



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF NEMTSOVA v. RUSSIA

(Application no. 43146/15)

JUDGMENT

*This version was rectified on 6 September 2023
under Rule 81 of the Rules of Court.*

Art 2 (procedural) • Ineffective investigation into contract killing of prominent politician and opposition leader • Domestic authorities' failure to address in a prompt and effective manner the identity of the persons who could have commissioned the murder • No meaningful attempt to verify if the murder was politically motivated or to otherwise establish the motive behind it • Deficiencies not remedied by domestic courts

STRASBOURG

11 July 2023

FINAL

11/10/2023

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of Nemtsova v. Russia,

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Jolien Schukking, *President*,

Yonko Grozev,

Georgios A. Serghides,

Darian Pavli,

Peeter Roosma,

Ioannis Ktistakis,

Oddný Mjöll Arnardóttir, *judges*,

and Milan Blaško, *Section Registrar*,

Having regard to:

the application (no. 43146/15) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Russian national, Ms Zhanna Borisovna Nemtsova (“the applicant”), on 27 August 2015;

the decision to give notice to the Russian Government (“the Government”) of the complaints under Articles 2 and 13 of the Convention concerning the alleged failure to conduct an effective investigation into the murder of the applicant’s father and to declare inadmissible the remainder of the application;

the parties’ observations;

the decision of the President of the Section to appoint one of the sitting judges of the Court to act as an *ad hoc* judge, applying by analogy Rule 29 § 2 of the Rules of the Court (see, for the similar situation and an explanation of the background, *Kutayev v. Russia*, no. 17912/15, §§ 5-8, 24 January 2023);

Having deliberated in private on 20 June 2023,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the assassination of the applicant’s father, a prominent politician and opposition leader. The applicant complains that the Russian authorities failed to conduct an effective domestic investigation into the murder.

THE FACTS

2. The applicant was born in 1984 and lived in Moscow at the time of the events. She was represented by Ms O. Mikhaylova and Mr V. Prokhorov, lawyers¹ practising in Moscow.

3. The Government were represented initially by Mr M. Galperin, former Representative of the Russian Federation to the European Court of Human Rights, and later by his successor in that office, Mr M. Vinogradov.

4. The facts of the case may be summarised as follows.

5. The applicant is a daughter of Boris Nemtsov. Mr Nemtsov was a former Governor of the Nizhniy Novgorod Region, a former Deputy Prime Minister of Russia, and a former Minister of Energy. He was renowned as one of the leaders of the political opposition in Russia – a co-founder of the political party the Union of Right Forces (*Союз Правых Сил*) and subsequently of the political movement Solidarnost (*Солідарність*), and a member and one of the co-leaders of the Republican Party of Russia – People's Freedom Party (*ИПАРНАС*). At the time of the events, he was a member of the Yaroslavl Regional Duma.

I. BORIS NEMTSOV'S ASSASSINATION

6. On 27 February 2015 Boris Nemtsov was shot dead on the Bolshoy Moskvoretskiy bridge in the immediate vicinity of the Kremlin in Moscow.

7. According to the official version of the events, several individuals (see paragraph 18 below) were hired by unidentified persons to kill Mr Nemtsov. Since autumn 2014 they had been conducting secret surveillance of Boris Nemtsov, and at a later stage had purchased a weapon. On 27 February 2015 one of them had followed Mr Nemtsov and his companion Ms D. from the GUM department store to the Bolshoy Moskvoretskiy bridge in Moscow and at about 11.30 p.m. had fired six shots killing Mr Nemtsov instantly. Two other persons had been in the immediate vicinity keeping a lookout. After the assassination, the gunman and two accomplices had escaped in a getaway car, which they had subsequently left in Trubnikovskiy Lane in Moscow.

II. CRIMINAL INVESTIGATION INTO Mr NEMTSOV'S ASSASSINATION

8. On 28 February 2015 the Moscow City Investigative Committee opened a criminal investigation under Articles 105 § 2 (Murder committed in a group that had been hired or motivated by the promise of a reward) and 222 § 2 (Illegal possession of weapons) of the Criminal Code of Russia. On

¹ Rectified on 6 September 2023: the text was "... represented by Ms O. Mikhaylova, a lawyer".

the same date the case was re-assigned to the Department for Investigation of Particularly Serious Crimes of the Chief Investigative Department of the Investigative Committee of the Russian Federation (hereinafter “the investigation department”).

9. The investigators immediately inspected the crime scene and the victim’s body, searched Mr Nemtsov’s flat, examined logs of telephone calls made in the area around the time of the murder, conducted various searches, questioned several witnesses (including family members and various officials of the Yaroslavl Region), and performed or ordered several other urgent investigative measures.

10. On 24 March 2015 the applicant was granted victim status in the case, and on 3 April 2015 was granted access to items of case-file material, pursuant to her request.

11. The voluminous case file includes ninety-five volumes of material (including seventy-five volumes of investigation documents), as well as subsequent court proceedings at two instances concerning the persons identified as perpetrators of the assassination. The case-file material, in so far as it is referred to by the parties in their submissions to the Court and concerns the main focus of the investigation, is summarised below.

A. Attempts to obtain video footage of the crime scene and the surrounding areas

12. From 28 February 2015 onwards the authorities issued several orders for the collection of video footage from surveillance cameras located along the route that Mr Nemtsov had taken on the night of the murder.

13. In March 2015 the investigators obtained video footage, notably from (i) CCTV cameras belonging to the GUM department store, (ii) cameras installed on several residential buildings in the vicinity of the bridge; (iii) city surveillance video recordings of the entrance to the bridge and several Moscow streets apparently used by the hitman as an escape route; (iv) cameras belonging to the State unitary enterprise Gormost (a company specialising in the construction and maintenance of bridges and embankments), apparently installed at the point where the Bolshoy Moskvoretskiy Bridge meets Vasilyevskiy Spusk; and (v) the dashboard cameras of private passenger cars – including one car that had crossed the bridge three minutes before the murder had taken place, and two others that had crossed minutes after the assassination.

14. The investigators also obtained video footage from a camera operated by a local television station, TV Centre, which had captured – from some distance – two persons resembling Boris Nemtsov and D. moments before the shooting, before the camera’s line of vision had been obscured (at the moment of the shooting) by a passing utility vehicle. The footage further captured another man running to a passenger car, which immediately drove away.

15. According to the applicant, the authorities refused to provide some video recordings, including recordings made by cameras aimed at the section of the Bolshoy Moskvoretskiy Bridge where Mr Nemtsov had been killed. The applicant further submitted that the federal authorities had refused to grant the investigators access to video footage from the cameras located on the bridge.

16. In particular, according to the transcript of 18 March 2015 of the questioning conducted by the investigators of an employee of the City Surveillance Unit of the Department of Information Technologies of Moscow, video footage from several cameras for certain time slots could not be provided to the investigators, because either the video cameras had not been working, or (in the case of some cameras) technical problems had arisen during the downloading of the footage.

17. On 6 November 2015 the Federal Guard Service of the Russian Federation (*Федеральная служба охраны* – “the FSO”) informed the applicant’s lawyers, in response to a request lodged by them, that they were not in possession of video footage of the incident, as the area of the Bolshoy Moskvoretskiy Bridge was not an “object protected by the FSO”. The FSO specified that the Investigative Committee of the Russian Federation had seized footage from several unspecified FSO cameras covering the hours preceding and following the murder.

B. Six suspects identified by the investigating authorities

18. On 6 March 2015 the chief investigator ordered the location and arrest of six individuals (“the six suspects”) on suspicion of Mr Nemtsov’s murder:

- (1) Z.D., a military officer and a deputy commander of the Sever (Northern) Battalion, which at the time of the events formed part of the internal troops of the Ministry of the Interior of the Chechen Republic. He had been dismissed from military service on 1 March 2015;
- (2) An.Gub. (the brother of Sh.Gub. and a cousin of Z.D.);
- (3) Sh.Gub., (the brother of An.Gub and a cousin of Z.D.);
- (4) T.Esk., a former police officer of the Shelkovskiy district police station in the Chechen Republic;
- (5) B.Sh., a police officer in the Chechen Republic, an officer of the Sever Battalion;
- (6) Kh.B., a relative of Z.D.

C. Arrest of the five of the suspects, their pre-trial testimony and related events

19. On various dates no later than 8 March 2015 Z.D., T.Esk., Sh.Gub., An.Gub. and Kh.B. (“the five co-defendants”) were arrested by the police. The sixth suspect, B.Sh., died during his arrest.

20. On 7 and 8 March 2015 Z.D. confessed to participating in Mr Nemtsov's assassination, together with An.Gub. and B.Sh. The questioning on the latter date was recorded on video. According to Z.D., one "Rusik" had incited Z.D., An.Gub. and B.Sh. to kill Mr Nemtsov in retaliation for the latter's support for cartoons published in the *Charlie Hebdo* magazine depicting the Prophet Muhammad and had offered fifteen million Russian roubles (RUB) as a reward; he had found a ZAZ car that they could use to secretly follow Mr Nemtsov and had provided them with a gun. Z.D. allegedly had volunteered (motivated by a wish to take religious revenge) to murder the applicant's father and had begun covertly surveilling the victim. Z.D. had been the "hitman", while An.Gub. and B.Sh. had undertaken surveillance and had helped Z.D. to escape in the ZAZ car. "Rusik" had further sent an unidentified person to Z.D. to recover the gun from him, and on 1 March 2015 had driven Z.D. to the airport in a Mercedes ML car (its licence plate contained numbers "007").

21. On 26 July and 14 August 2015, during further rounds of questioning, Z.D. retracted his above-mentioned confession, stating that he had given it under duress. He gave an alibi, stating that on the date of the murder he had met an acquaintance of his – one R.Ger. (a commander of one of the Sever Battalion's units) – at the latter's flat at 46 Veyernaya Street in Moscow. Z.D. had also gone that day to a mosque and then to a restaurant together with R.Ger.; had returned to R.Ger.'s place; and later had gone to the Ts. restaurant-club in Moscow together with Ar.Ger. and a friend, Mr Sh.Taz. Having met R.Ger. once again on that day, Z.D. had then returned to his flat at 3 Veyernaya Street. On 1 March 2015 one R. Mukh. had driven Z.D. and R. Ger. to the Vnukovo airport, from there they (Z.D. and R. Ger.) had taken a flight to Grozny. The suspect further stated that beginning in January 2015 he had on several occasions joined R.Ger. and one "Aslanbek" (apparently a police officer) in a hotel in Moscow, where R.Ger. had regularly met people of Chechen origin; on 19 January 2015 Z.D. had gone to the hotel together with T.Esk.

22. On 18 and 30 March 2015 An.Gub., having originally denied the allegations, confessed to participating in Mr Nemtsov's murder. He stated that at some point in the autumn of 2014 he had noticed "pro-American" political statements criticising the Russian government that Mr Nemtsov had been making, as well as his "negative attitude" towards Islam. Since October 2014 he had started searching for information about Mr Nemtsov, reading his social media posts and listening to his interviews (mainly on the radio station Ekho Moskvyy). Shortly after the killing of the *Charlie Hebdo* journalists on 7 January 2015 and Mr Nemtsov's statements condemning the attack and his alleged call for the *Charlie Hebdo* cartoons to be disseminated in Russia, A.Gub. and Z.D. had decided to kill Mr Nemtsov for his insulting remarks about Muslims and the Prophet Mohammad, and at a later stage B.Sh. had agreed to join them. A.Gub. also referred to a certain "Rusik" or "Ruslan" –

an acquaintance of his and Z.D.'s who was of Chechen origin – who had rented a flat for them at 3 Veyernaya Street in Moscow and had on several occasions met them there. On 17 September 2015 An.Gub. retracted his confession, stating that he had given it under duress.

23. Sh.Gub. denied the allegations against him but indicated that Z.D., An.Gub. and B.Sh. had organised and committed the crime, having been motivated by religious hatred. Sh.Gub. later complained to the authorities of being subjected to duress during his questioning.

24. T.Esk. denied the allegations against him. He stated that R.Ger., an acquaintance of his, had introduced him to Z.D. in February 2015; he recalled that Z.D. had been R.Ger.'s deputy when the latter had been commanding the Sever Battalion. He also confirmed that he had met Z.D. a couple of times at R.Ger.'s flat at 46 Veyernaya Street and that R.Ger. had owned a "Mercedes GL"(licence plate 007) that Z.D. (like many of R.Ger.'s acquaintances) had frequently used. T.Esk. later complained that duress had been exerted on him during his questioning.

25. Kh.B. denied any involvement in murder. He stated that he had known An.Gub., Sh.Gub. and Z.D.; and that the latter had been driving a Mercedes GL car.

26. In early March 2015 the investigators began to explore a theory that Mr Nemtsov could have been killed in revenge for his support for the murdered journalists of the French satirical magazine *Charlie Hebdo*. Specifically, he had made comments condemning the murder of the journalists in a Facebook post, subsequently published on the Echo Moskvyy radio station website in the wake of the shooting.

27. Shortly after the arrest of the suspects, Ramzan Kadyrov, the President of the Chechen Republic, posted on Instagram:

"I knew Z.[D.] as a true patriot. He has served in the [Battalion] from the ... day it was established. ... Z. has been one of the most fearless and courageous soldiers of the battalion. ... I am strongly convinced that he is sincerely loyal to Russia and was ready to give up his life for the Motherland. ... Everyone who knows him says that he is a deeply religious man and that – just like any Muslim – he was stunned by the activities of *Charlie [Hebdo]* and comments [that have been made] in support of the publishing of caricatures [of the Prophet Mohammad] ... B.Sh., who died during his arrest, ... was an equally brave warrior. ..."

D. Some of the subsequent steps taken by the investigators

1. Identities of other persons referred to by the suspects

28. On the basis of the available evidence, the investigators identified the persons referred to by the suspects as follows:

- (1) R.Ger. was one of the senior officers of the Sever Battalion, in which Z.D. and B.Sh. had served, and its deputy commander;
- (2) "Rusik" was identified as R.Mukh., whom the suspects referred to as R.Ger.'s chauffeur and assistant;

(3) Ar.Ger. was identified as a relative of R.Ger.'s and a former police officer at the Shelkovskiy district police station.

29. The investigators further identified the above-mentioned "Aslanbek" as Mr As.Kh., another officer of the Shelkovskiy district police station whose professional activities had apparently involved escorting high-ranking officials in the Chechen government.

2. Some items of expert and physical evidence

30. According to an expert forensic examination report, traces of gunshot residue were found on Z.D.'s body. Cartridges with the same markings as those on the casings found at the crime scene were discovered at his mother's house. The similarity of the markings, size, year and place of production, and other pertinent parameters was subsequently confirmed by experts.

31. According to an expert forensic molecular and genetic reports, DNA traces from Z.D., An.Gub., Sh.Gub. and B.Sh. were found in the ZAZ car used for the surveillance of Mr Nemtsov and the getaway after the murder, and on various objects discovered in the car. As confirmed by an expert report, gunshot residue was discovered in the ZAZ car. DNA traces from the same persons and from T.Esk. were found in the two above-mentioned flats situated at Veyernaya Street in Moscow used by the suspects.

32. Traces of gunshot residue were found on items found in a car that Sh.Gub. had used to escape the Moscow Region.

33. Several items of video footage showed the ZAZ car following Mr Nemtsov at various locations prior to the murder.

34. In March 2015 the investigators began studying the call logs of the suspects' mobile telephones. It was subsequently established that the suspects had routinely conducted numerous telephone conversations with each other and with R.Ger., Ar.Ger. and As.Kh. before and after the murder.

3. Search of the flats and relevant witnesses' statements

35. On 7 March 2015 the investigating authorities searched the flats used by the suspects, as well as a house in Kozino, Moscow Region. At the latter address, documents and mobile telephones belonging to some of the co-defendants were found.

36. As regards the flat at 3 Veyernaya Street, the investigators found that it had been formally rented in the name of R.Mukh. and used by the arrested suspects. Z.D. and An.Gub. had lived there.

37. The flat at 46 Veyernaya Street had formally been owned by Ar.Ger., but had been primarily used by R.Ger. In that flat the investigators found, among other things, the sale and purchase agreement in respect of the Mercedes ML car and a certificate of title in the name of R.Mukh.; a rental agreement in respect of the flat at 3 Veyernaya Street signed by R.Mukh.; written military operational orders issued to Z.D. and R.Ger. in September

and October 2014 by the Chechen interior forces and signed by Al.Del.; a pension certificate in the name of T.Ekh.; and electronic keys to a room in the President Hotel in Moscow registered in the name of Sul.Ger. (R.Ger.'s relative and a member of the Federation Council representing the Chechen Republic).

38. In both flats, the investigators found documents relating to mobile telephones, which, as the investigation further established, had been used for surveillance and planning.

39. In respect of the military operational orders issued to Z.D. and R. Ger. (see paragraph 37 above), the investigators subsequently established that (i) Z.D. might have used them to facilitate surveillance of the victim, and (ii) those documents had not corresponded to any service mission with participation of Z.D. or R.Ger. (as confirmed by the records of the Ministry of Interior).

40. On the same date the investigators questioned the owner of the flat at 3 Veyernaya Street, who stated that prior to signing the rental agreement in respect of that flat, in spring 2014, one "Ruslan" (subsequently identified as R.Mukh.) and a certain "Aslanbek" – serving members of the Chechen Republic's police force – had visited her flat, which they had planned to rent for R. Mukh. and another "Ruslan" (allegedly, a relative of Aslanbek). On 2 March 2015 R.Mukh. informed the landlord that he had to leave the flat as he had been recalled to Chechnya for operational reasons, and that on 2 or 3 March 2015 he planned to leave Moscow. A real estate agent in charge of the rental agreement also remembered that R.Mukh. had been accompanied by "Aslanbek".

41. On 7 March 2015 the investigators searched the Mercedes ML car and found documents issued to R.Ger. and Ar.Ger.

42. On 17 March 2015 the investigators seized the household logbook for the apartment block at 46 Veyernaya Street; it recorded R.Ger. as the resident of the above-mentioned flat and his car as a "Mercedes". Based on the logbook, witness statements, and CCTV footage of the building's entrance, the investigators further established that in February 2015 R.Ger. and Ar.Ger. had been frequenting the flat together with the suspects and other men.

43. In April 2015 a real estate agent testified that in December 2014 R.Mukh. had assisted Ar.Ger. in the purchase of the flat at 46 Veyernaya Street and had told her that he was looking for a flat for his "boss's nephew".

44. The investigators established that the suspects had also searched – using the computers seized in the flats – for information concerning Boris Nemtsov. A video recording of Boris Nemtsov taken in April 2014 was found on T.Esk.'s mobile telephone. It was marked as having been received on 5 March 2015.

4. Flight records, ticket purchases and airport video footage

45. On the basis of video footage from Vnukovo Airport's cameras, flight records, Vnukovo Airport documents and witnesses' and co-defendants' statements, the investigators established that:

- On 28 February 2015 An.Gub., together with B.Sh., had taken a flight from Moscow to Grozny;
- On 1 March 2015 Z.D. and R.Ger. had taken a flight from Moscow to Grozny;
- R.Mukh. had taken them to the airport using the Mercedes ML car; on 2 March 2015 he had also left Moscow for Grozny;
- On 16 February 2015 R.Ger. and Ar.Ger. had purchased flight tickets from Moscow to Grozny, and had returned with T.Esk. and Z.D.;
- R.Ger. had purchased tickets from Moscow to Ingushetia and Chechnya, and had returned with As.Kh. in November 2014 and January 2015.

5. Some other investigative measures

46. On 16 June 2015 the investigators questioned two witnesses (the first served as a cleaner and cook at 3 Veyernaya Street; the second was her friend, a waitress at the Ts. restaurant-club in Moscow who had also occasionally helped her to clean flats). The second witness stated that R.Ger., Ar.Ger., R.Mukh., As.Kh. and Z.D. had regularly visited the restaurant since the autumn of 2014, and T. Esk. since January 2015. Both witnesses believed that R.Ger. had been the leader of the group. The first witness further stated that:

- (i) R.Ger. had lived at 3 Veyernaya Street, before having moved into a flat at 46 Veyernaya;
- (ii) she had met Ar.Ger., An.Gub., T.Esk., B.Sh. and As.Kh. at 3 Veyernaya Street;
- (iii) in December 2014 she had got to know Ar. Ger., and in January 2015 Z.D.; both had moved into the flat at 3 Veyernaya Street;
- (iv) since January 2015, she had also regularly cleaned the flat at 46 Veyernaya Street; R.Ger. had explained to her that he had bought it but that it had been registered in Ar.Ger.'s name;
- (v) Z.D. and Ar.Ger. had frequently visited R.Ger. at his residence, and the witness believed that the latter had treated Z.D. and Ar.Ger. as friends, while "Rusik" (R.Mukh.) had clearly been a subordinate.

47. The witnesses identified the above-mentioned suspects, as well as R.Ger. and R.Mukh., with the aid of photographs provided by the investigators.

48. On 22 June 2015 the investigators examined video footage which showed that in January and February 2015 R.Ger., Z.D., As.Kh. and T.Esk. had visited two hotels in Moscow on several occasions, together with other men. The Mercedes ML had been spotted near the hotels on the days of their visits.

49. On 29 June 2015 the investigators ordered (i) that the bank accounts of the suspects and R.Ger. and R.Mukh. be examined; and (ii) the collection of information stored in police databases and the military personal files of the suspects and of R.Ger. and R.Mukh., and the questioning of their relatives and friends.

50. For identification purposes, investigators showed to various witnesses photographs of As.Kh., R.Mukh., R.Ger. and Ar.Ger. and questioned witnesses about them.

E. Statements of Mr Nemtsov's colleagues and friends during the investigation

51. In April-June 2015 the investigators questioned several witnesses (former colleagues and friends of Mr Nemtsov), asking each of them similar questions concerning: Mr Nemtsov's conduct during the first and second Chechen wars; any public statements made by Mr Nemtsov about the authorities of the Chechen Republic; Mr Nemtsov's attitude towards religions (mainly Islam); any known threats Mr Nemtsov had received; his recent major projects; and any known personal issues or conflicts of interest – including any related to his work in Yaroslavl. The replies could be summarised as follows:

- During the first Chechen war Mr Nemtsov – then the Governor of the Nizhniy Novgorod Region – had collected one million signatures from people living in the region in a petition to stop the war.

- Mr Nemtsov had systematically and openly criticised both the Federal Government and the President of the Chechen Republic, referring to: unfair distribution of federal funds; corruption; a *de facto* absence of the rule of law in the Chechen Republic, which had become an authoritarian “State within a State”; the creation of a *de facto* independent army, answerable solely to Ramzan Kadyrov; and, most recently, Mr Kadyrov's having sent Chechen military servicemen to Ukraine in 2014.

- One of the witnesses questioned in April-June 2015, R., remembered that Mr Nemtsov had received threats from “several young men, including Ramzan Kadyrov”, in 2002, when he and the witness had participated in a “Congress of Chechen People” in Gudermes, at the invitation of Mr Kadyrov's father, Akhmat Kadyrov. Both Mr Nemtsov and Akhmat Kadyrov had taken the threats seriously, and the latter had provided Mr Nemtsov with guards until the end of his visit to the Chechen Republic. Two more witnesses mentioned that they had heard about the threats.

- Mr Nemtsov's attitude towards Islam was assessed by witnesses as either positive or neutral. The witnesses confirmed that Mr Nemtsov had strongly condemned the *Charlie Hebdo* massacre in a Facebook post, which had subsequently been posted on Ekho Moskvyy's website.

- Mr Nemtsov had regularly received threats, including on Facebook; on one occasion he had complained to the police about one such threat received in the spring of 2014, in which an unidentified person had directly threatened to kill Nemtsov, but the investigation had not produced any results.
- Mr Nemtsov had openly and fervently criticised the Russian authorities (including President Putin), had exposed rampant corruption at all levels of government, and had published detailed reports on the matter; he had been one of the leaders of public protest in Russia and had on several occasions been subjected to administrative sanctions for his participation in public events; he had been due to lead a large-scale opposition rally in Moscow on 1 March 2015.
- He had exposed corruption in Yaroslavl's local governing bodies.
- Prior to his death, Mr Nemtsov had been working on a report entitled "Putin. The War." The report had addressed Russia's direct military involvement in eastern Ukraine since 2014.
- None of the witnesses had been aware of any family problems or business conflicts involving Mr Nemtsov.

F. Some of the applicant's procedural requests

1. Dismissal in April 2015 of a request for the questioning of certain witnesses, and subsequent court proceedings

52. On 22 April 2015 the applicant requested investigators to question Ramzan Kadyrov, R.Ger., V.Ger., Al.Del., Ad.Del. and Sul.Ger. She detailed their close professional and family links with the suspects – which were never disputed by the parties either at the domestic level or in their submissions to the Court – as follows:

- two of the suspects, B.Sh. and Z.D., had been officers of the Sever Battalion, which had at the time of the events been under the command of Al.Del.;
- Al.Del. was a commander of the Sever Battalion and a brother of Ad.Del. – a deputy of the State Duma and an advisor to Ramzan Kadyrov, his close ally and reportedly a relative;
- one of the Sever Battalion's companies had been commanded by R.Ger. (a nephew of Ad.Del. and Sul.Ger., and a member of the Federation Council of the Russian Federation representing the Chechen Republic);
- V.Ger. – a brother of Sul.Ger., a cousin of Ad.Del. and an uncle of R.Ger. – was the head of the Shelkovskiy district police department, where T.Esk. had been an officer.

53. The applicant also referred to: Mr Nemtsov's book (*Confessions of a Rebel*, published in 2007) in which he had mentioned death threats that he had received from Ramzan Kadyrov in 2002; her father's strong criticism of Ramzan Kadyrov, including Mr Kadyrov's having sent Chechen military servicemen to Ukraine in 2014; threats that her father had received in 2014

from unidentified persons; and Mr Kadyrov's post on Instagram concerning Z.D.'s arrest (see paragraph 27 above). In view of those considerations, she inferred that the above-mentioned high-ranking officials of the Chechen Republic could, for political reasons, have been involved in Mr Nemtsov's assassination. The applicant also requested to be informed of any investigative measures already taken in an effort to identify the organisers of the crime.

54. On 27 April 2015 the investigator granted the applicant's request in part and ordered that R.Ger. be questioned. He found no reason to question the other officials referred to in the request.

55. On 19 August 2015 the applicant complained to court about the investigators' decision of 27 April 2015 (see paragraph 54 above). She also complained of the investigators' inactivity in respect of the organisers of her father's assassination (that is, their failure to identify the organisers of the assassination, to question them or to bring charges against them) and noted that she had not been granted full access to the case-file material, despite the decision of 13 April 2015 (see paragraph 10 above).

56. On 14 October 2015 and 21 December 2015 the Basmannyy District Court of Moscow and the Moscow City Court, respectively, dismissed the complaint at two instances. The courts found that investigating authorities were autonomous in their activities and that the courts were not empowered to interfere with the proceedings in question. The courts also found that the applicant had been afforded full access to the case file.

2. Refusal to reclassify the charges, and subsequent proceedings

57. On 14 September 2015 the applicant requested that the suspects' actions be reclassified from Article 105 (Murder) to Article 277 (Attempt on the life of a State official or a public figure) of the Russian Criminal Code.

58. On 21 September 2015 the investigator advised the applicant that the crime had not been committed with the intent of preventing the victim's political activities (an essential element of the crime under Article 277), and refused the request. According to that decision, the investigators "[had] convincingly established that Mr Nemtsov's murder had not been related to his political or public activities". The decision contained no further reasoning in respect of that conclusion.

59. On 25 December 2015 and 14 March 2016 the Basmannyy District Court of Moscow and the Moscow City Court dismissed complaints that the applicant had lodged regarding that decision, referring to the investigators' autonomy and noting that they (the courts) had no authority to oversee the investigators' decisions and had found no evidence that the investigators had been inactive.

3. *Subsequent requests for witnesses to be questioned*

60. On 5 November 2015 the applicant again requested the questioning of the persons referred to in her request of 22 April 2015 (see paragraph 52 above). She further requested the questioning of V.Z., the Commander-in-Chief of the National Guard of Russia, as both some of the persons referred to in her above-mentioned request and the suspects were his formal subordinates. She also pointed to his alleged personal links with Ramzan Kadyrov and the above-mentioned persons. On 11 November 2015 the investigator refused the request, having found that such questioning was unnecessary.

G. Questioning of As.Kh. and attempts to locate Sh.Taz.

61. On 22 June 2015 the investigators ordered that As.Kh. be questioned.

62. After several failed attempts to summon As.Kh. for questioning, on 18 December 2015 he was located and questioned by an investigator of the Investigative Committee of the Shelkovskiy District of the Chechen Republic. Mr As.Kh. stated that he did not know Z.D., B.Sh., A.Gub., Sh.Gub. or Kh.B. and had never had their telephone numbers. He had known T.Esk. as a former fellow police officer. He knew R.Ger. and Ar.Ger., as they were relatives of his, and had visited R.Ger. in Moscow at Veyernaya a couple of times. He also knew R.Mukh., since they had lived in the same village in Chechnya. He denied having any information about the assassination, participating in the meeting with the real estate agent (see paragraph 40 above) or purchasing flight tickets.

63. On 22 July 2015 the investigators ordered the questioning of Sh.Taz., to whom Z.D. had referred as a friend (see paragraph 21 above) and who could have visited the flats at Veyernaya Street before and after the murder. The investigators determined that Sh.Taz. was a high-ranking officer in the Chechen riot police. On 8 September 2015 the investigators ordered that he be summoned (as well as As.Kh. and Ar.Ger.) for questioning. It appears that he was not questioned.

H. Attempts to question R.Mukh., Ar.Ger. and R.Ger. as witnesses

64. On 16 March 2015 an investigator issued an order (*поручение*) to the head of the Federal Security Service of the Chechen Republic to establish the whereabouts of R.Ger. and R.Mukh. and to “bring them to the Investigative Committee [of the Russian Federation] to arrest them under Articles 91 and 92 of the Code of Criminal Procedure and to take urgent investigative steps, with their participation”, as the investigators had determined that those two persons and unspecified persons from their entourage “[had been] implicated (*причастны*) in the assassination of Mr Nemtsov and organisation [thereof]”.

65. On 23 March 2015 the Chechen Republic department of the Federal Security Service (“the FSB”) reported that several operational and search activities had been carried out in an effort to execute the above order, and undertook to further report any progress.

66. On 18 May 2015 an investigator requested the Operative and Search Unit of the 2nd Department of the FSB to establish R.Ger.’s and R.Mukh.’s whereabouts and to bring them to the Investigative Committee in Moscow for questioning.

67. In June 2015 the Anti-terrorist Unit of the FSB reported that R.Ger. and R.Mukh. had taken flights from Moscow to Grozny on 1 and 3 March 2015, respectively, using their internal passports (see also paragraph 45 above), and that it had been impossible to locate them since then. The FSB provided (i) information regarding R.Ger.’s driving licence and (ii) filled-in copies of the so-called Form 1” used by R.Ger. and R.Mukh. to lodge applications for an internal passport.

68. On 18 August 2015 the chief investigator of the investigation department ordered the Investigative Committee of the Chechen Republic to deliver summonses to R.Ger. and R.Mukh. to be questioned as witnesses, and instructed the local investigating authorities not to delegate that task to any employees of the Ministry of Interior, given the possible involvement of several former and acting officers of that Ministry in the crime. On the same date the chief investigator requested the head of the Investigative Committee of the Chechen Republic to arrange for the questioning of several acquaintances of R.Ger. and R.Mukh., as that had not been done previously.

69. On 28 August 2015 the Investigative Committee of the Chechen Republic reported that it had been impossible to deliver a summons to either R.Ger. or R.Mukh., as the addressees “had been absent from their residences”.

70. On 31 October 2015 an investigator of the investigation department requested the head of the operations and investigations unit of the FSB to deliver summonses to R.Ger., Ar.Ger. and R.Mukh. for questioning as witnesses.

71. In three separate reports dated 9 November 2015 a federal investigator (a member of the investigation department) reported that on 31 October 2015 he had travelled to the Chechen Republic to deliver summonses to R.Mukh., R.Ger. and Ar.Ger., respectively. He had been unable to deliver them since “no one [had] opened the door”, so at each address he had left the summons in the mailbox of the respective premises. In respect of R.Mukh. he reported that he had been told that the latter’s family were no longer living at the address, and the neighbours had been unaware of that family’s whereabouts.

72. Similarly, on 13 November 2015 the head of the operations and investigations unit of the FSB reported that on 31 October 2015 several FSB officers had attempted to deliver a summons at Ar.Ger.’s two known addresses and at R.Ger.’s and R.Mukh.’s respective registered addresses;

however, no one had opened the door at those addresses, so they had left the summonses in the mailboxes of each residence. According to neighbours' statements cited in the report, no one had been living at R.Mukh.'s registered address for about six months. The FSB officers had been unable to obtain information regarding the former residents' whereabouts.

I. Charges against R.Mukh. and other persons, and the disjoining of the proceedings concerning the organisers of the murder

73. On 31 October 2015 the investigators charged R.Mukh. *in absentia* with murder committed in a group that had been hired or motivated by the promise of a reward. The investigators established that "approximately in the second half of September 2014" R.Mukh., together with other unidentified persons, had commissioned Mr Nemtsov's murder and had offered a reward of RUB 15 million to Z.D. and the remaining suspects, which the latter accepted as "they had had not permanent job or source of income". R.Mukh. had also allegedly placed at the disposal of the suspects the two flats on Veyernaya Street, handed them the Mercedes ML car, bought mobile telephones and SIM cards for them and, at some point no later than 27 February 2015, purchased a gun. After the murder, R.Mukh. and other unidentified persons provided Z.D., B.Sh. and An.Gub with the "hideout" flats in Moscow, transported them to various locations in Moscow and the Moscow Region, and made other related arrangements to help them to escape.

74. On 5 November 2015 R.Mukh.'s name was put on the federal wanted list, and on 11 November 2015 on the international wanted list. On 18 November 2015 the Basmannyy District Court of Moscow ordered R.Mukh.'s arrest.

75. On 27 January 2016 the investigators severed the criminal proceedings against R.Mukh. and other unidentified persons "who [had] offered [the suspects] at least RUB 15 million to kill Mr Nemtsov" from the criminal proceedings against the remaining suspects. The investigators noted that it was impossible to establish R.Mukh.'s and the above-mentioned unidentified persons' whereabouts.

J. The indictment in respect of five of the suspects and the applicant's procedural requests

76. On 28 January 2016 the investigation was completed.

77. On 29 June 2016 an indictment in respect of five of the suspects (Z.D., An.Gub., Sh.Gub., T.Esk. and Kh.B.) was prepared. A 1,300-page bill of indictment summarised: dozens of expert reports and numerous witness statements; the results of identification parades and crime-scene examinations; multiple search reports; the contents of various items of video

footage and logs of telephone connections; and multiple items of physical and other evidence.

78. The investigating authorities established that:

- Z.D. had coordinated the group's surveillance activities, had procured ammunition, and had conducted covert surveillance of Mr Nemtsov, in concert with four other suspects. The group had been using the above-mentioned Mercedes car belonging to R.Mukh., a Lada car and a ZAZ car (purchased by Z.D. and An.Gub.). Kh.B. had provided the suspects with a "safe house" in Kozino.

- On the day of the murder in the evening, Z.D., B.Sh. and An.Gub. had secretly followed Mr Nemtsov to the GUM department store; the two latter suspects had "given Z.D. a signal that the conditions were suitable" for him to kill the victim and had informed him of the victim's route. Z.D. had accordingly followed the victim and his companion, D., to the bridge and fired the lethal shots at Mr Nemtsov there. B.Sh. and An.Gub. had been standing by in the immediate vicinity, in the ZAZ car driven by An.Gub. Immediately after the shooting, the three suspects had escaped in that car.

- Immediately after the events, the other suspects, R.Mukh. and other unidentified persons had helped Z.D., B.Sh. and An.Gub. to escape – that is to say they had provided them with the above-mentioned "hideout" flats in Moscow, transported them to various locations in Moscow and the Moscow Region, and made other related arrangements.

79. The investigators concluded that the perpetrators had committed the crime in return for a reward and noted, without further details, the lack of any information about a link between the murder and the victim's political or other public activities. They also excluded the possibility that the motive for the attack had been robbery, and dismissed the theory that the attackers had been motivated by religious hatred or a desire for revenge triggered by the victim's support for the journalists of *Charlie Hebdo* who had been killed in January 2015, because the co-defendants had started preparing for the assassination as early as in September 2014. The investigators concluded, among other things, that R.Mukh. and "other unidentified persons" had instigated and financed Mr Nemtsov's assassination (see, in respect of similar findings, paragraph 73 above).

80. Criminal proceedings against B.Sh. were discontinued on account of his death (see paragraph 18 above).

81. Having studied the case-file material, on 27 April 2016 the applicant objected to both the disjoining of the proceedings against R.Mukh. into separate proceedings and to the termination of the investigation. She referred to the investigators' failure to (i) determine the motives of the organisers of the assassination; (ii) establish the identities of all the perpetrators of the murder; (iii) clarify the roles of other persons who could have been involved in the murder – namely, R.Ger., Ar.Ger., Al.Del., As.Kh., Sul.Ger., Sh.Taz. and V.Ger.; (iv) bring charges against Ar.Ger. and R. Ger.; and (v) take all

necessary investigative measures in respect of the above-noted persons, despite there being strong indications of their possible involvement in the crime. She reiterated her earlier reasoning in respect of the above-noted persons (see paragraphs 52-53 above), and noted, moreover, that electronic hotel keys belonging to Senator Sul.Ger. had been found in one of the flats used by the suspects (see paragraph 37 above) – a fact which in itself, in her view, required additional clarification. Lastly, she again emphasised the authorities’ failure to obtain video footage from all cameras situated in the area of the Bolshoy Moskvoretskiy bridge, as well as from the cameras on the Kremlin walls (including those belonging to the FSO), which could have captured the moment of the murder. It appears that the request was refused.

III. TRIAL OF THE FIVE CO-DEFENDANTS

82. On 30 June 2016 the case against the five co-defendants was sent to the Moscow Circuit Military Court for jury trial.

83. On 25 July 2016 the applicant requested the court to remit the case to the prosecutor’s office for a fresh investigation; she cited the allegedly incorrect classification of the crime (see paragraph 57 above). On 26 July 2016 the court rejected the request and scheduled the first hearing for 24 August 2016.

84. The court examined multiple items of forensic, physical, expert and other evidence, and heard several experts and dozens of witnesses. In particular, the parties put multiple questions to witnesses and co-defendants concerning their interaction with and between the alleged perpetrators, and with R.Mukh., Ar.Ger., R.Ger., As.Kh. and several other persons.

85. The presiding judge granted the applicant party’s request to cross-examine, among other witnesses, Ya. and R. (see paragraph 51 above), with a clarification that “not all the statements of those witnesses were to be examined with participation of jurors, including information concerning Mr Nemtsov’s political activity, as the accused were not charged with murder in connection with professional or political activity of Mr Nemtsov”, and gave relevant instructions to witnesses. Among other witnesses, Ya. and R. (see paragraph 51 above) confirmed in the courtroom that Boris Nemtsov had constantly received threats related to his political activity but had not taken most of them seriously. However, he had considered Ramzan Kadyrov and his subordinates to constitute a serious threat; in particular, he had been worried about the possibility of Ramzan Kadyrov retaliating for his exposure and criticism of the participation of Chechen military personnel in the conflict in Ukraine in 2014. The above-mentioned witnesses, as well as a further witness, G.G., believed that their friend and colleague had been killed for political reasons. The presiding judge disallowed some of the parties’ questions to witnesses pertaining to the victim’s personality, political activity and threats related thereto (including in 2002, see paragraph 51 above) as

falling outside the scope of examination of the case; and invited the jurors not to take account of the witnesses' statements in that respect.

86. The applicant's lawyer requested that he be allowed to submit Mr Nemtsov's book (see paragraph 53 above) for examination by the jurors. A State prosecutor supported the request, stating that Mr Nemtsov had not been "just an ordinary person ... killed on a bridge", and suggested that selected chapters of the book could provide the jurors with useful information about the victim's views and personality. The presiding judge refused the request, as the co-defendants had not been charged with a crime motivated by ethnic hatred or committed for political reasons.

87. The applicant requested that the following persons be summoned to the courtroom for questioning:

- R.Ger., on account of his close relations and constant interaction with the co-defendants and R.Mukh., his provision of financial assistance to them (as confirmed by witnesses), his residence in one of the flats on Veyernaya Street, and other evidence;
- Ar.Ger., as the owner of one of the "hideout" flats on Veyernaya Street;
- As.Kh., in order to reconcile apparent contradictions between his pre-trial statement (see paragraph 62 above) and other evidence;
- Sh.Taz., on account of indications of his possible presence (together with the co-defendants) in the flats on Veyernaya Street when the co-defendants had been preparing the murder;
- V.Ger., Al.Del., Ad.Del., Sul.Ger., V.Z. and Ramzan Kadyrov (for the same reasons as those stated in paragraphs 52 and 60 above).

88. Consideration of the request in respect of As.Kh. was deferred; the request in respect of Al.Del. was granted. The presiding judge refused the requests in respect of Sh.Taz., V.Ger., Ad.Del., Sul.Ger., V.Z. and Ramzan Kadyrov as unsubstantiated (in respect of Sh.Taz.) or irrelevant (in respect of the other persons). Explaining his refusal to grant the request in respect of the latter persons, the presiding judge noted that "comments on the Internet about any of the co-defendants" did not constitute a reason for summoning persons suggested by the applicant to testify before a court; neither were any "conflicts that the victim [had had] in 2014". The judge further noted that no charges had been brought against those persons, while the co-defendants "had not been charged with actions [motivated by] a disagreement with Mr Nemtsov's political views".

89. The applicant requested the examination of A.V., editor-in-chief of the Ekho Moskv radio station, who had been a long-term acquaintance of her father and had talked to Boris Nemtsov just hours before the murder. The presiding judge agreed to hear A.V. in the presence of the parties but in the absence of jurors, and to subsequently determine whether he should be questioned in the presence of the jury. A.V. stated, in particular, that on 27 February 2015 Mr Nemtsov had noted that a number of threats he had been receiving had increased in the couple of months before his death (which had

probably been triggered by his public support to murdered journalists in the wake of the *Charlie Hebdo* massacre), and that he had expressed concerns about his safety (referring to “Kadyrov and Kadytovtsy [subordinates of Kadyrov]” as posing a threat). The presiding judge then refused to allow the questioning of A.V. in court. The judge found that a statement made in court by A.V. would constitute irrelevant evidence, because it had not been argued that the co-defendants had threatened the victim, and none of them had been charged with murder motivated by religious hatred or revenge.

90. The applicant lodged a challenge against the presiding judge referring to the above refusals (see paragraphs 86-89 above). The challenge was dismissed.

91. R.Ger. and Ar.Ger. were summoned to be heard by the court but did not appear. The court dismissed a subsequent request lodged by the applicant for the issuance of an order for them to be brought before the court (*npuvod*). The presiding judge found that such order could not be issued, as there was no evidence that they had been duly notified of the summons: indeed, according to delivery tracking notices, telegrams sent to their addresses had not been delivered to them.

92. One of the investigators confirmed in court that the investigators had on one occasion attempted to reach R.Ger. at his known place of residence, but no one had opened the door (see paragraph 71 above). The investigator was unable to comment on the alleged failure to retrieve the video footage of the crime scene, as that was outside his area of responsibility. The presiding judge disallowed as irrelevant the applicant’s lawyer’s questions to the investigator concerning the allegedly incorrect categorisation of the crime and the failure to find an organiser or to establish a motive for the murder.

93. Al.Del., the former military superior of Z.D. (see paragraph 52 above), appeared before the court and was cross-examined. He denied having any information regarding either the murder or any security tasks that may have been assigned to Z.D. (see paragraphs 37 and 39 above).

94. In their final submissions to the jury and the presiding judge the applicant party assessed the physical, expert and other evidence collected by the investigators in respect of all the co-defendants, apart from Kh.B., as being sufficient to prove their guilt. They invited the jury to assess both the co-defendants’ confession statements and their subsequent respective testimony not as separate items of evidence, but together with other collected evidence. The applicant insisted, however, that the authorities had failed to identify and locate – let alone arrest – those who had commissioned and organised the murder. The applicant reiterated that (i) R.Mukh. had not been arrested, (ii) extensive evidence pointing to R.Ger.’s involvement in the crime had been disregarded by the investigators (and the request that he be summoned to appear before the court had been refused for a bogus reason), (iii) the motive for the assassination – in particular, the aims of the organisers – had not been identified, despite strong and consistent indications (including

those contained in witnesses' statements) that the murder had been politically motivated; and (iv) the co-defendants' apparent links with senior Chechen Republic officials had remained unexplored.

95. On 29 June 2017 the jury found the five co-defendants guilty as charged.

96. On 13 July 2017 the Moscow Circuit Military Court convicted the five co-defendants of murder committed in a group that had been hired or motivated by the promise of a reward, as well as the crime of unlawful procurement, storage, transportation and holding of arms and munitions committed in a group. It sentenced them to terms of imprisonment varying from eleven to twenty years and imposed fines.

97. The applicant appealed, arguing that the five co-defendants' actions should have been classified as an assassination of a public figure aimed at putting end to his political activities or in revenge for such activities (see paragraph 57 above). She reiterated that her father had been a well-known politician – a fact of which the co-defendants must have been aware – and argued that that crucial aspect of the case had been completely disregarded by the investigators and during the trial. She requested that the case be remitted to the investigation stage.

98. On 10 October 2017 the Supreme Court of the Russian Federation dismissed the applicant's appeal; it upheld the defendants' conviction, but quashed the fine imposed by the trial court. The appellate court dismissed the applicant's complaint that the co-defendants' actions had been wrongly classified and refused a request lodged by her for the case to be remitted to the investigation stage. Without giving further details, the court upheld the jury's findings that the crime had been committed in return for a reward, and noted that no other aims in respect of the murder had been established.

IV. FURTHER INFORMATION CONCERNING THE CRIMINAL CASE AGAINST THE ORGANISERS OF THE MURDER

99. According to the Government's latest submissions, the investigation in respect of those who organised the crime had not been terminated (see paragraph 73 above), and several operational and search activities had been carried out by the competent authorities. The criminal case (no. 41602007701000004) against R.Mukh. and other persons had accordingly been still pending. The Government did not submit a copy of the investigation file to the Court, did not disclose any details concerning the investigation and did not provide any updates on the matter. Their latest submissions on the case were received in July 2021.

THE LAW

I. JURISDICTION

100. The Court observes that the facts giving rise to the alleged violations of the Convention occurred prior to 16 September 2022, the date on which the Russian Federation ceased to be a party to the Convention. The Court therefore decides that it has jurisdiction to examine the present application (see *Fedotova and Others v. Russia* [GC], nos. 40792/10 and 2 others, §§ 68-73, 17 January 2023).

II. ALLEGED VIOLATION OF ARTICLES 2 AND 13 OF THE CONVENTION

101. The applicant complained that the investigation into her father's assassination had been ineffective. She relied on Articles 2 and 13 of the Convention, the relevant parts of which read as follows:

Article 2

“1. Everyone's right to life shall be protected by law. ...”

Article 13

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

A. Admissibility

102. The Court notes that the complaints are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

103. The applicant submitted that the domestic authorities had not put sufficient effort into identifying and prosecuting those who had commissioned and organised the crime. She argued that the investigators should have explored the possibility that federal officials and Chechen regional administrative officials had been involved in the murder. She listed the following persons who should have been further examined in order to confirm or discount their possible participation in the crime: R.Ger., Ar.Ger., Ramzan Kadyrov, V.Z., Al.Del., Ad.Del., As.Kh., Sh.Taz., Sul.Ger. and

V.Ger. She referred to numerous professional, hierarchical and family connections between those persons and the convicted perpetrators and to indications that they had been in contact with each other shortly before and immediately after the assassination. The applicant further submitted that her repeated complaints to the domestic courts in that regard had been unreasonably dismissed. The investigators had uncovered particularly serious evidence against R.Ger. and Ar.Ger. but had failed to bring charges against them.

104. The applicant further submitted that the investigation regarding R.Mukh., which had been severed from the initial criminal proceedings, had remained inactive. She had not been informed of any developments or investigative steps taken in respect of that case. The authorities had failed to establish how R.Mukh., who had simply been R.Ger.'s driver, could have obtained the RUB 15 million that had been given as a reward for the assassination, as alleged by the investigators. Neither had they shed any light on the motives for R.Mukh.'s alleged decision to murder Mr Nemtsov.

105. The applicant further argued that the classification of the crime under Article 105 (Murder) of the Criminal Code had been incorrect. Given the clearly political context of the crime, it should have been classified under Article 277 (Attempt on the life of a State official or a public figure), which, in addition, was a crime that was not subject to statutory limitations.

106. Lastly, she argued that the investigating authorities had failed to obtain footage from the surveillance cameras pointed at the relevant section of Bolshoy Moskvoretskiy bridge where Mr Nemtsov had been killed.

(b) The Government

107. The Government submitted that the domestic authorities had complied with their obligation to carry out an effective investigation. The criminal investigation had been opened immediately, the necessary actions had been undertaken, and the five perpetrators had been swiftly identified and convicted. The applicant's complaints about the alleged ineffectiveness of the investigation had been duly considered by domestic courts and dismissed with sufficient reasoning.

108. The Government further stated that the criminal investigation concerning the persons who had organised the crime was still pending. They stated, without providing further details, that the authorities had been taking various investigative steps in order to establish the identity of the perpetrators. They noted that the details of the investigation could not have been disclosed to the Court or to the applicant, stating that, under Article 161 of the Russian Code of Criminal Procedure, disclosure of the documents would be contrary to the interests of the investigation. The Government lastly noted – without arguing that the available domestic remedies had not been exhausted – that the applicant could have brought a civil action for compensation with the domestic courts in respect of her alleged grievances.

2. *The Court's assessment*

109. The Court will examine the applicant's complaints in the light of the applicable principles, as summarised in *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], no. 24014/05, §§ 169-82, 14 April 2015, and *Mazepa and Others v. Russia* (no. 15086/07, §§ 69-70 and 74, 17 July 2018, with further references).

110. It is not disputed by the parties that the investigation started promptly and that numerous urgent and indispensable investigative steps were taken without delay in the days after Mr Nemtsov's death. Shortly thereafter, the investigating authorities identified six persons they believed to have been directly involved in the crime – five of whom were promptly arrested and eventually convicted. A serious amount of evidence was collected by the investigators, and the case concerning the alleged perpetrators was sent promptly for trial and was examined by the domestic courts.

111. However, the Court firstly observes that the applicant's main concern – and, indeed, a pivotal issue in the present case – is the respondent State's compliance with its obligation to carry out an effective investigation in respect of those who commissioned and organised the murder – that is, to identify and prosecute all those behind the assassination of her father.

112. The five co-defendants were convicted of a murder committed in a group that had been hired or motivated by the promise of a reward (see paragraphs 96 and 98 above). The Court reiterates that an investigation into a contract killing cannot be considered adequate to the extent of discharging the obligation of means implicit in the procedural limb of Article 2 in the absence of genuine and serious investigative efforts taken with a view to identifying the intellectual author of the crime – that is, the person or people who commissioned the assassination. The domestic authorities' scrutiny in respect of a case concerning a contract killing must aim to go beyond the identification of a hitman, and it is incumbent on the Court to satisfy itself that the investigation in the present case addressed this important point (see, among others, *Gongadze v. Ukraine*, no. 34056/02, § 176, ECHR 2005-XI; *Huseynova v. Azerbaijan*, no. 10653/10, §§ 115-16, 13 April 2017; and *Mazepa and Others*, cited above, § 75).

113. The Court notes that it possesses scarcely any information regarding the scope of the investigation into the present case in so far as it concerned the identification of those who commissioned the crime. The Government did not provide copies of any documents from the investigation file (see paragraph 99 above), apart from the decision to sever the criminal proceedings against R.Mukh. and other unidentified persons from the criminal proceedings against the remaining suspects. The Court's capacity to assess the nature and degree of the investigation's scrutiny in the present case is thus greatly diminished and is restricted to the analysis of the parties' written submissions before it (see *Mazepa and Others*, cited above, § 76).

114. As regards the refusal by the Government to produce copies of the relevant documents with reference to Article 161 of the Russian Code of Criminal Procedure, the Court observes that in several previous cases it has already found this explanation insufficient to justify the withholding of key information requested by it (see, for example, *Imakayeva v. Russia*, no. 7615/02, § 123, ECHR 2006-XIII (extracts), and *Sasita Israilova and Others v. Russia*, no. 35079/04, § 145, 28 October 2010). The Court reiterates that a failure on a Government's part to submit material which is in their hands without a satisfactory explanation may give rise to the drawing of inferences as to the well-foundedness of the applicant's allegations. In the present case, the Court will take into account the Government's unjustified refusal to submit the requested documentation in light of the principle that the Government bears the burden of proof so as to demonstrate that the Russian authorities have carried out an effective investigation capable of leading to the establishment of the facts and the bringing to justice of those who had organised and commissioned Mr Nemtsov's killing (see, among others, *mutatis mutandis*, *Carter v. Russia*, no. 20914/07, § 143, 21 September 2021).

115. In that connection the Court notes from the material available to it that the proceedings against R.Mukh. and "other unspecified persons" (who the authorities suspected to be the organisers of the assassination) – which were severed from the proceedings in respect of the five alleged perpetrators as early as on 27 January 2016, despite the applicant's objections – had not been actively pursued at least for more than five years prior to the date of the parties' latest submissions received by the Court in 2021 (see paragraph 99 above). The case file, as submitted to the Court, contains no indications of any specific investigative steps taken in respect of R.Mukh. and other unidentified persons during that period. Such a delay in itself raises serious concerns as to the domestic authorities' compliance with the requirement of promptness and reasonable expedition (see, among many others, *Yukhymovych v. Ukraine*, no. 11464/12, § 69, 17 December 2020, and *Cerf v. Turkey*, no. 12938/07, §§ 80-81, 3 May 2016). The protracted nature of proceedings is a strong indication that they were defective to the point of constituting a violation of the respondent State's positive obligations under the Convention, unless the State has provided highly convincing and plausible reasons to justify the length of the proceedings (see *Mazepa and Others*, cited above, § 80). The Court does not find any grounds to depart from that conclusion in the present case. In the absence of any clarifications from the Government, the Court finds that such prolonged inactivity compromised the investigation and could not but have had a serious negative impact on the prospects of establishing the circumstances of Mr Nemtsov's killing.

116. Accordingly, the Court finds that the investigation failed to address a crucial aspect of the case – that is, the identity of the persons who could

have commissioned and organised the crime – in a prompt and effective manner.

117. Secondly, as regards the authorities' alleged failure to pursue the line of inquiry related to the political activity of the applicant's father and potential involvement of certain State officials, the Court reiterates at the outset that it is not its role to express views about the soundness of the allegation that several State authorities were implicated in Mr Nemtsov's murder. Its task is limited to examining the effectiveness of the investigation into his death, in the light of the State's obligations arising from Article 2 of the Convention (see *Kolevi v. Bulgaria*, no. 1108/02, § 200, 5 November 2009). A failure to follow an obvious line of inquiry would indeed undermine to a decisive extent the investigation's ability to establish the circumstances of the case and the identity of those responsible (see *Mustafa Tunç and Fecire Tunç*, cited above, § 175). That does not mean that the domestic authorities have to entertain every possible scenario advanced by the next-of-kin when it is not supported by corroborating evidence (see *Fountas v. Greece*, no. 50283/13, § 84, 3 October 2019). Article 2 of the Convention cannot be interpreted so as to impose an obligation to launch a prosecution irrespective of the evidence which is available (see, among others, *Zdjelar and Others v. Croatia*, no. 80960/12, § 90, 6 July 2017, and *Gürtekin and Others v. Cyprus* (dec.), nos. 60441/03 and 2 others, § 27, 11 March 2014).

118. In the Court's view, the applicant's allegations that her father's assassination could have been politically motivated, and that certain State officials could have been involved in the events, were not at all implausible (see, in so far as relevant, *Huseynova*, cited above, § 115). Indeed, Mr Nemtsov was a prominent politician and one of the opposition leaders in Russia, who was utterly critical of his opponents, including senior Chechen Republic officials. The applicant consistently drew the investigators' attention to clear indications of profuse family and professional links between the co-defendants and other persons referred to by her, including senior Chechen Republic officials (see paragraphs 52-53, 60, 57, 83, 94 and 97 above). She referred, also citing witness statements to that effect, to an old conflict between Ramzan Kadyrov and Mr Nemtsov which reportedly led to death threats (see paragraphs 51 and 52 above), as well as to indications that Mr Kadyrov knew the hitman personally and had praised his bravery and professionalism (see paragraph 27 above).

119. Importantly, the investigators themselves obtained substantial evidence pointing to the possible involvement in the events in question of, at least, some of the persons referred to by the applicant in her repeated procedural requests. Indeed, it follows from the investigation file that the investigators promptly obtained numerous indications – including witness testimony, documents, camera footage, call logs, flight records and other material – that an officer of the interior security forces of the Chechen Republic, R.Ger. (a superior military officer of both Z.D. and B.Sh., see

paragraph 18 above) and Ar.Ger. had been in close contact with the five co-defendants both before and after the assassination; and that some witnesses considered R.Ger. to be the leader of the group (see paragraphs 21, 24, 34, 36-42, 45, 46-50 above).

120. Given these circumstances, the Court considers that it was vital for the authorities to pursue that theory, even if it might eventually prove unfounded (see the above-cited cases of *Kolevi*, §§ 200-01, and *Mazepa and Others*, § 78). The Court reiterates in that regard that the investigation's conclusions must be based on thorough, objective and impartial analysis of all relevant elements. Therefore, the domestic authorities should have reacted appropriately and followed up on the above-noted information in order to uncover all relevant details.

121. Apparently, the investigating authorities did not lose sight of the above leads. Early on in the investigation, the investigators established that R.Ger. could have been involved in the crime and ordered that he be brought before them for questioning as a suspect (see paragraph 64 above; and contrast, in this respect, *Tagiyeva v. Azerbaijan*, no. 72611/14, § 72, 7 July 2022). While it appears that the wording of the investigation-related orders issued to various authorities changed at a later stage (as the documents no longer contained a reference to R.Ger.'s having been implicated in the assassination), some measures to elucidate his role and to establish his whereabouts continued (see paragraphs 65 and 67 above), and the investigators on several further occasions summoned him for questioning as a witness (see paragraphs 64, 66 and 68 above). However, the Court does not discern from the case file any genuine attempts to implement those summonses. The authorities' only apparent attempt to reach R.Ger. and Ar.Ger. at their respective registered addresses eight months after the assassination – which failed owing to the fact that they were “away from home” (see paragraphs 65 and 71-72 above) and which was apparently not followed by any further meaningful action aimed at establishing their actual whereabouts – clearly cannot be regarded as adequate. As a result, the persons whose names had been mentioned repeatedly in the testimonies, and appeared in numerous items of evidence related to the events before and after the assassination, were never questioned (see *Kolevi*, cited above, § 203). Lastly, when confronted with the applicant's requests for the issuance of an order to ensure the appearance before the court of R.Ger. at the trial stage, the presiding judge confined his refusal of those requests to a brief and superficial remark to the effect that there was no evidence of R.Ger.'s having been properly summoned to the hearing (see paragraph 91 above), without ordering any further attempts to ensure his presence.

122. Likewise, it appears that the investigators aborted their inquiry into the role of As.Kh. and Sh.Taz., although they did collect a considerable amount of information corroborating the latter's possible involvement in the events in question (see paragraphs 21, 29, 34, 45-46 and 48 above) and took

steps to locate them (see paragraphs 61-63 above). However, Sh.Taz. was never located and heard by either the investigators or the trial court. As.Kh. was questioned at the investigation stage, and his statements plainly contradicted the evidence that the investigators had previously obtained (see paragraph 62 above; and compare to paragraphs 21, 29, 34, 45-46 and 48 above). However, it appears that no additional questions were put to him, and it is unclear what further measures were taken in order to reconcile his statement with other testimony and evidence, despite a number of apparent discrepancies (see *Gvozdeva v. Russia*, no. 69997/11, § 70, 22 March 2022; see also, in so far as relevant within the context of Article 3, *Virabyan v. Armenia*, no. 40094/05, § 176, 2 October 2012). Otherwise, there is nothing to suggest that the investigators took any further steps to elucidate his possible involvement in the events.

123. Therefore, not all traceable witnesses were interviewed in the present case (contrast, among other cases, *Zdjelar and Others*, cited above, § 89) – on the contrary, it is clear that a number of persons who could have provided the authorities with information of crucial importance for the case were never examined in any of the relevant proceedings, or were not asked key questions (see *Velikova v. Bulgaria*, no. 41488/98, § 79, ECHR 2000-VI, and *Enukidze and Girgvliani v. Georgia*, no. 25091/07, § 266, 26 April 2011).

124. Furthermore, having regard to the overall factual context of the case (see also paragraph 118 above) the Court considers that there was every reason for the investigating authorities to explore with particular diligence whether the murder could be linked to Mr Nemtsov's political activities, or to come up with another plausible explanation for the motives behind the murder (see, in so far as relevant, *Huseynova*, cited above, § 115). However, while the authorities found that the co-defendants had acted as they had in return for a reward, the Court notes that the domestic authorities failed to establish the context within which (and the reasons why) the reward had been offered – either in the course of the proceedings against the co-defendants or within a separate case concerning the potential organisers of the assassination.

125. Indeed, initial theory (namely, that the killing had been carried out in revenge for Mr Nemtsov's opinions regarding the *Charlie Hebdo* shooting) was abandoned by the investigators in the light of strong evidence that the purported perpetrators had begun following Mr Nemtsov in September 2014 – that is to say long before the *Charlie Hebdo* shooting in January 2015 (see paragraph 79 above). It is obvious from the case-file material that several theories concerning various possible motives – including family or professional ones – were explored (see, for instance, paragraphs 9 and 51 above). It is also clear, as shown above, that the investigators took steps at an early stage of the investigation to address the theory that the crime could have been politically motivated and that they interviewed several witnesses in respect of that possibility (see, for instance, paragraph 51 above; and contrast,

in this respect, *Mustafa Tunç and Fecire Tunç*, cited above, § 206). It appears that they then expressly discarded that possibility. However, the Court is concerned that they subsequently failed to give any reasons for that decision – either in their replies to the applicant’s several queries (see paragraph 54 and 58 above) or otherwise (for instance, in the bill of indictment – see paragraph 79 above; see also *Uzeyir Jafarov v. Azerbaijan*, no. 54204/08, § 52, 29 January 2015). This lack of any detailed explanation also casts doubt on the quality of the investigators’ analysis of evidence, in so far as the motive for the assassination was concerned (see, in so far as relevant, *Estemirova v. Russia*, no. 42705/11, § 69, 31 August 2021).

126. These deficiencies were not remedied by the domestic courts – either in the proceedings concerning unlawfulness of the investigators’ actions at the pre-trial stage (see paragraphs 56 and 59 above) or during the co-defendants’ trial, at two instances. Indeed, the courts refused to allow measures aimed at exploring a possible political motive for the murder, despite the applicant’s numerous complaints pointing to the authorities’ blunt disregard of the possible political undertones of the murder. At the trial stage, the applicant party’s questions to witnesses in that respect were on several occasions disallowed by the presiding judge, and various procedural requests were refused in a summary manner as irrelevant, given the narrow scope of the charges against the co-defendants (see paragraphs 86, 88, 89 and 92 above).

127. As a result, it remains unclear as to whether any meaningful attempt was made, within any set of the relevant criminal proceedings, to identify any specific motive for the actions of a person or people who, according to the investigators, could have offered a reward to the perpetrators to kill Mr Nemtsov (compare to *Huseynova*, cited above, § 115).

128. The foregoing considerations are sufficient for the Court to conclude that the domestic authorities failed to conduct an adequate and effective investigation of Mr Nemtsov’s assassination.

129. In the light of the above, the Court finds it unnecessary to examine separately the applicant’s arguments concerning the impact of the allegedly wrongful classification of the crime, as well as the inability to obtain certain video footage of the crime scene.

130. There has accordingly been a violation of the procedural limb of Article 2 of the Convention. The Court considers that, given these circumstances it is not necessary to examine the complaint under Article 13 of the Convention taken in conjunction with Article 2 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

131. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only

partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

132. The applicant claimed 100,000 euros (EUR) in respect of non-pecuniary damage. She made no claims in respect of costs and expenses.

133. The Government considered that amount to be excessive and submitted that Article 41 should be applied according to the Court’s established case-law.

134. The Court observes that the failure of the authorities to give satisfactory answers to the questions raised by Mr Nemtsov’s death must have caused the applicant acute mental suffering. Bearing in mind that it has found a violation of Article 2 under its procedural limb, in the light of all the material in its possession and making its assessment on an equitable basis, the Court awards the applicant EUR 20,000 in respect of non-pecuniary damage, plus any tax that may be charged on this amount, and rejects the remainder of the claims.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Holds* that it has jurisdiction to deal with the applicant’s complaints as they relate to facts that took place before 16 September 2022;
2. *Declares* the application admissible;
3. *Holds* that there has been a violation of Article 2 of the Convention under its procedural limb;
4. *Holds* that there is no need to examine the complaint under Article 13 of the Convention;
5. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final, in accordance with Article 44 § 2 of the Convention, EUR 20,000 (twenty thousand euros) in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period, plus three percentage points;
6. *Dismisses* the remainder of the applicant’s claim for just satisfaction.

NEMTSOVA v. RUSSIA JUDGMENT

Done in English, and notified in writing on 11 July 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Registrar

Jolien Schukking
President