

PUNISHMENT CELLS ON DUBIOUS GROUNDS: KYIV RESIDENT VYHIVSKIY'S CONDITIONS OF DETENTION IN RUSSIA

Since 2014, the United Nations Human Rights Monitoring Mission in Ukraine has documented human rights violations perpetrated against persons arrested in Crimea.¹ Some of them were subsequently deported to the Russian Federation in violation of international humanitarian law. In extreme cases, the failure to acknowledge an arrest and detention and subsequent concealment of the whereabouts of the detained person from their relatives constituted an enforced disappearance and led to other grave human rights violations, such as torture and ill-treatment.

Valentyn Vyhivskiy, a Kyiv resident, disappeared after travelling to Crimea on 17 September 2014. He was later found in detention in the Russian Federation and convicted to 11 years in prison in a high-security facility. Valentyn's father Petro speaks about the seven years that his son has so far spent in detention, marked by poor conditions, including prolonged solitary confinement, placement in punishment cells, and restrictions on communication with the outside world.



Petro Vyhivskiy, Valentyn's father. Photo: © OHCHR/Oleksandr Katerusha

How did Valentyn end up in Crimea, and why was he detained?

Valentyn was interested in aviation, it was a hobby of his. There was a community of aviation fans in countries from the former USSR. This community included people from Ukraine, Belarus, Russian Federation and other countries involved in aviation production. They used to meet up with each other and corresponded together.

There was one girl in this community, they [Valentyn and this girl] communicated for a long time. She was raising money for cancer treatment for one of her relatives. Valentyn collected a small amount and wanted to hand it over to her. They agreed to meet in Crimea. And as it turned out much later, this girl was under surveillance by the FSB for her "ties" with a hostile country [Ukraine], and a person [Valentyn] interested in aviation. Perhaps it was a way to lure him out, I don't really know.

On 17 September 2014, Valentyn Vyhivskiy was apprehended in Crimea. As his relatives found out approximately a month later, the FSB apprehended Mr. Vyhivskiy when he entered Crimea and held him in an unofficial place of detention for several days. Around 21 September 2014, Mr. Vyhivskiy was deported to the Russian Federation and eventually placed in the Lefortovo SIZO in Moscow.

In the meantime; Mr. Vyhivskiy's parents made numerous unsuccessful attempts to locate their son, including through enquiries with law enforcement agencies in Crimea. Later, when it became possible for relatives to see Mr. Vyhivskiy briefly in detention in the Russian Federation, he complained to them that he had been repeatedly beaten and subjected to a mock execution with a gun early on in his detention.

The circumstances of Mr. Vyhivskiy's arrest and further detention amount to an enforced disappearance, which is a grave human rights violation. Concealing the whereabouts of the detained person places the

¹ The Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, occupied by the Russian Federation.

victim outside the protection of the law leaving them vulnerable to ill-treatment and torture.

He was detained, then transported to Moscow and charged with espionage under Article 276 of the Criminal Code of the Russian Federation.

Under Article 49 of the fourth Geneva Convention, individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.

What are your son's detention conditions like?

In Lefortovo he spent a year and a half in a cell for two people, and in the colony, he has been kept in solitary confinement since 2016. [On 12 May 2016, he was admitted to the colony in Kirov oblast where he remains as of the time of this interview, — ed.]

I was then trying to find out why he was being held in solitary confinement. Initially, the administration justified this by saying that the colony had prisoners from Donetsk and Luhansk regions and that there could be some conflicts. But then it turned out that in Russia, people who “pose a threat to the Russian Federation” are kept in solitary confinement to avoid contacts with others.

Since 2017 and until recently, he has been kept under the “PKT” regime (помещение камерного типа), which involves stricter security measures and the isolation of a detainee. Valentyn has also periodically been placed in punishment cells (SHIZO) on dubious grounds.

International human rights law allows solitary confinement only as a last resort for the shortest time possible. (Committee against Torture, Concluding Observations: USA, CAT/C/USA/3-5) Prolonged solitary confinement, i.e., that which exceeds 15 days, is prohibited. (Standard Minimum Rules, rules 43(1)(b) and 44.) Prolonged solitary confinement may amount to an act of torture and other cruel, inhuman or degrading treatment or punishment.

Every day is the same for him. He spends all of his time in his cell, which measures 2x3 meters. He has a bench that's 20 cm above the floor, which serves him as a bed, but which is taken away during the day. It is so cold in winter that the walls are covered with frost, and in summer it is very hot with a lot of mosquitoes. The food is generally horrible, although it has improved a bit in the last few months.

The medicine they give is the same as in all prisons. Valentyn had COVID-19 and was given one treatment — being placed in a punishment cell. Brilliant green antiseptic, maybe iodine — that's all they have. There is a doctor in the colony, but if the person is sent to a punishment cell when he has COVID-19, you can understand what kind of treatment they offer.

All persons deprived of their liberty retain the right to enjoy the highest attainable standard of physical and mental health. (ICESCR art. 12 (1)) Authorities should monitor and treat detainees' medical issues, even if an individual has not specifically requested medical assistance. (Communication No. 763/1997, *Lantsova v Russian Federation*, Views adopted by the Human Rights Committee on 26 March 2002, para. 9.2)

I received the most recent letter from him yesterday [the interview took place on 21 July 2021, — ed.]. He wrote it after he had already been moved to the SUS [a type of cell called the Strict Conditions of Detention — ed.]. He wrote that in comparison with the punishment cells, the SUS is like a five-star hotel. Because there is a TV, a table, there is a bed that is not taken away and he is not checked on every night. This was the first letter he wrote on the table. And there is also a small couch on which he can sit. Before that, for the last five years he was only able to either stand or walk during the day.



Petro Vyhivskiy, Valentyn's father. Photo: © OHCHR/Oleksandr Katerusha

Do you know why disciplinary sanctions were imposed on Valentyn?

We wrote an appeal to Moskalkova [Russia's Human Rights Commissioner, — ed.] about this, and the Russian prosecutor's office looked into the issue. They wrote the following: 47 violations were registered against Valentyn. The main violation was his refusal to work. He wrote a statement that he would not do any kind of work for the aggressor country. This was considered as a violation.

International human rights standards recommend that prison authorities only use disciplinary measures on an exceptional basis and only when other methods to resolve disputes cannot ensure safe custody and the secure operation of the prison. In any case, prison administrations shall ensure proportionality between the sanction and the offence for which it is established. (United Nations Standard Minimum Rules for the Treatment of Prisoners, rules 36-39)

How do you communicate with your son now?

We are in touch through letters sent by post, there is no e-mail correspondence available, and phone calls have not been allowed since 2017, because he was in the PKT all that time.

In general, they [the prison authorities – ed.] do not allow him to write about the internal regulations, his conditions of detention, and so on. Writing about politics is not allowed. Now Valentyn does not write anything about the internal regulations. He decided not to complain to anyone: neither to us, nor to the administration. At first there was a period when his letters were not delivered, but he complained in the presence of the Ukrainian Consul that his letters had not been sent from the colony for four months. The administration said that he criticised Russia and wrote the word "Russia" in lower case. He promised that he would not write bad things anymore and would write Russia with a capital letter.

And the letters started to reach us. At the moment we are receiving letters from him.

Persons deprived of their liberty should be allowed to communicate at regular intervals with family and friends through correspondence and by receiving visits. (United Nations Standard Minimum Rules for the Treatment of Prisoners, rule 58. Communication No. 74/1980, *Estrella v Uruguay*, Views adopted by the Human Rights Committee on 29 March 1983, para. 9.2.) This right may not be denied for "more than a matter of days". (Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 15.)

How is Valentyn taking this psychologically?

When he was just detained, he was shocked, of course, as everyone would be. Especially because of the use of different ways to "break" him... not explaining for what and why, but just beatings, beatings, beatings... He survived that... When my wife went to see him for the first time, 7-8 months after the detention, he looked very bad: skinny and tired. The second time she was there, Valentyn looked much better.

He lifted his shirt, showed her that everything was fine, there was nothing, everything had healed. But my wife saw that there were a few scars left on his head. When they met later in the colony (my wife went there several times), he was more or less okay.

The prohibition of torture and ill-treatment is absolute and allows no exceptions under international law (ICCPR, article 7).

What does he need the most at the moment?

At the moment, he needs serious medical care. He has already had many health problems. Well, and most importantly, it's his psychological state. He wrote that he understands that without serious rehabilitation, without a psychologist, he cannot overcome the problem. Moreover, he has problems with his joints, his back, his teeth, and the consequences of COVID-19 need to be treated as well. He believes he would recover after a month or two at home. But he is not home yet.

What actions are you taking now and what are your next steps?

We are not sitting quietly, we try to do everything possible to encourage everybody – our government and beyond our government – to take at least some action regarding an exchange, release, or any other action to bring our children home. It's not only us who are doing something, it's all the relatives of those detained in Russia, Donetsk and Luhansk.

Watch the video
interview



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