



## Multiple violations in case concerning wife of former Chechen Supreme Court judge and her opposition-activist family

In today's Chamber judgment<sup>1</sup> in the case of [Zarema Musayeva and Others v. Russia](#) (application no. 4573/22) the European Court of Human Rights held, unanimously, that there had been:

**violations of Article 2 (right to life), 3 (prohibition of inhuman and degrading treatment), 5 § 1 (right to liberty and security), 6 § 1 (right to a fair trial) and 18 (limitation on use of restrictions on rights) of the European Convention on Human Rights.**

The case concerned Zarema Musayeva, wife of a former Chechen Supreme Court judge, who was forcibly removed in January 2022 by the police from her home in the Nizhny Novgorod region in Russia and taken 2,000 km away to Grozny in Chechnya, as well as her subsequent detention and the administrative and criminal proceedings brought against her there. It also concerned the ill-treatment that Ms Musayeva and her husband and daughter had been subjected to by the Chechen police, against the background of repeated public death threats against them by high-ranking Chechen officials, including the President Ramzan Kadyrov, who had promised to "hunt them down" and "cut their heads off".

The Court found that the Russian authorities, whose representatives had been the source of the death threats, had to have been aware of but had done nothing about the real and immediate risk to the lives of Ms Musayeva, her husband and their daughter. It also found that they had been ill-treated by the Chechen police and that Ms Musayeva's arrest and detention had been arbitrary and intended as retaliation against her family, who were involved in human-rights work and opposition activities in Chechnya. The hurried administrative proceedings against her, without legal representation and while she was quite obviously unwell, had breached fair trial guarantees.

Lastly, the Court held, unanimously, that in early March 2022 the Russian authorities had stopped providing updates on medical treatment given to Ms Musayeva, who suffers from diabetes, in spite of an interim measure it had issued, **in violation of Article 34 (right of individual petition).**

### Principal facts

The applicants are husband and wife, Zarema Musayeva and Sayda Yangulbayev, and their daughter, Aliya Yangulbayeva. They are all Russian nationals and were born in 1969, 1958 and 2000, respectively. Sayda Yangulbayev is a former judge of the Supreme Court of the Chechen Republic.

The applicants left Chechnya in 2017 and moved to the Nizhny Novgorod region in Russia (approximately 2,000 km away) after Sayda Yangulbayev and two of his sons (not applicants in the present case) had been tortured because of their opposition to the local leadership.

On 20 January 2022, fearing abduction by the Chechen authorities, the applicants were packing to leave Russia and go abroad when a group of police officers – claiming to be from Chechnya – demanded entry to their home. The officers stated that they intended to take Ms Musayeva and Mr Yangulbayev to Grozny for questioning about a fraud case.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

According to the applicants, the officers, ignoring requests for the questioning to take place in Nizhniy Novgorod, ended up breaking into their flat, grabbing only Ms Musayeva and forcing her into a waiting car. She had no passport, warm clothing, shoes or insulin for her diabetes.

She was then driven non-stop for the next 24 hours to Grozny, without food or medication. If she needed to relieve herself, she had to do it by the side of the road, barefoot in the snow. She alleges that the officers slapped and insulted her.

On arrival in Grozny on 21 January 2022 she was immediately taken to a police station for questioning as a witness, which lasted for about 20 minutes. During that time she was allowed a visit from the Chechen Human Rights Ombudsman who filmed her. In the video, which the Ombudsman posted on Instagram later the same day, she was sitting but barely conscious.

According to the Government, shortly after the questioning Ms Musayeva swore at people outside the police station and then struck a police officer on the left cheek .

She was immediately taken to court which found her guilty of the administrative offence of “petty hooliganism” and sentenced her to 15 days’ administrative detention. Her case was examined without a prosecutor or her lawyer being present. At the beginning of the hearing, she lost consciousness and an ambulance was called. She woke up in the remand prison on 22 January 2022 and was given food for the first time since she had left home. The case concerning her administrative conviction was sent back to the Supreme Court of the Chechen Republic for fresh examination in August 2022 and its outcome is unknown.

Lawyers were allowed to visit Ms Musayeva in detention for the first time at the end of her administrative detention, on 4 February 2022. They said she looked weak and could barely walk.

In parallel, criminal proceedings were opened against her for striking the police officer during her questioning at the Grozny police station and for fraud. She was convicted as charged and sentenced to five and a half years’ imprisonment, which was reduced to five years on appeal in September 2023.

In the meantime, at the request of the applicants’ lawyers, the European Court had instructed the Russian Government under Rule 39 (interim measures) of its Rules of Court to ensure that Ms Musayeva receive medical treatment and to provide fortnightly updates. The Government has not sent any update since early March 2022.

Ms Musayeva’s husband and daughter, who were shoved aside when she was taken away, were hurt and went to hospital. Doctors recorded injuries to their face and head. The applicants’ lawyers lodged a complaint with the Nizhniy Novgorod police who refused to open a criminal case for lack of evidence.

The applicants’ repeated calls to investigate public death threats against them by Chechen officials, including the President, were also not investigated.

## Complaints, procedure and composition of the Court

Relying on Articles 2 (right to life) and 3 (prohibition of inhuman and degrading treatment) of the European Convention on Human Rights, all three applicants alleged that they and their family had received repeated death threats, that they had been ill-treated by the Chechen police and that the authorities had failed to investigate these allegations.

Also relying on Article 5 (right to liberty and security) and Article 18 (limitation on use of restrictions on rights), Ms Musayeva also complained that her being forcibly removed by the police and her subsequent administrative detention for 15 days had not met Convention requirements and had been used as a pretext to put pressure on her relatives to cease their opposition activities against the Chechen authorities.

Lastly, Ms Musayeva complained of a breach of the guarantees of a fair trial under Article 6 (right to a fair trial) in both the administrative and criminal proceedings against her.

The application was lodged with the European Court of Human Rights on 21 January 2022.

The Court's procedure for processing of applications against Russia can be found [here](#).

Judgment was given by a Chamber of seven judges, composed as follows:

Pere **Pastor Vilanova** (Andorra), *President*,  
 Jolien **Schukking** (the Netherlands),  
 Georgios A. **Serghides** (Cyprus),  
 Darian **Pavli** (Albania),  
 Peeter **Roosma** (Estonia),  
 Ioannis **Ktistakis** (Greece),  
 Oddný Mjöll **Arnardóttir** (Iceland),

and also Milan **Blaško**, *Section Registrar*.

## Decision of the Court

The Court held that it had jurisdiction to deal with the applicants' complaints in so far as they related to facts which had taken place before 16 September 2022, the date on which Russia ceased to be a Party to the European Convention, and that the Government's failure to cooperate had presented no obstacles in that regard.

### Article 2

The documents submitted showed that in January and February 2022 the Chechen President and other high-ranking Chechen officials had publicly called for the murder of Ms Musayeva and her entire family, promising to "hunt them down" and "cut their heads off".

Thus, the Russian authorities had not only been aware of the risk to the applicants' lives, but their representatives had in fact been the source of the public death threats. Nor had the authorities taken any steps to assess those threats and the risk they posed to the applicants' lives and/or to take measures to prevent such a risk from materialising. The applicants' complaints requesting an investigation into the threats had been ignored.

The Court concluded that there had been a substantive and procedural violation of Article 2 in respect of all three applicants.

### Article 3

The Court noted that Ms Musayeva's account of her transfer to Grozny had been credible. The applicants had provided detailed submissions on what had happened to her, including the official record of her having lost consciousness during the hearing on 21 January 2022. Similarly, Ms Musayeva's husband and daughter had provided medical documents to prove their allegations of ill-treatment.

The Government on the other hand had not given any explanation for the events in question. Nor had the authorities properly investigated the applicants' allegations.

There had therefore been a substantive and procedural violation of Article 3 in respect of all three applicants concerning the events of 20 and 21 January 2022.

## Articles 5 and 18

The Court found that Ms Musayeva's detention from 20 January to 4 February 2022 had involved an element of bad faith on the part of the authorities and had been arbitrary, in violation of Article 5.

In particular, Ms Musayeva considered that her apprehension had amounted to an abduction, a term the Chechen President himself had used in one of his threatening public statements addressed to her and to her family on 24 January 2022. Furthermore, the Chechen police had not even considered interviewing her in Nizhny Novgorod and no sooner had she been questioned as a witness in Grozny had she been charged with an administrative offence, placed in detention, and a few days later criminal proceedings brought against her. Such precipitation suggested that the whole turn of events had been pre-prepared.

Moreover, the Court considered that the real reason behind her arrest and detention had been retaliation against her family, who were involved in human-rights work and opposition activities in Chechnya. It took into account the overall context such as the applicants' imminent departure from Russia, their ill-treatment, the direct involvement of officials at the highest level in the case and the repeated public statements made by the Chechen President, as well as the general crackdown on human-rights defenders and members of the opposition in the region.

The restriction on Ms Musayeva's liberty had been imposed for purposes other than those prescribed by Article 5 § 1 of the Convention. There had therefore also been a violation of Article 18 of the Convention taken in conjunction with Article 5.

## Article 6

Ms Musayeva's complaint regarding the administrative proceedings, which had been concluded in August 2022, that is before Russia ceased to be a party to the Convention, fell within the Court's jurisdiction. The Court could not however deal with the complaint about the criminal proceedings as they had been concluded in September 2023.

The Court found that the administrative proceedings, which had been carried out without a prosecutor, had not been impartial and that Ms Musayeva, who had quite obviously been unwell during the examination of her case and had had no legal representation, had not been able to effectively participate. There had therefore been a violation of Article 6 § 1.

## Article 34

The Government had stopped providing updates on Ms Musayeva's medical treatment in early March 2022, in spite of an interim measure issued by the Court requesting such information. The Russian State had therefore frustrated the purpose of the interim measure, which had been to maintain the status quo pending the Court's examination of the application, in breach of their obligations under Article 34 not to hinder in any way the effective exercise of the right to individual application.

## Other articles

The Court considered that it had examined all the main legal questions raised and held, by six votes to one, that there was no need to give a separate ruling on the remaining complaints under Articles 3, 5, 6 § 2 (presumption of innocence), 8 (right to respect for the home) and 2 of Protocol No. 7 (right of appeal in criminal matters).

## Just satisfaction (Article 41)

The Court held that Russia was to pay, in respect of non-pecuniary damage, 52,000 euros (EUR) to Ms Musayeva and EUR 6,500 each to her husband and daughter.

## Separate opinion

Judges Serghides expressed a partly dissenting opinion, which is annexed to the judgment.

*The judgment is available only in English.*

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