

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

FIFTH SECTION

CASE OF GANDZYUK AND OTHERS v. UKRAINE

(Application no. 52380/21)

JUDGMENT

Art 2 (substantive) • Life • Lethal sulphuric acid attack on a prominent anti-corruption activist, allegedly commissioned by public officials, because of her activities as a public watchdog and her public criticism of regional public officials • Premediated and remunerated attack aiming to intimidate the victim and prevent her from continuing her civic and political activities • Violence itself employed as an instrument for suppressing a form of democratic scrutiny directed at the exercise of public power • Broader domestic context in which violence against persons engaged in civic activity prompted institutional concern and parliamentary scrutiny • Established facts along with concordant evidentiary material assessed as a whole, gave rise to sufficiently strong, clear and concordant inferences of the existence of the requisite functional connection between the attack and public authority • Respondent State's direct responsibility engaged • Attack constituted a criminal act of utmost gravity directly threatening the victim's life
Art 2 (procedural) • Ineffective investigation • Inquiry into possible involvement of additional commissioners of the attack not pursued with sufficient thoroughness and diligence • Shortcomings in inter-agency coordination and prolonged absence of tangible progress in that respect
Art 10 • Freedom of expression • Attack struck at the very essence of Art 10 values and constituted an extreme form of interference with the victim's right attributable to the respondent State • Use of lethal violence to silence criticism of corruption and regional political influence • Attack objectively capable of instilling fear in other journalists, activists and members of civil society engaged in similar scrutiny • Serious chilling effect on public debate on corruption and abuse of power

Prepared by the Registry. Does not bind the Court.

STRASBOURG

5 November 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.



In the case of Gandzyuk and Others v. Ukraine,

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

Kateřina Šimáčková*, President*,
María Elósegui,
Gilberto Felici,
Andreas Zünd,
Diana Sârcu,
Mykola Gnatovskyy,
Vahe Grigoryan*, judges*,
and Victor Soloveytchik, *Section Registrar,*

Having regard to:

the application (no. 52380/21) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by three Ukrainian nationals, Mr Viktor Mykhaylovych Gandzyuk, Ms Nadiya Illivna Gandzyuk and Mr Sergiy Dmytrovych Denysov ("the applicants"), on 10 November 2021;

the decision to give notice to the Ukrainian Government ("the Government") of the complaints under Articles 2, 3 and 10 of the Convention and to declare inadmissible the applicants' complaint under Article 8 of the Convention;

the parties' observations;

Having deliberated in private on 6 October 2026,

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

INTRODUCTION

1. The case concerns a sulfuric acid attack on the applicants' daughter and partner, Mrs Kateryna Gandzyuk, a local anti-corruption activist and public official in Kherson, which resulted in her death several months later. Relying on Articles 2, 3 and 10 of the Convention, the applicants allege that the attack was commissioned by public officials in retaliation for Mrs Gandzyuk's anti-corruption activities and public criticism of local authorities, and that the authorities failed to conduct an effective and independent investigation into the attack.

THE FACTS

2. The list of the applicants and their details is set out in the Appendix.

3. The Government were represented by their Agent, Ms M. Sokorenko, from the Ministry of Justice.

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

I. BACKGROUND TO THE CASE

5. Mrs Kateryna Gandzyuk (born in 1985) was a well-known public figure in the city of Kherson, which is a regional centre in the south of Ukraine. She served as a member of the Kherson Regional and City Councils and, from November 2016 until her death, held the position of adviser to the Mayor of Kherson, and was the acting head of Administrative Affairs of the Executive Committee of the Kherson City Council. She was also a co-founder of the online media outlet MOST and participated in a number of investigative journalism projects.

6. Mrs Gandzyuk was widely known as an anti-corruption and pro-rule-of-law activist. She repeatedly criticised alleged corruption among local officials and law-enforcement authorities, exposed alleged abuses by regional political figures and the police, investigated attacks on journalists and civic activists, and raised concerns about pro-Russian networks operating in the Kherson region. In particular, in September 2017 she publicly accused the head of the Economic Protection Department of the National Police in the Kherson Region of demanding kickbacks from contracts and tenders involving the Kherson City Council. Following those allegations, defamation claims were brought against her, but they were only partly upheld by the courts.

7. In 2018, she criticised the police for failing to investigate attacks on journalists and civic activists, published information concerning the issuance of firearms permits to more than 200 persons allegedly registered as journalists, and at the beginning of July 2018, publicly alleged that large-scale unlawful logging in the Oleshky forest was being carried out under the guise of deliberately set forest fires – accusing A. and B. (then head and deputy head of the Kherson Regional State Administration), together with C., (Chairman of the Kherson Regional Council) of protecting those responsible for, or otherwise facilitating, those unlawful activities. In July 2018 several days before the attack (see paragraph 10 below), she also alleged that pro-Russian groups had established parallel self-government structures in Kherson and criticised the prosecution authorities for failing to investigate those activities, despite repeated complaints.

8. From at least 2015, Mrs Gandzyuk had also publicly criticised C. In July 2017, the online media outlet MOST published an investigative documentary entitled “There Is a Limit – Who Are You, Mr C.?” (*Есть предел – Кто вы, мистер С.*?), concerning C.’s public and political activities. The documentary alleged his involvement in political corruption, unlawful business activities, money laundering, tax evasion, abuse of office and other misconduct. It was published on YouTube and disseminated over other Internet platforms. Following defamation proceedings brought by C. against D. (the journalist who had featured in the documentary), the Supreme Court, in a judgment of 27 June 2018, dismissed the claim of C.,

holding that the documentary concerned matters of public interest and constituted value judgments and political criticism protected by freedom of expression. Shortly before that judgment was delivered, D. was assaulted by unknown persons.

9. According to the applicants, Mrs Gandzyuk's public activities exposed her to sustained pressure from regional and municipal officials and law-enforcement authorities. They submitted that, prior to the attack, she had been subjected to defamation proceedings, public campaigns against her, threats on social media and repeated conflicts with local officials.

II. THE SULPHURIC ACID ATTACK AND THE MRS GANDZYUK'S DEATH

10. On 31 July 2018, at around 8.45 a.m., as Mrs Gandzyuk was getting into a car near her home, E. doused her with one litre of sulfuric acid. Pursuant to the medical expert examinations, she sustained chemical burns on up to 40% of her body. Immediately after the attack Mrs Gandzyuk was admitted to Kherson Regional Clinical Hospital.

11. On 1 August 2018 Mrs Gandzyuk was transferred by air ambulance to Kyiv City Clinical Hospital No. 2 and admitted to the intensive care unit for patients with burn shock. At the time of her transfer, her condition was critical. She received anti-shock treatment, detoxification therapy, antibacterial therapy and local treatment of her burns – including surgical interventions. Dressings were changed daily under general anaesthesia.

12. Mrs Gandzyuk remained in hospital for three more months. During the course of treatment, her burns injury was complicated by the development of systemic inflammatory response syndrome and sepsis. While as a result of the treatment, her condition stabilised to some extent, on 4 November 2018, during the morning ward round, she suffered cardiac arrest and circulatory collapse. Resuscitation measures proved unsuccessful, and at 10.40 a.m. her death was pronounced.

III. THE INVESTIGATION

13. On 31 July 2018, the day of the attack, the Kherson Police Department of the National Police in the Kherson Region opened criminal proceedings (case no. 12018230040002816 – "case no. 2816"). The offence was initially classified as hooliganism (Article 296 § 4 of the Criminal Code) but on the same day reclassified as intentional grievous bodily harm (Article 121 § 2), and later as an attempted murder committed with cruelty (Article 115 § 2 (4)).

14. On 3 August 2018, the police arrested F. on suspicion of attempted murder, and subsequently he was placed in pre-trial detention.

15. On 6 August 2018 the Kherson Regional Prosecutor's Office instituted criminal proceedings (case no. 42018230000000143 – "case

no. 0143") regarding "... the ... organisation of a completed attempted premeditated murder of Kateryna Gandzyuk, committed with particular cruelty, allegedly commissioned by officials of law-enforcement and other State authorities, with the assistance of separatist organisations operating in southern Ukraine, for the purpose of destabilising the social and political situation in the southern region of the country". The investigation was conducted by the Main Investigation Department of the Security Service of Ukraine (SSU).

16. On 15 August 2018 a witness confirmed F.'s alibi and, on 16 August 2018, Mrs Gandzyuk confirmed that he had not attacked her.

17. On 17 August 2018 the police apprehended G., H., E., I. and J. According to the information submitted by Prosecutor General's Office (GPO) to the Government, between 18 and 21 August 2018, they were notified that they were suspected of the crime of completed attempted aggravated murder ("*закінчений замах на умисне вбивство, вчинене з особливою жорстокістю та за попередньою змовою групою осіб*") – that is, the criminal offence under Article 15 § 2 in conjunction with Article 115 § 2 (4) and (12) of the Criminal Code of Ukraine. However, it appears that the legal classification of the committed crime initially was different (see paragraph 20 below).

18. On 20 August 2018 the GPO instituted criminal proceedings no. 42001800000002026 ("case no. 2026") into the events in question under Article 258 of the Criminal Code (terrorism). The investigation was conducted by the Main Investigation Department of the SSU.

19. On 22 August 2018 the criminal proceedings against F. were discontinued for lack of evidence that he had committed a crime.

20. On 31 August 2018 Mrs Gandzyuk's representative requested the investigating authorities to supplement the legal classification in case no. 2816 by adding the aggravating circumstances of contract killing and commission by a group acting in prior conspiracy, arguing that the available evidence already pointed to an organised attack involving both direct perpetrators and commissioners. On 19 September 2018 the police refused this request. Those aggravating circumstances were incorporated into the legal classification only at a later stage, on 25 September 2018.

21. On 5 September 2018 the proceedings in cases nos. 2026 (terrorism) and 0143 (attempted contract murder) were joined under the latter number (0143).

22. On 19 September 2018 K. was questioned as a witness. At the material time, K. served as an assistant to a member of parliament and maintained close links with political and law-enforcement circles in the Kherson Region. According to the domestic investigation, he had acted as an intermediary after the attack, assisting the perpetrators in evading detection – although his exact role in the organisation of the crime remained a matter of controversy during the investigation.

23. On 25 October 2018 Mrs Gandzyuk identified C. (the Chairman of the Kherson Regional Council), A. and B. (the Head and Deputy Head of the Kherson Regional State Administration respectively) as possible commissioners of the crime.

24. On 5 November 2018 the First Deputy Prosecutor General ordered that the ongoing pre-trial investigation in the case no. 2816 be transferred to the Main Investigation Department of the SSU. On the same day, the material from case no. 0143 (attempted contract murder and terrorism) was joined to that of the case no. 2816.

25. On 10 November 2018 K. was notified of that he was under suspicion of organising the murder of Mrs Gandzyuk committed with particular cruelty by a group of persons acting pursuant to a prior conspiracy. The notification of suspicion stated that at the beginning of July 2018, K., "acting together with persons who have not yet been identified by the pre-trial investigation, being motivated by personal gain and personal hostility arising from the active civic activities of Mrs Gandzyuk ..., particularly her activities aimed at combating illegal logging carried out under the guise of artificial forest fires and other unlawful activities intended to generate illicit profits controlled and coordinated by representatives of the criminal milieu of the Kherson Region, with the assistance of certain representatives of local authorities and law-enforcement agencies, as well as her organisation of protest actions and public coverage of those matters through the mass media and social networks, decided to murder Mrs Gandzyuk in a manner that would inflict exceptional physical and psychological suffering upon the victim". The investigation concluded that K.:

> "received from persons not yet identified by the investigation funds of at least 10,000 Ukrainian hryvnias (UAH). He coordinated with those persons the selection of the intended victim and informed them of the individuals whom he intended to recruit for the direct execution of the attack. He also agreed with the commissioners on the amount of remuneration for committing the offence, intending to distribute part of it among the organisers and direct perpetrators, including not less than 5,600 United States dollars [USD] to those who would carry out the attack on Mrs Gandziuk, while retaining the remaining funds for his own unlawful enrichment. No later than 13 July 2018, in Kherson, K. recruited G., whom he already knew, to organise the commission of the offence. K. informed G. of the previously agreed plan to kill Mrs Gandziuk, identified the persons who had commissioned the crime, [and] explained the planned method of the attack and the amount of remuneration. ...
>
> Acting on K.'s instructions, G. then recruited the direct perpetrators of the attack."

26. On 4 December 2018, in case no. 2816, L. – who was a former member of the military – was notified that he was under suspicion of organising the contract murder of Mrs Gandzyuk. The investigation alleged that in early July 2018 L. – together with K. and other unidentified persons – decided to organise the murder of Mrs Gandzyuk. The alleged motive was her active civic engagement (including her efforts to expose illegal logging and other criminal activities in the Kherson region) and her public criticism

of local authorities and law-enforcement officials. The investigation concluded that the crime had been committed for both financial motives and personal hostility arising from Mrs Gandzyuk's activities.

27. On 10 December 2018, L. was placed on a wanted list, since as early as August 2018 he had fled Ukraine. The applicants allege that it was the head of the Kherson police that had informed L. of the proceedings against him.

28. On 11 February 2019 C. was likewise notified that he was under suspicion in respect of the same crime.

29. On 4 April 2019, K. was notified of an amendment to the notice served on him on 10 November 2018 and informed that he was now suspected of committing an offence under Article 396 § 1 of the Criminal Code of Ukraine (namely, concealment of a crime not planned in advance).

30. On 18 April 2019, criminal proceedings in respect of K. (case no. 22019000000000101 – "case no. 0101") were separated from case no. 2816.

31. On 19 April 2019 the legal classification of the offence in case no. 2816 was changed from murder to intentional grievous bodily harm resulting in death (Article 121 § 2). Plea agreements were concluded between the prosecutor and G., H., E., J. and I. (with the written consent of the applicants), and the indictment was transmitted to the court. The proceedings against C. and L. were severed into separate criminal proceedings (case no. 22019000000000102 – "case no. 0102").

32. On 24 April and 2 May 2019, the suspicions against C. and L. were amended. Instead of organising murder, they were suspected of organising the intentional infliction of grievous bodily harm dangerous to life, committed with particular cruelty, for the purpose of intimidating the victim, on commission, which resulted in her death ("*організація вчинення умисного тяжкого тілесного ушкодження, небезпечного для життя в момент заподіяння, вчиненого способом, що має характер особливого мучення, з метою залякування потерпілої, на замовлення, що спричинило смерть потерпілої, за попередньою змовою групою осіб*"), under Article 27 § 3, Article 28 § 2 and Article 121 § 2 of the Criminal Code. The first applicant's lawyer challenged before the investigative judge the change in respect of C. This complaint was returned by the courts as such a decision could not have been appealed against at the pre-trial stage.

33. On 2 May 2019 the head of the Department for Procedural Guidance of Pre-Trial Investigations at the GPO (who was also a member of the team of prosecutors in the Gandzyuk's case) publicly stated that the investigation had concluded that neither the perpetrators nor their accomplices had had a direct intent to kill Mrs Gandzyuk. In his view, their intention was to inflict grievous bodily harm, intimidate her, and remove her from her civic and public activities. He emphasised that the perpetrators had considered other methods of attack, including a beating, but ultimately chose to douse her with acid because they regarded it as a more effective means of achieving their

objective. The prosecutor further argued that, had the attackers genuinely intended to kill Mrs Gandzyuk, they would have used a different method, and that her death was neither a desired nor a clearly foreseeable consequence from their perspective.

34. In May 2019 K. testified that he had become acquainted with G. (a former policeman and a former member of the military) at some point in September 2017 at the office of K.'s boss (an MP). Later he also made the acquaintance of L., the founder of a veterans organisation whose office was situated in the same building as the office of K. According to K., L. was a son of a known criminal and because of that he had even changed his family name. He further mentioned that he had heard C., G. and L. discussing their view that Mrs Gandzyuk "should have been silenced for her involvement with the forest", but he had not paid attention to this conversation. After the incident of 31 July 2018 L. had expressly told him that it was he (L.) and C. who had organised it.

35. In May-July 2019 forensic psychophysiological (polygraph) examinations were conducted by the Kyiv Scientific Research Institute of Forensic Expertise in respect of B. (then deputy head of the Kherson Regional State Administration) and A. (then head of the Kherson Regional State Administration). In both cases, the experts found no psychophysiological indicators to suggest that either individual had organised or personally participated in the attack on Mrs Gandzyuk or had maintained hostile personal relations with her. At the same time, the examinations indicated that both had been aware of Mrs Gandzyuk's anti-corruption activities and her public criticism of regional officials and that they possessed undisclosed knowledge concerning the planning and circumstances of the offence. In particular, the experts concluded that the examinations revealed psychophysiological reactions consistent with knowledge of the organisers, intermediaries and perpetrators of the attack, discussions concerning its planning and financing, and other material circumstances of the crime that had not been disclosed during the investigation.

36. On 6 June 2019 the Pokrovskyy District Court of the Dnipropetrovsk Region approved plea agreements concluded between the prosecution and five participants in the attack on Mrs Gandzyuk: G., E., J., I. and H. The court established that they had acted in concert in carrying out a premeditated attack which had resulted in Mrs Gandzyuk suffering severe chemical burns from sulphuric acid.

According to the findings accepted by the court, in early July 2018 an individual, whose criminal case had been severed from the present proceedings, decided to organise an attack on Mrs Gandzyuk. The court found that the decision had been motivated by her active civic position – in particular, her efforts to expose illegal logging schemes, corrupt practices of public officials and her public criticism of representatives of the authorities and law-enforcement agencies. The purpose of the attack had been to

intimidate her and prevent her from continuing her civic and political activities by inflicting grievous bodily harm upon her. To implement that plan, the above-mentioned individual had enlisted another individual, who had coordinated the practical organisation of the offence, recruited G. and financed the operation. G. had subsequently assembled and coordinated the execution group, consisting of E., J., I. and H. –all of whom had previously participated in Ukrainian volunteer military formations.

On 26 July 2018 H., acting together with G. and J., had purchased two litres of concentrated sulphuric acid, which he had subsequently transferred into a more convenient container for use in the attack. On 27 July 2018, after his departure with the other participants, G. had left Kherson and travelled to the base of the 5th Battalion of the Ukrainian Volunteer Army in the Dnipropetrovsk Region, where, according to the judgment, he had intended "to deal with personal family matters". On the morning of 31 July 2018 E., accompanied by J. and I., had waited outside Mrs Gandzyuk's home. When she had left the building, E. had approached her from behind and had poured approximately one litre of sulphuric acid over her head and back, after which the group had fled the scene.

37. The court found that the attack had been carried out for payment, to order, and with the purpose of intimidating the victim. It accepted that all participants had acted pursuant to a common criminal plan and in accordance with previously assigned roles. Shortly after the attack G. had informed one of the organisers that the order had been carried out, and he had received USD 4,500 as payment. He had retained USD 500 for himself and delivered the remaining USD 4,000 to J. for subsequent distribution among the participants.

38. The court further noted that all five defendants had entered into plea agreements, fully admitted their guilt, provided detailed and incriminating statements concerning the organisation and execution of the attack and actively cooperated with the investigation – including by identifying other participants and assisting in the investigation of other criminal offences. The prosecutor cited that cooperation as justification for the agreements, emphasising the significant public interest in the prompt clarification of all circumstances surrounding the crime.

39. The court approved the plea agreements and convicted the defendants of participation in the intentional infliction of grievous bodily harm dangerous to life at the time of its infliction, committed with particular cruelty, for the purpose of intimidating the victim, on commission, by a group acting in concert, which had resulted in the victim's death. The defendants were sentenced to between three and six and a half years' imprisonment.

40. On 9 July 2019 the GPO approved an indictment against K. The indictment charged K. not with organising or participating in the attack itself, but with an offence under Article 396 § 1 of the Criminal Code of Ukraine – namely, the advance-unpromised concealment of a particularly serious crime.

According to the prosecution, despite being aware of the planning, commission and aftermath of the attack on Mrs Gandzyuk, he had knowingly assisted the perpetrators in avoiding detection by providing money, arranging transport, failing to report the offence to the authorities and subsequently misleading investigators.

41. On 12 July 2019, the proceedings concerning the suspicion specifically against C. and L. that they had committed offences under Article 27 § 3, Article 28 § 2 and Article 121 § 2 of the Criminal Code of Ukraine were separated from criminal proceedings no. 0102 into a new set of proceedings (no. 22019000000000215 – case no. 0215). Accordingly, the pre-trial investigation in respect of C. and L. was thereafter conducted within the scope of the latter proceedings. The original proceedings no. 0102 remained pending before the SSU as a "fact-based" investigation into other possible offences (attempted murder, terrorism, grievous bodily harm, preparation of murder, and interference with justice).

42. On 16 July 2019, the pre-trial investigation in respect of case no. 0215 was suspended pending the location and apprehension of one of the suspects, L.

43. On 24 January 2020 L. was arrested in Bulgaria and subsequently extradited to Ukraine. On 16 March 2020 the investigation was resumed.

44. On 30 June 2020 the first applicant challenged before the GPO the change of suspicion in respect of K. (see paragraph 29 above), but to no avail.

45. On 28 July 2020 an indictment was lodged against C. and L. and the case was referred to the Dniprovskyy District Court of Kyiv.

46. On 16 October 2020, the Prymorskyy District Court of Odesa approved a plea agreement concluded on 17 June 2019 between the prosecutor and K., who had initially been notified of being suspected of organising the attack, a notification that had later been amended to concealment of a serious crime under Article 396 § 1 of the Criminal Code. The court found that, after the attack of 31 July 2018, K. had knowingly assisted the perpetrators in evading law enforcement by arranging the transfer of USD 2,000, organised their transportation to Kherson central bus station and their departure to Kyiv, and later (while being questioned as a witness) concealed from investigators information about the offence and the persons involved. He had admitted his guilt in full and had accepted the factual circumstances set out in the amended notification of suspicion of 4 April 2019 (see paragraph 29 above).

Under the plea agreement, K. undertook to cooperate fully with the investigation by providing truthful and complete evidence concerning the organisers, accomplices and other persons involved in the attack, and to continue assisting the investigators and prosecutors in the related criminal proceedings. The prosecutor justified the agreement on the grounds that K.'s cooperation would facilitate the investigation and prosecution of those responsible for organising, instigating and aiding the attack. The court

deemed the agreement to be lawful and voluntary, approved it and convicted K. under Article 396 § 1; it sentenced him to two years' imprisonment, but suspended the execution of the sentence for one year. It deemed his genuine remorse and active assistance to the investigation to constitute mitigating circumstances and found no aggravating factors. The applicants agreed to the above plea agreement.

47. In a letter of 30 July 2021, the GPO informed the applicants' representatives that case no. 0102 (opened on 19 April 2019) remained at the pre-trial investigation stage and that no person had yet been notified that they were under suspicion of committing any crime. The prosecution stated that extensive investigative measures had nevertheless been carried out – including six crime-scene examinations, 89 inspections of objects and documents, 196 witness interviews, seven simultaneous interrogations, 19 investigative experiments, 12 identification procedures, 45 searches, 47 forensic examinations and expert studies, 36 court-authorised temporary access orders for protected information, 89 operational assignments, and six investigative requests to be executed in other regions. The prosecutor concluded that the pre-trial investigation was continuing with the aim of establishing the facts of the case and identifying those responsible.

48. On 26 June 2023 the Dniprovskyy District Court of Kyiv convicted C. and L. of organising the intentional infliction of grievous bodily injuries on Mrs Gandzyuk and sentenced them to ten years' imprisonment. The court also allowed a civil claim lodged by the applicants and awarded them UAH 5,000,000 (approximately 123,000 euros (EUR)) each in compensation for non-pecuniary damage.

The court found that, in early July 2018, C. had – motivated by personal hostility – decided to organise the infliction of grievous bodily injuries on Mrs Gandzyuk, with the aim of intimidating her and removing her from further public and political activity. The court took into account Mrs Gandzyuk's prominent role in local political life and her anti-corruption activities. It found that the hostility stemmed, *inter alia*, from: her decision to leave the Batkivshchyna political party in protest against C.'s admission to its membership; her numerous public statements and Facebook publications accusing him of corruption and other unlawful conduct; and her co-authorship of the documentary film "Who Are You, Mr. C.?", which was critical of him and damaged his reputation. The significance of the film was demonstrated by its public screening on the walls of the Kherson Regional Council building and by the fact that C. had subsequently brought legal proceedings against D., the film's other co-author and a close associate of Mrs Gandzyuk.

49. The court further found that in order to carry out the plan, C. had enlisted L., who had been responsible for recruiting perpetrators, while C. had undertaken to provide the necessary funding. On 14 July 2018 L. had approached G. and had proposed that he recruit individuals willing to attack Mrs Gandzyuk. For causing fractures to her arms and legs, a payment of

USD 5,000 was offered; for dousing her with sulphuric acid, the remuneration would be USD 3,000. G. agreed to the proposal.

50. At the end of July 2018, E., H., I. and J., acting together with G., had devised a plan for the attack. They had conducted surveillance on Mrs Gandzyuk in order to establish her exact residential address, daily routine and regular movements. They had also purchased sulphuric acid, mobile telephones and SIM cards, identified a suitable location for the attack, and planned escape routes. The group had agreed that dousing Mrs Gandzyuk with sulphuric acid would be the most effective means of causing grievous bodily injuries and would require considerably less time than physically assaulting her. C. and L. had approved that plan.

51. On the morning of 31 July 2018, while Mrs Gandzyuk had been walking from her home to a work car, E. had carried out the attack by pouring approximately one litre of sulphuric acid over her. In early August 2018, after learning that the attack had been carried out, L., acting on behalf of C., had paid G. USD 4,500 for the completed assignment. G. had retained USD 500 and had distributed the remainder among the perpetrators.

52. On 17 August 2018, after several perpetrators had been apprehended by law-enforcement authorities, J. and G. had sought funds in order to enable themselves to evade criminal liability. They had gone to the apartment of K., where they had met with L. and had discussed the possibility of obtaining money to hide from the authorities. L. had provided them with additional funds. Subsequently, at K.'s request, his acquaintance O., who had been unaware of the crime, had driven them to the transport terminal. During an interrogation on 19 September 2019 K. had concealed information regarding the attack and the identities of those involved.

53. C. and L. appealed against their conviction. Their appeals are currently pending before the appellate court.

54. By a letter of 28 August 2024 the Main Investigation Department of the SSU informed the Government that a pre-trial investigation in criminal proceedings no. 0102 of 19 April 2019 was currently underway; however, no new or additional information concerning the attack on Mrs Gandzyuk had been obtained, and nor had any other persons possibly involved in the above-mentioned offences been identified.

55. As regards the possible involvement of A. and B. in commissioning the attack, the applicants consistently urged the authorities throughout the criminal proceedings to examine that possibility thoroughly. Both A. and B. were questioned as witnesses and underwent computer-assisted polygraph examinations in 2019 (see paragraph 35 above). The investigation further established that A., B. and C. maintained close relations, and the authorities analysed traffic data obtained from their mobile operators. Those investigative steps did not yield evidence confirming the applicants' suspicions regarding the involvement of A. and B.

IV. FINDINGS OF THE PARLIAMENTARY TEMPORARY INVESTIGATION COMMISSIONS

A. First Temporary Investigation Commission

56. On 6 November 2018 the Parliament of Ukraine established a Temporary Investigation Commission (*постанова Верховної Ради України від 6 листопада 2018 року № 2605-VIII*), which was mandated to examine the attacks on Mrs Gandzyuk and other civic activists, assess the effectiveness and lawfulness of the investigations conducted by the Ukrainian law-enforcement authorities, collect evidence and information from public authorities and other relevant persons, and identify those responsible for any shortcomings with a view to initiating appropriate legal accountability measures under Ukrainian law.

57. On 11 July 2019 Parliament reviewed the Commission's report. The Commission found that the investigation had been marked by a series of serious procedural shortcomings from its very outset. It noted that, although Mrs Gandzyuk had sustained substantial chemical burns and had already been suffering from burn shock when the ambulance arrived, the criminal proceedings had been initially registered under Article 296 of the Criminal Code (hooliganism). Following public criticism, the offence had been reclassified to intentional grievous bodily harm and then, – one day later – to attempted murder committed with particular cruelty. Between 17 and 22 August 2018, five direct perpetrators had been arrested and had stated that the attack had been carried out to order. Nevertheless, the aggravating circumstance of contract murder was added only on 25 September 2018, following an application lodged by the victim's lawyer; however, the notices of suspicion had not been amended accordingly. The Commission further expressed serious doubts regarding the prosecutors' subsequent decision to replace the attempted murder classification under Article 115 with that of intentional grievous bodily harm resulting in death under Article 121 § 2, finding that no adequate justification had been provided for abandoning the murder classification, despite the circumstances of the attack – in particular, the use of concentrated sulphuric acid capable of causing fatal injuries.

58. The Commission also identified numerous shortcomings in the conduct of the investigation. It found that the National Police had acted with unjustified delay during the initial stage of the proceedings: a facial composite of the attacker had been prepared only on the third day after the attack, the chemical composition of the acid had been established only after testing arranged by the victim's friends, and investigators had failed to secure the official vehicle used to transport the victim – allowing traces of acid to be destroyed. The Commission also noted an apparent conflict of interest, as one of the alleged organisers, G., had previously served in the Kherson regional police, while his close associate, M., the head of a criminal unit of the

Kherson regional police, had continued to participate in the investigation. The Commission further criticised the wrongful prosecution of F., who had been arrested on 3 August 2018 – despite immediately providing an alibi that had been corroborated by witnesses and later by the victim herself; the proceedings against him had been discontinued only on 22 August 2018. It also found unjustified delays in the bringing of proceedings against the alleged organisers: although K. and L. had been identified by perpetrators in August 2018, K. had been arrested only on 12 November 2018, after the civic initiative "Who Ordered the Murder of Katya Gandzyuk?" had publicised his alleged role, while L. had been notified that he was under suspicion only on 4 December 2018, effectively declared wanted only in January 2019, and (contrary to public statements) had never been placed on the Interpol wanted list.

59. Lastly, the Commission concluded that institutional deficiencies had significantly undermined the investigation. It found that the Prosecutor General's public announcement on 3 August 2018 that the proceedings had been transferred to the SSU had been largely declaratory, as the case had in fact remained with the National Police, which had continued to conduct the investigation. The case material had only been transferred to the SSU on 5 November 2018 – one day after Mrs Gandziuk's death. The Commission further noted that, when the transfer had eventually taken place, the case file received by the SSU had not contained material relating to the covert investigative measures that had previously been conducted in the case.

It also found that conflicts and lack of cooperation between the National Police and the SSU had impeded the investigation, that investigators failed properly to examine the possible involvement of A. and B. as alternative organisers (concentrating instead almost exclusively on the version implicating C. and L.), and that confidential forensic reports, plea agreement material and other investigative documents had been publicly disclosed before the completion of the investigation, raising concerns regarding prosecutorial discipline and the fairness of the proceedings.

60. Taking note of the Temporary Investigation Commission's report, Parliament expressed concern over the increasing number of attacks against civic activists and stressed the need for full, comprehensive and timely investigations into those incidents. In its Resolution no. 2756-VIII taken following the examination of report (*постанова Верховної Ради України від 11 липня 2019 року № 2756-VIII*), Parliament recommended that the GPO take measures in response to the findings of the Commission, strengthen its supervision over the legality of police investigations, and examine whether there were sufficient grounds to reclassify the criminal charges against the organisers and perpetrators of the attack on Mrs Gandzyuk. It also recommended the opening of an internal investigation into the disclosure of confidential information relating to the plea agreements concluded in that case.

61. Parliament further observed that many of the Commission's earlier recommendations had not been implemented. It therefore urged the GPO, the SSU, the Ministry of Internal Affairs and the National Police to remedy procedural violations and address the ineffective investigation of a number of criminal cases concerning attacks on civic activists – including the proceedings relating to Mrs Gandzyuk.

62. The Resolution also recommended legislative reforms aimed at strengthening the independence of forensic experts and increasing criminal liability for attacks on journalists committed by organised groups. It called on the Ministry of Internal Affairs to improve the disciplinary accountability of police officers and requested the State Bureau of Investigation to examine the ineffective handling of investigations involving the loss of evidence by police officers.

63. Lastly, Parliament instructed the Head of the National Police to report on the legality of the arrest and prosecution of F. (who had initially been detained as a suspect), and requested the GPO, the SSU, the Ministry of Internal Affairs and the National Police to report back to Parliament within two weeks on the measures taken in response to the Commission's findings. The Commission's report was forwarded to the relevant State authorities and ordered to be published. The Commission's mandate was terminated.

B. Second Temporary Investigation Commission

64. On 12 December 2019, Parliament adopted a resolution (*постанова Верховної Ради України від 12 грудня 2019 року № 366-IX*) establishing a new Temporary Investigation Commission that would exercise parliamentary oversight over the investigations into the attacks on Mrs Gandzyuk and other civic activists committed during 2017-2018. The Commission was mandated to verify information concerning those attacks, examine the effectiveness of the investigations conducted by the law-enforcement authorities, collect information and explanations from State authorities, local government bodies and other relevant persons and institutions, and initiate the issue of holding those responsible accountable under domestic law. The Commission was established for a period of one year, was empowered to request access to relevant documents and information from public authorities, and was required to report periodically to Parliament on the results of its work.

65. On 1 July 2020, Parliament examined the Commission's preliminary report, which described the work carried out by the Commission, recorded difficulties encountered in obtaining access to information from investigative authorities, and announced that the inquiry would continue pending a final report.

66. On 4 November 2021, by its resolution no. 1864-IX (*постанова Верховної Ради України від 11 липня 2019 року № 1864-IX*), Parliament examined the Commission's final report. The Commission concluded that the

pre-trial investigation continued to suffer from significant shortcomings. It noted that, after achieving a certain level of progress, the investigation had effectively stalled in April 2020, following the dissolution of the specialised department of the GPO responsible for supervising investigations into attacks on civic activists and the dismissal of the Deputy Prosecutor General, Viktor Trepak, who had publicly alleged that he had been subjected to political pressure from the leadership of the GPO. The Commission therefore stressed the need to ensure the procedural independence of the prosecution during the trial of C. and L.

The Commission further found that the SSU had carried out no meaningful investigative measures aimed at examining the possible involvement of A. and B. in the attack. It noted that the investigators had relied on mobile telephone traffic data in excluding their involvement – allegedly because those data proved that a meeting between them and the other suspects had not taken place. However, according to the information available to the Commission, that conclusion was not supported by other evidence. The Commission also established that the investigation had failed to obtain and analyse the traffic data relating to all relevant telephone numbers, including additional numbers used by A. and C. As at the date of the report, no person had received any notification of suspicion during the criminal proceedings opened on 19 April 2019 to investigate the possible involvement of additional organisers (case no. 0102.

The report was forwarded to the Cabinet of Ministers, the GPO, the SSU, the National Police and the Ministry of Internal Affairs for verification of the information contained therein and, where appropriate, for the adoption of measures in response to the Commission's findings.

RELEVANT INTERNATIONAL LAW AND MATERIALS

67. The draft Articles on Responsibility of States for Internationally Wrongful Acts ("ARSIWA"), adopted by the International Law Commission in 2001 and annexed to United Nations General Assembly Resolution 56/83, provide, in so far as relevant:

> **"Article 4. Conduct of organs of a State**
>
> The conduct of any State organ shall be considered an act of that State under international law ...

Article 7. Excess of authority or contravention of instructions

> The conduct of an organ of a State ... shall be considered an act of the State under international law if the organ ... acts in that capacity, even if it exceeds its authority or contravenes instructions.

Article 8. Conduct directed or controlled by a State

> The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct."

68. The *Commentary to the Articles on Responsibility of States for Internationally Wrongful Acts*, adopted by the International Law Commission and reproduced in the Yearbook of the International Law Commission, 2001, vol. II (Part Two), states with respect to Article 7, in so far as relevant:

> Article 7 deals with the important question of unauthorized or ultra vires acts of State organs or entities. It makes it clear that the conduct of a State organ [...] acting in its official capacity, is attributable to the State even if the organ or entity acted in excess of authority or contrary to instructions.

It further states that "[t]he State cannot take refuge behind the notion that, according to the provisions of its internal law or to instructions which may have been given to its organs or agents, their actions or omissions ought not to have occurred or ought to have taken a different form." Attribution is not excluded "even where the organ or entity in question has overtly committed unlawful acts under the cover of its official status or has manifestly exceeded its competence".

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

69. The applicants complained that their daughter and partner, Mrs Gandzyuk, had been killed in a particularly painful manner. They claimed that the killing had been orchestrated by State officials – namely officials of the Kherson Regional Council and the Kherson Regional State Administration in retaliation for her public expression of political views, and that the Ukrainian authorities had failed to carry out an effective investigation into the attack on her. Furthermore, the failure to identify and prosecute all organisers precluded the applicants from lodging claims for damages against them. The applicants relied on Articles 2, 3, 6 and 13 of the Convention.

70. The Court, which is master of the characterisation to be given in law to the facts of the case, finds that the complaints at issue fall to be examined from the standpoint of Article 2 of the Convention under its substantive and procedural aspects, in so far as they relate to Mrs Gandzyuk's right to life (see *Tërshana v. Albania*, no. 48756/14, §§ 125-126, 4 August 2020). The relevant part of this provision reads as follows:

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

A. Admissibility

1. The parties' submissions

(a) The Government

71. The Government raised several preliminary objections concerning the admissibility of the application. They argued at the outset that the application constituted an abuse of the right of individual application because the applicants had failed to inform the Court of the judgment of the Dniprovskyy District Court of Kyiv of 26 June 2023 (see paragraph 48 above). According to the Government, that judgment constituted a significant development that was directly relevant to the admissibility and merits of the application, yet the applicants had failed, without explanation, to bring it to the Court's attention.

72. The Government also submitted that the applicants had failed to exhaust domestic remedies in so far as they challenged the legal classification of the offence. They noted that the applicants complained before the Court that the organisers had initially been charged with murder but had subsequently been prosecuted for organising the intentional infliction of grievous bodily harm resulting in death. In the Government's view, although the applicants had had the procedural right to contest that reclassification before the domestic courts, they had not raised the issue during either the preparatory hearing or the trial – despite requesting the trial court to convict the defendants under the very legal provisions that had ultimately been applied. Accordingly, that complaint should be rejected for non-exhaustion of domestic remedies.

73. Lastly, the Government maintained that the applicants could no longer claim to be victims within the meaning of Article 34 of the Convention. They argued that the domestic authorities had acknowledged the alleged violations by conducting a comprehensive criminal investigation that had resulted in the conviction of the direct perpetrators, intermediaries and organisers of the attack (including C. and L.), as well as the conviction of K. for concealing the crime. They further referred to the fact that the applicants had received substantial compensation, had not appealed against either of the judgments convicting the perpetrators or organisers, had agreed with the sentences imposed on the direct perpetrators under plea agreements, and had not lodged any further complaints concerning the effectiveness of the investigation, the legal classification of the offences or the failure to prosecute additional persons after the indictment against C. and L. had been referred to trial. The Government therefore considered that the domestic proceedings had afforded the applicants appropriate redress and that they had lost their victim status.

(b) The applicants

74. The applicants disputed the Government's preliminary objections, maintaining that the application was neither abusive nor inadmissible for non-exhaustion of domestic remedies. They argued that the judgment of 26 June 2023 was still pending on appeal and had therefore not produced any legal consequences. In their view, those proceedings had neither deprived them of victim status nor remedied the alleged deficiencies of the investigation. They further submitted that, although their ability as victims to influence the legal classification of the offence was limited under domestic law, they had exhausted all available domestic remedies in respect of challenging the investigative authorities' decisions and the reclassification of the offence.

2. The Court's assessment

75. As to the Government's argument concerning the applicants' failure to inform the Court of the trial court's judgment of 26 June 2023, the Court does not consider that this omission constitutes an abuse of the right of individual application. It notes, in particular, that appeal proceedings against the judgment are pending and that, in these circumstances, it is far from certain that by not making submissions about it at this stage the applicants intended to mislead the Court (see *Tverdokhlebova v. Ukraine*, no. 15830/16, §§ 32-33, 16 January 2025).

76. As to the Government's objection that the applicants had lost their victim status because they had been awarded compensation in the domestic criminal proceedings against C. and L., the Court reiterates that a decision or measure favourable to an applicant is not in principle sufficient to deprive them of victim status unless the national authorities have acknowledged, either expressly or in substance, and then afforded appropriate redress for, the breach of the Convention (see *Nikolova and Velichkova v. Bulgaria*, no. 7888/03, § 49, 20 December 2007).

77. The application, as communicated to the Government, mainly concerns the State's alleged responsibility under Article 2 of the Convention both in respect of the substantive circumstances of the attack on Mrs Gandzyuk and the effectiveness of the ensuing investigation. The Court notes, however, that the domestic authorities have never acknowledged, either expressly or in substance, any breach of the applicants' rights under Article 2 of the Convention, whether under its substantive or procedural limb. In particular, the court in the criminal proceedings against C. and L. examined exclusively the individual criminal responsibility of the accused and the applicants' related civil claims. It did not examine whether the attack, allegedly commissioned by a serving senior regional office-holder, included any issue concerning the alleged abuse of public authority. Furthermore, the judgment against C. and L. has not yet become final. Nor can the compensation awarded to the applicants in the criminal proceedings against

C. and L. be regarded as constituting appropriate redress for the alleged Convention violations as it concerned the damage inflicted by those individuals and not the responsibility of the State. As regards the remaining domestic proceedings, they concerned either the direct perpetrators of the attack or other individual participants, and likewise did not address the State's alleged responsibility in the present case under the substantive limb of Article 2.

Nor were they capable of determining whether the authorities had complied with their procedural obligation to conduct an effective investigation into all the circumstances of the attack. The Government's objection concerning victim status must therefore be dismissed.

Furthermore, the fact that the judgment against C. and L. is currently pending on appeal does not, in these circumstances, render the complaint under the substantive limb of Article 2 of the Convention premature. Those proceedings concern their individual criminal responsibility and cannot determine the distinct question whether the attack itself engaged the respondent State's responsibility under Article 2 of the Convention or provide redress in that regard.

78. As regards the Government's claim that the applicants failed to exhaust domestic remedies by not challenging the legal classification of the offence before the trial court, the Court considers that this objection is closely linked to the substance of the applicants' complaint under the procedural limb of Article 2, namely that the authorities failed to conduct an effective investigation, including by reclassifying the offence. It therefore joins the Government's objection to the merits.

79. The Court notes that the complaints under Article 2 of the Convention are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must, therefore, be declared admissible.

B. Merits

1. Substantive aspect

(a) The parties' submissions

(i) The applicants

80. The applicants submit that the attack on Mrs Gandzyuk was commissioned by public officials in retaliation for her anti-corruption activities and criticism of local authorities. They contend that the authorities obstructed the prosecution of those responsible for the killing because of the official status and political influence of C. and other persons affiliated with State and local authorities. In response to the Government's argument that the organisers acted as private individuals, the applicants emphasise that their

principal complaint concerns not only the attack itself but also the authorities' failure to ensure accountability for those responsible.

(ii) The Government

81. The Government disputed that the attack on Mrs Gandziuk could be attributed to the respondent State. Referring to the Court's case-law, they submitted that the status of a State agent for the purposes of the Convention depends on a number of factors, including whether the impugned acts were functionally connected with the exercise of official duties. Although C. was the chairman of the Kherson Regional Council and L. served as an assistant to a regional councillor at the relevant time, the domestic courts had found that the attack had been organised solely because of C.'s personal hostility towards Mrs Gandziuk and carried out through his personal acquaintance L., who recruited the perpetrators through private contacts. According to the Government, the offence was therefore motivated exclusively by personal reasons and was unrelated to the exercise of official powers. They relied in this respect on *Enukidze and Girgvliani v. Georgia*, (no. 25091/07, 26 April 2011), arguing that, as in that case, the perpetrators had not acted in the performance of official duties, had not used any official powers, weapons or privileges connected with their positions, and had acted as private individuals. Consequently, the State could not incur substantive responsibility merely because the organisers held public office.

82. The Government further maintained that Ukraine had complied with its positive obligations under Article 2 of the Convention. They submitted that the domestic legal framework adequately protected the right to life and freedom of expression, criminalised violent offences against the person, and provided effective mechanisms for investigating and prosecuting such crimes. Referring to the successful investigation and prosecution of those responsible for the attack, they argued that the State had put in place an effective legal and institutional framework capable of protecting life and prosecuting offenders.

83. Lastly, the Government argued that the authorities could not be held responsible for failing to prevent the attack because they neither knew nor ought to have known that Mrs Gandziuk faced a real and immediate risk to her life. Relying on the Court's case-law, including *Osman v. the United Kingdom* (28 October 1998, *Reports of Judgments and Decisions* 1998-VIII), they submitted that Mrs Gandziuk had never requested State protection or informed the authorities of any threats to her life. During questioning after the attack, she herself had stated that she had had numerous conflicts over the years but that none had previously escalated into life-threatening violence. The applicants had likewise not reported earlier incidents of property damage to the police. The Government therefore distinguished the case from *Gongadze v. Ukraine*, (no. 34056/02, ECHR 2005-XI) and *Özgür Gündem v. Turkey* (no. 23144/93, ECHR 2000-III), where the authorities had been

aware of a concrete risk. In their view, the authorities could not objectively have foreseen the attack and therefore bore no substantive responsibility under Article 2 of the Convention.

(b) The Court's assessment

(i) General principles

84. The Court reiterates that a State is directly responsible under the Convention for acts of violence committed by its agents in the performance of their duties. However, the fact that the unlawful conduct of a State agent occurred outside the exercise of his or her official duties does not in itself determine the question of State responsibility. In order to establish whether such conduct may nevertheless be imputed to the State, the Court must assess the totality of the circumstances and consider the nature and circumstances of the conduct in question (see *Sašo Gorgiev v. the former Yugoslav Republic of Macedonia*, no. 49382/06, §§ 47-48, ECHR 2012 (extracts)). Whether a person is to be regarded as an agent of the State for Convention purposes is determined on the basis of a number of criteria, including a functional one (see *Fergec v. Croatia*, no. 68516/14, § 36, 9 May 2017). That question must, however, be distinguished from the further question whether the particular unlawful conduct of a person who is a State agent is attributable to the State.

85. The Court has distinguished, in this context, between conduct sufficiently connected with an agent's official status and acts of a genuinely private nature. Thus, in *Enukidze and Girgvliani v. Georgia*, cited above), it declined to attribute to the respondent State the killing committed by officers of the Ministry of the Interior. It attached particular importance to the fact that the perpetrators had not been acting in the exercise of their official duties, that the offence had arisen in a private context, that they had not been engaged in a police operation and that there was insufficient evidence that they had acted on the orders of their superiors. The Court considered that the acts in question were "so flagrantly abusive and so far removed from the perpetrators' official status" that they could not engage the State's substantive responsibility. The relevant distinction is therefore not simply between disputes arising in a public or a private context, but between conduct sufficiently connected with the agent's official capacity and conduct so far removed from that capacity as to be genuinely private.

86. The above approach is consistent with the relevant principles of international law on State responsibility. Under Articles 4 and 7 of ARSIWA (see paragraphs 67-68 above), the conduct of a State organ remains attributable to the State where the organ exceeds its authority or contravenes instructions, provided that it acts in that capacity. In that connection, the existence of ulterior or improper motives, or an abuse of public power, does not in itself exclude attribution. The relevant distinction remains between

conduct undertaken in an official capacity, including under colour of authority, and conduct belonging to the person's genuinely private sphere.

Where the immediate perpetrators are private persons, a distinct issue of attribution arises. Their conduct may be attributable to the State where, in carrying out the conduct in question, they acted on the instructions of, or under the direction or control of, the State. Where the alleged instructions emanated from a public office-holder, that assessment accordingly presupposes that the office-holder's own conduct in giving those instructions was itself attributable to the State.

87. At the same time, the Court has not treated the formal capacity in which the agent acted, or whether he or she was on duty at the material time, as conclusive. In determining whether ostensibly private conduct may nevertheless engage the State's responsibility, it has had regard to whether the agent made use of his or her position in committing the unlawful act (see, recently, *Kovalenko v. Ukraine*, no. 21425/18, §§ 88-93, 28 May 2026) and to the existence of at least connivance or acquiescence on the part of the authorities (see *Enukidze and Girgvliani*, cited above, § 290; *Kotelnikov v. Russia*, no. 45104/05, § 93, 12 July 2016; and *Fergec*, cited above, § 36). Those considerations form part of the broader assessment of the totality of the circumstances and of the nature and circumstances of the conduct in question (see *Sašo Gorgiev*, cited above, §§ 47-48).

88. The Court observes that the question of direct State responsibility under the substantive limb of Article 2 has most commonly arisen in cases in which lethal or potentially lethal force was used directly by persons exercising State functions, such as police officers, members of the armed forces or other security personnel, or where the means used to commit the impugned act were themselves closely connected with the perpetrator's State functions (see, among many other authorities, *McCann and Others v. the United Kingdom*, 27 September 1995, Series A no. 324; *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, ECHR 2005-VII; and, as regards unlawful conduct outside the immediate exercise of police functions, *Sašo Gorgiev*, cited above, §§ 47-54).

89. By contrast, cases concerning the targeted killing of journalists, political opponents or other public watchdogs have frequently reached the Court in circumstances in which the identity of the ultimate instigator, or the existence of a link between that person and the State, had not been established at domestic level. In such cases the Court has generally been called upon to examine the State's positive obligation to protect the victim or its procedural obligation to identify those responsible, rather than to determine whether the killing itself was directly attributable to the State. Thus, in *Gongadze v. Ukraine* (no. 34056/02, §§ 164-71, ECHR 2005-XI) the Court found a substantive violation on account of the authorities' failure to protect the life of a journalist who had reported threats linked to his investigative activities. In *Mazepa and Others v. Russia* (no. 15086/07, §§ 73-75, 17 July 2018),

concerning the contract killing of Anna Politkovskaya, the Court's examination focused on the failure adequately to investigate who had commissioned the murder and the possible connection with her journalistic activities. Similarly, in *Huseynova v. Azerbaijan* (no. 10653/10, §§ 87-91 and 115-16, 13 April 2017), the Court was unable to establish to the requisite standard of proof that the State had been involved in the killing, while finding that the possible connection between the murder and the victim's highly critical journalistic work required particularly diligent investigation.

90. The Court has nevertheless recognised that the use of persons who do not openly act in an official capacity does not preclude attribution of targeted lethal violence to the State. In *Carter v. Russia* (no. 20914/07, §§ 162-69, 21 September 2021), concerning the killing of Alexander Litvinenko in the United Kingdom, it found, on the basis of strong *prima facie* evidence which the respondent Government had failed to rebut, that the perpetrators had acted as agents of the State and that the killing was accordingly attributable to it. In reaching that conclusion the Court examined the operation as a whole, including its highly sophisticated and planned nature, the means employed, the perpetrators' links with State authorities and the absence of a satisfactory alternative explanation from the respondent Government.

91. The Court appears not previously to have been called upon to determine whether targeted lethal violence carried out by private criminal actors may engage the State's direct responsibility where it is alleged to have been procured by a serving holder of senior public office for the purpose of silencing a public watchdog on account of their scrutiny of the exercise of public power. That question must therefore be decided by applying the above principles, in particular, the functional approach developed in the Court's case-law and the requirement to assess the totality of the circumstances and the nature and circumstances of the conduct in question. The Court must therefore determine whether the alleged conduct of the office-holder was undertaken in their official capacity or under colour of the authority attaching to their office and, if so, whether the private actors carried out the attack on instructions attributable to the State.

(ii) The present case

92. Turning to the circumstances of the present case, the Court considers it necessary at the outset to clarify the scope of its assessment. The criminal proceedings against C. and L. have not yet been finally determined. It is therefore not for the Court to pronounce on their individual criminal liability or to anticipate the outcome of the pending appellate proceedings. Its task is different: it must determine whether the material before it, assessed as a whole and in accordance with the evidentiary standard applicable under the Convention, discloses a sufficiently close connection between the attack on Mrs Gandzyuk and the exercise or abuse of public authority to engage the respondent State's responsibility under the substantive limb of Article 2. In

carrying out that assessment, the Court has regard to the established circumstances of the attack and the final convictions concerning its direct participants, the evidence gathered during the investigation, the position taken by the prosecuting authorities, the findings of the Parliamentary Temporary Investigation Commissions and the findings made in the first-instance judgment concerning C. and L. The latter judgment has not become final and cannot therefore be treated as determinative; the material before the Court must instead be assessed cumulatively for the purposes of its own examination under the Convention. Nor will the Court treat any finding concerning C.'s or L.'s individual participation as established solely by reason of that judgment.

93. A number of important circumstances are not dependent on the outcome of the appellate proceedings in the case against C. and L. In particular, it has been established by final judicial decisions that the attack was a premeditated contract crime, organised and carried out by several persons acting pursuant to an agreed division of roles and for payment. The direct participants conducted surveillance of Mrs Gandzyuk, obtained concentrated sulphuric acid and, on 31 July 2018, poured approximately one litre of it over her. The domestic court further established, in approving their plea agreements, that the decision to attack Mrs Gandzyuk had been prompted by her active civic position, including her efforts to expose illegal logging schemes and corrupt practices involving public officials and her criticism of representatives of the authorities and law-enforcement agencies, and that its purpose was to intimidate her and prevent her from continuing her civic and political activities (see paragraphs 36-39 above).

94. The motive and purpose thus established are of particular significance for the Court's assessment. The attack did not originate in an ordinary private dispute detached from public affairs. It was directed against Mrs Gandzyuk because of her activities as a public watchdog and was intended to suppress her scrutiny of alleged corruption and unlawful conduct involving persons exercising public authority in the region. In that respect, the circumstances differ fundamentally from those in *Enukidze and Girgvliani* (cited above), where the impugned conduct arose in an essentially private context and was considered to be so far removed from the perpetrators' official status as not to engage the State's substantive responsibility. The Court emphasises that the decisive issue is not whether the dispute from which the attack arose may broadly be characterised as public rather than private. The relevant question is whether the conduct alleged against the public office-holder was sufficiently connected with his official capacity to be attributable to the State (see paragraphs 85-87 above).

95. The public-authority dimension of the case was not confined to the motive and purpose subsequently established in the proceedings against the direct perpetrators. It was also reflected in the direction taken by the domestic investigation itself. The investigating and prosecuting authorities pursued the

hypothesis that the attack had been commissioned and organised by persons occupying or connected with positions of political influence in the Kherson Region (see paragraph 15 above). Ultimately, criminal proceedings were brought against C., who at the material time occupied the elected office of Chairman of the Kherson Regional Council, and L. The possible involvement of A. and B., who likewise occupied senior positions within the regional authorities, was also examined in the course of the investigation and subsequently addressed by the Parliamentary Temporary Investigation Commissions, which criticised the manner in which that line of inquiry had been pursued (see paragraph 66 above). The Court emphasises that neither the fact that those persons were investigated nor the concerns expressed by the parliamentary commissions establish their involvement in the attack. They are relevant here only in demonstrating that the possible connection between the attack and the exercise of regional public power constituted a concrete line of inquiry arising from the evidence gathered domestically, rather than a hypothesis advanced for the first time in the proceedings before the Court.

96. As regards C. specifically, the first-instance court found that his hostility towards Mrs Gandzyuk had arisen, *inter alia*, from her public allegations of corruption and other unlawful conduct on his part and from her participation in a documentary film critical of him. It further found that C. had decided to organise the attack in order to intimidate Mrs Gandzyuk and remove her from further public and political activity, had enlisted L. to recruit the perpetrators, had undertaken to finance the operation, had approved the method eventually chosen and, through L., had paid for its execution (see paragraphs 48-51 above).

97. The Court reiterates that those findings are contained in a judgment which is currently under appeal and does not treat them as conclusively establishing C.'s individual criminal responsibility. They nevertheless form part of the evidentiary material before the Court and are consistent, in important respects, with circumstances established independently in the final proceedings against the direct participants, including the organised and remunerated nature of the attack and its motive and purpose. They must accordingly be assessed together with the remainder of the material before the Court.

98. C.'s status as a public office-holder cannot, in itself, suffice to attribute the alleged conduct to the State. Public officials may commit serious offences in an entirely private capacity, and even an offence motivated by political considerations does not necessarily constitute State conduct. The question is therefore whether, having regard to the totality of the circumstances, taken as a whole, C's alleged conduct was undertaken in his capacity as a public office-holder or under colour of the authority attaching to that office, or whether it was so far removed from his official status as to constitute genuinely private conduct.

99. In answering that question, the Court considers that the requisite functional connection cannot be assessed solely by reference to the formal means used to carry out the conduct in issue. The fact that it has not been shown that State powers, public funds or State personnel were used in preparing or carrying out the attack is an important consideration, but not necessarily a conclusive one. Regard must also be had to the nature and purpose of the conduct and, in particular, to the function which that conduct was intended to perform in relation to the exercise of public authority. The absence of an exercise of statutory powers does not preclude attribution to the State where the circumstances establish that the office-holder nevertheless acted in his or her official capacity, or made abusive use of the position, authority or influence attaching to the office. Conversely, the fact that the motive for the conduct is connected with public affairs cannot, without more, render conduct of a genuinely private character attributable to the State.

100. Nor does the involvement of private criminal actors in the preparation and execution of the attack, in itself, determine the issue of attribution. The Court's case-law demonstrates more generally that the formal status of the immediate perpetrators is not necessarily decisive and that the existence of State responsibility must be determined in the light of the actual connection between the conduct in question and State authority (see, *mutatis mutandis*, *Seyfettin Acar and Others v. Turkey*, no. 30742/03, §§ 35-36, 6 October 2009; and *Carter*, cited above, §§ 162-69). Accordingly, neither the absence of the use of formal State machinery nor the private status of the immediate perpetrators is, taken alone, determinative. The question must be resolved on the basis of the cumulative effect of the relevant circumstances.

101. In the present case, those circumstances disclose a particularly close connection between the attack and the sphere of regional public authority. Mrs Gandzyuk was targeted because of activities characteristic of a public watchdog, including her scrutiny of alleged corruption and unlawful conduct involving regional public officials and her public criticism of persons exercising political and law-enforcement authority. The established purpose of the attack was to intimidate her and prevent her from continuing those activities. Moreover, the person whom the prosecuting authorities alleged, and the first-instance court found, to have commissioned the attack occupied one of the highest elected offices in the region and was himself an object of such scrutiny and criticism. Those circumstances are relevant not because the public character of the dispute is itself sufficient for attribution, but because they indicate that C.'s public office was not merely an incidental characteristic unrelated to the alleged conduct.

102. Importantly, the connection was not confined to the fact that Mrs Gandzyuk's public activities supplied the motive for an otherwise private act of retaliation. The very object of the violence was to interfere with the performance of her public-watchdog function. On the prosecution case, the attack was intended to operate as a means of bringing to an end the scrutiny

to which C., as a holder of public office, was being subjected and of removing Mrs Gandzyuk from further civic and political activity. In other words, the violence was not merely caused by a conflict originating in public life; it was itself employed as an instrument for suppressing a form of democratic scrutiny directed at the exercise of public power. That feature distinguishes the present case from one in which a public office-holder commits an offence for reasons of personal hostility, revenge or other interests belonging to the private sphere.

103. The nature of the interest which the attack sought to suppress reinforces that assessment. Mrs Gandzyuk was targeted for activities inherent in the role of a public watchdog: exposing alleged corruption and unlawful conduct, criticising public officials and participating in public political debate. Violence intended to remove a person from such activity is capable not only of silencing the immediate victim but also of intimidating journalists, activists and other members of civil society engaged in scrutinising those exercising public power (see, *mutatis mutandis*, *Özgür Gündem v. Turkey*, cited above, §§ 42-46). This broader effect does not, by itself, determine the question of attribution, but forms part of the context in which the functional relationship between the impugned conduct and public authority must be assessed.

104. The Court also considers it relevant, as contextual material, that the attack on Mrs Gandzyuk was not treated at domestic level as an entirely isolated instance of violence against a civic activist. The Parliamentary Temporary Investigation Commission established on 6 November 2018 was mandated to examine not only the attack on Mrs Gandzyuk but also attacks against other civic activists during 2017 and 2018. Similarly, the subsequent Parliamentary Commission established in December 2019 was tasked with exercising parliamentary oversight over the investigations into attacks on Mrs Gandzyuk and other civic activists. Those circumstances neither establish that the other attacks were attributable to State officials nor form part of the evidentiary basis for attributing the present attack to the State. They nevertheless place the attempt to silence Mrs Gandzyuk in the broader domestic context in which violence against persons engaged in civic activity had prompted institutional concern and parliamentary scrutiny.

105. The Court emphasises that none of those considerations, taken separately, would suffice to engage the State's direct responsibility. The holding of public office does not transform an office-holder's private conduct into State conduct; political motivation does not of itself establish attribution; violence directed against a public watchdog is not automatically attributable to the State; and an unresolved investigative hypothesis concerning other public officials cannot establish their involvement. Nor does the Court hold that any offence committed by a public office-holder against a person who has criticised them is, for that reason, attributable to the State. What is material is the convergence, in the present case, of the established nature,

motive and purpose of the attack, the public function which the violence was intended to suppress, the position of the person alleged to have commissioned it and the relationship between the alleged conduct and the scrutiny of regional public power. What is material is whether, taken together, those circumstances demonstrate not merely a political or factual connection with C.'s public office, but an abusive use of the position, authority, influence or relationships attaching to this office, such that the conduct cannot properly be regarded as belonging wholly to the private sphere.

106. It is that particular convergence which distinguishes the present case. The attack was a premeditated and remunerated operation directed against a prominent civic activist; the purpose established in the final proceedings against the direct participants was to intimidate her and prevent her from continuing her civic and political activities; the attack concerned scrutiny of alleged wrongdoing by persons exercising regional public authority; and the person alleged by the prosecuting authorities, and found at first instance, to have commissioned it occupied one of the highest elected offices in the region and was himself a subject of that scrutiny. On the material before the Court, therefore, public authority was not merely the background against which an otherwise private offence occurred. The relationship between the exercise of public power and democratic scrutiny of that power lay at the centre of the conflict from which the attack arose and of the objective which the attack was intended to achieve. The issue is therefore whether the position and influence attaching to C.'s office were used, albeit abusively and for an unlawful purpose, in procuring the violence in question.

107. In assessing those circumstances, the Court is mindful that the attribution to the State of criminal conduct carried out through private persons requires particular caution. At the same time, the substantive protection afforded by Article 2 cannot make the question of attribution depend exclusively on whether formal State machinery was used in carrying out the impugned conduct. Where the requisite functional connection with public authority emerges from the totality of the circumstances, the use of private intermediaries cannot, by itself, sever that connection. To hold otherwise would make attribution turn principally on the organisational means through which the violence was carried out, rather than on the nature and circumstances of the conduct viewed as a whole. The use of private intermediaries therefore cannot by itself preclude attribution, provided that the requisite State-attributable instruction, direction or control is established in relation to the specific conduct at issue (see paragraph 86 above).

108. In the light of all the foregoing considerations, and assessing the material before it as a whole, the Court considers that the established facts, together with the concordant evidentiary material described above, give rise to sufficiently strong, clear and concordant inferences that the requisite functional connection between the attack on Mrs Gandzyuk and public authority existed for the purposes of Article 2. C.'s alleged conduct in

commissioning the attack cannot be regarded as so far removed from his official status as to fall within the sphere of genuinely private conduct. Rather, taken cumulatively, the circumstances indicate that the alleged conduct involved an abusive use of the position and influence attaching to his public office and was undertaken under colour of that authority. In reaching that conclusion, the Court does not purport to determine C.'s individual criminal responsibility, which remains a matter for the domestic courts in the pending proceedings. Its conclusion is confined to the distinct question arising under the Convention: whether, in the particular circumstances of the present case, the attack remained within the sphere of genuinely private activity. Having regard, in particular, to its established motive and purpose, the public-watchdog function it was intended to suppress, the domestic evidence concerning its alleged commissioning by a senior holder of regional public office and the relationship between that alleged conduct and scrutiny of the exercise of public power, the Court considers that it did not. It follows that the events complained of engage the respondent State's responsibility under the substantive limb of Article 2.

109. Noting that the attack on Mrs Gandzyuk constituted a criminal act of utmost gravity directly threatening her life, the Court finds that there been a violation of Article 2 of the Convention under its substantive limb.

2. Procedural aspect

(a) The parties' submissions

(i) The applicants

110. The applicants acknowledge that the direct perpetrators were convicted of inflicting grievous bodily harm resulting in death, while K. was convicted of concealing the offence and C. and L. were convicted, at first instance, of organising grievous bodily harm resulting in death. However, they stress that the latter proceedings remain pending on appeal and that a separate investigation concerning intentional murder and the possible involvement of additional organisers has produced no meaningful results.

111. The applicants complain that the prosecution's decision to abandon the murder qualification under Article 115 of the Criminal Code and to reclassify the organisers' conduct as intentional grievous bodily harm resulting in death under Article 121. They contend that no new evidence emerged between the initial murder charges and the subsequent reclassification and that the latter therefore lacked any objective evidentiary basis. In their view, the reclassification effectively terminated the investigation into murder without adequately examining the murder hypothesis or the existence of indirect intent. They further argue that the prosecution's reasoning—that the use of concentrated sulfuric acid demonstrated only an intention to intimidate or cause grievous bodily harm rather than to kill—was scientifically unsustainable, ignored the predictable

lethal consequences of the attack and was contradicted by the forensic evidence, comparative practice and the findings of the Parliamentary Temporary Investigation Commission.

112. The applicants submit that they actively sought to prevent the reclassification by lodging motions, challenging the prosecutor's decisions and pursuing all available procedural remedies. Nevertheless, they maintain that under Ukrainian law victims have no effective procedural means of influencing or challenging the legal classification adopted by the prosecutor once the indictment has been filed and that they exhausted every available legal avenue to secure prosecution for murder.

113. The applicants further argue that the investigation was neither independent nor effective. Referring to the report of the Parliamentary Temporary Investigation Commission of 11 July 2019, they allege that it was affected by the official status and political influence of certain suspects and identify numerous investigative deficiencies, including the initial misclassification of the offence, the unjustified reclassification from murder to grievous bodily harm resulting in death, delays in notifying suspects, investigative inactivity, conflicts between investigative bodies, inadequate procedural decisions, failure to pursue alternative suspects, including A. and B., and improper disclosure of case-file material. They also submit that the investigation had failed to satisfy the requirements of promptness and reasonable expedition.

114. Relying on the Court's case-law concerning the procedural limb of Article 2, the applicants conclude that the authorities failed to conduct an independent, prompt, thorough and effective investigation capable of establishing the true circumstances of the killing and identifying all those responsible.

(ii) The Government

115. The Government submitted that the investigation into the acid attack on Mrs Gandzyuk and her subsequent death fully complied with the procedural requirements of Article 2 of the Convention. Relying on the Court's case-law, they argued that the investigation satisfied the requirements of adequacy, promptness, involvement of the victim's relatives and institutional independence.

116. As regards adequacy and promptness, the Government stressed that investigative measures had begun immediately after the attack on 31 July 2018. Several criminal proceedings were opened, resulting in the prosecution and conviction of all direct perpetrators, who pleaded guilty and disclosed the organisation of the attack, the conviction of K. for concealing the crime, and the conviction of C. and L. as organisers of the attack, each receiving ten years' imprisonment. The investigation included extensive investigative measures, such as numerous witness and expert interviews, forensic medical, psychological and digital examinations, investigative experiments,

identification procedures, examination of the victim's body and international cooperation leading to L.'s extradition from Bulgaria. According to the Government, the investigation established both the circumstances of the attack and all persons responsible.

117. Responding to the applicants' criticisms, the Government argued that the investigation had thoroughly examined the alleged involvement of A. and B., but had found no evidence linking them to the offence. The applicants' allegations relied mainly on polygraph examinations. The prosecution had not obtained evidence capable of satisfying the criminal standard required to notify those individuals of suspicion, and their procedural status therefore remained that of witnesses. The Government further rejected the applicants' complaint concerning the legal characterisation of the offence. While the perpetrators had initially been suspected of murder under Article 115 of the Criminal Code, the qualification was subsequently amended to intentional grievous bodily harm resulting in death under Article 121 after the investigation had established the factual circumstances, motives and intent behind the offence. The domestic courts upheld that legal qualification. Referring to *Leparskienė v. Lithuania* (no. 4860/02, 7 July 2009), the Government argued that Article 2 does not guarantee a right to have offenders prosecuted under a particular criminal provision or to receive a particular sentence. In their view, the remaining shortcomings alleged by the applicants did not undermine the overall adequacy or promptness of the investigation.

118. Regarding the participation of the applicants, the Government submitted that they had been recognised as victims throughout the criminal proceedings and had exercised extensive procedural rights under domestic law. They had access to information about the progress of the investigation, could challenge investigative decisions, submit evidence and motions, and participated actively in the proceedings. In particular, they consented to the plea agreements concluded with the direct perpetrators, the first applicant testified before the trial court, and the domestic court expressly acknowledged that the applicants had been informed of the investigation and granted access to the case-file material. The Government therefore maintained that the applicants had been sufficiently involved to safeguard their legitimate interests.

119. Finally, as regards the independence of the investigation, the Government argued that, although the investigation had initially been conducted by the Kherson police, it was later transferred to the SSU under the supervision of the GPO. Both institutions enjoyed statutory guarantees of independence, and there was no hierarchical, institutional or personal connection between the investigators and the principal suspects. Nor was there any indication that the investigators had failed to pursue relevant lines of inquiry or had otherwise acted in a partial manner. The Government therefore concluded that the investigation had been institutionally and

practically independent and that no significant omissions capable of undermining its effectiveness could be attributed to the authorities.

(b) The Court's assessment

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

121. Turning to the circumstances of the present case, the Court observes at the outset that the domestic investigation achieved significant results. The authorities rapidly identified and prosecuted the direct perpetrators of the attack, established that it had been committed on commission, identified persons alleged to have organised and commissioned it, secured cooperation from the direct perpetrators through plea agreements, and obtained convictions against the direct participants and, subsequently, at first instance against C. and L. The investigation also established the motive for the attack and accepted that it had been committed in response to Mrs Gandzyuk's civic and anti-corruption activities. In these respects, the present case differs from cases in which the investigation failed to progress beyond the identification of the immediate perpetrators (contrast *Nemtsova v. Russia*, no. 43146/15, §§ 124-28, 11 July 2023).

122. The Court further notes that those significant results do not, however, suffice in themselves to establish that the procedural requirements of Article 2 were met. The Court reiterates that, where the authorities are confronted with a contract killing or other commissioned lethal violence, the investigation must be capable of identifying not only the immediate perpetrators but also those who commissioned, organised or otherwise orchestrated the crime. While Article 2 imposes an obligation of means rather than one of result, the authorities must take all reasonable steps available to them to secure the evidence concerning the incident and pursue reasonable and sufficiently substantiated lines of inquiry capable of elucidating the circumstances and identifying those responsible (see *Gongadze*, cited above, § 176; *Huseynova*, cited above, §§ 115-16; *Mazepa and Others*, cited above, § 75; and *Nemtsova*, cited above, § 112). A failure to pursue an obvious line of inquiry may decisively undermine the investigation's effectiveness (see *Mustafa Tunç and Fecire Tunç*, cited above, § 175).

123. In the present case, Mrs Gandzyuk herself and, subsequently, the applicants consistently maintained that, apart from C., other senior regional officials, in particular, A. and B., might also have been involved in the commissioning of the attack. The Court is not called upon to determine whether those allegations were well founded. It observes, however, that the possible involvement of additional commissioners constituted a concrete investigative hypothesis which the domestic authorities themselves

considered sufficiently serious to examine. A. and B. were questioned, their telephone traffic data were examined and forensic psychophysiological examinations were carried out. Moreover, separate criminal proceedings were maintained specifically in respect of the possible involvement of additional organisers (see paragraph 66 above).

124. The question is therefore whether that line of inquiry was pursued with the thoroughness required by Article 2. In this connection, the Court attaches weight to the findings of the two Parliamentary Temporary Investigation Commissions. Both identified deficiencies in the examination of the possible involvement of additional organisers. In particular, the second Commission found that the available telephone traffic data had not been fully analysed and that meaningful investigative measures capable of adequately testing the suspicions concerning possible additional organisers had not been carried out (ibid.). While the findings of those parliamentary bodies are not determinative for the Court's assessment, they constitute relevant independent material concerning the manner in which that line of inquiry was pursued.

125. Those concerns acquire particular significance in view of the subsequent course of criminal proceedings no. 0102. Those proceedings, maintained in respect of the possible involvement of additional organisers, remained pending for several years without any person being notified of suspicion. According to the information submitted by the Government, by August 2024 the investigation had produced no new information concerning the attack and had not identified any further person involved (see paragraph 54 above). The Court reiterates that Article 2 did not require the authorities to establish that additional commissioners existed or to bring charges against any particular person. It did, however, require them to take reasonable investigative steps capable of adequately testing that hypothesis, once it had emerged as a concrete line of inquiry. Having regard to the specific deficiencies identified above and the prolonged absence of any tangible progress, the material before the Court does not demonstrate that this requirement was satisfied.

126. The Court has also considered the applicants' criticism of the legal classification of the offence adopted in the proceedings against the direct perpetrators. It reiterates that Article 2 does not require prosecution or conviction under any particular provision of domestic criminal law, although the legal classification chosen by the authorities may be relevant where it is manifestly inadequate having regard to the seriousness and circumstances of the conduct concerned (see, for example, *Skorokhodov v. Ukraine*, no. 56697/09, § 36, 14 November 2013; *Beley v. Ukraine*, no. 2705/20, § 63, 19 December 2024). The Court cannot discern such circumstances with the requisite degree of clarity in the present case. It is therefore prepared to accept that, had the applicants sought to challenge the legal classification as such, it was incumbent on them to make use of the available domestic remedies (see,

mutatis mutandis, *Chayka v. Ukraine* [Committee], no. 43800/15, 11 March 2021).

127. That conclusion does not, however, dispose of the complaint presently before the Court. The principal deficiency identified above concerns not the legal classification of the conduct of those already prosecuted, but the effectiveness with which the authorities pursued the possible involvement of additional commissioners. A challenge to the legal classification adopted in the proceedings against the direct perpetrators would not have been capable of remedying that deficiency. To that extent, the Government have not demonstrated that the remedy relied upon was capable of providing redress in respect of the substance of the applicants' complaint, and their objection, joined to the merits (see paragraph 78 above), must therefore be dismissed.

128. The deficiencies identified above must also be viewed against the manner in which the investigation was organised. The materials concerning the attack were at different stages investigated within several criminal proceedings and by different investigative authorities, and were repeatedly separated, joined or transferred (see, for example, paragraphs 21 and 24 above). Such procedural arrangements are not in themselves incompatible with the requirements of Article 2 and may be justified, in particular, by the need to bring particular accused persons promptly to trial. However, in a complex contract crime involving a chain of participants, they make effective coordination and the preservation of a coherent investigative strategy particularly important. In that connection, the Court notes the findings of the Parliamentary Temporary Investigation Commission concerning incomplete transfers of investigative materials, insufficient cooperation between the National Police and the Security Service and the resulting failure to pursue certain investigative avenues (see paragraph 59 above). Those findings lend further support to the Court's concerns as to whether the outstanding line of inquiry concerning possible additional organisers was pursued in a sufficiently coherent and thorough manner.

129. The Court's concerns are compounded by the duration of the proceedings. It acknowledges that the proceedings as a whole produced substantial results: the direct perpetrators were convicted in 2019, and C. and L. were convicted at first instance in 2023. It also notes that the search for and extradition of L. affected the progress of the proceedings against him. However, the separate fact-based investigation concerning the possible involvement of additional organisers has remained pending for a prolonged period without any person being notified of suspicion and, according to the Government's own information, without yielding any new information by August 2024. This lack of progress is particularly striking given the exceptional degree of public and institutional scrutiny to which the investigation was subjected, including the establishment of two successive Parliamentary Temporary Investigation Commissions, both of which drew

attention to shortcomings in the investigation. Having regard to the contract nature of the attack, Mrs Gandzyuk's prominent public role and the importance of establishing the full chain of responsibility for lethal violence directed against a public watchdog, the authorities were required to display particular diligence.

130. The prolonged absence of tangible progress in that part of the investigation was liable to diminish the prospects of elucidating the outstanding circumstances (see, *mutatis mutandis*, *Varnava and Others v. Turkey* [GC], nos. 16064/90 and 8 others, § 161, ECHR 2009). It was also liable to undermine public confidence in the authorities' commitment to investigating violence against civic activists, bearing in mind that promptness in investigating life-threatening violence is essential to maintaining public confidence in the authorities' adherence to the rule of law (see *Mustafa Tunç and Fecire Tunç*, cited above, § 178).

131. The Court considers that the central shortcoming of the investigation lay in the failure to pursue with sufficient thoroughness and diligence the outstanding line of inquiry concerning the possible involvement of additional commissioners. That deficiency persisted notwithstanding sustained public and institutional scrutiny and was aggravated by shortcomings in inter-agency coordination and by the prolonged absence of tangible progress in the relevant proceedings. Accordingly, notwithstanding the substantial results achieved in identifying, prosecuting and convicting the direct participants and in bringing the alleged organisers to trial, the investigation, viewed as a whole, did not satisfy the requirements of thoroughness and reasonable expedition inherent in Article 2 of the Convention.

132. There has accordingly been a violation of the procedural limb of Article 2 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

133. The applicants complain that several State officials contracted the killing of Mrs Gandzyuk because of her public activities in Kherson, in particular, her statements in mass media and social networks about widespread corruption and abuse of power by local authorities. They rely on Article 10 of the Convention which reads, insofar as relevant, as follows:

> "1. Everyone has the right to freedom of expression..."

A. Admissibility

134. The Government did not raise a separate objection as to the admissibility of the applicants' complaint under Article 10 of the Convention.

135. The Court notes that this complaint is neither manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor inadmissible on any other grounds. It must, therefore, be declared admissible.

B. Merits

1. The parties' submissions

136. The applicants overall reiterated their initial submissions.

137. The Government submitted that the domestic legal framework provided sufficient guarantees for the exercise of freedom of expression, referring in particular, to Article 34 of the Constitution and the Law on Information. While acknowledging that Article 10 might entail positive obligations to create a favourable environment for participation in public debate, they essentially reiterated the arguments advanced in respect of the State's positive obligation under Article 2. In particular, they maintained that the authorities had neither known nor ought to have known before the attack that Mrs Gandzyuk faced a real and immediate risk to her life, since she had not reported any threats or requested protection. On that basis, they distinguished the present case from *Gongadze* and *Özgür Gündem* and concluded that the State could not be held responsible for the alleged violation of Article 10.

2. The Court's analysis

138. The Court reiterates that freedom of expression constitutes one of the essential foundations of a democratic society. The safeguards afforded to the press and other public watchdogs are of particular importance where the expression in question concerns alleged corruption, abuse of power and the conduct of public officials.

139. The genuine and effective exercise of freedom of expression does not depend merely on the State's duty not to interfere. It may also require positive measures of protection, including in relations between individuals. In particular, the State must create a favourable environment for participation in public debate by all persons concerned, enabling them to express their opinions and ideas without fear, even where those opinions are contrary to those defended by the official authorities or by a significant part of public opinion (see *Dink v. Turkey*, nos. 2668/07 and 4 others, §§ 137 and 138, 14 September 2010, and *Özgür Gündem v. Turkey*, cited above, §§ 42-46).

140. Where violence, threats or other forms of intimidation are arguably intended to prevent a journalist, activist or other public watchdog from contributing to debate on matters of public interest, Article 10 requires the authorities to take reasonable measures to protect the exercise of freedom of expression and, where such acts have occurred, to investigate effectively their connection with the victim's expressive activities. An investigation which fails to address the silencing purpose of the attack may leave the interference with freedom of expression unremedied and contribute to a climate of impunity capable of producing a chilling effect on others (see, *mutatis*

mutandis, *Khadija Ismayilova v. Azerbaijan*, nos. 65286/13 and 57270/14, §§ 158-66, 10 January 2019).

141. In the present case, Mrs Gandzyuk was not merely a private individual who happened to express political opinions. She was a prominent civic activist and public watchdog who regularly exposed alleged corruption, criticised regional authorities and law-enforcement bodies, investigated attacks on journalists and activists and publicised allegations concerning unlawful activities involving influential regional figures.

142. The material before the Court indicates that the attack was directly connected with those activities. The domestic prosecuting authorities consistently maintained, and the first-instance court found, that the purpose of the attack was to intimidate Mrs Gandzyuk and remove her from further civic and political activity. Although the judgment against C. and L. is not yet final, the existence of that alleged silencing purpose is supported by the broader body of investigative material, including the established contract nature of the attack, the statements of the direct perpetrators and the prosecution's account of the motive. As the Court noted above, the violent attack was employed as an instrument for suppressing a form of democratic scrutiny of the exercise of public power.

143. The attack therefore constituted an extreme form of interference with Mrs Gandzyuk's freedom of expression. It was directed not merely at the content of one particular statement or publication, but at her continuing ability to perform her public-watchdog role. The use of lethal violence to silence criticism of corruption and regional political influence struck at the very essence of the right protected by Article 10.

144. The Court further considers that the effect of the attack extended beyond Mrs Gandzyuk personally. A carefully organised acid attack against a prominent anti-corruption activist, allegedly commissioned by a serving senior regional office-holder because of her criticism of public authorities, was objectively capable of instilling fear in other journalists, activists and members of civil society engaged in similar scrutiny. It therefore carried an especially serious chilling effect on public debate concerning corruption and abuse of power. Furthermore, the attack on Mrs Gandzyuk did not occur in isolation. Shortly beforehand, a journalist working for the online media outlet MOST had also been assaulted (see paragraph 8 above).

145. The Government's submissions focus principally on whether, before the attack, the authorities knew or ought to have known that Mrs Gandzyuk faced a real and immediate risk to her life and were therefore required to take operational measures to protect her. The Court does not consider it necessary to determine that question for the purposes of the present complaint. The issue arising under Article 10 is not confined to whether the authorities failed to protect Mrs Gandzyuk against a foreseeable act of private violence. As established above, the attack was itself directed against the exercise of her freedom of expression: its purpose was to intimidate her and

prevent her from continuing the civic and political activities through which she scrutinised alleged corruption and the conduct of public officials.

146. Moreover, the Court has already found, under the substantive limb of Article 2, that the attack cannot, in the particular circumstances of the present case, be regarded as conduct remaining within the sphere of genuinely private activity. It found that the established facts and the concordant evidentiary material disclosed the requisite functional connection between the attack and public authority, having regard, in particular, to the motive and purpose of the attack, the public-watchdog function which it was intended to suppress, the evidence concerning its alleged commissioning by a senior holder of regional public office and the relationship between that alleged conduct and scrutiny of the exercise of public power (see paragraph 108 above).

147. Those findings are of direct relevance under Article 10. Where violence attributable to the State for Convention purposes is directed against an individual precisely because of their participation in public debate and is intended to prevent them from continuing that activity, the interference concerns not merely the victim's physical integrity but the very exercise of the freedom guaranteed by Article 10. In the present case, the attack was intended to silence a public watchdog engaged in exposing alleged corruption and scrutinising the conduct of public officials. It therefore constituted an interference of the utmost gravity with Mrs Gandzyuk's freedom of expression.

148. The Court is not persuaded by the Government's reliance on the existence of domestic constitutional and legislative guarantees of freedom of expression. Such guarantees are plainly important but cannot by themselves satisfy the State's obligations under Article 10 where, in the circumstances established above, lethal violence directed at suppressing public-watchdog activity is attributable to the State for Convention purposes. Nor is the absence of prior knowledge of a real and immediate threat decisive for the issue presently before the Court. That consideration concerns whether the authorities were under a separate operational obligation to take preventive measures before the attack; it does not answer the question whether the attack itself, once found attributable to the State and directed at suppressing protected expression, engaged Article 10.

149. The Court has in some cases concerning the killing of journalists considered that, following its findings under Article 2, it was unnecessary to examine separately a complaint under Article 10 (see *Huseynova v. Azerbaijan*, cited above, § 124). The present case, however, raises an aspect which is not fully absorbed by the findings under Article 2. The violence was not merely connected with Mrs Gandzyuk's public activities in the sense that those activities provided a background or motive for the offence. Its established purpose was to intimidate her and prevent her from continuing

those activities. The suppression of protected expression was thus itself an objective of the attack.

150. That feature also gives the case a dimension extending beyond the individual victim. As noted above, violence intended to silence a prominent public watchdog is capable of instilling fear in journalists, activists and other members of civil society engaged in scrutinising public officials and thereby of discouraging participation in public debate (see *Dink*, cited above, §§ 137-38, and *Özgür Gündem*, cited above, §§ 42-46). In the circumstances of the present case, that chilling effect was particularly serious given the nature of the attack, Mrs Gandzyuk's prominent role in public debate and the fact that the expression which the attack sought to suppress concerned allegations of corruption and abuse of public power.

151. The Court therefore considers that the attack struck directly at the values protected by Article 10 and disclosed an interference with the freedom of expression which raises a distinct Convention issue notwithstanding the findings already made under Article 2. Having regard to the established purpose of the attack and to its finding that the requisite functional connection with public authority existed, the Court considers that this interference was attributable to the respondent State.

152. There has accordingly been a violation of Article 10 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

153. 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

154. The applicants claimed 50,000 euros (EUR) each in respect of non-pecuniary damage.

155. The Government contended that the claim in respect of non-pecuniary damage was groundless and that by the decision of the trial court of 26 June 2023 they were awarded UAH 5,000,000 each for non-pecuniary damage.

156. The Court awards EUR 40,000 to the first and the second applicants jointly and, separately, EUR 40,000 to the third applicant, in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

157. The applicants also claimed EUR 16,700 for the costs and expenses incurred before the domestic authorities and the Court and requested that the claimed amount be paid directly into their lawyer's bank account.

158. The Government argued that the submitted documents lacked details on the specific actions taken by the lawyer, making it impossible to assess whether the costs were necessary, reasonable, or linked to particular violations.

159. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 4,000, plus any tax that may be chargeable to the applicants, in respect of costs and expenses incurred during the proceedings at the national level and before the Court. At the request of the applicant, the amount awarded under this head should be paid directly into the bank account of Ms Y. Zakrevska (see, for a similar approach, *Belousov v. Ukraine*, no. 4494/07, §§ 116-17, 7 November 2013).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Joins* to the merits of the complaint under the procedural limb of Article 2 the Government's objection that the applicants failed to exhaust domestic remedies by not challenging the legal classification of the offence before the trial court and, having examined it, *dismisses* it.

3. *Holds* that there has been a violation of Article 2 of the Convention under its substantive limb;

4. *Holds* that there has been a violation of Article 2 of the Convention under its procedural limb;

5. *Holds* that there has been a violation of Article 10 of the Convention;

6. *Holds*,
   (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State:

(i) EUR 40,000 (forty thousand euros) jointly to the first and the second applicants and, separately, EUR 40,000 (forty thousand euros) to the third applicant, plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 4,000 (four thousand euros) to all applicants, plus any tax that may be chargeable to them, in respect of costs and expenses, to be paid directly into the bank account of the applicants' representative;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

7. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 5 November 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytchik Registrar	Kateřina Šimáčková President

APPENDIX

List of applicants:

No.	Applicant's Name	Year of birth	Nationality	Place of residence	Represented by
1.	Viktor Mykhaylovych GANDZYUK	1954	Ukrainian	Kherson	Yevgeniya Oleksandrivna ZAKREVSKA, Olha Serhiivna VERETILNYK
2.	Nadiya Illivna GANDZYUK	1952	Ukrainian	Kherson	Yevgeniya Oleksandrivna ZAKREVSKA
3.	Sergiy Dmytrovych DENYSOV	1989	Ukrainian	Kherson	Yevgeniya Oleksandrivna ZAKREVSKA