists. According to her lawyer, Ponomarenko was then prescribed tranquillisers.

On 15 February 2023, Ponomarenko was sentenced to six years in a general regime colony. After the verdict, she was transferred to another Pretrial Detention Centre No. 2 in Biysk, where, during a search, she was forced to undress,

which made Ponomarenko indignant. After this, the officers used force against her and sent her to a psychiatric hospital, where she spent three days and received no treatment. Moreover, the medical officers summoned by the staff of the detention centre used force against Ponomarenko. According to her, they threw her on the search table, twisted her hands and tied her up so tightly that her ears were ringing. They beat her while they were dragging her to the ambulance, hitting her on the back, chest, stomach, and head, and throwing her against the stairs. In the ambulance, the officers threw Ponomarenko on the floor, but half of her body fell on the bench, and they pressed on top of it.

Although this time Ponomarenko was not forcibly medicated in the psychiatric hospital, the physical abuse continued. According to her, during the first 24 hours, the medical attendant hit her on the cheeks, stomach and chest for not finishing her cocoa in time.

On 6 September 2023, Ponomarenko was transferred to the Shipunovo Penal Colony No. 6, where she was given a summer uniform despite the cold temperature in her cell. As a result, her lower back pain worsened, but the medical officer ignored her complaints and did not prescribe any treatment, explaining that her condition was «not terrible». Due to increased pain, Ponomarenko was once unable to get up quickly enough at the request of a correctional officer. This was treated as a violation of the internal regulations, and she was sent to the punishment cell for ten days.

On 27 September 2023, Ponomarenko developed cystitis as a result of constant exposure to the cold. According to Ponomarenko, it was so cold in the punishment cell that she could see steam coming out of her mouth when she breathed.

On 3 October 2023, she was given seasonal clothing, but the shoes did not fit, causing constant excruciating pain.

On 11 October 2023, Ponomarenko went on a hunger strike demanding an end to the «lawlessness against her». The next day, she lost consciousness. Instead of providing her with medical assistance, colony officers considered this a violation of the prohibition of lying down during the day. Ponomarenko was summoned to a disciplinary commission but refused to attend due to her unsatisfactory physical condition.

In response, the officers pinched her arms, damaging the shoulder joint of her right arm, and dragged her forcibly to the commission. According to Ponomarenko, she was strangled on the stairs and lost consciousness again. Ponomarenko stopped her hunger strike.

Consequently, authorities opened another criminal case against her under part 2 of article 321 of the Criminal Code («causing harm to a prison or detention centre officer not dangerous to health»). The indictment alleges that she refused to go to the disciplinary commission hearing, and the colony staff took her there by force, and in response, the prisoner attacked them.

After the incident, Ponomarenko was sent for a psychiatric evaluation at Altai Regional Clinical Psychiatric Hospital, named after Y.K. Erdman, but in addition to her mental health assessment, she was also treated with psychotropic medication. She was eventually released from the clinic due to «orderly behaviour, stabilisation of her emotional state».

As of 27 June 2024, Ponomarenko's condition is stable.

5. Lyudmila Razumova

On 17 March 2023, Lyudmila Razumova was sentenced to seven years of imprisonment under paragraph «d» of part 2 of article 207.3 of the Criminal Code for six social media posts with videos of the Russian army shelling Ukrainian civilians and under part 2 of article 214 of the Criminal Code («vandalism committed by a group of persons, as well

as on the grounds of political or ideological hatred or enmity») for writing «Ukraine, forgive us» on the back wall of a shop.

For ten months, Razumova was kept in a punishment cell (*kartser*) in Tver Pretrial Detention Centre No. 1, although she was not there as punishment. According to her lawyer, the detainees were divided according to the offences they were charged with. As there were no defendants with similar offences in the detention centre, and no solitary cells in the pretrial detention centre, the administration placed her in a punishment cell. Confinement in a punishment cell caused a constant feeling of loneliness. Further, while serving her sentence in Penal Colony No. 5 in Vyshny Volochyok, she was placed in a punishment cell (*ShIZO*) four times: 8 days for allegedly smoking in an unauthorised place, 14 days for allegedly leaving work two minutes early, five days when officers found an item in her personal belongings that she had swapped with another prisoner, and five days for rude communication with the officers. This has had a negative impact on her health — one time, the punishment was even postponed due to the fact that her blood pressure rose to 220 mmHg.

In addition, Razumova has poor vision and made mistakes in her sewing work due to unsuitable glasses, but the colony did not provide her with the opportunity to visit an ophthalmologist. By 2 May 2024, Razumova had received the glasses.

As of 27 June 2024, Razumova's condition is stable.

PERPETRATORS OF THE VIOLATIONS OF VICTIMS' RIGHTS

Olga Vladimirovna Balandina is a judge of the Sovietsk City Court of the Kaliningrad region, who sentenced Igor Baryshnikov. The judge did not take into account that

Baryshnikov's state of health indicates his inability to serve a custodial sentence.

Oksana Vyacheslavovna Semenova, Vasilij Surenovich Arutunya, Natalya Aleksandrovna Baranova are the judges of the Kaliningrad Regional Court, who in the appeal decision rejected the arguments of the defence that Baryshnikov's health condition is a ground for imposing a punishment not related to imprisonment. The judges concluded that there were no grounds for a forensic medical examination of Baryshnikov and that Baryshnikov's condition was satisfactory and he received the necessary treatment.

Sergej Borisovich Izmestev is the head of Penal Colony No. 8 in the Kaliningrad Region who denied medical care to Baryshnikov, although Baryshnikov complained to him.

Aleksandr Nikolaevich Faber is the head of Penal Colony No. 6 of the Tula Region, who oversaw Moskalev's confinement in a punishment cell.

Aleksej Gennadevich Tkachenko is the head of Pretrial Detention Centre No. 1 in St. Petersburg, who denied medical care to Evgeny Bestuzhev, although Bestuzhev complained to him.

Dmitrij Gennadevich Gubenko is the head of Pretrial Detention Centre No. 1 in the Altai Region. After being transferred to the pretrial detention centre, Maria Ponomarenko, due to her severe mental state, broke a window in her cell and cut her wrists. She was placed in a punishment cell and denied timely medical care. He decided on Ponomarenko's confinement in a punishment cell.

Anton Anatolevich Litvinenko is the head of Penal Colony No. 6 in Shipunovo in the Altai Region, who oversaw Ponomarenko's confinement in a punishment cell.

Sergej Valerevich Vinogradov is the head of the Pretrial Detention Centre No. 1 in Tver who dismissed the complaints on Lyudmila Razumova's confinement to a punishment cell, in which she spent ten months and who oversaw her confinement in a punishment cell.

Additionally, the following officials are responsible for failing to provide timely medical care to the victims:

- The head of the medical unit in the Penal Colony No. 8 in Kaliningrad, run by the Medical and Sanitary Unit No. 39 of the Federal Penitentiary Service of the Russian Federation, who denied medical care to Baryshnikov;
- The head of the medical unit in Pretrial Detention Centre No. 1 in St. Petersburg, run by the Medical and Sanitary Unit No. 78 of the Federal Penitentiary Service of the Russian Federation, who denied medical care to Bestuzhev;
- The head of the medical unit in Pretrial Detention Centre No. 1 in Barnaul, run by the Medical and Sanitary Unit No. 22 of the Federal Penitentiary Service, who denied medical care to Ponomarenko;
- The head of the medical unit in Penal Colony No. 6 in Shipunovo in the Altai Region, run by the Medical and Sanitary Unit No. 22 of the Federal Penitentiary Service, who denied medical care to Ponomarenko;
- The head of the medical unit in Pretrial Detention Centre No. 1 in Tver, run by the Medical and Sanitary Unit No. 69 of the Federal Penitentiary Service, who denied medical care to Razumova.

CONCLUSION AND RECOMMENDATIONS

As of June 2024, there are at least 80 people prosecuted for political reasons who are suffering from illnesses in detention

and do not receive timely medical care. Their lives and health are endangered by inhumane treatment and poor conditions of detention, which are widespread in Russian penal institutions.

Russia's failure to provide medical care in detention consists of a set of problems. Medical facilities in penitentiary institutions are poor and lack qualified specialists and equipment. The list of diseases that prevent detention is not precise enough, allowing courts to arbitrarily decide whether to keep the accused in custody or not. Interventions of outside medical personnel require the permission of the head of a colony, which in practice often leads to arbitrary refusals. Penitentiary staff are, in practice, not held accountable for their actions, causing the health of prisoners to deteriorate.

Although political prisoners are in a vulnerable position, problems with the provision of medical care in penal institutions are systemic and do not only affect political prisoners. This is evidenced by statistical data, which human rights defenders are finding increasingly difficult to obtain after the Federal Penitentiary Service's recent efforts to conceal it and limit its public reporting.

According to available data, 2 400 people died in colonies and prisons in 2021. The vast majority (80%) died of diseases, of which 21% died of HIV. The Federal Penitentiary Service reports that the rate of disease mortality was 409.6 persons per 100 000 people (0.41%) in 2021 and 432.5 persons per 100 000 people (0.43%) in 2022. Meanwhile, the average rate for member states of the Council of Europe is 330 per 100 000 people. The Research Institute of the Federal Penitentiary Service demonstrates a disease mortality growth rate that constituted 12.2% in 2021 and 20.1% in 2022. Most prisoners die from diseases of the circulatory system, and their share is increasing. Mortality rates from infectious and parasitic diseases and tumours are

also high. However, some researchers believe this data may be manipulated.

In this regard, we kindly ask the UN Special Rapporteur on the situation of human rights in the Russian Federation to demand that the Russian authorities take active measures to improve the health condition of Lyudmila Razumova, Maria Ponomarenko, Alexey Moskalev, Evgeny Bestuzhev and Igor Baryshnikov, including:

- Ensure adequate systemic treatment for all the victims and develop a health care strategy for them;
- Inform Igor Baryshnikov about planned treatment, authorise a suspected cancer screening at a specialised medical institution, providing written results of the screening;
- Provide Igor Baryshnikov with medication that is adequate for his illness and condition;
- Provide written results of examinations to Evgeny Bestuzhev, revoke the measure of restraint in the form of detention so that he can continue treatment in a specialised medical centre;
- Conduct an eye examination for Alexey Moskalev and prescribe the necessary treatment or correction to prevent deterioration of the eye condition. Conduct an examination of the leg joints and prescribe him treatment to prevent deterioration of the condition;
- Conduct an examination of Maria Ponomarenko's health status and allow the admission of private doctors upon request. Any treatment and examination must be carried out subject to the voluntary informed consent of Maria Ponomarenko;
- Conduct an examination of the health status of Lyudmila Razumova, taking into account her complaints and an assessment of the risks to her health, increased blood pressure caused by prolonged confinement in a punishment cell;
- Remove disciplinary sanctions, including placement in a punishment cell, previously imposed on the victims and further refrain from imposing them for minor violations of internal regulations.

We also ask the Special Rapporteur to call on the Russian authorities to take general measures to improve medical care in penitentiary institutions, in particular, to:

- Specify the list of diseases that prevent detention;
- Provide colonies and pretrial detention centres with qualified personnel, necessary medications and equipment;
- Ensure that all diseases are properly treated in such institutions and that medical services in detention are provided to the same extent as in civil medical institutions;
- Hold prison staff accountable for ignoring requests for medical assistance or for providing inadequate medical care;
- Provide detainees with the right to a medical examination before and during further detention, based on the results of which a specialist gives an opinion on the possibility of detention. This right should be exercised without the need to obtain the permission of the head of a penal institution;
- Provide detainees with the right to be admitted to a medical specialist from an organisation outside the prison system at their request, as well as the right to periodically undergo a medical examination in a medical organisation, state or private. This right should be exercised without the need to obtain the permission of the head of a penal institution;
- Define in law the list of grave diseases leading to an unconditional release; limit judicial discretion when deciding on release from detention due to a serious illness confirmed by an expert or medical commission;
- Provide adequate facilities for daily personal hygiene, washing and drying linen in places of detention, and provide all prisoners and detainees with clothing and footwear appropriate to the season and size.

We would also like to point out the problem of arbitrary detention in punishment cells. In 2023, at least 49 people

convicted in politically motivated cases were sent to solitary punishment cells (*ShIZO*). On average, they spent 17 days at a time there.

As of June 2024, there is no regulation defining the maximum *total* number of days (in a period) a prisoner can be kept in a punishment cell without causing harm to their health. There is also no regulation defining the minimum possible interval between the date of release and the next placement of a prisoner in a punishment cell. According to Russian legislation, a prisoner can be placed in a punishment cell for a period of no more than 15 days. However, in practice, staff of penal colonies and pretrial detention centres often impose punishments one after the other so that a prisoner's confinement can last indefinitely. At the same time, conditions in the punishment cell are even worse than in Russian prisons in general: it is often cold, damp, prisoners are given little food, and there is a lack of access to medicine and meetings with family.

Therefore, we ask the Special Rapporteur to call on the Russian authorities to adopt general measures to prevent the arbitrary placement in punishment cells, in particular, to:

- Set a limit on the total number of days a prisoner can be held in a punishment cell in a given period;
- Establish a minimum interval between the date of release and the subsequent placement of a prisoner in a punishment cell;
- Provide a list of medical contraindications to placement in punishment cells, including specific diseases and conditions. Specify that this list is not closed and that other diseases and conditions may also be contraindications to placement in a punishment cell by the conclusion of the medical commission. Provide for mental health conditions among contraindications;
- Specify that the transfer of prisoners to a punishment cell shall be carried out only in exceptional cases for the commission of serious violations, such as the use of force against other prisoners and staff of the colonies and pretrial detention centres. Narrow and specify the list of serious violations;
- Provide for different periods of detention in the punishment cell for different violations;
- Establish the necessary inclusion of individuals from the public in the disciplinary commission and establish that the decision is taken only in the presence of such persons;
- Improve the conditions in punishment cells to ensure they do not reach the level of torture and other ill-treatment;
- Establish an urgent judicial procedure for the consideration of complaints against placement in a punishment cell.