



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

THIRD SECTION

CASE OF NAVALNYI v. RUSSIA (No. 4)

(Applications nos. 4743/21 and 37083/21)

JUDGMENT

*This version was rectified on 3 March 2026
under Rule 81 of the Rules of Court.*

Art 5 § 1 • Unlawful detention of the applicant after the activation of his suspended sentence based on his 2014 conviction • Clear causal link between the conviction and the deprivation of liberty • Court's findings in *Navalnyy v. Russia* (no. 101/15) of violations of Art 6 and Art 7 in respect of the criminal proceedings leading to 2014 conviction relevant • Criminal proceedings had amounted to a "flagrant denial of justice" • Conviction had been based on an unforeseeable application of domestic law • Applicant could not have foreseen to a reasonable degree that his actions would result in a deprivation of liberty

Art 5 § 1 • Unlawful detention of the applicant pending the outcome of the proceedings on the activation of his suspended sentence based on his 2014 conviction • Deprivation of liberty based on domestic courts' application by "analogy" of legal provisions not applicable to the applicant's situation and running counter to their wording • Novel and expansive interpretation of legal provisions contrary to the legal certainty principle

Art 2 (substantive) • Positive obligations • Life • Real and immediate risk to the applicant's life, evident from near-fatal poisoning incident and continuing after his return to Russia and throughout his detention • Art 2 applicable • Applicant's request that domestic courts refuse to order his detention as a preventive measure based on the threat to his life allegedly originating from the State itself • Domestic courts' disregard of the Court's judgment in *Navalnyy v. Russia* (no. 101/15) in respect of his 2014 conviction, the

Court's interim measure and the Committee of Ministers' decision and resolutions urging his release • Authorities knew or ought to have known there was real and immediate risk to the applicant's life but failed to address his Art 2 complaints • Failure to carry out an adequate risk assessment Art 3 (substantive) • Applicant simultaneously subjected to a combination of several forms of ill-treatment in detention cumulatively amounting to inhuman and degrading treatment • Applicant subjected to sleep deprivation for 39 days on an arbitrary basis, including during hunger strike, and whilst experiencing constant and considerable back pain • Applicant's hair shaved off without any legal basis or valid justification Art 34 • Hinder the exercise of the right of application • Non-compliance with interim measure under Rule 39 to immediately release the applicant

Prepared by the Registry. Does not bind the Court.

STRASBOURG

3 February 2026

FINAL

03/05/2026

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

In the case of Navalnyy v. Russia (no. 4),

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

Ioannis Ktistakis, *President*,

Peeter Roosma,

Darian Pavli,

Úna Ní Raifeartaigh,

Mateja Đurović,

Canòlic Mingorance Cairat,

Vasilka Sancin, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the applications (nos. 4743/21 and 37083/21) 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, Mr Aleksey Anatolyevich Navalnyy (“the applicant”), on 20 January and 20 July 2021;

the decisions to give notice to the Russian Government (“the Government”) of the complaints alleging that the applicant’s imprisonment posed a serious and immediate danger to his life, about the conditions of his detention and inadequate medical assistance, about the unlawful detention attended by insufficient procedural guarantees, about the unfair proceedings concerning the activation of his suspended sentence, about the ulterior purpose of the applicant’s arrest, detention and the activation of his suspended sentence and about the hindrances of the right to individual application and to declare inadmissible the remainder of application no. 37083/21;

the decision to indicate an interim measure to the respondent Government under Rule 39 of the Rules of Court in application no. 4743/21 and the decision to give priority to that application (Rule 41 of the Rules of Court);

the observations submitted by the Government in application no. 4743/21;

the observations submitted by the applicant;

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

Having deliberated in private on 18 November 2025 and 13 January 2026,

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

INTRODUCTION

1. The case concerns the applicant’s arrest and detention in January 2021, followed by proceedings which culminated in the activation of a suspended prison sentence previously imposed on him in 2014, and his subsequent imprisonment on the basis of that sentence from 2 February 2021. The

applicant complained that his detention and imprisonment posed a serious and immediate danger to his life and limb; of the conditions of his detention and the allegedly inadequate medical assistance afforded to him; that his allegedly unlawful detention had been attended by insufficient procedural guarantees; of the allegedly unfair proceedings concerning the activation of his suspended sentence; of the alleged ulterior purpose of his arrest, detention and the activation of his suspended sentence; and of alleged hindrances to the right of individual application.

THE FACTS

2. The applicant was born in 1976 and died in 2024. He was represented by Ms O. Mikhaylova, a lawyer practising in Moscow, and Ms A. Maralyan, a lawyer practising in Strasbourg¹.

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

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

5. The applicant was a political activist, opposition leader, anti-corruption campaigner and popular blogger. Through his social media accounts, he published material about corruption in Russia and organised protest demonstrations. He was also the founder of the Anti-Corruption Foundation, which carried out and published investigations into alleged corruption by high-ranking Russian government officials. Several judgments of the Court were delivered in applications lodged by the applicant, notably *Navalnyye v. Russia* (no. 101/15, § 95, 17 October 2017) and *Navalnyy v. Russia* (no. 3) (no. 36418/20, 6 June 2023), which are relevant to the present case.

I. THE APPLICANT'S CONVICTION AND THE COURT'S JUDGMENT IN CASE No. 101/15

6. On 30 December 2014 the Zamoskvoretskiy District Court of Moscow found the applicant and his brother, Oleg Navalnyy, guilty of commercial fraud and money laundering. It sentenced the applicant to a suspended sentence of three and a half years (contingent on his completing five years of probation) and a fine of 500,000 Russian roubles (RUB). He was also ordered to pay damages to the victim.

7. Following an appeal by the applicant, on 17 February 2015 the Moscow City Court upheld the District Court's judgment, but quashed the imposition of a fine and the award of damages to the victim. It further specified that the

¹ Rectified on 3 March 2026: “, and Ms A. Maralyan, a lawyer practising in Strasbourg” has been added.

terms of the probation included the following obligations: to notify the specialised State authority responsible for supervising convicted individuals before any change in his permanent place of residence; to inform that authority in advance of any change to his address of actual residence; and to report to that authority – on time – at least twice a month.

8. On 17 October 2017 the Court delivered its judgment in the case of *Navalnyye* (cited above). It found that the judgment of 30 December 2014, as upheld on appeal on 17 February 2015, had violated Articles 6 and 7 of the Convention in respect of the applicant and his brother Oleg Navalnyy. In particular, the Court found under Article 7 of the Convention that the offence of fraud had been “extensively and unforeseeably construed” and that it had not been possible to foresee that the applicant’s and his brother’s conduct would constitute commercial fraud; consequently, it had been equally unforeseeable that their profits would be deemed to constitute the proceeds of crime the use of which could amount to money laundering (*ibid.*, § 68). It further found under Article 6 of the Convention that the criminal proceedings had been flawed by arbitrariness that had undermined their fairness in such a fundamental way that it had rendered other criminal-procedure guarantees irrelevant (*ibid.*, §§ 83 and 84). The Court also held that the most appropriate form of redress would, in principle, be the reopening of proceedings (if requested) – failing which the individual measures to be taken in the execution of the judgment in question would remain outstanding, in accordance with the practice of the Committee of Ministers (*ibid.*, § 95).

9. On 13 March 2018 the applicant and his brother requested the Supreme Court of Russia to quash the judgment of 30 December 2014, as upheld on appeal, and to acquit them, relying on the Court’s judgment of 17 October 2017.

10. On 25 April 2018 the Presidium of the Supreme Court of Russia reopened the criminal proceedings in the applicant’s and his brother’s case on the basis of new circumstances – namely, the Court’s judgment of 17 October 2017 in the case of *Navalnyye* (cited above). It disagreed, however, with the Court’s findings under Articles 6 and 7 of the Convention. It found that the domestic courts had correctly established that the applicant and his brother had engaged in fraud and money laundering within the meaning of the Russian Criminal Code. The Supreme Court also held that the domestic proceedings had been adversarial and fair and had met the statutory procedural requirements. There were therefore no grounds to amend or to reverse the conviction of 30 December 2014. The applicant’s suspended sentence of three and a half years, contingent on his completing five years of probation, thus remained in force.

11. In the meantime, on 4 August 2017, the Simonovskiy District Court of Moscow allowed an application lodged by the Federal Service for the Execution of Sentences (*Федеральная служба исполнения наказаний*, hereinafter “the FSIN”) and extended the applicant’s probation by one year,

until 30 December 2020, on the grounds that in 2017 he had been convicted of three administrative offences relating to the conduct of public assemblies.

12. The Court found that the three convictions for administrative offences noted in the decision of 4 August 2017 had violated the applicant's rights under Articles 5 § 1, 6 § 1 and 11 of the Convention (see *Navalnyy and Others v. Russia* [Committee], nos. 25809/17 and 14 others, 4 October 2022, and *Navalnyy v. Russia* [Committee], nos. 67894/17 and 3 others, 11 December 2025).

II. THE APPLICANT'S ALLEGED POISONING, TRANSFER TO GERMANY AND THE REFUSAL TO OPEN A CRIMINAL INVESTIGATION INTO THE INCIDENT

13. On 20 August 2020 the applicant took a domestic flight from Tomsk to Moscow. During the flight, he suddenly fell ill and lost consciousness. The flight crew had to make an emergency landing in Omsk. The applicant was transported, in a coma, to a local municipal hospital, where he was placed on life support (see, for relevant facts of the alleged poisoning and investigation, *Navalnyy* (no. 3), cited above, § 5-68).

14. On the same day the applicant's associate, Mr G., lodged an application with the Investigation Committee of the Russian Federation, alleging that the applicant had been intentionally poisoned with an unknown substance, and requesting that criminal proceedings be opened. He stated that the alleged intended assassination had related to the applicant's political activities.

15. On 22 August 2020 the applicant was flown to Germany in a private medical plane for treatment at the Charité Hospital in Berlin. He remained in the Charité Hospital until 23 September 2020. After his discharge he received outpatient treatment in that hospital until 15 January 2021.

16. On 2 September 2020 the German government announced that the results of the tests carried out on blood and urine samples taken from the applicant had revealed unequivocal proof of the presence of a chemical nerve agent from the Novichok group of substances, which had been prohibited under the Chemical Weapons Convention (*ibid.*, § 15).

17. On 6 October 2020 the Organisation for the Prohibition of Chemical Weapons issued a report on technical assistance that it had prepared at the request of Germany. It confirmed that the biomarkers of the cholinesterase inhibitor found in the applicant's blood and urine samples had structural characteristics similar to those of the toxic chemicals listed in the Annex on Chemicals to the Chemical Weapons Convention (*ibid.*, § 29).

18. On 14 December 2020 journalists from Bellingcat (an investigative journalism collective), together with CNN, *Der Spiegel* and *The Insider*, published a report on their investigation into the applicant's alleged poisoning. They revealed that since 2017 he had been under surveillance by

Russian security services, and that the agents involved in that surveillance had specialised in toxic chemical substances. The findings of the report were based on flight passenger lists and the geolocation and communications data of the telephones used by several named persons identified as security agents. According to Bellingcat, some of those alleged security agents had followed the applicant during his travels in the days preceding his alleged poisoning on 20 August 2020 (*ibid.*, § 49).

19. On the same day the applicant published on YouTube a video entitled “The case is solved. I know everyone who tried to kill me”. The video described how Bellingcat had investigated his alleged poisoning, presented its results and, *inter alia*, revealed the names and photographs of eight alleged security agents who, according to the applicant, had followed him and had been implicated in the alleged poisoning.

20. On 17 December 2020 Russian President Vladimir Putin denied the allegations that Russian State security agents had poisoned the applicant. He added that the applicant enjoyed the support of the secret services of the United States of America and that Russian intelligence officers had been right to follow him.

21. On 21 December 2020 the applicant published on YouTube a video entitled “I called my killer. He confessed”. The video showed him speaking on the telephone with one of the alleged security agents named in the previous video and in Bellingcat’s investigation. Tricked by the applicant into believing that he was speaking to an aide to the Chairman of Russia’s Security Council, the alleged security agent revealed certain details of the poisoning operation.

22. On 10 February 2021 the investigator of the Tomsk transport police issued a decision refusing to open a criminal investigation into the applicant’s alleged poisoning. That decision was upheld by the Kirovskiy District Court on 29 April 2021 and, at final instance, by the Tomsk Regional Court on 28 June 2021 (*ibid.*, §§ 59-69).

23. On 6 June 2023 the Court delivered its judgment in the case of *Navalnyy (no. 3)* (cited above), finding a procedural violation of Article 2 of the Convention. It held that on 20 August 2020 the applicant had found himself involved in an incident that had presented a serious and immediate risk to his life, and that the nature of that incident had triggered the State’s obligation under Article 2 to carry out an effective investigation. The inquiry conducted by the domestic authorities had been ineffective because, in particular, it had failed to explore the allegations of a possible political motive for the attempted murder and of the possible involvement or collusion of State agents in the murder; moreover, the inquiry had not followed up on the reported use of a substance identified as a chemical weapon prohibited by international and domestic law (*ibid.*, §§ 159-61).

III. RETURN TO RUSSIA, DETENTION AND ACTIVATION OF THE SUSPENDED SENTENCE

A. Events preceding the applicant's return to Russia and his arrest upon his return

24. In accordance with his probation requirements (see paragraph 7 above), on 7 December 2020 the applicant notified the FSIN that he was undergoing outpatient treatment in Germany, giving as his residence his address in Berlin; he stated that he would let the authorities know when he had recovered and of the date of his return to Russia. He attached a certificate issued by the Charité Hospital that confirmed his continuing outpatient treatment there.

25. On 28 December 2020, while the applicant was still in Berlin, the FSIN issued a public statement that he had failed to report regularly to his local FSIN office, despite the fact that he had been discharged from hospital and that his health was satisfactory (as reported by the media). The FSIN stated that if the above-noted facts were confirmed, his suspended sentence could be activated; his lawyer had accordingly received a summons for him to report to the local FSIN office.

26. On 29 December 2020 the FSIN placed the applicant's name on its list of wanted persons (because it had been unable to establish his whereabouts) and ordered his arrest. On the same day the FSIN lodged an application with the Simonovskiy District Court of Moscow for the activation of the applicant's suspended sentence.

27. On 13 January 2021 the applicant announced that he would return to Russia on 17 January 2021.

28. On 14 January 2021 the FSIN issued a public statement that the applicant would be detained upon his arrival in Russia to face proceedings to activate his suspended sentence.

29. On 17 January 2021, the applicant returned to Russia from Germany and was arrested at the official airport border crossing. The arrest record stated that the applicant had been arrested pursuant to the FSIN's decision of 29 December 2020 (see paragraph 26 above).

B. Detention from 18 January until 2 February 2021, pending the proceedings to activate the applicant's suspended sentence

30. On 18 January 2021 the Khimki police lodged an application for the applicant's detention pending the proceedings to activate his suspended sentence with the Khimki Town Court of the Moscow Region. They claimed that he had failed to report to the local FSIN office on many occasions.

31. At 10 a.m. on 18 January 2021 the applicant's lawyers came to the Khimki police station, where the applicant was being held, and asked for a

meeting with him. However, they were not allowed to enter the police station until 12.30 p.m., when it was announced to them that a detention hearing (to be held on the Khimki police station's premises) was about to begin.

32. According to the hearing records, at the start of the hearing before the Khimki Town Court, the applicant's lawyers requested an adjournment to give them time to study the case file and consult with the applicant. The Town Court adjourned the hearing for 50 minutes. When the hearing resumed, the applicant complained that he had been unable to consult his lawyers in private because two police officers with video recorders had been present during his meeting with his lawyers.

33. Additionally, the applicant's lawyers asked that the hearing be held at the Khimki Town Court premises and that the journalists and members of the public gathered outside be permitted to enter and attend the proceedings. They argued that many journalists had wished to submit accreditation requests but had been unable to enter the building or otherwise contact a responsible official. The Town Court stated that it had allowed journalists from three television companies to attend the hearing and that it had not received any other written accreditation requests. It further held that members of the public could not be admitted because the room was too small.

34. The applicant lodged an application seeking the recusal of the judge scheduled to hear his case, arguing that her independence and impartiality were in doubt, given that the hearing was being held at the police station, independent journalists and members of the public had not been admitted and he had been unable to consult his counsel in private. The Town Court rejected the application for the judge's recusal. The records of the hearing did not mention the reasons for that decision.

35. On the merits, the applicant argued that the relevant domestic law did not provide a legal basis for detaining a person pending proceedings to activate a suspended sentence. He had had valid reasons for temporarily failing to comply with the conditions of his probation while he had been undergoing medical treatment in Germany. He had informed the FSIN of his whereabouts. His address in Germany was known to the authorities, as confirmed by the fact that the domestic courts had sent him summonses at that address. He submitted copies of those summonses.

36. On 18 January 2021 the Khimki Town Court ordered the applicant's detention until 15 February 2021, pending the proceedings to activate his suspended sentence. The court said that the applicant had evaded serving the sentence imposed on 30 December 2014 (as upheld on appeal on 17 February 2015 and extended on 4 August 2017), and that his name had been placed on the list of wanted persons. He had, in particular, failed to report to the local FSIN office on many occasions both before and after his hospital stay of 20 August-23 September 2020. The medical certificate from the Charité Hospital did not specify the dates of his outpatient treatment. His arrest on 17 January 2021 had been therefore lawful. The court referred to Article 46

of the Code on the Execution of Sentences (see paragraph 107 below) and Articles 397 and 399 of the Code of Criminal Procedure (see paragraphs 103-105 below).

37. The applicant lodged an appeal, arguing that the legal provisions invoked by the Town Court did not provide a legal basis for his detention. The domestic law did not contain any legal provisions permitting detention pending proceedings to activate a suspended sentence. The application of criminal provisions “by analogy” was prohibited by Article 3 of the Criminal Code (see paragraph 100 below). He also submitted that his name had been unlawfully placed on the list of wanted persons, given the fact that he had notified the FSIN that he was receiving medical treatment in Germany (see paragraph 24 above). The Khimki police’s allegations that he had failed to report to the local FSIN office on many occasions had not been supported by any documents. Furthermore, the proceedings before the Town Court had not been adversarial because the court had copied verbatim the Khimki police’s application for detention (see paragraph 30 above) into its decision and had not summarised – let alone addressed – the applicant’s arguments. The court had not been independent because the hearing had taken place at the Khimki police station – the same police entity that had initiated the detention request – without any legal basis for holding the hearing outside the court building. This had also prevented the public and the press from attending the hearing, even though the hearing had not been formally closed to the public. The police had let in only three journalists and several members of the public – all selected by themselves. The applicant had been unable to consult his counsel from the time of his arrest until the start of the detention hearing. Although the court had adjourned the hearing for 50 minutes in order to allow counsel to study the case file and to consult the applicant, that time had been insufficient and discussions between the applicant and his counsel had occurred in the presence of the police, who had audiotaped their conversation. Lastly, the applicant submitted that for him to be placed in detention under the full control of the authorities would put his life and health at risk, in breach of Article 2 of the Convention. He referred in this connection to his admission to hospital in July 2019 following his alleged poisoning while he had been in detention; his alleged poisoning in August 2020 with a chemical nerve agent belonging to the Novichok group of substances prohibited under the Chemical Weapons Convention; his lengthy medical treatment in Germany; his public statements about the involvement in his poisoning of named security services agents (see paragraphs 19 and 21 above); and the authorities’ refusal to open a criminal investigation into the poisoning.

38. On 28 January 2021 the Moscow Regional Court upheld the detention order, finding that it had been lawful, well-reasoned and justified. It held that the applicant’s detention had been ordered in accordance with Articles 18.1 § 2 and 46 § 4 of the Code on the Execution of Sentences (see paragraphs 106 and 107 below) and Article 397 § 18 of the Code of Criminal Procedure (see

paragraph 103 and 104 below). Although it applied to the Criminal Code, the prohibition on applying legal provisions by analogy did not apply to the Code of Criminal Procedure or to the Code on the Execution of Sentences. A different interpretation of the domestic law would have rendered impossible the execution of the applicant's criminal sentence. Given that the applicant's name had been placed on the list of wanted persons, his detention had been necessary in order to ensure his participation (in accordance with Article 399 § 2 of the Code of Criminal Procedure, see paragraph 105 below) in the hearing of the FSIN's application for his suspended sentence to be activated. The only way to ensure the participation of a convicted person who had evaded supervision was to place him in detention for the period necessary for a decision to be reached on the competent authorities' application for the activation of the suspended sentence. The FSIN's detention request had been reasoned and supported by documents. However, the information submitted by the FSIN to the court (regarding the applicant's alleged failure on many occasions to report to the local FSIN office) was outside the scope of the detention hearing; the accuracy of that information would be assessed during the hearing on the merits of the FSIN's request. The procedural requirements had been complied with. The relevant domestic law did not prohibit the conduct of hearings outside court buildings. The police had requested that the hearing be held on their premises, in accordance with Presidential Decree no. 239 of 2 April 2020 on health and safety measures related to the COVID-19 epidemic (see paragraph 111 below). The applicant had been given the opportunity to consult his counsel in private before the commencement of the hearing. The court also held that the applicant's allegations regarding a risk to his life could not be taken into account. No reasons were given for this conclusion.

C. Detention from 2 February 2021 onwards, following the decision to activate the suspended sentence

39. On 2 February 2021 the Simonovskiy District Court of Moscow activated the applicant's suspended sentence imposed by the Zamoskvoretskiy District Court's judgment of 30 December 2014 (see paragraph 6 above) and ordered his imprisonment for three and a half years. It found that it had been established that the applicant had repeatedly failed to comply with probation conditions. He had failed to report to the local FSIN office on many occasions, both before and after his hospital stay from 20 August until 23 September 2020. In particular, he had failed to submit documents confirming that he had been undergoing outpatient treatment in Germany after his discharge from hospital on 23 September 2020. The FSIN had sent summonses and had visited addresses known to them but had been unable to establish the applicant's whereabouts. Given that his whereabouts had remained unknown to the FSIN for more than 30 days, it had been

declared (in accordance with Article 190 § 6 of the Code on the Execution of Sentences – see paragraph 110 below) that he was evading supervision. Although the probation term had expired on 31 December 2020, the request for the suspended sentence to be activated had been submitted before that date. The court also discounted the applicant's reliance on the Court's finding that his conviction had violated Articles 6 and 7 of the Convention (see paragraph 8 above), on the basis that the Presidium of the Supreme Court of Russia had found no grounds to amend or reverse the conviction following the Court's judgment (see paragraph 10 above).

40. The applicant lodged an appeal, citing Articles 5, 6 and 18 of the Convention. He relied on the Court's finding that his conviction had violated Articles 6 and 7 of the Convention (see paragraph 8 above). He further argued that he had fully complied with the conditions of his probation. He had notified the FSIN of his hospital stay and subsequent outpatient treatment in Germany, had submitted medical certificates and had indicated his address in Berlin. As regards the period before his poisoning, he had regularly reported to his local FSIN office (although, he conceded, not always on the scheduled days). The probation term had expired on 31 December 2020; after that date it had no longer been possible to activate the suspended sentence. Furthermore, the proceedings had been unfair because the District Court had not addressed his arguments and because he had not been allowed to consult with his counsel privately after his arrest. Lastly, the applicant argued that his detention under the full control of the authorities would put his life and health in risk. He relied in this connection on the same arguments as those cited in his appeal submissions against the detention order (see paragraph 37 above). The applicant also requested that he be immediately released, in accordance with the interim measure indicated by the Court (see paragraph 46 below).

41. On 20 February 2021 the Moscow City Court upheld the decision of 2 February 2021, finding that it had been lawful, well-reasoned and justified. The District Court had established that the applicant had failed to comply with the probation conditions over a prolonged period of time, including by repeatedly failing to report to his local FSIN office on scheduled dates. Despite receiving multiple warnings regarding the potential activation of his suspended sentence, he had changed his place of residence without properly notifying the authorities, had evaded supervision, and had been ultimately declared a wanted person. In particular, he had on several occasions failed to comply with the required reporting schedule between January and March 2020 and then again in July 2020. Furthermore, he had not informed the FSIN of his discharge from the hospital on 23 September 2020, his outpatient treatment in Germany, or his new address there until 23 November 2020 — more than 30 days after his discharge. Nor had he submitted any documents confirming his address in Berlin. Given that the FSIN had been unable to establish the applicant's whereabouts, his name had been placed on the list of wanted persons. The City Court then restated the reasoning of the District

Court as regards the expiration of the probation term and the Court's judgment of 17 October 2017 (see paragraph 39 above). The proceedings had met the statutory procedural requirements. The applicant had been able to consult his counsel in private. The court deemed that the applicant's allegations that the activation of his prison sentence was politically motivated and associated with a risk to life and health were unsubstantiated. Lastly, as regards the interim measures indicated by the Court (see paragraph 46 below), it held that the Court could not give instructions to the domestic courts or otherwise interfere with the execution of domestic criminal sentences. Furthermore, the interim measures had been indicated to the Russian Government rather than to the Russian courts and were therefore irrelevant to the case under examination. The City Court concluded that the applicant's rights under the Convention had not been violated by the contested decision and that all substantive and procedural requirements of the domestic law had been complied with.

IV. APPLICATION OF RULE 39 BY THE COURT

42. On 20 January 2021 the applicant lodged a request with the Court for an interim measure to be indicated to the Russian Government under Rule 39 of the Rules of Court. He asked that the Court order his immediate release. He argued that the detention posed an immediate threat to his life in view of the alleged involvement of State agents in a previous and recent near-fatal attack (using chemical weapons) on him.

43. On 21 January 2021 the Court's duty judge adjourned the examination of the above-mentioned Rule 39 request and asked the Government to answer the following questions:

“(i) In view of the arguable allegation of a near-lethal attack on the applicant in August 2020 with the use of chemical nerve agent, and the fact that the perpetrators had not been established by the Russian authorities, does the risk to the applicant's life persist to date?

(ii) If so, what measures are being taken by the Russian authorities to safeguard his life and well-being, in particular while he is in custody (see *Gongadze v. Ukraine*, no. 34056/02, §§ 167-171, ECHR 2005-XI)?

(iii) Furthermore, are the conditions of detention and the treatment of the applicant subject to regular independent monitoring in line with the European standards (see the Recommendation Rec(2006)2-rev of the Committee of Ministers to member States on the European Prison Rules, § 93)?”

44. On 26 January 2021 the Government responded by saying that the applicant was being detained in a Moscow detention facility in “properly guarded” premises, in a cell under video surveillance. He was being held in solitary confinement for 14 days as a quarantine measure. He had a refrigerator, a teapot, cold and hot water taps and a television set. They submitted that after he had been detained the applicant had been visited by

his lawyers and members of a public monitoring commission on several occasions. He had been able to make telephone calls and to receive both electronic correspondence (through the detention facility's electronic messaging system) and hard-copy correspondence. He had been examined by doctors. He had made no complaints to the detention facility's authorities regarding the conditions of his detention or his health and safety.

45. On 3 February 2021 the applicant submitted his comments. He pointed out that the conditions of his detention, as described by the Government, were not sufficient to guarantee his safety. As to the video surveillance, he argued that the existence of such surveillance had not in the past prevented the occurrence of other homicide and suicide attempts against other persons held in the same detention facility. Furthermore, the presence of video-surveillance facilities did not constitute a sufficient safeguard against a possible further attack on his life similar to the above-mentioned attack that had occurred in August 2020, which had involved the use of chemical weapons under exclusive State control and which, he believed, had been perpetrated by State agents. He accused the authorities of acting in bad faith in their failure on multiple occasions to respect his human rights; some of those instances had already been examined by the Court. He maintained that in detention his life and limb were under imminent threat given the fact that he remained under the control of the authorities (who, he believed, had persecuted him and his family members in order to silence his anti-corruption campaign and to put an end to his opposition activities).

46. On 16 February 2021 the Court allowed the applicant's request for an interim measure and indicated to the Government that they should release him immediately. The Court provided the following reasons for its decision:

"In taking that decision the Chamber had regard to the nature and extent of risk to the applicant's life, demonstrated *prima facie* for the purposes of applying the interim measure, and seen in the light of the overall circumstances of the applicant's current detention. This measure has been granted without prejudice to the Court's decision on the merits of the present case and the competence of the Committee of Ministers."

The Committee of Ministers was notified of that decision, in accordance with Rule 39 § 2 of the Rules of Court. The decision was notified to the parties on 17 February 2021.

47. On 20 February 2021 the Russian Government requested that the Court reverse its decision of 17 February 2021, arguing that the applicant's allegations were not supported by evidence and that in taking that decision the Court had violated the principle of subsidiarity and had acted *ultra vires*.

V. CONDITIONS OF THE APPLICANT'S DETENTION AND COMMUNICATION WITH COUNSEL

A. SIZO-1 and SIZO-3 (from 18 January until 11 March 2021)

48. On 18 January 2021 the applicant was placed in the SIZO no. 1 Matrosskaya Tishina pre-trial detention facility in Moscow ("SIZO-1").

49. On 18 February 2021 the applicant was registered as a person at risk of escaping. The decision noted that on 29 January 2021 the applicant had verbally requested a meeting with the governor of SIZO-1 from a guard. When asked to state the reason for the meeting, he had responded that he wished to "discuss his plans to flee". On the same day, during a search of his cell, he had asked a guard whether they had found his "escape plan". When the guard had enquired whether he was planning to escape, he had replied: "Sure. I suppose no one has ever escaped from SIZO-1, I will be the first". He had moreover earlier publicly stated his intention to escape. The registration of the applicant as a person at risk of escaping was valid for three months.

50. According to the applicant, meeting rooms in SIZO-1 were equipped with glass partitions that had no openings. Counsel could not pass documents to the applicant, who had to read them through the glass. He also had to talk to his counsel through an interphone.

51. The Government acknowledged that COVID-19 related restrictions had been in force until 16 March 2021; those restrictions included the installation of glass partitions for use during family and legal visits.

52. On 25 February 2021 the applicant was transferred from SIZO-1 to an undisclosed detention facility. Neither his family nor his lawyers had any information about his whereabouts, or contact with him, until 3 March 2021. On the latter date the lawyers located him at the SIZO no. 3 pre-trial detention facility in the Vladimir Region ("SIZO-3"). They had to wait for several hours before meeting him.

53. According to the applicant, the conditions of detention in SIZO-3 were poor: there was no access to drinking water and the food was extremely meagre; he could not buy food from the prison shop for eight days as his funds had not been transferred from his account at SIZO-1 to his account at SIZO-3. Lawyers were allowed to visit him daily. The meeting rooms in SIZO-3 were equipped with glass partitions and video cameras.

54. The Government acknowledged that there were video cameras in the meeting rooms in SIZO-3.

B. IK-2 (from 11 March until 18 April 2021)

55. On 11 March 2021 the applicant was transferred from SIZO-3 to an undisclosed detention facility. Neither his family nor his lawyers had any

information on his whereabouts or contact with him until 15 March 2021. On the latter date the lawyers located him at correctional colony IK-2 in the Vladimir Region (*ФКУ ИК-2 УФСИН России по Владимирской области* – hereinafter “IK-2”). On the same day they met the applicant at the facility. They had to talk with each other over the interphone through a glass partition.

56. On the day of his arrival at IK-2 (11 March 2021) the applicant was registered (with reference to the decision of 18 February 2021 – see paragraph 49 above) as a person at risk of escaping.

57. According to the applicant, in IK-2 he was initially put in a “quarantine cell”. His head was shaved and he was ordered to wear prison uniform. He submitted to the Court press articles containing his photograph with a shaved head that had been published on his social networking account. He was held in strict isolation from the outside world and was not allowed to eat food sent by his relatives. He was forced to undertake strenuous physical exercise every day.

58. According to the applicant, during the night he was subjected to regular checks whereby a guard entered his cell, pointed a video camera at him and pronounced that he was present. From 11 until 30 March 2021 he was checked every hour; from 30 March until 18 April 2021 he was checked every two hours. This procedure was carried out because the applicant had been registered as a person at risk of escaping (see paragraph 56 above). This disturbed his sleep. The night-time checks were in addition to constant video surveillance via a video camera placed above his bed.

59. The applicant also referred to severe psychological pressure exerted by the facility officials. He relied on statements to the press given by former inmates of the same correctional facility that corroborated his account. The latter confirmed the existence in IK-2 of restrictions and practices not typical for general-regime facilities – in particular: night-time checks on detainees at risk of escaping; the shaving of detainees’ heads; detainees being obliged to look at the ground and being forbidden to look around; forcing detainees to perform repetitive meaningless tasks at a certain speed; isolating detainees by denying them outside contact, with no or very few family visits allowed; forcing detainees to undertake physical exercise for hours and then go outside into the cold in wet clothes; creating difficulties for lawyers seeking access, making them wait for hours before allowing them to meet their clients; forcing detainees in their spare time to watch television programmes selected for them.

60. According to the applicant, the meeting rooms in IK-2 were equipped with glass partitions. He had moreover noticed the presence of a camera that, judging by its features, could record both video and audio.

61. On 22 March 2021 the applicant’s counsel lodged a complaint with the head of IK-2 in which he questioned the legality of the authorities’ conduct in respect of the applicant, such as: shaving his head; delays of four to five hours before the applicant was allowed to meet his lawyers (to the

detriment of his right to the four-hour meetings allowed by law); the lack of confidentiality that characterised such meetings (namely, the applicant and his counsel being separated by a glass partition and the fact that the visiting room was equipped with cameras with built-in microphones); the inadequate food provided in the detention facility and the refusal to allow the applicant to consume food sent to him in parcels; the sleep deprivation caused by hourly night-time checks; the failure to inform the applicant's family of his transfer to IK-2; and abusive conduct, such as the facility staff shouting at the applicant in front of his counsel. The case file does not contain any response to that complaint.

62. On 25 March 2021 the applicant lodged complaints with the head of IK-2, the head of the FSIN for Russia, the head of the FSIN for the Vladimir Region, the Vladimir regional prosecutor and the Prosecutor General, in which he complained of the sleep deprivation resulting from hourly security checks on him. He submitted that the prison regulations guaranteed an uninterrupted eight-hour sleep to all detainees. He also complained of the hindrance to his lawyers' access to him in IK-2. The case file does not contain any response to that complaint.

63. According to the Government, the night-time checks on the applicant were conducted in such a way as not to wake him up. He regularly saw his lawyers. For example, between 11 and 31 March 2021 he had twelve meetings with his counsel. He did not lodge any complaints raising fears for his personal safety or security.

C. The IK-3 tuberculosis hospital (from 18 April until 4 June 2021)

64. On 18 April 2021 the applicant was transferred to a tuberculosis hospital in correctional colony IK-3 in the Vladimir Region (*ФКУ ИК-3 УФСИН России по Владимирской области* – hereinafter “the IK-3 tuberculosis hospital”) because his physical condition had been weakened by a hunger strike (see paragraphs 91-97 below).

65. According to the applicant, several leaked video-recordings taken by CCTV cameras showing him in his cell appeared in Russian media. He submitted one such video to the Court, which was dated 19 April 2021 and showed him, with his head shaved, moving about his hospital room behind metal bars.

66. According to the applicant, on 20 and 21 April 2021 the security guards prohibited his lawyers from taking their telephones to meetings with him, in breach of the domestic law (see paragraph 113 below). The lawyers were therefore unable to take photographs of the applicant and send them to the Court as a proof of his poor state of health.

D. IK-2 (from 4 June 2021 until 14 June 2022)

67. On 4 June 2021 the applicant was transferred back to IK-2.

68. On 13 and 22 September 2021 the applicant's lawyers complained to the head of IK-2, the head of the FSIN for Russia, the head of the FSIN for the Vladimir Region, the Vladimir regional prosecutor and the Prosecutor General that on 10, 13, 14, 16, 17, 20 and 21 September 2021 their meetings with the applicant had been prematurely terminated by IK-2 staff, despite detainees being entitled to four-hour daily legal visits under Article 89 § 4 of the Code on the Execution of Sentences (see paragraph 108 below). Counsel stated, in particular, that the meetings had been necessary, *inter alia*, to prepare the applicant's observations, which had to be lodged with the Court by 15 October 2021.

69. According to the Government, on 7 October 2021 the designation of the applicant as a person at risk of escaping was revoked.

70. On 5 November 2021 TV Rain, an independent Russian-language television channel, broadcast a video report on the conditions of the applicant's detention in IK-2 (i) in the period between his arrival there and his transfer to the IK-3 tuberculosis hospital, and (ii) after his return to IK-2 from the hospital. The journalists interviewed several persons who had been detained in IK-2 at the same time as the applicant (two of whom had been in the same unit) and had been released in the meantime. Those persons stated that there had been constant video surveillance of the entire premises of unit no. 2 (to which the applicant had been assigned). All inmates had been directed not to engage in any communication with the applicant. Inmates who had talked to him had been severely punished. The colony administration had attempted to give the inmates the impression that the applicant was homosexual in order to turn him into an "outcast" (see *S.P. and Others v. Russia*, nos. 36463/11 and 10 others, 2 May 2023, on the treatment of "outcasts" in Russian prisons). Instructed by the prison administration, inmates had tormented the applicant by various means: they had disturbed his sleep, had watched him while he had been in the toilet, had recorded his every word, had blocked his way when he had been walking, and had tried to provoke him into using force against them. While the applicant had been on hunger strike (and therefore weakened) a new individual had been assigned to the bed adjacent to his who had been falsely represented as suffering from active tuberculosis. Inmates had also been given sausages to fry in front of the applicant while he had been on hunger strike. The report also showed a photograph of the applicant in prison overalls and with a shaved head.

E. Court proceedings

71. The applicant lodged two applications for judicial review regarding the decisions of 18 February and 11 March 2021 to register him as a person

at risk of escaping (see paragraphs 49 and 56 above). He argued that there was no evidence of any intention on his part to escape, except for his words that had clearly been meant as a joke. He submitted that as a result of those decisions his right to an uninterrupted eight-hour sleep had been violated. From 11 until 30 March 2021 he had been woken up every hour, and from 30 March until 18 April 2021 he had been woken up every two hours. He maintained that the sleep deprivation had amounted to torture. He also lodged two separate complaints regarding the prohibition against his counsel bringing their mobile telephones and laptop computers to their meetings with him in the IK-3 tuberculosis hospital in respect of two consecutive periods: from 19 April until 11 May and from 12 May until 4 June 2021. He submitted that his counsel had been forced to hand their electronic devices to the security guards under the threat that otherwise the meetings would be cancelled.

72. On 2 June 2021 the Petushinskiy District Court of the Vladimir Region dismissed his application for judicial review of the decision of 11 March 2021 to register the applicant as a person at risk of escaping (see paragraph 56 above). It found that that decision had been taken by competent officials in accordance with the procedure prescribed by law. Given that he had been already registered as a person at risk of escaping from SIZO-1 (see paragraph 49 above), that registration had been automatically carried over after his transfer to IK-2, in accordance with [unpublished] Ministry of Justice Instruction no. 72 of 20 May 2013. Ministry of Justice Instruction no. 252 of 13 July 2006 provided that the presence of convicts at risk of escaping was to be checked every two hours. The applicant's allegation that his presence had been checked every hour was unsubstantiated. Two witnesses had stated to the court that the applicant's presence had been checked every two hours, with each check recorded on video and documented in the relevant register. The court had inspected the register for the period between 11 March and 18 April 2021 and had found no irregularities. The night-time checks had therefore been lawful and had not breached the applicant's rights. Such checks aimed to prevent violations of the regulations of correctional institutions, and serve as part of the rehabilitative process for offenders.

73. The applicant lodged an appeal against the decision of 2 June 2021. He complained, in particular, that his rights had been restricted on the basis of Ministry of Justice Instruction no. 252 of 13 July 2006, which had never been published because it was "for internal use only". He also argued that the guards' statements constituted unreliable evidence because they risked dismissal for making statements unfavourable to their employer, IK-2. The register examined by the court did not disprove the applicant's statement that from 11 until 30 March 2021 he had undergone hourly checks during the night. The case file does not contain the appeal decision.

74. On 25 June 2021 the Preobrazhenskiy District Court of Moscow dismissed the applicant's application for judicial review of the decision of

18 February 2021 to register the applicant as a person at risk of escaping (see paragraph 49 above). It found that that decision had been taken by competent officials, in accordance with the procedure prescribed by law. It had constituted a precautionary measure, and the applicant had failed to demonstrate that it had violated his rights.

75. Following an appeal by the applicant, on 17 August 2021 the Moscow City Court upheld the decision of 25 June 2021, finding that it had been lawful, well-reasoned and justified. The applicant's assertions that his words had clearly been meant as a joke were unconvincing; his words had been taken seriously by the guards, who had taken into account the context in which they had been made.

76. Meanwhile, by two separate decisions of 10 June and 30 July 2021 the Okryabrskiy District Court of Vladimir dismissed the applicant's complaints about the prohibition on his counsel bringing their mobile telephones and laptop computers to their meetings in the IK-3 tuberculosis hospital. It found that the applicant's counsel had requested permission to use their mobile telephones and laptops during their meetings with the applicant. That permission had been granted by the governor of IK-3. Counsel had, however, voluntarily handed over their telephones and laptop computers to the security guards at the latter's request, as confirmed by video-recordings. There was no evidence to confirm the applicant's allegations that some video-recordings had been withheld from the court or that the applicant's lawyers had been forced to hand over their electronic devices under the threat of their meetings being cancelled. The meetings had taken place and there was no reason to believe that counsel had been unable to provide adequate legal assistance without their mobile telephones and laptop computers.

77. The applicant lodged appeals against the decisions of 10 June and 30 July 2021. He argued, in particular, that it was clear from the video-recordings that the security guards had insisted that all communication devices had to be handed over to them for safekeeping. On 7 September 2021 the Vladimir Regional Court upheld the decision of 10 June 2021, finding that it had been lawful, well-reasoned and justified. The case file does not contain the appeal decision regarding the District Court decision of 30 July 2021.

VI. MEDICAL ASSISTANCE

A. SIZO-1 and SIZO-3 (from 18 January until 11 March 2021)

78. It can be seen from the applicant's medical records that upon his arrival at SIZO-1 on 18 January 2021 he was examined by the facility's paramedic. He was tested for COVID-19, HIV and syphilis, and underwent a chest X-ray, a urine test, a complete blood count and a biochemical blood test. His blood pressure was checked daily. He complained of back pain on

2 and 26 February and on 1, 2, 4, 7, 10 and 11 March 2021. On 26 February and 11 March 2021 the facility doctor recommended a specialist consultation.

79. On 5 March 2021 the applicant's counsel requested the officials of SIZO-3 to allow him access to a neurology specialist of the applicant's choice to examine him, with the consultation to be paid for by his family. No response was given to this request.

B. IK-2 (from 11 March until 18 April 2021)

80. It follows from the applicant's medical records that on 12 March 2021, upon his arrival at IK-2, he was examined by the facility doctor and complained of back pain. The doctor recommended a consultation by a neurologist and prescribed painkiller injections. According to the doctor's inscription, the applicant refused the painkillers, stating that he wished to undergo medical tests before taking any treatment.

81. On 16 March 2021 the applicant's counsel lodged a request with the IK-2 to have the applicant examined by a neurologist of his choice, with the consultation to be paid by his family. Their request was not answered.

82. It can be seen from the medical records that the applicant complained of back pain on 17 and 18 March 2021. He refused an offer of painkillers, saying that they were ineffective. He asked for a medical specialist chosen by him to be allowed to examine him.

83. On 19 March 2021 the applicant had a complete blood count and was examined by a neurologist from the detention facility's medical service, who told the applicant that the diagnosis and treatment would be indicated in his medical records. It can be seen from the medical records that the neurologist recommended magnetic resonance imaging (MRI) screening and prescribed Ibuprofen, a muscle relaxant drug and Omeprazole (a drug that reduces the production of stomach acid). The applicant was administered the treatment prescribed by the neurologist and the Ibuprofen gel prescribed by the facility paramedic every day from 22 until 31 March 2021.

84. On 22 March 2021 the applicant's counsel complained to the head of IK-2 of the lack of medical assistance in respect of the applicant's persistent back pain. The case file does not contain any response to that complaint.

85. On 24 March 2021 the applicant was taken to the Regional Clinical Hospital in Vladimir for MRI screening. The results of the examination were not disclosed to the applicant or his lawyers until 30 March 2021.

86. On 25 March 2021 the applicant was again examined by the above-mentioned neurologist (see paragraph 83 above), who studied the MRI screening results and diagnosed the applicant as having acute degenerative disease of the lumbosacral region of the spine (with herniated discs and protrusions). The neurologist adjusted the prescribed treatment, in particular by replacing Ibuprofen with Diclofenac and adding diuretics and vitamins.

87. On 25 March 2021 the applicant lodged complaints with the head of IK-2, the head of the FSIN for Russia, the head of the FSIN for the Vladimir Region, the Vladimir regional prosecutor and the Prosecutor General, alleging that he had suffered a serious deterioration in his health on account of the refusal to provide him with medical assistance and to allow independent medical assistance to which he considered himself entitled under law. He requested that a medical specialist of his choice be allowed to treat him and that he be allowed to receive a parcel containing necessary medications. The case file does not contain any response to that complaint.

88. On 30 March 2021 the applicant complained to the facility paramedic that his condition had deteriorated. He suffered from severe back pain, a burning sensation in his right thigh, numbness and coldness in his lower limbs and an inability to walk for lack of control over his right leg. The paramedic informed him of his diagnosis (see paragraph 86 above). According to the Government, on the same date a request was forwarded to the Pirogov National Medical Research Centre for Traumatology and Orthopaedics for the applicant to be consulted by medical specialists who were independent of the detention system authorities, and the Centre gave their preliminary agreement to that request.

89. The applicant's family immediately consulted Dr B. – a neurology specialist at the Sklifasovskiy Institute of Clinical Medicine of the First Moscow Medical University (which was attached to the Ministry of Healthcare) – regarding whether the prescribed treatment was appropriate for the diagnosed condition. Dr B. recommended that (i) the treatment prescribed to the applicant be amended, as it had proved to be insufficiently effective and was moreover incompatible with his other known diagnosis, (ii) additional examinations and tests be conducted, and (iii) a medical board or a medical commission be convened to prescribe further treatment on the basis of the results of the examinations and tests. On 31 March 2021 the applicant's counsel lodged a request with the acting head of the FSIN's medical service (a copy of which was sent to the head of IK-2) that the above specialist recommendations be implemented.

90. On the same day, 31 March 2021, the applicant complained to the facility paramedic of the worsening of his condition and received a pain relief injection.

91. On the same day he began a hunger strike, demanding access to medical assistance at the hands of an independent specialist.

92. The applicant was examined by the facility paramedic every day between 1 and 18 April 2021. The paramedic weighed him, took his temperature, pulse and blood pressure and held discussions with him concerning his refusal to eat. He lost 11 kg during that period. The medical records also note that the applicant orally refused to take the prescribed treatment but would not sign a formal refusal. On 6, 8 and 15 April 2021 the applicant underwent biochemical blood tests. On 11 April 2021 he was

visited by a psychiatrist, but refused to be examined. On 16 April 2021 he had a urine test. On 18 April 2021 he was offered intravenous injections of glucose and calcium gluconate, but refused.

93. On 2 and 6 April 2021 the applicant's counsel complained to the head of IK-2, the head of the FSIN for Russia, the head of the FSIN for the Vladimir Region, the Vladimir regional prosecutor and the Prosecutor General of the allegedly inadequate medical treatment prescribed to the applicant and of the refusals to allow a neurologist of the applicant's choice to examine him.

94. On 6 April 2021 the applicant was examined by a panel of facility doctors who recommended an electroneuromyography (ENMG) test and a consultation with a neurologist and a neurosurgeon from the Regional Clinical Hospital in Vladimir. On 14 April 2021 he had an ENMG test in the Regional Clinical Hospital in Vladimir and was examined by a neurologist and a neurosurgeon from that hospital, who gave treatment recommendations.

C. The IK-3 tuberculosis hospital (from 18 April until 4 June 2021)

95. On 18 April 2021 the applicant was transferred to IK-3's tuberculosis hospital for medical monitoring during his hunger strike. During his stay there his weight, temperature, pulse and blood pressure were regularly measured. He also had a stool analysis, regular urine tests, complete blood counts, biochemical blood tests, ultrasound examinations, upper endoscopies and electrocardiograms. He was examined by a gastroenterologist, a neurologist and a nephrologist. On 19 April 2021 he was examined by a psychiatrist, who found no evidence of any psychiatric disorder.

96. The applicant was prescribed glucose, dextran and sodium chloride via intravenous drip, insulin, hepatoprotective drugs, a pancreatic enzyme supplement and vitamins.

97. On 23 April 2021 the applicant ended his hunger strike, indicating in writing that his requests had been granted. He was given a liquid nutritional formula. Food was introduced gradually under medical supervision, and the applicant's health continued to be regularly monitored.

98. On 20 May 2021 a panel of doctors from the IK-3 tuberculosis hospital noted that the applicant's condition had adequately improved after the hunger strike and that it was possible to start treating his chronic illnesses. The panel decided that the applicant should receive treatment recommended on 14 April 2021 by a neurologist from the Regional Clinical Hospital in Vladimir (see paragraph 94 above) – namely anti-inflammatory drugs (Dexamethasone), Ibuprofen (for pain relief), Aminophylline, Omeprazole, lipoic acid and vitamins.

VII. THE APPLICANT'S DEATH

99. On 16 February 2024 the applicant died in correctional colony IK-3 in the village of Kharp in the Yamalo-Nenetsk Autonomous Region. The case file does not contain any information about the cause of his death.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. THE DOMESTIC LEGAL FRAMEWORK

A. The Criminal Code

100. The Criminal Code provides that the application of criminal law by analogy is prohibited (Article 3 § 2).

101. If an individual serving a suspended sentence fails to comply with court-imposed obligations, partially or fully evades paying court-ordered compensation for damage caused by an offence, or commits a public-order violation that is punished by an administrative penalty, the court may, upon the request of the supervising authority, extend the probation period by up to one year (Article 74 § 2).

102. If an individual serving a suspended sentence repeatedly violates public order during the probation period (and those violations result in administrative penalties), repeatedly fails to comply with court-imposed obligations, or evades supervision, the court may, upon the request of the supervising authority, revoke the suspension and order the enforcement of the sentence originally imposed (Article 74 § 3).

B. The Code of Criminal Procedure

103. The Code of Criminal Procedure provides that a court may order the detention of (i) a convicted individual who has absconded in order to evade paying a fine, serving a sentence of mandatory labour or corrective labour, or restriction of freedom, or (ii) a convicted individual sentenced to mandatory labour who has either evaded receiving an order to report to the designated place in which he is to serve his the sentence or has failed to report to the designated place within the prescribed time frame. Such detention may be ordered for a period not exceeding 30 days, pending consideration of whether to replace the fine, mandatory labour, corrective labour or restriction of freedom with a more severe punishment in cases of wilful evasion of the execution of a sentence, or to replace mandatory labour with imprisonment in cases where the convicted individual evades serving mandatory labour or is recognised as a persistent violator of the rules and conditions of mandatory labour (Article 397 § 18).

104. A court may also order the detention of a convicted individual who has been sentenced to imprisonment in a settlement colony but who has evaded receiving an order to report to the place designated for the serving of the sentence or has failed to report to the designated place within the prescribed time frame. Such detention may be ordered for a period not exceeding 30 days. The court may also order the convicted individual's transfer to the settlement colony under escort or consider changing the type of correctional facility in which the sentence is to be served to a general-regime correctional colony (Article 397 § 18.1)

105. If a convicted individual asks to participate in a hearing concerning the execution of criminal sentences, the court must ensure their direct participation or provide the opportunity to present their position via video conferencing. The court will determine the form of that individual's participation (Article 399 § 2)

C. The Code on the Execution of Sentences

106. The Code on the Execution of Sentences provides that the search for individuals sentenced to mandatory labour, corrective labour or restriction of freedom, individuals whose sentences have been suspended or whose punishment has been deferred, and individuals who are evading the supervision of the authority responsible for the execution of sentences, is to be carried out by the operational units of the authority responsible for the execution of sentences (Article 18.1 § 2).

107. Article 46, which concerns liability for a violation of the rules and conditions governing the undertaking of corrective labour and for wilfully evading the execution thereof, provides that a convicted individual who has absconded from his place of residence and whose whereabouts are unknown may be declared wanted and detained for up to 48 hours. This period may be extended by the court for up to 30 days (Article 46 § 4).

108. Article 89 § 4, as in force at the material time, provided that convicted persons were entitled to meetings with their counsel or other individuals authorised to provide legal assistance (with no limit on the number of meetings), which could last up to four hours. Meetings with counsel were to be conducted in private, out of earshot of third parties, and without the use of listening devices.

109. If a person serving a suspended sentence repeatedly violates public order during the probation period (and those violations are punished by administrative penalties), repeatedly fails to comply with court-imposed obligations, or evades supervision, the head of the authority responsible for the execution of sentences may apply to a court, asking it to activate the suspended sentence and enforce the punishment originally imposed (Article 190 § 4).

110. “Repeated violations of public order” are deemed to have occurred when an individual serving a suspended sentence commits two or more public-order offences within one year, and those violations are punished by the imposition of administrative penalties. “Repeated non-compliance with court-imposed obligations” is deemed to have occurred when – more than twice within a single year – the individual in question either engages in prohibited conduct or fails to carry out duties required of him, or when there has been a prolonged failure for more than 30 days to fulfil court-imposed obligations (Article 190 § 5). A person serving a suspended sentence is considered to be evading supervision if their whereabouts cannot be determined for a period exceeding 30 days (Article 190 § 6).

D. Secondary legislation and practice

111. Presidential Decree no. 239 of 2 April 2020 on health and safety measures related to the COVID-19 epidemic provided a lockdown period lasting from 4 until 30 April 2020.

112. Article 126 of Order no. 295 of 16 December 2016 (issued by the Ministry of Justice), as in force at the material time, provided that correctional institutions were to ensure compliance with health and safety, hygiene, and epidemic-related standards and regulations. Upon arrival at a correctional institution, all convicted individuals were to undergo an initial medical examination and comprehensive health and safety measures (which included cutting their hair short and, for men, trimming beards and moustaches). If medically necessary, an inmate’s head might be completely shaved. Article 16 of the Order provided that for men, the permissible length of head hair was no longer than that left by the clippers when set at 20 millimetres.

113. In its decision no. AKPI17-867 of 10 November 2017 the Supreme Court declared invalid a provision contained in the regulations governing the internal order of correctional institutions that required counsel – prior to entering a correctional institution for a visit – to hand over for safekeeping, among other items, cameras, mobile communication devices, and electronic data carriers and storage devices.

II. COUNCIL OF EUROPE MATERIAL

114. The Committee of Ministers, at its 1398th meeting on 9-11 March 2021 (DH), took a decision urging the Russian authorities (i) to take all possible measures to quash the convictions in respect of Aleksey Navalnyy and Oleg Navalnyy, and to eliminate all negative consequences arising for those two men from those convictions, and (ii) to release Aleksey Navalnyy without delay.

115. The Parliamentary Assembly, in its Resolution 2375 (2021) of 22 April 2021 expressed its full support for the position of the Committee of

Ministers, as set out in the latter's March 2021 decision. It called on the Russian Federation – further to the Committee of Ministers' decision and the interim measure indicated by the European Court of Human Rights – to release Mr Aleksey Navalnyy immediately and, pending his release, to provide him with all necessary medical care – including examination and treatment by a doctor of his choice.

116. The Committee of Ministers, in its Interim Resolution CM/ResDH(2021)107 of 9 June 2021 on the execution of the Court's judgment in the above-cited case of *Navalnyy* (see paragraph 8 above), noted that the just satisfaction awarded in that case had been paid but that the reopening of the proceedings had not remedied the violations established; it further noted that, on 2 February 2021 Mr Aleksey Navalnyy's suspended sentence (imposed following his arbitrary conviction in that case) had been activated. It strongly urged the Russian authorities to release Mr Aleksey Navalnyy immediately and to quash the conviction imposed in that case.

117. The Committee of Ministers, in its Interim Resolution CM/ResDH(2022)53 of 9 March 2022 on the execution of the Court's judgments concerning the applicant – including the judgment delivered in the case of *Navalnyy* (cited above) – held as follows:

“Recalling that in these two cases the European Court held that the applicants were convicted of acts indistinguishable from regular commercial activities by judicial decisions that were arbitrary, unforeseeable and manifestly unreasonable, in violation of the right to a fair trial (violation of Article 6 of the Convention) and, in the *Navalnyy* case, of the principle of *nullum crimen nulla poena sine lege* (no crime or punishment without law) (violation of Article 7 of the Convention);

...

Stressing again that the obligation of *restitutio in integrum* calls for measures to restore the applicants as far as possible to the position they would have enjoyed had the violations not occurred and that such measures should be compatible with the conclusions and spirit of the Court's judgments;

Underlining that restoring the applicants to that position requires annulling their convictions and eliminating their negative consequences;

...

DEEPLY DEPLORED that despite its numerous calls, Mr Aleksey Navalnyy remains in detention and the convictions impugned by the Court's judgments in these cases stand;

EXHORTED again the authorities to take all possible steps to assure Mr Navalnyy's immediate release, to quash the convictions impugned in both cases ...”

THE LAW

I. PRELIMINARY ISSUES

A. Joinder of the applications

118. Having regard to the fact that the complaints concern a related sequence of events and circumstances, the Court finds it appropriate to examine them jointly in a single judgment.

B. The Court's jurisdiction

119. With regard to the applicant's complaint under Article 5 § 1 concerning his detention after 2 February 2021 upon the activation of the suspended part of the prison sentence, the Court reiterates that a period of detention approved before 16 September 2022 (the date on which the Russian Federation ceased to be a party to the Convention) but extending beyond it falls within the Court's temporal jurisdiction in its entirety on account of the "continuous" effect of the detention order (see *Pivkina and Others v. Russia* (dec.), nos. 2134/23 and 6 others, § 61, 6 June 2023; *Ukraine v. Russia (re Crimea)* [GC], nos. 20958/14 and 38334/18, §§ 894-97, 25 June 2024; and *Ukraine and the Netherlands v. Russia* [GC], nos. 8019/16 and 3 others, § 185, 9 July 2025).

120. The facts constitutive of the other alleged interferences with the applicant's Convention rights occurred prior to 16 September 2022. The Court accordingly decides that it has jurisdiction to examine these complaints (see *Fedotova and Others v. Russia* [GC], nos. 40792/10 and 2 others, §§ 68-73, 17 January 2023, and *Pivkina and Others*, cited above, §§ 75-76).

C. Consequences of the Government's failure to participate in the proceedings relating to application no. 37083/21

121. The Court further observes that the respondent Government, by failing to submit any written observations in respect of application no. 37083/21, manifested an intention to abstain from participating in the examination of that application. However, although the Russian Federation is no longer a member of the Council of Europe, the cessation of a Contracting Party's membership of the Council of Europe does not release it from its duty to cooperate with the Convention bodies. Consequently, the Government's failure to engage with the proceedings cannot constitute an obstacle to the examination of the application (see *Svetova and Others v. Russia*, no. 54714/17, §§ 29-31, 24 January 2023).

D. Locus standi

122. Following the applicant's death, his widow, Ms Yulia Borisovna Navalnaya, expressed her wish to pursue the applications on behalf of the deceased applicant.

123. The Court reiterates that in the event that an applicant dies during the examination of a case, his or her heirs or close relatives may in principle pursue the application on his or her behalf (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 97, ECHR 2014, with further references). In the present case, the applicant's widow submitted documents confirming that she was the applicant's heir. In these circumstances, the Court considers that Ms Navalnaya has a legitimate interest in pursuing the applications in place of her late husband.

124. In the light of the above, the Court accepts that Ms Navalnaya has a legitimate interest in pursuing the applications in place of her deceased husband. It will therefore continue – at her request – to deal with the case. For reasons of convenience, however, it will continue to refer to Mr Navalnyy as the applicant in the present judgment.

E. Alleged abuse of the right of individual application

125. In their further observations in application no. 4743/21, the Government submitted for the first time that the applicant had abused the right of individual application by repeating his allegations of that he had been poisoned and that the investigation in respect of the alleged poisoning had been inadequate – despite the fact that the same allegations had been already made by him in the case of *Navalnyy v. Russia (no. 3)* (no. 36418/20, 6 June 2023).

126. The Court finds no basis to conclude that the lodging of the present application constituted an abuse of the right of application. The applicant's allegations (namely, that he had been poisoned and that the investigation in respect of the alleged poisoning had been inadequate) were submitted in support of his complaint under Article 2 of the Convention that his detention posed a danger to his life. The underlying pattern of facts relating to the alleged poisoning is common to both cases; however, the complaint is entirely different in nature and relates to the risk allegedly posed by his imprisonment (having regard to the background of the alleged poisoning) – not to the poisoning itself or the investigation into that poisoning.

127. It therefore rejects this preliminary objection lodged by the Government.

II. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

128. The applicant complained that his detention after 20 February 2021 had been unlawful on account of its causal connection with the criminal conviction that had been found by the Court to be in breach of Articles 6 and 7 of the Convention. He also argued that the shorter, earlier period of detention between 17 January and 20 February 2021 had had no legal basis in domestic law – in particular, because the domestic courts had applied legal provisions “by analogy” (contrary to the domestic-law prohibition on doing so) – and had been also arbitrary. He relied on Article 5 § 1 of the Convention, which reads:

“1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- (a) the lawful detention of a person after conviction by a competent court;
- (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
- (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
- (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
- (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.”

A. Admissibility

129. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

130. The applicant maintained his complaint. The Court considers it appropriate to start the analysis by addressing the applicant’s detention after 2 February 2021, which was based on the activation of his suspended sentence.

1. Detention after 2 February 2021

131. The detention of the applicant after 2 February 2021 arose from the activation of the suspended sentence arising from the 2014 conviction (which was upheld on appeal on 17 February 2015), as allowed for by Russian law (see paragraphs 39, 109 and 110 above). The applicant's detention during that period therefore falls, on the face of it, under Article 5 § 1 (a). However, as there existed a clear causal connection between the applicant's 2014 conviction and his deprivation of liberty in 2021, the Court is required to consider the compatibility of this detention with the Convention in circumstances where the Court made previous findings of violations under Articles 6 and 7 in respect of this conviction.

132. The applicable general principles were summarised by the Court in *Del Río Prada v. Spain* [GC], no. 42750/09, §§ 123-26, ECHR 2013, and *Ruslan Yakovenko v. Ukraine* (no. 5425/11, §§ 45-50, ECHR 2015).

133. In the case of *Navalnyy v. Russia* (no. 101/15, § 68, 17 October 2017) the Court found that there had been violations of Article 7 in respect of the proceedings which had led to the applicant's conviction on 30 December 2014, and which had been upheld on appeal on 17 February 2015. The Court found that, under Article 7, the offence of fraud had been "extensively and unforeseeably construed" and that it had not been possible to foresee that the applicant's conduct would constitute commercial fraud; consequently, it had been equally unforeseeable that his profits would be deemed to constitute the proceeds of crime the use of which could amount to money laundering. Having regard to the nature and scope of the Court's findings under Article 7 in respect of the 2014 conviction, and the connection between that conviction and his detention after 2 February 2021, the Court finds that this detention was in violation of Article 5 § 1 because the applicant could not have foreseen to a reasonable degree that his actions would result in a deprivation of liberty (compare *Del Río Prada*, cited above, §§ 125 and 130, where the finding of a violation of Article 7 on the grounds that the domestic courts' interpretation of the criminal law was unforeseeable also led to a finding of a violation of Article 5 § 1 on the same grounds).

134. Furthermore, the Court has previously held that if a conviction is the result of proceedings that amounted to a "flagrant denial of justice" – that is to say, that they were "manifestly contrary to the provisions of Article 6 or the principles embodied therein" – the resulting deprivation of liberty would not be justified under Article 5 § 1 (a). The Court has indicated that "flagrant denial of justice" is a stringent test of unfairness; it goes beyond mere irregularities or lack of safeguards in the trial procedures. What is required is a breach of the principles of a fair trial guaranteed by Article 6 which is so fundamental as to amount to a nullification, or destruction of the very essence, of the right guaranteed by that Article. Although it has not yet been required to define the term in more precise terms, the Court has nonetheless indicated that certain forms of unfairness could amount to a flagrant denial of justice.

These have included: conviction *in absentia*, with no possibility of subsequently obtaining a fresh determination of the merits of the charge; a trial which is summary in nature and conducted with a total disregard for the rights of the defence; detention without access to an independent and impartial tribunal to have the legality of the detention reviewed; the deliberate and systematic refusal of access to a lawyer – especially for an individual detained in a foreign country; and the admission of evidence obtained by torture (see *Willcox and Hurford v. the United Kingdom* (dec.), nos. 43759/10 and 43771/12, § 95, 8 January 2013 and the references cited therein; *Hammerton v. the United Kingdom*, no. 6287/10, §§ 98 and 99, 17 March 2016; and *Al-Hawsawi v. Lithuania*, no. 6383/17, §§ 245-47, 16 January 2024).

135. The Court finds that the applicant’s conviction, which formed the basis for his detention after 2 February 2021, was the result of proceedings that amounted to a “flagrant denial of justice”, for the following reasons (compare *Vorontsov and Others v. Ukraine*, nos. 58925/14 and 4 others, §§ 42-49, 21 January 2021). In the case of *Navalnyye* (cited above, §§ 83-85) the Court found that the applicant’s criminal conviction of 30 December 2014 (which had been upheld on appeal on 17 February 2015) had violated his rights under Articles 6 § 1 of the Convention. It found that that the domestic courts had failed to rule on the substantive elements of the criminal offences or to carry out a proper assessment of the defence’s arguments. Consequently, the decisions reached by the domestic courts in the applicant’s criminal case had been “arbitrary and manifestly unreasonable”. The judicial examination of his case had been “flawed with arbitrariness ... which [had] undermined the fairness of the criminal proceedings in such a fundamental way that it [had] rendered other criminal procedure guarantees irrelevant”.

136. Given the clear causal link to the 2014 conviction, and the Court’s findings under Article 7 that the domestic interpretation was unforeseeable, the applicant’s subsequent detention cannot be regarded as “lawful” within the meaning of Article 5 § 1 (a). In any event, the profound arbitrariness identified under Article 6 in *Navalnyye* reached the threshold of a flagrant denial of justice, reinforcing the same conclusion.

137. There has accordingly been a violation of Article 5 § 1 of the Convention by reason of the applicant’s detention after 2 February 2021, which was based on the 2015 conviction.

2. Detention from 17 January until 2 February 2021

138. During this shorter period of just over two weeks, the applicant was detained pending the outcome of the proceedings concerning the activation of his suspended sentence.

139. Any deprivation of liberty must, in addition to falling within one of the exceptions set out in sub-paragraphs (a) to (f) of Article 5 § 1, be “lawful”. Where the “lawfulness” of detention is in issue, including the question

whether “a procedure prescribed by law” has been followed, the Convention refers essentially to national law and lays down the obligation to conform to the substantive and procedural rules of that law (see *Denis and Irvine v. Belgium* [GC], nos. 62819/17 and 63921/17, § 125, 1 June 2021).

140. In laying down that any deprivation of liberty must be carried out “in accordance with a procedure prescribed by law”, Article 5 § 1 primarily requires any arrest or detention to have a legal basis in domestic law. However, these words do not merely refer back to domestic law. They also relate to the quality of the law, requiring it to be compatible with the rule of law, a concept inherent in all Articles of the Convention. On this last point, the Court stresses that, where deprivation of liberty is concerned, it is particularly important that the general principle of legal certainty be satisfied. It is therefore essential that the conditions for deprivation of liberty under domestic law be clearly defined and that the law itself be foreseeable in its application, so that it meets the standard of “lawfulness” set by the Convention, a standard which requires that all law be sufficiently precise to allow the person – if need be, with appropriate advice – to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail (see *Khlaifia and Others v. Italy* [GC], no. 16483/12, §§ 91-92, 15 December 2016; *Del Rio Prada*, cited above, § 125; and *Denis and Irvine*, cited above, § 128).

141. In legislation and case-law in respect of matters concerning deprivation of liberty, a high level of legal certainty, clarity and foreseeability of the law is required (see *Kolevi v. Bulgaria*, no. 1108/02, § 178, 5 November 2009). The principle of legal certainty may be compromised if domestic courts introduce exceptions in their case-law which run counter to the wording of the applicable statutory provisions (see *Mooren v. Germany* [GC], no. 11364/03, § 93, 9 July 2009, and *Aydın Sefa Akay v. Türkiye*, no. 59/17, § 115, 23 April 2024).

142. The Court does not need to rule on whether the applicant’s detention fell within one of the permissible grounds under Article 5 § 1, because in any event, for the reasons outlined below, it is of the view that his detention was not lawful (compare, for example, *M.H. and Others v. Croatia*, nos. 15670/18 and 43115/18, § 246, 18 November 2021).

143. The Court notes that although he was convicted in 2014, the applicant was given a suspended sentence at that time. Under Russian law, the activation of a suspended sentence requires a separate court order. A separate detention order was accordingly issued on 18 January 2021 and was upheld on appeal on 28 January 2021 (see paragraphs 36 and 38 above).

144. The domestic courts cited several legal provisions as constituting the statutory basis for ordering the applicant’s detention pending the hearing on whether his suspended sentence should be activated (see the relevant provisions in paragraphs 103-107 above). However, none of the provisions referred to by the domestic courts expressly provided for detention in this

specific scenario; those provisions were tailored to other specific scenarios – none of which was applicable to the applicant’s situation. The domestic courts found that those provisions could be applied “by analogy” to the applicant’s situation (see paragraph 38 above). The domestic courts therefore introduced an interpretation in their case-law that ran counter to the wording of the applicable statutory provisions. They did not refer to any authoritative interpretation of the cited provisions by the Supreme or Constitutional Courts of Russia that confirmed that they could apply to detention pending proceedings for the activation of a suspended sentence. Nor has it been demonstrated that there was longstanding and settled case-law supporting the application of the cited provisions in such situations (compare *I.L. v. Switzerland*, no. 72939/16, §§ 48-58, 3 December 2019, and *Borer v. Switzerland*, no. 22493/06, §§ 45-47, 10 June 2010). The courts’ interpretation that there was a statutory basis for detention pending the outcome of activation proceedings appears to have been arrived at for the first time in the applicant’s case. The reasoning of the courts in reaching this conclusion did not refer in any way to the need to exercise restraint within a context involving deprivation of liberty (a fundamental right under the Convention); rather, it justified its conclusion merely on the basis that the prohibition on application “by analogy” was restricted to the interpretation of substantive criminal law and did not apply to procedural criminal law. The interpretation which concluded that there existed such a statutory power in these particular circumstances was both novel and expansive. In the present case, the application by analogy of a provision deemed to justify deprivation of liberty was contrary to the principle of legal certainty (compare *I.L. v. Switzerland*, cited above, § 55).

145. This novel and expansive construction undermined legal certainty – thus falling short of the Convention standard of lawfulness (see the above-cited cases of *Khlaifia and Others*, cited above, §§ 91–92, 106; *Mooren*, cited above, § 93; *Del Río Prada*, cited above, §§ 125–131; and *Aydın Sefa Akay*, cited above, § 115). Where deprivation of liberty is concerned, the Court requires a high level of legal certainty and interprets statutory provisions strictly. New or expansive judicial constructions that lack a clear basis in the text of the law fail to satisfy the requirements of foreseeability and protection against arbitrariness under Article 5 § 1. It was therefore incompatible with the purpose of Article 5 (see *Khlaifia and Others*, cited above, § 106)."

146. The applicant’s deprivation of liberty during this shorter period cannot therefore be regarded as “lawful” within the meaning of Article 5 § 1 of the Convention. There has accordingly been a violation of Article 5 § 1 in respect of this period of detention also.

III. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

147. The applicant complained that his imprisonment posed a serious and immediate danger to his life and limb, contrary to Article 2 of the Convention, which reads as follows:

“1. Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.”

A. Admissibility

1. *Exhaustion of domestic remedies*

148. The Government submitted that the applicant had not exhausted the domestic remedies because he had not complained to the domestic courts of the authorities’ failure to ensure his safety. They argued that the remedy examined by the Court in *Shmelev and Others v. Russia* ((dec.), no. 41743/17, 17 March 2020) offered him a legal avenue of complaint regarding different aspects of the conditions of his detention – including the alleged failure to ensure his safety.

149. The applicant submitted that he had raised the issue of his safety in detention before the courts on several occasions – for example in his appeal submissions against the detention order (see paragraph 37 above). However, his complaints had been disregarded by the courts.

150. The Court notes that in the case of *Shmelev and Others* it declared the compensatory remedy provided by the Russian Compensation Act to be effective in two situations: (i) for past breaches of Article 3 by virtue of inadequate conditions of pre-trial detention and (ii) for past instances of correctional detention in conditions that had breached the applicable domestic standards (see *Shmelev and Others*, cited above, §§ 119, 139 and 156). It is important to note that the compensatory remedy was declared effective only where the period of detention in question was already over. The Court in the case of *Shmelev and Others* did not make any findings as to the effectiveness of the domestic remedies in cases where detention was ongoing. The findings made in that case are therefore not applicable to the present case, where the applicant remained in detention in allegedly life-threatening conditions until his death.

151. The Government did not refer to any other domestic remedies. The Court also notes that the applicant raised allegations before the domestic courts (both during the detention proceedings and in the proceedings concerning the activation of his suspended sentence) that his detention put his life and health at risk (see paragraphs 37 and 40 above).

152. The Government's objection as to the non-exhaustion of domestic remedies must be therefore dismissed.

2. Applicability of Article 2

153. The Court takes note of the incident of 20 August 2020 (see paragraphs 13 and 15 above), which the Court previously found to have constituted a serious and immediate risk to the applicant's life (see *Navalnyy (no. 3)*, cited above, §§ 137 and 159). It also takes note of the fact that this had occurred only five months before the applicant's return to Russia from abroad on 17 January 2021 and his arrest on the same day. Given that the domestic inquiry did not permit the establishment of the relevant facts, rule out the plausible allegations of poisoning for political motives by a substance identified as a chemical weapon prohibited by international and domestic law, or provide any other plausible explanation for the applicant's sudden illness or identify those responsible (*ibid.*, § 160), the Court will draw appropriate inferences from the failure to conduct a Convention-compliant investigation, as it had previously affirmed that it would do (*ibid.* § 168). It finds that a real and immediate risk to the applicant's life still persisted at the moment of his return to Russia and his arrest on 17 January 2021, and continued thereafter. It is sufficient, for Article 2 to apply, that there appeared to be a real and immediate risk to the applicant's life at the relevant time (see *Nicolae Virgiliu Tănase v. Romania* [GC], no. 41720/13, §§ 144-45, 25 June 2019, and *Makuchyan and Minasyan v. Azerbaijan and Hungary*, no. 17247/13, §§ 89-92, 26 May 2020, with further references). Accordingly, the Court finds that Article 2 is applicable.

3. Conclusion on admissibility

154. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

155. The applicant submitted that in August 2020 he had been poisoned with a chemical nerve agent prohibited under the Chemical Weapons Convention. The State had had an obligation strictly to control the storage and use of such a substance. It had not been accessible to the general public

and could not therefore have been used without the authorities' knowledge. The authorities had refused to open a criminal investigation into the poisoning. Furthermore, there had already been another poisoning attempt against him in 2019 while he had been in detention (see paragraph 37 above). In view of the above, the applicant considered it to be beyond reasonable doubt that the State had been responsible for a murder attempt against him. For as long as he was in detention, a poisonous substance could be used against him again, and this time (given that he was under the full control of the authorities) he would have no chance of surviving.

156. The applicant also submitted that the risk to his life was heightened by his secret, unexpected transfers between detention facilities. Furthermore, he argued that he would not be able to receive adequate medical assistance in custody if his health suddenly worsened as a consequence of his poisoning of August 2020. Given that the authorities denied that he had been poisoned with a chemical nerve agent, they would not perform any necessary examinations or provide adequate treatment. The medical unit in IK-2 was unable to provide urgent medical care because it had no medical equipment and was staffed only by a paramedic.

157. The Government reiterated their submissions in the case of *Navalnyy* (no. 3) (cited above, §§ 119-128) that the domestic criminal inquiry conducted in relation to the events of 20 August 2020 had been comprehensive and had convincingly established that there was no reason to believe that a criminal offence had been committed against the applicant. There was no evidence to confirm the applicant's allegations that he had been poisoned with a chemical nerve agent prohibited under the Chemical Weapons Convention or that the authorities had been somehow implicated in the incident. There was therefore no reason to believe that his imprisonment posed a danger to his life and limb. Furthermore, the Court had never yet examined allegations or held that imprisonment itself could constitute a threat to life. In any event, even in cases of a real and immediate risk to life Article 2 required the implementation of protective measures rather than release.

2. *The Court's assessment*

(a) **General principles**

158. The Court reiterates that Article 2 does not solely concern deaths resulting from the use of force by agents of the State; it also, in the first sentence of its first paragraph, lays down a positive obligation on States to take appropriate steps to safeguard the lives of those within their jurisdiction. This substantive positive obligation lays a primary duty on the State to put in place a legislative and administrative framework designed to provide effective deterrence against threats to the right to life (see *Nicolae Virgiliu Tănase*, cited above, §§ 134-135, with further references).

159. Secondly, there is a further substantive positive obligation to take preventive operational measures to protect an identified individual from another individual in certain circumstances (*ibid.*, § 136, with further references). The positive obligation under Article 2 of the Convention to take preventive operational measures to protect someone whose life is at risk from the criminal acts by another individual was first articulated in *Osman v. the United Kingdom* (28 October 1998, §§ 115-16, *Reports* 1998-VIII). The scope and content of that duty were clarified in *Kurt v. Austria* ([GC], no. 62903/15, §§ 157-60, 15 June 2021) and confirmed in *Ukraine and the Netherlands v. Russia* (cited above, § 451): the duty arises where the authorities knew or ought to have known at the time in question of the existence of a real and immediate risk to the life of an identified individual posed by the criminal acts of a third party, and it requires that the State take measures within the scope of its powers which, judged reasonably, might have been expected to avoid that risk. The assessment of the nature and level of risk constitutes an integral part of the duty to take preventive operational measures where the presence of a risk so requires.

160. The Court has also held on many occasions that persons in custody are in a vulnerable position and that the authorities are under a duty to protect them and to account for any injuries or deaths occurring in detention (see, among many others, *Salman v. Turkey* [GC], no. 21986/93, § 99, ECHR 2000-VII, and *Tekin and Arslan v. Belgium*, no. 37795/13, § 83, 5 September 2017).

(b) Application to the present case

161. The applicant argued that the threat to his life originated from the State itself and that his placement in custody, under the full control of the authorities, would heighten that threat. He stated that the only adequate preventive measure would therefore be to refrain from detaining him at all. The claim thus formulated is a novel one, having regard to the existing case-law in respect of Article 2. It may be distinguished from a request to the State authorities to take measures during an applicant's imprisonment in order to protect him or her from third parties such as fellow prisoners (see *Paul and Audrey Edwards v. the United Kingdom*, no. 46477/99, §§ 54-64, ECHR 2002-II, and, *mutatis mutandis*, *Gjini v. Serbia*, no. 1128/16, §§ 76-80, 15 January 2019). It may also be distinguished from a request to a court to take the applicant's state of health into account when deciding whether or not to impose imprisonment, or to order release from imprisonment (see *Dzieciak v. Poland*, no. 77766/01, §§ 100-101, 9 December 2008; *Enea v. Italy* [GC], no. 74912/01, §§ 58 and 59, ECHR 2009; *Makharadze and Sikharulidze v. Georgia*, no. 35254/07, § 91, 22 November 2011; *Salakhov and Islyamova v. Ukraine*, no. 28005/08, §§ 176, 177 and 182, 14 March 2013; and *Morabito v. Italy*, no. 4953/22, § 112, 10 April 2025). The novelty of the

applicant's argument in the present case lies in the fact that he was asking the courts to refuse to order his detention because of a threat from the State itself.

162. In the instant case the State ignored each prior decision and judgment emanating from the Court concerning the applicant. Upon the applicant's voluntary return to Russia after the near-fatal poisoning incident, he was immediately detained in violation of the provisions of the Convention (see paragraphs 138-146 above) and a sentence of imprisonment was then imposed in violation of the provisions of the Convention (see paragraphs 131-137 above). In the course of doing so, the domestic courts demonstrated their disregard of the Court's judgment in respect of the 2014 conviction and of domestic Russian law, and refused to accept that there was any risk to the applicant's life. They also failed to take into account the Court's indication of interim measure (see paragraph 46 above), as well as the decision and resolutions of the Council of Europe Committee of Ministers urging the release of the applicant (see paragraphs 46, 114, 116 and 117 above).

163. The Court notes that the applicant had argued before the domestic courts – both in the detention proceedings and in the proceedings to activate his suspended sentence – that his placement in detention would put his life and health at risk (see paragraphs 37 and 40 above) and that he substantiated that argument with reference to the incident of 20 August 2020 and the report on technical assistance by the Organisation for the Prohibition of Chemical Weapons (see paragraph 17 above). This report had specifically stated that a chemical nerve agent from the Novichok group of substances, banned under the Geneva Convention, had been the poisoning agent. The Court concludes that the authorities, having been informed of these matters, knew or ought to have known of the existence of a real and immediate risk to the life of the applicant.

164. In the light of the real and immediate risk to the applicant's life – which the Court found to exist at the time (see paragraph 153 above) and which was brought to the attention of the domestic courts (see paragraphs 37 and 40 above) – the authorities should have addressed the questions of the source of the risk, its level and immediacy, and the range of preventive options (including non-custodial or enhanced protective arrangements). One obvious issue that fell to be assessed was whether the degree of risk to the applicant was any worse inside the prison than outside of it, in view of what had been known about the August 2020 incident. It is not necessary, however, to consider precisely what would have discharged the domestic courts' obligation to assess the risk and/or take adequate preventive measures because the courts simply dismissed the applicant's arguments summarily and made no attempt at all to fulfil their obligation under Article 2. In the event, neither they nor any other authority took any preventive measures. The Court concludes that there has been a failure by the authorities to address his complaints under Article 2 in the present case.

165 Accordingly, the Court finds that there has been a violation of Article 2 of the Convention.

IV. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

166. The applicant complained that he was detained in inhuman conditions and did not receive adequate medical assistance, contrary to Article 3 of the Convention, which reads as follows:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

167. The Court notes that the applicant raised before it the following complaints under Article 3 of the Convention: (a) a complaint about the material conditions of his detention in IK-2; (b) a complaint about the allegedly inadequate medical care afforded to him in SIZO-1, SIZO-3, IK-2 and the IK-3 tuberculosis hospital and (c) a complaint about the material conditions of his detention in SIZO-3. They will be examined below.

A. The complaints about the material conditions in IK-2 and about inadequate medical care in SIZO-1, SIZO-3, IK-2 and the IK-3 tuberculosis hospital

1. Admissibility

168. The Government submitted that the applicant had not exhausted the domestic remedies in respect of his complaint about the material conditions of his detention in IK-2 because he had complained to the domestic courts about only some of the aspects of the conditions of his detention (see paragraph 71 above), and had not complained about the other aspects. Furthermore, the applicant had not exhausted the domestic remedies in respect of his complaint about the allegedly inadequate medical care because he had not complained to the domestic courts about the allegedly inadequate medical assistance afforded to him (they referred to *Trubnikov v. Russia* (dec.), no. 49790/99, 14 October 2003; *Belevitskiy v. Russia*, no. 72967/01, §§ 57-67, 1 March 2007; and *Shmelev and Others*, cited above).

169. The applicant submitted that, given that his detention and the surrounding events had been politically motivated, lodging complaints with the domestic courts would have had no prospects of success. His rights had been consistently disrespected and all his complaints rejected. He had complained to the courts of his designation as a person at risk of escaping and of the resulting sleep deprivation (see paragraphs 71 to 75 above).

170. As regards the complaint about the material conditions of detention in IK-2, the Court notes that the Government did not refer to any remedy that the applicant should have used before lodging his application with the Court.

171. As regards the complaint about the allegedly inadequate medical care, the Court notes that none of the cases to which the Government referred concerned the provision of allegedly inadequate medical assistance. The Court has on many occasions established that there are no effective domestic remedies in Russia in respect of complaining about the poor quality of medical treatment in detention (see, among many other authorities, *Koryak v. Russia*, no. 24677/10, §§ 86-93, 13 November 2012; *Reshetnyak v. Russia*, no. 56027/10, §§ 62-80, 8 January 2013; *Litvinov v. Russia*, no. 32863/13, §§ 78-81, 22 March 2016; and *Maylenskiy v. Russia*, no. 12646/15, § 44, 4 October 2016). Having regard to the absence of any new arguments from the Government as regards the existence of effective remedies, the Court cannot depart from its well-established case-law on the issue. It sees no legal avenue that would constitute an effective remedy for the applicant's complaints under Article 3 of the Convention about the allegedly ineffective medical assistance provided in detention.

172. Accordingly, the Court dismisses the Government's objections of non-exhaustion of domestic remedies.

173. The Court finds that these 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.

2. Merits

(a) Submissions by the parties

174. The applicant submitted that he had started to complain of acute back pain on 26 February 2021. IK-2's medical unit was not staffed by a neurologist, and the facility's administration had refused to give access to a neurologist chosen by the applicant. It had not been until 19 March 2021 that he had been examined by a neurologist from the detention facility's medical service. The treatment prescribed by the neurologist had not been administered to him until 22 March 2021, while the prescribed examinations had been carried out on 24 March 2021. He had been therefore denied specialist medical care for more than 20 days. As a result of the delay, his pain had worsened and his ability to walk had become impaired. Furthermore, the treatment prescribed by the neurologist had been found to be inadequate by independent medical experts (see paragraph 89 above). The applicant had gone on hunger strike to protest against the inadequate medical treatment. It had not been until 14 April 2021 that he had been examined by civilian doctors and prescribed adequate treatment. It had therefore taken him one month and a half and a 24-day hunger strike to obtain adequate medical care.

175. The applicant further submitted that the material conditions of his detention in IK-2 had been inhuman. He had been subjected to psychological pressure and had been forced to perform strenuous physical exercise. His allegations concerning psychological pressure and strenuous physical

exercise had been confirmed by other inmates (see paragraph 59 above). His hair had been immediately shaved off upon his arrival at IK-2, even though his conviction had not yet become final. This had completely changed the applicant's appearance and had diminished his dignity as an opposition leader. He had been due to participate in the appeal hearing in his case several days after his head had been shaved and to appear before national and international journalists covering the proceedings. Furthermore, he had been deprived of sleep for 39 days (from 11 March until 18 April 2021) as a result of night-time checks. This had amounted to sleep deprivation and had resulted in a deterioration in the applicant's physical and mental health. Uninterrupted sleep would have been particularly important during his hunger strike. The applicant argued that his designation as a person at risk of escaping had been arbitrary. His words about plans to escape had been clearly intended to be ironic (see paragraph 49 above).

176. The Government submitted that the applicant had undergone regular medical examinations and had received adequate medical assistance. He had not complained about his health to the authorities at SIZO-1 and SIZO-3 or requested any specific medical examinations while detained there. In IK-2 he had complained of back pain, had undergone diagnostic imaging examinations in a civilian hospital, had had consultations with specialists from that hospital and had been prescribed adequate treatment. After he had started a hunger strike, he had been transferred to the IK-3 tuberculosis hospital, where his health had been monitored daily.

177. The Government further submitted that the applicant had been registered as a person at risk of escaping because he had repeatedly and publicly declared his intention to escape. His presence had been therefore checked every two hours; the night checks had been conducted in a manner that had not disrupted his sleep. His hair had been cut upon arrival at IK-2 as a hygienic measure on the basis of paragraph 126 of Order No. 295 of 16 December 2016 issued by the Ministry of Justice (see paragraph 112 above). The applicant's other allegations concerning the exertion of psychological pressure, his being obliged to undertake excessive physical exercise, and refusals to allow him to receive food parcels were unsubstantiated. The Government also denied the allegations made in TV Rain's report (see paragraph 70 above). However, the Government confirmed that he had been placed under video surveillance, stating that that had been lawful.

(b) The Court's assessment

(i) General principles on conditions of detention

178. The Court refers to the principles established by its case-law regarding inadequate conditions of detention (see, for instance, *Kudła v. Poland* [GC], no. 30210/96, §§ 90-94, ECHR 2000-XI; *Ananyev*

and Others, cited above, §§ 139-42; and *Muršić v. Croatia* [GC], no. 7334/13, §§ 96-101, 20 October 2016).

179. It reiterates in particular that the State must ensure that a person is detained in conditions that are compatible with respect for his human dignity, that the manner and method of the execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured by, among other things, providing him with the requisite medical assistance (see *Kudla*, cited above, § 94).

180. When assessing conditions of detention, account must be taken not only of each individual matter but also of the cumulative effects of these conditions (see *Ananyev and Others*, cited above, § 142; and *Muršić*, cited above, § 101).

(ii) *The applicant's health situation and medical assistance*

181. For a summary of general principles concerning medical assistance, see *Rooman v. Belgium* ([GC], no. 18052/11, §§ 146-48, 31 January 2019).

182. The Court notes that from 2 February 2021 onwards, the applicant regularly complained of back pain (see paragraph 78 above). On 12, 17 and 18 March 2021 painkillers were offered to him, but he refused them, stating that they were ineffective and that he wished to undergo medical tests before taking any treatment (see paragraphs 80 and 82 above). He requested a consultation with a neurologist of his choice, for which his family was prepared to pay (see paragraphs 79, 81 and 82 above).

183. On 19 March 2021 the applicant was examined by a neurologist from the detention facility's medical service. Five days later he underwent an MRI scan in a civilian hospital, which enabled a diagnosis and the prescription of treatment – which the applicant accepted (see paragraphs 83, 85 and 86 above). After an independent neurology specialist found that the prescribed treatment was insufficiently effective and incompatible with the other known diagnosis (see paragraph 89 above), the applicant refused to continue the prescribed treatment and went on hunger strike, with the sole purpose of drawing attention to his suffering and demanding access to medical assistance from an independent specialist (see paragraphs 91 and 92 above). On 14 April 2021 – two weeks after he started the hunger strike – he had an ENMG test in a civilian hospital and was examined by a neurologist and a neurosurgeon from that hospital, who made treatment recommendations (see paragraph 94 above). On 23 April 2023 the applicant agreed to follow the treatment prescribed by the civilian doctors and ended his hunger strike (see paragraph 97 above). On 20 May 2021 – after the doctors concluded that the applicant had sufficiently recovered from his hunger strike – he started to receive the prescribed treatment (see paragraph 98 above).

184. The authorities' reactions to the applicant's healthcare issues may therefore be summarised as follows. The applicant received a diagnosis that was based on medical tests and was prescribed treatment. After being presented by the applicant's counsel with a differing medical opinion from an independent specialist regarding the treatment necessary to adequately safeguard the applicant's health – and in the light of the applicant's hunger strike and his categorical refusal to follow the prescribed treatment – the authorities carried out a further diagnostic test and sought a further opinion from independent civilian medical specialists (compare *Wenner v. Germany*, no. 62303/13, § 57, 1 September 2016). The applicant accepted the treatment prescribed by the independent civilian medical specialists as adequate and agreed to follow it. The overall time frame within which these events took place cannot be described as unreasonable. The mere fact of a deterioration in the applicant's state of health (see paragraph 88 above) – albeit capable of raising at an initial stage certain doubts concerning the adequacy of the treatment in prison – cannot suffice for a finding of a violation of the State's positive obligations under Article 3 of the Convention (compare *Goginashvili v. Georgia*, no. 47729/08, § 71, 4 October 2011). There is insufficient basis in the present case for a finding that the authorities failed to provide adequate medical care to the applicant.

185. That said, the Court takes into account the fact that the applicant must have endured constant and considerable pain for a prolonged period of time, considering his diagnosis (see paragraph 86 above). It is also relevant that he was placed in detention only six months after his poisoning on 20 August 2020, which had resulted in a coma and lengthy in-patient and out-patient treatment (see paragraphs 13 and 15 above). Given his recent serious illness and his deep conviction that the State had been responsible for his poisoning, his anxiety about his health, his mistrust of the detention facility's medical staff and his wish to have access to independent medical care were understandable. His anxiety must have been further exacerbated by the fact that his condition was deteriorating. The combination of these factors rendered the applicant particularly vulnerable – a consideration that must be taken into account when determining whether the threshold of severity under Article 3 has been reached (see *Khlaifia and Others*, cited above, § 160, 15 December 2016).

(iii) *Alleged sleep deprivation*

186. The Court has on several occasions examined complaints concerning sleep deprivation (see, for example, *Ireland v. the United Kingdom*, 18 January 1978, §§ 96 and 165-68, Series A no. 25, and *Nedim Şener v. Turkey*, no. 38270/11, § 50, 8 July 2014, with further references). It has found the lack of sleep caused by the frequency and length of prison transfers to be a contributing factor for the treatment to attain, overall, the minimum level of severity required to characterise it as degrading within the meaning

of Article 3 of the Convention (see *Yevgeniy Gusev v. Russia*, no. 28020/05, §§ 56, 57 and 67, 5 December 2013, and *Yaroslav Belousov v. Russia*, nos. 2653/13 and 60980/14, §§ 106 and 110, 4 October 2016). It has also found, on many occasions, that the lack of sleep caused by a shortage of beds (requiring inmates to sleep in shifts) – along with permanent lighting and constant noise in cells – imposes a heavy physical and psychological burden on inmates (see, among many other authorities, *Kalashnikov v. Russia*, no. 47095/99, § 97, ECHR 2002-VI; *Yakovenko v. Ukraine*, no. 15825/06, § 85, 25 October 2007; *Ananyev and Others*, cited above, § 146, with further references; and *Tomov and Others v. Russia*, nos. 18255/10 and 5 others, §§ 127 and 133, 9 April 2019).

187. Of most relevance to the present case are two cases in which the Court found that deprivation of sleep resulting from night checks performed every two hours (denying the applicants an uninterrupted eight-hour sleep), had also imposed a heavy physical and psychological burden on the applicants in question (see *Guliyev v. Russia*, no. 24650/02, § 61, 19 June 2008, and *Tomov and Others*, cited above, § 122).

188. The Court does not see any reason to come to a different conclusion in the present case.

189. The applicant alleged that he had been deprived of sleep for 39 days – from 11 March until 18 April 2021 – as a result of night-time checks. From 11 until 30 March 2021 he had been allegedly woken up every hour, and from 30 March until 18 April 2021 every two hours. The domestic courts found no evidence of hourly night-time checks; they established that the applicant's presence had been checked every two hours, in accordance with the prison rules (see paragraph 72 above). The applicant did not provide any evidence that would call the courts' findings of fact into question. The Court will therefore proceed on the basis that from 11 March until 18 April 2021 the applicant was woken up every two hours.

190. The night-time checks were conducted because the prison authorities had classified the applicant as a flight risk, finding that he had repeatedly and publicly declared his intention to escape (see paragraphs 49 and 56 above). The Court considers that that decision was arbitrary, as the applicant's words had manifestly been meant as a joke. The domestic authorities did not cite any other evidence indicating that the applicant intended to escape.

191. Furthermore, the Government failed to explain the strict necessity of conducting physical checks on the applicant every two hours which were disruptive of sleep, given that his cell was under continuous video surveillance (see paragraphs 58, 70 and 177 above).

192. The Court concludes that the applicant was subjected to sleep deprivation for 39 days on an arbitrary basis.

193. Lastly, the Court notes that the night checks continued while the applicant was on hunger strike and was moreover experiencing the back pain described above, which would have increased his distress and suffering.

(iv) Shaving off of the applicant's hair

194. The Court has previously held that a prisoner whose hair is forcibly shaved off is very likely to experience a feeling of inferiority, as his physical appearance is changed against his will. For at least a certain period of time he carries a mark of the treatment that he has undergone. The mark is immediately visible to others, including prison staff, co-detainees and visitors (and the public, if the prisoner is released or brought into a public place soon thereafter). The person concerned is very likely to feel hurt in his dignity by the fact that he carries a visible physical mark (see *Yankov v. Bulgaria*, no. 39084/97, §§ 112 and 113, ECHR 2003-XII (extracts)).

195. The forcible shaving off of detainees' hair is therefore an act which may have the effect of diminishing their human dignity or may arouse in them feelings of inferiority capable of humiliating and debasing them. Whether or not the minimum threshold of severity is reached – and, consequently, whether or not the treatment complained of constitutes degrading treatment contrary to Article 3 of the Convention – will depend on the particular facts of the case – including the victim's personal circumstances, the context in which the impugned act was carried out and its aim (*ibid*, § 114).

196. The photographic and video material in the Court's possession confirm that the applicant's hair was shaved off upon his arrival at IK-2 (see paragraphs 57, 65 and 70 above).

197. The Court notes that the prison rules in force at the material time required the convicts to have a short haircut – namely, that their hair had to be less than 20 millimetres long. A complete head shave might be performed in the event of medical necessity (see paragraph 112 above). The Government did not explain why a simple short haircut in accordance with the prison rules was not deemed acceptable or sufficient in the applicant's case. It has not been shown that there was any medical necessity for shaving off his hair. The Court is not convinced that the complete shaving of the applicant's head was made necessary by hygienic considerations. It had not been alleged that a problem of infestation existed in the particular detention facility (compare *Yankov*, cited above, § 115, and, within the context of Article 8, *Biržietis v. Lithuania*, no. 49304/09, § 57, 14 June 2016). It therefore concludes that the forced shaving off of the applicant's hair had no legal basis or valid justification.

(v) Conclusion

198. In the light of all of the above-noted considerations, the Court concludes that the applicant was simultaneously subjected to a combination of several forms of ill-treatment. The applicant, who was particularly vulnerable and in pain, was subjected to sleep deprivation for 39 days on an arbitrary basis, and his hair was shaved off without any legal basis or valid justification. These aspects of his detention, taken together, reflected a pattern

of disregard for the applicant's health, well-being and dignity which had the effect of humiliating and debasing him and arousing in him feelings of fear and anguish capable of breaking his moral and physical resistance. Cumulatively, they amounted to inhuman and degrading treatment (see *Muršić*, cited above, § 98).

199. In view of its finding above, the Court does not consider it necessary to examine the remaining issues raised by the applicant under Article 3 of the Convention in respect of the material conditions of his detention in IK-2.

200. There has accordingly been a violation of Article 3 of the Convention.

B. The complaint about the material conditions of the applicant's detention in SIZO-3

201. In view of its finding above, the Court does not consider it necessary to examine the admissibility and merits of the complaint about the material conditions of the applicant's detention in SIZO-3.

V. ALLEGED VIOLATIONS OF ARTICLES 5 § 4 AND 6 OF THE CONVENTION

202. The applicant complained under Article 5 § 4 of the Convention that the detention review proceedings before the Khimkinskiy Town Court had lacked procedural guarantees. He argued, in particular, that the principles of independence and equality of arms had been breached because the hearing of 18 January 2021 had been held in a police station; counsel had been informed of the hearing just before it had started and had had insufficient time to prepare for it; the applicant had not been allowed to consult with his counsel in private; and the press and the public had not been allowed to attend the hearing. The applicant also complained under Article 6 § 1 of the Convention that the proceedings concerning the activation of his suspended sentence had been unfair. In particular, he had been unable to confer with his counsel in private in SIZO-1 because the meeting room had been equipped with a glass partition and the applicant had had to speak with his counsel via an interphone.

203. Having regard to the facts of the case and its findings above, the Court considers that there is no need to give a separate ruling on the admissibility and the merits of the above complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu*, cited above, § 156).

VI. ALLEGED VIOLATION OF ARTICLE 18 OF THE CONVENTION

204. The applicant complained that the ulterior purpose of his arrest and detention and the activation of his suspended sentence had been to punish him

for his political activities. He alleged that there had been a violation of Article 18 of the Convention in conjunction with Articles 5 and 6 § 1 of the Convention.

205. The applicant did not maintain that complaint in his observations to the Court. Accordingly, the Court considers that the applicant may be regarded as not having wished to pursue that complaint, within the meaning of Article 37 § 1 (a) of the Convention. Given that the Court has already found a violation of Article 18 in several cases lodged by the applicant (see *Navalnyy v. Russia* [GC], nos. 29580/12 and 4 others, §§ 166-76, 15 November 2018, and *Navalnyy v. Russia (no. 2)*, no. 43734/14, §§ 92-99, 9 April 2019), and the nature of the violations found in the present case, it finds no special circumstances regarding respect for human rights as defined in the Convention and the Protocols thereto which require the continued examination of that complaint in the present case where the applicant did not wish to pursue it (see *Nikolay Kucherenko v. Ukraine*, no. 16447/04, §§ 39-41, 19 February 2009; *Visloguzov v. Ukraine*, no. 32362/02, §§ 98-100, 20 May 2010; *M. v. Ukraine*, no. 2452/04, §§ 91-93, 19 April 2012; and *Lazarenko and Others v. Ukraine*, nos. 70329/12 and 5 others, §§ 22-25, 27 June 2017; and, compare and contrast, *Sinan Işık v. Turkey*, no. 21924/05, §§ 24 and 36, ECHR 2010; *Štefančič v. Slovenia*, no. 18027/05, § 35, 25 October 2012; *Osipkovs and Others v. Latvia*, no. 39210/07, § 46, 4 May 2017; *Danilczuk v. Cyprus*, no. 21318/12, §§ 38 and 53, 3 April 2018; and *Bacaksız v. Turkey*, no. 24245/09, §§ 45 and 50, 10 December 2019).

206. In view of the above, this complaint should be struck out of the Court's list.

VII. ALLEGED VIOLATION OF ARTICLE 34 OF THE CONVENTION

207. The applicant complained that he had been kept in detention despite the measure indicated by the Court under Rule 39 of the Rules of Court. He also complained that by imposing restrictions on his communications with his lawyers, Russia had hindered the exercise of his right of individual application under Article 34 of the Convention, which reads as follows:

“The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right.”

A. Submissions by the parties

208. The applicant maintained his assertion that by keeping him in detention despite the measure indicated by the Court under Rule 39 of the Rules of Court, Russia had failed to comply with its obligations under Article 34 of the Convention. A Contracting State was not permitted to

substitute its own judgment for that of the Court in determining whether there was a real risk of immediate and irreparable damage to an applicant at the time an interim measure was indicated. The fact that the damage that the interim measure had been aimed at preventing had not occurred – despite the State’s failure to fully comply – was irrelevant when assessing whether the State had fulfilled its obligations under Article 3 (the applicant relied on *Paladi v. Moldova* [GC], no. 39806/05, §§ 89 and 90, 10 March 2009). The applicant argued that there had been no objective impediments preventing compliance with the interim measure indicated in his case. The failure to comply had been due to a lack of political will.

209. The applicant further submitted that the exercise of his right of individual application had been hindered because the authorities had interfered with lawyer-client privilege. All his meetings with counsel had been held in rooms with glass partitions, complicating his communication with the lawyers. Some meeting rooms had been equipped with video cameras that, judging by their features, had been capable of recording both video and audio material. Telephones and laptop computers had been prohibited during legal visits. Lastly, his right to consult with his lawyers had been arbitrarily restricted from 10 until 23 September 2021 while they were drafting the observations to the Court.

210. The Government replied that the Court had no competence to order the applicant’s release and that doing so had violated the principle of subsidiarity. The applicant’s detention had posed no danger to his life and limb.

211. The Government further submitted that the applicant had not proved that the authorities had in any way hindered his communication with his lawyers. He had had regular meetings with them and had been able to send correspondence to the Court through his lawyers. Glass partitions had been installed as part of the measures introduced under COVID-19-related restrictions. All legal visits had taken place in private; there had been no listening devices installed. Furthermore, the applicant had not exhausted the available domestic remedies as he had not lodged an application for judicial review in respect of the alleged failure to ensure the privacy of legal visits.

212. Lastly, the Government submitted that the domestic courts had examined and dismissed the applicant’s complaints regarding the alleged prohibition on using telephones and laptop computers during legal visits (see paragraphs 76 and 77 above). The courts had established that the applicant’s lawyers had been granted permission to bring their telephones and laptop computers but that they had nevertheless voluntarily handed over their telephones and laptops to the security guards.

B. The Court's assessment

1. *Alleged non-compliance with the interim measure*

213. The applicable general principles are set out in *Paladi* (cited above, §§ 84-92) and *M.K. and Others v. Poland* (nos. 40503/17 and 2 others, §§ 229-34, 23 July 2020). The Court reiterates, in particular, that in examining a complaint under Article 34 concerning the alleged failure of a Contracting State to comply with an interim measure, the Court will not re-examine whether its decision to indicate interim measures was correct. It is for the respondent Government to demonstrate to the Court that the interim measure was complied with or, in an exceptional case, that there was an objective impediment that prevented compliance and that the Government took all reasonable steps to remove that impediment and to keep the Court informed about the situation (see *Paladi*, cited above, § 92).

214. The Court notes that on 16 February 2021 it indicated to the Russian Government, under Rule 39 of the Rules of Court, in the interests of the parties and the proper conduct of the proceedings before the Court, that the applicant should be immediately released (see paragraph 46 above). The Committee of Ministers and the Parliamentary Assembly also urged the Russian authorities to release the applicant (see paragraphs 114-117 above). However, the applicant remained in detention until his death three years later, on 16 February 2024 (see paragraph 99 above). It follows that the interim measure was not complied with.

215. The Government have not shown that there was any objective impediment to compliance with the interim measure indicated to the respondent State in the present case. They have consistently expressed their disagreement with that measure by disputing its legitimacy and by arguing that there had not been any sufficient factual basis for it. They did not, however, submit any material capable of convincing the Court to annul the interim measure (see paragraphs 47 and 210 above). The Court reiterates that it is not open to a Contracting State to substitute its own judgment for that of the Court in verifying whether or not there existed a real risk of immediate and irreparable damage to an applicant at the time when the interim measure in question was indicated (*ibid.*, § 90).

216. The Court concludes that the domestic authorities manifestly did not fulfil their obligation to comply with the interim measure at issue and that, given the circumstances of the present case, there was nothing to absolve them of that obligation. On the contrary, it is clear that the reason for the failure to comply was the Government's refusal to accept the legitimacy of the Court's interim measure.

217. Accordingly, the Court finds that the respondent State has failed to comply with its obligations under Article 34 of the Convention.

2. The other complaints under Article 34

218. In view of its finding above, the Court does not consider it necessary to examine the remaining issues raised by the applicant under Article 34 of the Convention.

VIII. RULE 39 OF THE RULES OF COURT

219. In the light of the applicant's death (see paragraph 99 above), the interim measure previously indicated in this application ceased to have any basis.

IX. APPLICATION OF ARTICLE 41 OF THE CONVENTION

220. 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."

A. Damage

221. The applicant claimed 100,000 euros (EUR) in respect of non-pecuniary damage in application no. 4743/21. He also asked for compensation in respect of non-pecuniary damage in application no. 37083/21 and left it to the Court to determine the amount.

222. The Government submitted that the claim was excessive.

223. The Court awards the applicant EUR 26,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

224. The applicant did not claim any costs or expenses. Accordingly, there is no call to make an award under this head.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Holds* that it has jurisdiction to deal with these applications as they relate to facts that took place before 16 September 2022, and also beyond this date in respect of the detention;
3. *Holds* that the Government's failure to participate in the proceedings in application no. 37083/21 presents no obstacles for its examination;

4. *Holds* that Ms Navalnaya has standing to pursue the applications in the applicant's stead;
5. *Decides* to strike the applicant's complaint under Article 18 of the Convention out of its list;
6. *Declares* the complaints about the allegedly unlawful detention, that the applicant's imprisonment posed a serious and immediate danger to his life and limb, about the material conditions of his detention in correctional colony IK-2 and about allegedly inadequate medical assistance provided in SIZO-1, SIZO-3, IK-2 and the IK-3 tuberculosis hospital admissible;
7. *Holds* that there has been a violation of Article 5 § 1 of the Convention on account of the applicant's detention after 2 February 2021;
8. *Holds* that there has been a violation of Article 5 § 1 of the Convention on account of the applicant's detention from 17 January to 2 February 2021;
9. *Holds* that there has been a violation of Article 2 of the Convention;
10. *Holds* that there has been a violation of Article 3 of the Convention on account of the cumulative effect of the conditions of the applicant's detention;
11. *Holds* that there is no need to examine the remaining complaints under Article 3 and the complaints under Articles 5 § 4 and 6 § 1 of the Convention;
12. *Holds* that the respondent State has failed to comply with its obligations under Article 34 of the Convention;
13. *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 26,000 (twenty-six thousand euros) in respect of non-pecuniary damage, plus any tax that may be chargeable, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
 - (b) that the award should be paid to the applicant's heir, Ms Yuliya Borisovna Navalnaya;
 - (c) 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;

14. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 3 February 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova
Deputy Registrar

Ioannis Ktistakis
President