



# The case of Vitaliy Buntov: A prisoner who won his case against Russia at the ECHR continues to be subjected to torture

Vitaliy Buntov has been repeatedly subjected to torture due to his refusal to withdraw a complaint he filed against Russia with the ECHR. Russian authorities deny him professional medical care and demonstratively threaten him with an extended prison sentence in retaliation for his attempts to defend his rights in the ECHR. His court trial is being conducted at a rapid pace. The prisoner's counsel claims that his life is in serious danger.

## 1. Introduction

The Russian Federation is one of three 'leaders' among all Council of Europe member states when it comes to number of unexecuted rulings of the European Court of Human Rights (ECHR). According to [the report](#) of the Council of Europe Committee of Ministers, at the end of 2015, 1,549 judgments against Russia were still to be executed. The case 'Buntov v Russia', the ruling with regard to which was issued back in 2012, constitutes an illustrative example of this situation. The case of Vitaliy Buntov attracted international publicity as an example of the widespread use of torture and ill-treatment of prisoners in Russian penitentiary facilities.

Russia has not only failed to comply with the ECHR ruling on the case of Buntov, but it also continues to subject him to cruel and inhumane treatment in retaliation for additional complaints he has filed with the ECHR. Buntov's attempts to defend his rights has resulted in the opening of a new criminal case against him, which will likely result in an extension of his prison sentence.

As stated by his counsel and family members, Vitaliy Buntov's life is in serious danger. His health condition remains very serious and he urgently requires professional medical care. His court trial must be suspended until his health condition improves. The international community has an obligation to intervene in order to prevent a tragedy, and protect Vitaliy Buntov from the arbitrariness of Russian law enforcement and correctional authorities.

Vitaliy Buntov (born in 1976) – a former employee of a private security company in Khabarovsk (the Russian Far East); entrepreneur. Currently serving a 25-year prison sentence for allegedly committing several crimes in 2001 – the robbery and murder of Y. Lazareva (Article 105, section 2, letter 'z', Article 162, section 3, letters 'b' and 'v', Article 325, section 2 of the CC of the RF), attempted murder of a police officer (Article 317 of the CC of the RF) and illegal possession of weapons (Article 222, section 1). In 2002, Vitaly Buntov was sentenced by Khabarovsk Regional Court to life imprisonment, but in 2003, the Supreme Court reduced the sentence to 25 years' imprisonment. During his time in detention, Vitaliy Buntov has been held in at least 13 different detention centres and penal colonies.

## 2. The first criminal case

The criminal case, conducted against Vitaliy Buntov on charges of murder and robbery of Y. Lazareva in 2001, was characterized by several dubious factors.

On 21 September, 2001, in Khabarovsk, Y. Lazareva was murdered during a robbery at her apartment. Shortly after, law enforcement officers arrested S. Fedorov, who was familiar with the victim. During an examination of Fedorov's personal belongings, traces of blood were found on his shoes. It transpired during [the examination](#) carried out that the blood could have been that of the victim. Fedorov was detained as the only suspect, and he was held in custody for some time. After he gave testimony against Vitaliy Buntov, his status was changed from 'suspect' to 'witness' and he was released. Buntov's counsel noted that during the investigation, Fedorov changed his testimony a total of four times.

During the cross-examination in court, two witnesses stated that, according to Lazareva, Fedorov once visited her, and during this visit, he accidentally dropped a gun he had been concealing under his clothes. However, the court found this testimony to be 'vague'.

On 30 November, 2001, Vitaliy Buntov was arrested on suspicion of the murder and robbery of Lazareva. According to the verdict of the court, during the search, some items (a gold chain, leather jacket) belonging to the victim, were seized from him. Buntov allegedly confessed that he had bought them from Fedorov at the end of September 2001 and that Fedorov had told him that during the robbery, he had stolen those items and murdered Lazareva.

During his detention, Buntov allegedly shot at a police officer with a gun. These allegations appear dubious for two reasons. Firstly, according to investigators, the shot was fired from a gun concealed in his jacket pocket, but an examination failed to reveal any traces of gunshot residue proximate to the pocket of the garment in question. Secondly, the police officer suffered no harm, as allegedly, the shot fired struck the buckle of his trouser belt and ricocheted off.

During his detention, an IZH-79 pistol with a silencer was allegedly seized from Buntov. According to the examination carried out, this is the brand of the gun from which Lazareva was killed. Buntov's counsel contests the allegation that a gun was seized from his client, stating that the weapon was passed on to the investigative bodies by a police officer, Lemeshko. The counsel noted that Buntov's fingerprints were not present on the weapon. It is noteworthy that, according to the case file, two IZH-79 pistols with two silencers were initially registered as material evidence in the criminal case. However, subsequently, the second gun was never mentioned in connection with the case again.

The case file includes the protocol of Vitaliy Buntov's interrogation of 1 December, 2001, along with his confession. However, Buntov himself [stated in court](#) that the protocol was fabricated. Also, during the trial, Buntov stated that he had been tortured and coerced into incriminating

himself, but the court ruled not to take these circumstances into consideration.

Vitaliy Buntov denied participation in the murder of Lazareva. According to him, on the day of the murder (i.e. 21 September, 2001), he, along with his mother and sister, were in the town of Birobidzhan (situated 187 km from Khabarovsk), where they celebrated his nephew's birthday and didn't return to Khabarovsk until 22 September, 2001.

Vitaliy Buntov's counsel insists that this verdict was reached by a jury of unlawful composition. Some participating jurors have previously participated in another trial less than one year prior, which is prohibited under Russian law.

### **3. Torture in the penal colony following refusals to collaborate with the administration**

In January 2009, Vitaliy Buntov was transferred to the colony IK-1 in the Tula Province (Western Russia). Buntov's transfer was carried out in connection with a conflict that flared up between him and a number of prisoners in his previous colony - IR 13 in Khabarovsk Krai. Appropriate action was taken in order to ensure Buntov's safety. According to Buntov, some time after his transfer to the IK-1 colony, the prison's administration made attempts to recruit him as a so-called 'aktiv' ['the body of active prisoners'], i.e. a number of convicts who cooperate with the management of colonies, performing tasks aimed at persecuting fellow inmates (application of psychological pressure, torture, battery, murder). As a rule, prisoners serving long term sentences as well as those physically strong and hardy are chosen for the role of 'aktiv'. As Vitaliy Buntov was trained in several martial arts disciplines, had a coaching qualification in weightlifting, and had graduated from a bodyguard training school, prison officials considered him suitable for the role.

Buntov initially agreed to take up the role as he feared that he would be persecuted were he to refuse. Later, according to him, he refused to carry out illegal orders of the colony's administration. Buntov also claims that he knows of at least two instances in which an inmate was killed in the colony, and measures were undertaken to make the murder look like a successful suicide attempt. Buntov actively sought to bring about his transfer to another colony. In response to this request, the colony management decided to punish him.

On 27 January, 2010, Buntov was placed in a punishment cell (solitary confinement). There, he was subjected to physical violence and torture by several employees of the colony, including, according to Buntov, the acting governor of the colony, Vladimir Shevchenko and his deputy Dmitriy Zhdanov. According to Buntov's testimony, **he was handcuffed to a bench and beaten with a wooden stick which was shrouded in cloth. They also put a gas mask over his head in order to suffocate him.** Buntov lost consciousness several times. During the beating, the prison's doctor was present and checked several times whether the prisoner had a pulse.

On 28 January, 2010, the torture continued and other prisoners of the colony also took part. Buntov's hands were bonded using yoke clamps and his legs were tied to a stool. **They put a gas mask on Buntov's head and began to insert needles under his fingernails before pulling out his nails with pincers, first his toenails, then his fingernails.** After this, they ordered him to clean his blood from the floor which is why he managed to gather and conceal some of his fingernails. On 29 January, 2010, Buntov was also beaten. According to him, **he spent a few nights naked, chained in a sitting position near an open window.**

On 4 February, 2010, during the visit of both his mother and sister, Buntov informed them of the incidents of torture and covertly handed to them a few of the fingernails he had kept. His family

members filed a statement about his torture which led to an investigation into the incident being initiated. However, Russian law enforcement agencies only pretended to investigate the case; they gathered false testimonies from colony staff as well as other inmates (who were, in fact, the ones to inflict torture) who stated that no torture had been inflicted. They also carried out a physical examination of Buntov which did not uncover any traces of violence. The doctor concluded that Buntov 'had not suffered any traumatic injuries, that there were no post-traumatic changes in the state of his nails of fingers or toes', and that 'his fingernails were deformed due a to fungal infection'.

The colony's medical physician issued two backdated medical certificates (dated 29 January, 2009 and 17 November, 2010), which indicated that Buntov suffered from mycosis – a fungal infection of the nails. At the same time, according to a record made in Buntov's medical history of 31 May, 2010, by the Office of the Federal Penitentiary Service (OFPS in Tula Province), as of 15 February, 2010, he was not suffering from mycosis. An investigator from the Investigative Directorate of Tula Province advised Buntov that he should "withdraw his statement if he wanted to avoid trouble".

On 19 February, 2010, following a visual medical examination by a state expert, evidence of beatings was identified. The expert concluded that all the blows were made to the parts of the body which were 'within the reach of the complainant's own hands'.

Vitaliy Buntov's family members addressed independent experts, requesting that they verify whether the nails which were pulled out belonged to Buntov. The experts concluded that the nails did come from Buntov, and that they had been extracted with the use of a solid, blunt instrument. No traces of fungal infection were found.

As regards the torture inflicted upon Buntov, an investigation has been initiated several times, however, no criminal case has ever been filed. The investigator issued a decision refusing to initiate criminal proceedings on as many as four occasions (on 25 February, 2010, 14 May, 2010; 4 June, 2010; 21 March, 2011).

On 15 May, 2010, Vitaliy Buntov filed a complaint with the ECHR, which was subsequently accepted for consideration.

**On 5 June, 2012**, the ECHR ruled on the case 'Buntov v Russia' (No. 27026/10), **recognising the fact that torture had been used against the complainant as well as underlining the inadequacy of the investigation into the case of torture carried out by Russia**. The court ordered Russia to pay Buntov €45,000 in compensation for moral damages and €10,717 in legal fees, as incurred by the complainant. The court also ordered Russia to carry out a fresh investigation into the case. The case was brought under the control of the Committee of Ministers of the Council of Europe. In 2012, Russia paid damages to Vitaliy Buntov and initiated 'a new investigation' into the case. However, the result of this investigation turned out to be exactly the same; the case was closed with the following reason cited: '[lack of elements of criminal act](#)'. None of those who tortured Vitaliy Buntov has been brought to justice. Head of the colony IK-1 in Tula Province, Vladimir Shevchenko, his deputy Dmitriy Zhdanov, as well as other employees of the colony, identified as perpetrators by Buntov, were promoted to more senior positions shortly after the investigation was discontinued.

#### **4. Other complaints filed by Buntov with the ECHR**

Following the events in the colony IK-1, Vitaliy Buntov was transferred to colony IK-4, which is also located in Tula Province. According to Buntov, pressure was exerted on him in the colony in order to coerce him to withdraw his complaint filed with the ECHR regarding the use of torture in

colony IK-1. Buntov was subjected to physical violence. Therefore, Buntov's family members filed a new complaint with the ECHR, which was assigned number 25327/11 (it consists of 40 claims). Three claims from the dossier 25327/11 have been prioritised in accordance with Rule 41 of the Rules of Court. On 23 December, 2015, the ECHR ordered Russia to ensure physical integrity of Buntov as an interim measures. The Russian authorities are yet to comply with the order.

On 8 September, 2016, complaint No. 25327/11 was excluded from the list of cases under consideration by the ECHR. **As suspected both by Vitaliy Buntov's counsel and his wife, the Russian extrajudicial Rapporteur, in collusion with the authorities of the Russian Federation, secretly produced an unreliable, biased written summary of complaint No. 25327/11 and a draft decision on the complaint with a proposal to remove the case from the list of cases to be considered by the Court.** According to Buntov's representatives, for this very reason, the complaint was considered inadmissible. They have also alleged that Russian lawyers in the ECHR hinder their communication with the Court's management and, as a consequence, numerous appeals to the President of the ECHR remain unanswered.

## 5. A new criminal case

Another colony in which Vitaliy Buntov has served part of his sentence is the Federal Government Institution - Penitentiary Facility IK-12, situated in Perm Krai (Central Russia). On 4 March, 2015, on the basis of Buntov's statement, a criminal case was initiated with respect to employees of the FGI PF IK-12 on suspicion of 'abuse of office' (Article 286, section 3, letters 'a' and 'b' of the CC of the RF). Buntov stated that on 22 February, 2015, three employees of the colony (Head of the colony, G. Nazarov, his deputy I. Shamin, as well as junior inspector of the security department of the colony, A. Mulenko) beat him with a rubber truncheon in a bid to coerce him to withdraw all complaints filed with the ECHR and renounce the allegations made against representatives of the authorities who participated in his torture. According to Buntov, afterwards, they refused both to provide him with medical assistance and to make a record the battery. His bodily injuries were photographed by another inmate and the images were later successfully delivered by digital carrier to Buntov's wife.

Russian investigative authorities conducted an 'investigation' into the incident, concluding that the beatings were inflicted by another inmate, S. Zubov, at the request Buntov himself. This conclusion was made on the basis of the testimony of Zubov, who, being a convict, could have given testimony under pressure from the prison administration. According to Buntov's counsel, S. Zubov has previously given written testimony against suspected employees of the FGI PF IK-12 on five occasions, and these testimonies were sent to the ECHR in connection with case No. 25327/11. However, his testimony changed completely following a conversation with an employee of the Prosecutor's Office in the town of Kizel. Zubov has never been prosecuted for 'beating Buntov'.

As a result, the case against employees of the colony was closed, and on 3 November, 2015, Buntov was charged with 'knowingly falsely denouncing' (Article 306, section 3 of the CC of the RF). In the event of a guilty verdict, Buntov's sentence could be increased to up to 30 years. Within the framework of this case, Gubakhinsky City Court upheld the motion of the investigator to subject Buntov to a forced psychiatric examination, by virtue of which he was deemed to be of sound mind.

On 24 November, 2016, the criminal case regarding the charges of 'false denunciation' was referred to Gubakhinsky City Court of Perm Krai (the town of Gremyachinsk). On 8 December, 2016, consideration of the merits of the case began. As the **trial continues, Vitaliy Buntov is subjected to ill-treatment.** Buntov suffers from a number of medical conditions, most of which

can be fatal: postinfarction cardiosclerosis, ischemic heart disease, chronic heart failure, chronic renal failure, chronic kidney disease (nephrolithiasis, urolithiasis and nephroptosis), portal hypertension, dorsopathy of the lumbar spine, spondylarthrosis, a protrusion of intervertebral discs and discal hernia. Buntov has also been diagnosed with fractures of the posterior segments of three ribs (8th, 9th and 10th).

Due to the condition affecting his spine, he is unable to move independently. He frequently has a high body temperature and high blood pressure. He is therefore transported by stretcher to the courtroom. Due to the deterioration of Buntov's health condition, he [has been taken to hospital](#) several times directly from the courtroom. Despite this, the trial is being carried out in an accelerated mode, i.e. almost every day. In order to be present at the trial, he is transported from his detention facility of the town of Kizel over a distance of 72 km by mountain road, which further exacerbates his health problems.

On 10 January, 2017, on the basis of a medical examination of Vitaliy Buntov carried out at Gremyachinsk District Hospital, doctors deemed him **unfit to participate in court proceedings and in need of hospital treatment**. On 14 January, 2017, in the detention centre, Buntov was examined by an unknown doctor who [concluded](#) that Buntov was sufficiently healthy to participate in the trial. This medical assessment was accepted by the court. On 16 January, 2017, Vitaliy Buntov was again taken to hospital directly from the courtroom. An emergency doctor recommended that Buntov be transferred to the town of Chusovoy, as the hospital there has a Department of Neurology whereas the Gremyachinsk facility has merely an Internal Medicine Department, Judge Volkova, however, ruled against the motion requesting his transfer.

## 6. Pressure applied to counsel Dmitriy Sotnikov

**The trial against Buntov is being held in violation of the principle of adversarial process and the right to defence. During the scheduling of court hearings in Buntov's case, Judge Elena Volkova failed to consider the limitations to Counsel Dmitriy Sotnikov's availability, which prevent his attendance of all court sessions. Forced absenteeism, related, among other commitments, to representation of the interests of Vitaliy Buntov in other courts, the judge perceived as 'contempt of court' which prompted her to issue a demand that the Moscow Province Bar Association react to Sotnikov's deeds.**

In order to participate in the trial, Moscow counsel Dmitriy Sotnikov is forced to regularly travel a distance of over 1,500 kilometers. He also participates in other cases in other regions of Russia.

On 28 November, 2016, Judge of the Gubakhinsky City Court of Perm Krai, Elena Volkova, decided that the court would be in session on every working day from 8 December, 2016 to 29 December, 2016. On 8 December, 2016, Dmitry Sotnikov filed a motion for the schedule of court sessions to be reviewed, as on some of these days, he was due to participate in other hearings. The judge dismissed the motion. Sotnikov argued that daily participation in the trial would deprive him of the opportunity to arrive at a defence strategy along with his client as well as sufficient opportunity to become acquainted with the case file. On 15 December, 2016 and 19 December, 2016, in the light of the counsel's other commitments, he was unable to attend court and therefore requested that the session be postponed. In response, on 19 December, 2016, Judge Volkova [issued a special ruling](#) in respect of the counsel, according to which, he 'deliberately delays proceedings', 'displays a disregard for the court and shows disrespect towards it' and 'violates the rights of trial participants'.

On 21 December, 2016, Judge Volkova issued a second special ruling with respect to Counsel Sotnikov. On this day, with his mobile phone, the counsel [recorded](#) footage of the police carrying

Buntov into the courtroom by stretcher. The judge noted that 'the issue of permitting video capture had not been discussed', and Sotnikov recorded the video 'so that he could later attach it to the complaint filed with the ECHR'. Sotnikov, in turn, protested that he was within his rights to capture the video as, at that time, the hearing had not yet commenced.

On 26 December, 2016, Judge Volkova issued a third special ruling concerning Dmitriy Sotnikov's failure to appear in court, although the counsel had already warned the judge that on that particular day, he was required to appear at two separate court hearings concerning two criminal cases.

In the three special rulings, the judge stated that Counsel Sotnikov's actions 'were unacceptable, in contravention of the law, that they undermined constitutional rights as well as fundamental legal ethics'. The judge [ordered](#) the President of the Bar Association of Moscow Province to 'pay closer attention to the violations committed by Sotnikov' and 'inform the court of measures undertaken'.

Sotnikov stated that the purpose of the relevant actions of the judge is to deprive his the status of an attorney.

On 10 January, 2017, it became known that the court had appointed a public defender for Vitaliy Buntov. Buntov's counsel argues that such an appointment was unlawful, since the defendant did not sign an agreement with him. Buntov filed a statement in which he waived his right to representation by the public defender.

## **7. Conclusions and recommendations**

The case of Vitaliy Buntov serves to testify to the unlawful measures taken against prisoners held in Russian penitentiary institutions and the fact that they remain defenseless under such pressure. Russian law enforcement bodies and courts often turn a blind eye to cases of beatings, torture and murders of prisoners. Unable to obtain justice in Russia, Vitaliy Buntov was forced to appeal to the European Court of Human Rights which acknowledged the use of brutal torture against him. Following the decision of the ECHR, Buntov was subjected to beatings and inhumane treatment more frequently.

Subsequent attempts to bring about an investigation into the incidents of violence committed against him resulted in his indictment on charges of 'false denunciation' of prison staff who allegedly participated in his torture. The investigative body alleges that the bruising present on Buntov's body constituted 'artificially created evidence'.

As a result of his torture, the beatings and inhumane conditions of detention he suffered as well as the fact that he was denied proper medical care, Vitaliy Buntov has developed a number of diseases, some of which are chronic. The prisoner's health condition is deteriorating on a daily basis. At the same time, contrary to professional, medical advice, he is forced to participate in his trial almost every day. Buntov has been repeatedly taken to hospital directly from the courtroom. In the light of this, Buntov's compulsory attendance of the trial can also be regarded as torture.

The Open Dialog Foundation hereby calls on the international community to intervene in an attempt to prevent further violations of Vitaliy Buntov's rights as well as potential, tragic consequences which could arise from the non-provision of medical care to him. In order to achieve these objectives, we consider it necessary:

1. To organise constant monitoring of the case of Vitaliy Buntov. Court hearings must be attended by international observers tasked with recording all violations and assessing the

objectivity of the court.

2. To carry out an independent medical examination of Vitaliy Buntov with the participation of foreign experts, and provide him with medical care.
3. During meetings with the Russian authorities, raise the issue of the necessity to cease the oppression of Vitaliy Buntov.
4. To initiate, on the part of the President of the ECHR and the Secretary-General of the Council of Europe, an investigation into the statements of Buntov's counsel on potentially illegal actions of Russian extrajudicial speakers within the ECHR Secretariat, in favour of the Russian Federation, among others, during the examination of complaint No. 25327/11 'Buntov v Russia'.
5. To initiate a round table within the framework of the PACE sessions with the participation of ECHR judges, experts and representatives of civil society with the aim of monitoring cases of persecution with respect to which victims have filed complaints with the ECHR.

**All those willing to support our demands are requested to address the following persons and institutions:**

- The Secretary General of the Council of Europe Thorbjørn Jagland - e-mail: [thorbjorn.jagland@coe.int](mailto:thorbjorn.jagland@coe.int), tel: + 33 (0)3 88 41 20 00;
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- EU Special Representative (EUSR) for Human Rights Stavros Lambrinidis - e-mail: [stavros.lambrinidis@ext.eeas.europa.eu](mailto:stavros.lambrinidis@ext.eeas.europa.eu), tel: +32(0)2 584 230;
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- The President of the ECHR Guido Raimondi – F-67075 Strasbourg cedex, Council of Europe, тел: +33 (0)3 88 41 20 18;
- OSCE PA Chair of the Committee on Democracy, Human Rights and Humanitarian Questions Ignacio Sanchez Amor – e-mail: [cristina.casado@gps.congreso.es](mailto:cristina.casado@gps.congreso.es), tel: +34 91 390 6919;
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