

14.12.2023

## **Update on the implementation of Opinion No. 78/2022 rendered by the UN Working Group on Arbitrary Detention**

*Lindon (Rachel Lindon, human rights lawyer) prepared and sent to the UN Working Group a report on the development of the situation with Alexei Gorinov in the year following the Working Group's opinion on the immediate release of Gorinov. The OVD-Info team participated in the preparation of the report; in particular, we helped with collecting information about the situation with Gorinov, as well as with the transfer of information and documents.*

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**More information: [First UN WGAD Opinion on Suppression of Anti-War Expression in Russia](#)**

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**Case: ALEXEY GORINOV v. Government of the Russian Federation**

Distinguished experts of the Working Group on Arbitrary Detention,

We are writing this alarming update regarding the implementation of Opinion No. 78/2022 adopted by the WGAD on November 16th, 2022, and its recent developments.

As known, Mr Alexey GORINOV is an independent member of Krasnoselsky Municipal Council in Moscow, a Human rights defender, and an active member of Russian civil society.

On July 8, 2022, the Meshchansky District Court of Moscow, on the basis of the new subparagraphs «a», «b», and «e» of part 2 article 207.3 of the Russian Criminal Code, sentenced Alexey GORINOV to seven years of imprisonment for denouncing the Russian invasion of Ukraine.

On September 19, an appellate court «softened» the sentence, reducing it by one month — from seven years to six years and 11 months in prison.

He has been since executing his sentence in the Corrective labor colony n°2 of the directorate of the Federal Penitentiary Service of Russia in the Vladimir region (FKU IK-2 Pokrov).

On July 13, 2022, Alexey GORINOV submitted a complaint to the WGAD detailing the disproportionate and excessive sentencing, and the arbitrary deprivation of liberty he has been subjected to, in contravention thereof of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights.

**On November 16, 2022, the WGAD issued Opinion No. 78/2022 concerning Alexey Gorinov, as the first arbitrary detention case concerning new article 207.3 of the Russian Criminal Code.**

Pursuant to this opinion, the WGAD concluded that:

95. *In the light of the foregoing, the Working Group renders the following opinion: The deprivation of liberty of Mr. Gorinov, being in contravention of articles 2, 3, 7, 9, 19 and 21 of the Universal Declaration of Human Rights and articles 2(1), 9 (3), 19, 25 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories II, III, and V. (...)*

97. *The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Gorinov immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law. (...)*

100. *The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.”*

**No measures have been taken by the Government of the Russian Federation to comply with the appropriate remedy of the WGAD consisting in an immediate release and an enforceable right to compensation. The opinion has not been implemented and the follow-up procedure has not been respected.**

**On the contrary, the situation of the plaintiff M. Alexey GORINOV in imprisonment has been rapidly worsening, and shall rise concern.**

In addition, a new case was open against him, violating his right to freedom of expression.

## **1 The aggravation of punitive measures**

After the issuing of the WGAD opinion, punitive measures towards Alexey GORINOV have been increasing.

### **a) The special administrative procedure imposed on Alexey GORINOV**

As a first punitive measure, in February 2023, the administration of the Corrective labor colony n°2 decided to submit Alexey GORINOV to a **special administrative procedure** for people prone to escape. Pursuant to this procedure, **every two hours each day**, a camp guard must come up to the person subjected to the measure from the general mass of convicts and proceeds to a »*presentation report*«. The »*presentation report*« includes the following: the guard switches on the video camera and the prisoner must state his or her name and surname, the article under which he or she is serving the sentence and add that the prisoner is subjected to the special administrative procedure as prone to escape. These mandatory check-ups also happen **during the night, depriving Alexey GORINOV from undisturbed sleep by forbidding him to sleep more than two hours in a row.**

This procedure imposed to M. GORINOV does not have a factual basis. Indeed, besides his arbitrary deprivation of liberty, he submits himself to the Corrective labor colony rules and regulations, and never showed any intention to escape from the facility.

Therefore, Alexey GORINOV warned the Prosecutor of the Vladimir Region, Ivan GRIBOV, of the situation and requested prosecutorial oversight measures by letter dated August 30, 2023. **No answer was provided.**

To this regard, **sleep deprivation has regularly been identified as amounting to an inhuman treatment** by the European Court of Human Rights (hereinafter «ECHR»).

**On that account, the ongoing sleep deprivation imposed by the Corrective labor colony to Alexey GORINOV for eight months (since February 2023), preventing him from sleeping continuously for more than 2 hours, could amount to an inhuman treatment, and violate article 5 of the UDHR.**

## **b) The detention in the punitive segregation unit**

Alexey GORINOV has been detained four times in a row from September 7, 2023, to October 25, 2023 (48 days) in the punitive segregation unit.

The formal reason for the first placement in the punitive segregation unit (September 7 — 13) was a refusal of Alexey GORINOV to confirm in his «presentation report» that he is prone to escape. Alexey GORINOV disagreed with such an allegation he applied it to the Prosecutor of the Vladimir Region. Alexey GORINOV pronounced his «presentation report» without the last sentence and confirmation of his tendency to escape.

The second time (September 13 — 25) Alexey GORINOV was placed in the punitive segregation unit for not participating in the morning exercise, from which he was exempted on medical grounds.

The third case (September 25 — October 10) was the result of a misunderstanding or even provocation with regard to Alexey GORINOV. After discussing his second «offence» at the prison commission responsible for making decisions on placement in the punitive segregation unit, the commission members told Alexey that he could go. Alexey GORINOV went to his cell, but was detained, because as a prisoner he could not move without an escort. It was not obvious from the situation after the words of the commission, and there were no guards anywhere nearby to escort Alexey GORINOV.

The fourth time (October 10 — 25) was a reaction to Alexey GORINOV's refusal to be voluntarily sent to punitive segregation unit for the fourth time in a row, as Alexey GORINOV did not agree with such punitive practice for formal violations of rules degrading to his human dignity.

In September 2023, Aleksey GORINOV was serving his detention in the punitive segregation unit of FKU IK-2 Pokrov. On October 5, he was transferred to the punitive segregation unit of the pretrial detention center n°1 in Vladimir. The transfer to the pretrial detention center in Vladimir was justified by the initiation of a new criminal case against Alexey GORINOV. On November 30, Alexey GORINOV was returned to the FKU IK-2 Pokrov. Both units consist of dark cold punishment cells.

### **c) The other violations of the body principles in the punitive segregation unit**

Pursuant to article 15 of the Body of Principles, communication of the imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.

The detention in the camp's punitive segregation unit prevents visits from family or any other visitor.

On September 14, Alexey GORINOV's family came to FKU IK-2 Pokrov and was denied entry.

It has been 48 days in a row that Alexey GORINOV has been deprived from the visit of relatives, kin, or friends.

Moreover, according to Alexey GORINOV, even outside the punitive segregation units, the prison authorities arbitrarily restrict his right to correspondence. Alexey GORINOV is not given many letters without reason, and many of his letters are also not sent from the colony.

His detention in the punitive segregation units therefore violates principle 15 of the Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment (Assembly resolution 43/17), prohibiting the denial of communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, for more than a matter of days.

It should be noted that placement in a punitive segregation unit is in fact a measure to change the conditions of serving the sentence and an additional punishment. However, this procedure is beyond judicial control. The decision to place a prisoner in a punitive segregation unit is taken by a prison commission consisting of prison staff. At the same time, the prisoner has no opportunity to get acquainted with the «charges» and prepare a defense in advance, and no opportunity to use the assistance of a professional lawyer to prove the groundlessness of the claims. **That is, the procedure does not meet the principles of a fair trial at all but provides for the possibility of imposing very strict punishments.** This opens up many opportunities for abuse and arbitrariness on the part of prison authorities towards prisoners.

#### **d) The lack of medical care**

The detainee suffers from chronic health issues, and already went through a major surgery on his lungs. In December 2022, as he was already held captive, he temporarily suffered from a shortness of breath and an impossibility to eat, without access to adequate medical treatment in the detention center. Under media pressure, Alexey GORINOV was finally transported to the hospital for detainees in the Vladimir region, and was hospitalized from December 9, 2022, to February 2023. **The abovementioned punitive measures are contributing to the deterioration of his already fragile health.**

Pursuant to principle 24 of the Body of Principles, a proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary.

Given that Alexey GORINOV has been imprisoned for a second year despite the WGAD opinion, it is complicated

to fully trust the prison doctors, who are under the control of prison authorities. Moreover, there is a systemic problem of medical equipment in Russian prisons. Even without malicious intent, the level of medical care in prisons is far from the level of modern medicine (e.g., A/HRC/WG.6/44/RUS/2, para. 17). It is essential to ensure an independent and qualified medical examination for Alexey GORINOV. Such an independent medical examination could be carried out by civilian doctors if the prison authorities allowed them to visit Alexey GORINOV.

Alexey GORINOV does not have access to adequate medical care in imprisonment, even though his current health state requires regular health checks.

Consequently, this lack of necessary medical care may constitute a violation of principle 24 of the Body of Principles.

## **1 The new case unduly open against Alexey GORINOV: the second criminal file**

On September 5, 2023, FSB officers came to question Alexey GORINOV as part of their operational investigative activities. The questioning focused on GORINOV's attitude towards terrorist and extremist organizations.

**The line of questioning led by the FSB does have any factual basis, acknowledging that Alexey GORINOV does not have any relationship to any terrorist or extremist groups.**

After this visit, Alexey GORINOV was placed in a punitive isolation center, where he spent a total of 48 days.

At the end of September 2023, it became known that the Investigative Committee of Russia for the Vladimir region initiated a second criminal case against Alexey GORINOV under part 1 of article 205.2 of the Russian Criminal Code, public justification of terrorism.

According to the conclusion of specialists in the new criminal case: the text of the speech messages, which were voiced by Alexey GORINOV as part of a conversation with other prisoners in January 2023, while he was in the hospital at the Corrective colony n°3 in the Vladimir region, contains psychological and linguistic signs of justification of terrorism (the explosion on the Crimean bridge, and the activities of the Azov Assault Brigade (a formation of the National Guard of Ukraine)) by forming inmates' opinions about the permissibility of the activities of an organization recognized by Russian law as terrorist, as well as the commission of sabotage and terrorist acts on Russian transport infrastructure.

Now, investigative actions are being carried out, and a psychological and linguistic examination of the speech messages has been appointed.

Part 1 of Article 205.2 of the Russian Criminal Code provides for a penalty of up to 5 years' imprisonment. In accordance with the Russian Code of Criminal Procedure, if Alexey GORINOV is found guilty in the second criminal case, his sentence may be increased, and the imprisonment regime may be changed to a stricter one. In addition, the terrorist nature of the new charge allows the authorities to seize all of Alexey GORINOV's bank accounts, as well as to prosecute any form of public support for Alexey GORINOV under the guise of counterterrorism.

**Obviously, the new criminal case against Aleksey GORINOV is an additional form of restriction of his freedom of expression and personal freedom**, as well as a form of marginalizing him in the eyes of society and weakening his public support. Recently, there has been a trend of criminal proceedings on terrorist charges for anti-war statements in Russia. According to the OVD-Info human rights project, as of the end of October 2023, more than a hundred people in Russia had been charged with

«justification of terrorism» for criticizing the war in Ukraine or other anti-war statements.

## **1 The state of proceedings following the WGAD's opinion**

During the Cassational hearing dated August 8, 2023, the defense of Alexey GORINOV submitted the Notary translation of the WGAD opinion No. 78/2022 to the Court. Nonetheless, the Casssation Court **dismissed the WGAD opinion in its ruling and upheld both the conviction and the sentence of M. GORINOV.**

The Defense of M. GORINOV, before the Cassational hearing, petitioned the Office of the Commissioner of Human Rights in the Russian Federation and required their involvement in the implementation of the WGAD opinion and the release of Alexey GORINOV. The Office of the Commissioner denied the motion, considering that the Office does not «participate in criminal proceedings».

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**We deplore the lack of implementation of the WGAD opinion No. 78/2022 by the Russian Federation and the ongoing deprivation of liberty of Alexey GORINOV.**

**Above all, we wanted to warn the Distinguished experts of the Working Group on Arbitrary Detention about the alarming degradation of his situation, rapidly worsening due to additional punitive measures and additional facts unduly raised against him.**

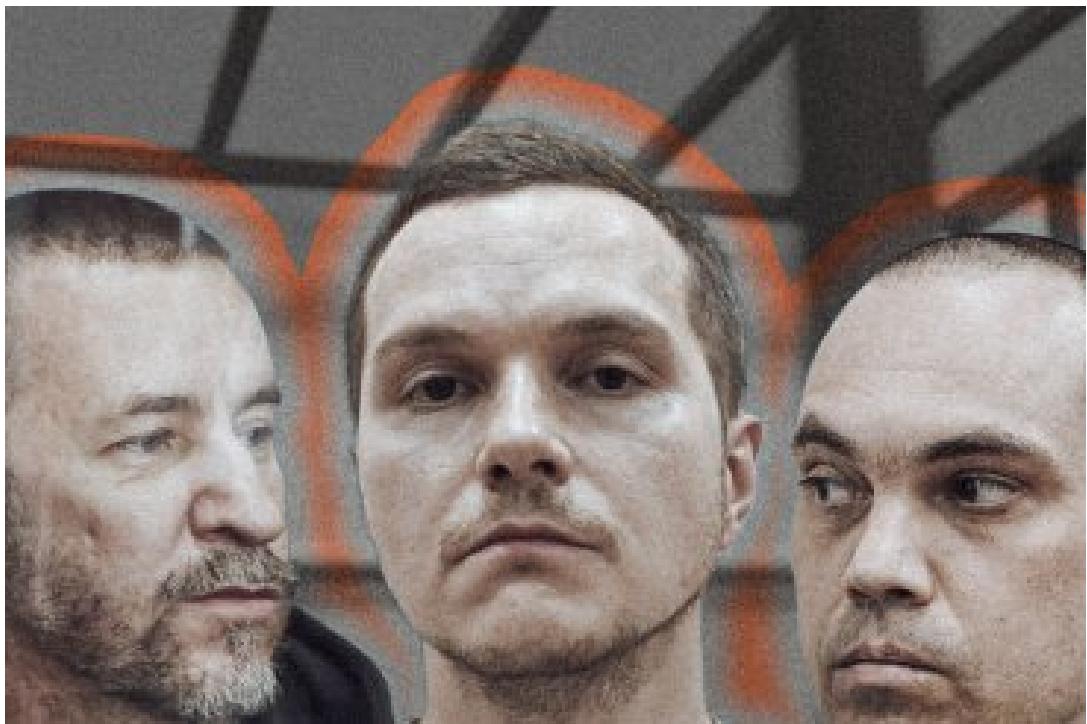
We remain at your entire disposal if any additional information is needed.

Sincerely,

**Rachel LINDON**

*Avocat à la Cour*

## Ещё почитать



### **Защита политпреследуемых не должна быть вне закона. Заявление ОВД-Инфо о приговоре адвокатам Алексея Навального**

17.01.2025 Суд приговорил адвокатов Алексея Навального к срокам до 5,5 лет лишения свободы за выполнение их профессиональных обязанностей. Адвокатов политика преследуют только за то, что для них еще имеет значение буква закона и они не оставили человека один на один с репрессивной машиной.



## **Что такое «оправдание терроризма» и как за него преследуют?**

В рейтинге уголовных статей, по которым россиян преследуют за антивоенные высказывания, первую строчку в 2024 году статья о публичных призывах, оправдании или пропаганде терроризма...

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## **Требуем запретить «карусельные» аресты**

В октябре 2025 года суд в Петербурге отправил под административный арест участников группы «Стоптайм»:

вокалистку Диану Логинову (Наоко), барабанщика Владислава Леонтьева и гитариста...

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высказывания и критику войны в Украине**  
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