



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

FIRST SECTION

Application no. 796/07
Muslim Musayevich CHUDALOV and Tabarik CHUDALOVA
against Russia
lodged on 15 December 2006

STATEMENT OF FACTS

The applicants, Mr Muslim Chudalov and Ms Tabarik Chudalova, are Russian nationals, who were born in 1979 and 1951, respectively. The first applicant is currently serving his imprisonment term in correctional colony IK-4 in the Saratov Region. The second applicant is residing in Grozny, the Chechen Republic. They are represented before the Court by lawyers of Stichting Russian Justice Initiative (“SRJI”), an NGO based in the Netherlands with a representative office in Russia, and Mr. B. Elmurzayev, a lawyer practicing in Grozny.

The facts of the case, as submitted by the applicants, may be summarised as follows.

Mr Muslim Chudalov, the first applicant, is a son of Ms Tabarik Chudalova, the second applicant.

A. The first applicant’s arrest and alleged ill-treatment in 2005

The description of the events below is based on the information contained in the application form and the documents submitted by the applicants, including two written statements by the first applicant dated 29 December 2005 and 22 November 2006.

At about 12.30 p.m. on 8 January 2005 traffic police officers stopped the first applicant’s car at the Kurpskiy checkpoint and arrested him as a person whose name had been put on a wanted list. After that he was taken to the Terpskiy Department of the Interior where he was held until the evening of the same day. At about 7 p.m. on the same day several police officers handcuffed the first applicant and drove him to the Leninskiy Department of

the Interior in the town of Grozny (hereinafter also “the Leninskiy ROVD”). On their way the police officers hit and kicked him on his head, using also their handcuffs.

After their arrival at the Leninskiy ROVD the applicant was taken to an office where police officers put a black plastic bag on his head and connected electric wires to his ears. His hands were cuffed behind his back and he was hit on his kidney area with a truncheon and on his fingers with a green ruler. The police officers requested that he confessed to several crimes but the first applicant denied his involvement in them and they renewed the beatings. They also administered electric shocks through the wires attached to the first applicant’s body which made him feel like something sharp was cutting him inside and following which he fainted. However, they brought him back to consciousness and continued with the ill-treatment, taking turns once any of them got tired. There were about ten police officers involved in the first applicant’s ill-treatment. After several hours of such treatment the first applicant, who could not bear it any longer, agreed to sign some papers that they gave him. His interrogation and ill-treatment continued until 2 a.m. on 9 January 2005, when he was brought to one of the cells of the police ward (*изолятор временного содержания*) of the Leninskiy ROVD.

In the morning of 9 January 2005 the first applicant was brought back to the same office, where police officers made him sit on a chair, tied his hands behind his back, put a plastic bag over his head and continued their interrogations, hitting him in the liver area and strangling him with the plastic bag. On each occasion when they realised that he was close to fainting, they stopped the ill-treatment, brought him back to consciousness and continued mistreating him.

At about noon on the same day investigator E.S. of the prosecutor’s office of the Leninskiy District of Grozny (hereinafter also “the district prosecutor’s office”) entered the office and requested that the first applicant signed some documents concerning a murder. The latter refused, requesting a lawyer and denying his involvement in any crimes. E.S. got angry, ordered the police officers “to continue working on the first applicant” and left. After that they put the first applicant with his face against the floor, cuffed his hands behind his back, removed his shoes and hit him on the feet soles with their truncheons, two police officers sitting on his back. They continued ill-treating him in that way until the evening, when officers R.Kh. and I.A. had another idea and pressed the right side of his face against a heated cast-iron movable wood stove. Despite the first applicant’s cries for mercy, they continued torturing him and, unable to withstand the treatment, he signed further papers they requested him to sign. In his submission, such treatment continued during two days without respite and from the officers who tortured him he specifically memorised officers R.Kh. and A.I. who were particularly cruel.

On 9 January 2005 the first applicant signed some 15 self-incriminating statements, confessing to his involvement in various crimes. The related interrogations were conducted by I.Abdur., A.A. and M.Kh., officers of the Leninskiy ROVD, in the absence of a lawyer for the first applicant.

From the documents submitted by the first applicant, which are mostly illegible and whose typed versions he furnished, it follows that on 9 January 2005 he gave at least seven “explanations” (*объяснение*) to officer

I. Abdur. of the Leninskiy ROVD, in which he confessed to having participated in several episodes of explosions of military vehicles, murder of several persons, participation in an extremist group and unlawful possession and carrying of arms and explosives. Copies of seven further documents, also entitled “explanations” and mostly illegible, two of them dated 7 and 9 August 2005, two others – 4 and 10 January 2006 (in the applicant’s typed version) and the remaining three apparently undated, contain the first applicant’s confessions to having committed further violent crimes. In so far as the documents in question are legible, it appears that those explanations were given by the applicant to police officers A.A. and M.Kh. of the Leninskiy ROVD. According to the applicant, during the two days of his continued ill-treatment the police officers of the Leninskiy ROVD made him repeat his self-incriminating statements, so that he learnt them by heart and was able to reproduce them later and threatened him that, should he denounce them, the ill-treatment would continue.

On 10 January 2005 investigator E.S. requested the Bar Association of the Chechen Republic to appoint a lawyer for the first applicant.

On 11 January 2005 lawyer B. was issued with a representation mandate (*opðep*) to represent the first applicant.

On 11 January 2005 the Leninskiy District Court of Grozny authorised the first applicant’s placement in custody in the presence of investigator E.S. and lawyer B. At the hearing the first applicant did not raise the ill-treatment issue before the court, fearing reprisals from the Leninskiy ROVD police officers because he knew he would be returned there after the hearing.

On 11 and 13 January 2005 the first applicant signed two documents entitled interview records of the accused (*протокол допроса обвиняемого*) and containing further self-incriminating submissions. The copies of the related documents are mostly illegible.

On 3 February 2005 officers I.A. and R.Kh. beat the first applicant up before taking him to a hearing in a criminal case against M.L. and Mr Vladovskiy and requesting that he testified against the latter. According to the applicant, following the beatings, he could barely walk and two officers had to assist him in moving around when he was brought to the hearing on the same date. Fearing further ill-treatment and given the presence of police officers of the Leninskiy ROVD in the courtroom, he testified against M.L. and Mr Vladovskiy, as instructed. According to a copy of the hearing record, Mr Vladovskiy’s lawyer T.U. requested that the trial court ordered the first applicant’s medical examination with a view to verifying whether he was testifying under duress. That request was turned down.

On 7 February 2005 the first applicant was transferred to remand prison SIZO 20/1 in Grozny. In his submission, after his arrest on 8 January 2005 and before his transfer to that remand prison a month later officers of the Leninskiy ROVD had continued mistreating him on a regular basis, so that he learnt by heart the self-incriminating statements they had made him sign earlier.

Subsequently, the applicant was transferred back to the Leninskiy ROVD and was held there on the following dates:

(a) from 28 February to 12 March 2005,

- (b) from 22 March to 30 April 2005;
- (c) from 23 May to 1 June 2005, and
- (d) from 17 June to 18 July 2005.

According to the first applicant, on 28 February 2005 officers of the Leninskiy ROVD cuffed his left hand with the right foot and the right hand with the left foot, put a plastic bag on his head and hit him with wooden sticks on his hands and feet, punishing him for his complaint to the Supreme Court of the Chechen Republic about his previous ill-treatment – apparently in the proceedings against Mr Vladovskiy. After those beating the first applicant could barely walk on his own and the police officers kept him at the Leninskiy ROVD so as to let his injuries disappear. However, they were nonetheless recorded upon his admission on 12 March 2005 to the temporary isolation ward of the Ministry of the Interior in Grozny.

On 4 March 2005 the investigation of the criminal case against the first applicant (case file no. 40021) was entrusted to investigator G. of the district prosecutor's office.

On 22 March 2005, following his transfer back to the Leninskiy ROVD, police officers again put a plastic bag on his head, cuffed his hands behind his back and hit on his toes with a hammer. The policemen wanted the first applicant to confirm his previous self-incriminating statements on 24 March 2005 in the presence of G., the new investigator in charge of his criminal case, and his lawyer, which the applicant did, as requested.

On 23 May 2005 police officers of the Leninskiy ROVD again beat up the first applicant, punishing him for his complaints about the ill-treatment and requesting that he confirmed his self-incriminating statements to G. on the following day.

On 24 May 2005 the first applicant asked G., in the presence of his lawyer, to put an end to his ill-treatment and the latter promised him that no one would beat him up if he signed more papers which the first applicant did.

On 17 June 2005, after his transfer to the Leninskiy ROVD, the first applicant was again severely beaten up. He had his hands and feet cuffed behind his back and a plastic bag put on his head to make him suffocate. The police officers also administered electric current to his body, pushed him on the ground and hit him with wooden sticks on the soles of his feet. Unable to stand the treatment, the applicant signed further documents requested of him.

B. Proceedings concerning the first applicant's alleged ill-treatment in 2005

On 12 January 2005 the first applicant's lawyer B. complained to the prosecutor's office of the Leninskiy District of Grozny that on 11 January 2005 he had noticed on the right side of the head of his client several abrasions covered with crust which the latter explained by having fallen on the ground, denying having been subjected to beatings by police officers. B. insisted that the first applicant's explanation was unsatisfying and requested that the matter be investigated and that the first applicant's medical examination be conducted.

On 14 January 2005 investigator E.S. instructed the Forensic Bureau of the Chechen Republic (hereinafter also “the forensic bureau”) to verify whether the first applicant had any bodily injuries.

In its report no. 29 of 14 January 2005 the forensic expert indicated that “... on the [first applicant’s] body were found the following injuries: bruise on the right side of the skull, swelling on the right side of the face...”. It appears that the forensic examination was carried out on the premises of the Leninskiy ROVD.

On the same date investigator E.S. interviewed officers R.Kh., I.A. and I.Abdur. of the Leninskiy ROVD as witnesses. It follows from their interview records, in so far as they are legible, that they all stated that the first applicant had been arrested on 8 January 2005 and on the same date brought to the Leninskiy ROVD. R.Kh. denied having participated in the first applicant’s interrogations or having applied physical force to him and stated that he himself was a victim of one of the crimes (an explosion of a military convoy) of which the first applicant was suspected. I.Abdur. submitted that he had participated in the first applicant’s interrogations; that no psychological or physical pressure “beyond what had been permitted” had been applied to the applicant, and that during an interrogation the applicant had fainted and fallen on the ground, touching a hot metal stove, following which he had burnt his face. Officer I.A. stated that he had participated in the first applicant’s interrogations together with R.Kh. and I.Abdur; that I.A. had not applied physical or psychological pressure to the first applicant “beyond what had been permitted”, and that the first applicant had burnt his face as a result of having fallen on a hot stove.

On 15 January 2005 E.S. compiled the first applicant’s interview record, according to which the latter stated that he had burnt his face because he had fallen on a hot stove, without involvement of any third persons. The interview record contains the first applicant’s signature.

By a decision of 20 January 2005 investigator E.S. refused to open a criminal case into the first applicant’s alleged ill-treatment. He referred to the statement by I.Abdur., according to which the first applicant had fainted during an interrogation and, when falling, had hit the hot stove and noted that officer I.A. had given a similar statement. E.S. further observed that the first applicant’s medical examination had discovered a wound on the right side of his face in the cheekbone region and abrasions on the right side of his face, which could have been caused by thermal impact at the time and in the circumstances described by the first applicant, that is, by falling on a burning surface with an ensuing sliding of the right side of the face against the protruding part of a movable wood stove.

On the same date E.S. sent letters to the first applicant’s lawyer B. and the second applicant informing them of his decision and of their right to challenge it before a higher-ranking prosecutor or a court.

On 10, 16, 17 and 21 February 2005 the first applicant complained in detail to the Prosecutor of the Chechen Republic (hereinafter also “the republican prosecutor”) that he had been repeatedly subjected to torture and ill-treatment by officers of the Leninskiy ROVD during his detention in that facility in the time span between 8 January and 7 February 2005, with a view to obtaining his self-incriminating statements. He submitted that he was deliberately held in that facility for prolonged periods of time, so as to

make the visible traces of injuries disappear. He claimed, however, that his co-detainees in the ROVD had witnessed the marks of ill-treatment on his body and the fact that he could barely move on his own and requested that they be identified and interviewed and that his thorough medical examination be conducted. He further requested that an independent criminal investigation into his allegations be opened, those responsible for his ill-treatment be punished and that his self-incriminating statements, as well as his statements against M.L. and Mr Vladovskiy be disregarded as given under torture. Lastly, the first applicant sought a ban on his transfer back to the Leninskiy ROVD, submitting that he risked further ill-treatment and feared for his life.

In the first applicant's submission, on 18 February 2005 the Supreme Court of the Chechen Republic examining the case against Mr Vladovskiy held a hearing on the premises of remand prison SIZO 20/1 in Grozny with the first applicant's participation. At the hearing the first applicant informed the court that he had been tortured to incriminate himself and also M.L. and Mr Vladovskiy and requested it to declare the impugned statements, including those given on 3 and 4 February 2005 inadmissible as given under torture.

By decision of 21 February 2005 investigator E.S. of the district prosecutor's office dismissed as unfounded the first applicant's complaints about the alleged ill-treatment addressed to the republican prosecutor. The decision stated that the applicant's submissions concerning his ill-treatment had already been verified, that the first applicant had given his statements voluntarily and that all investigative steps involving him had been carried out in the presence of a lawyer. By letter of the same date E.S. informed the first applicant that his complaint of 10 February 2005 had been also dismissed.

By three decisions of 25 February 2005 investigator E.S. refused to institute criminal proceedings into the first applicant's alleged ill-treatment, following the complaints by the latter to the republican prosecutor's office and the Supreme Court of the Chechen Republic, forwarded to the district prosecutors' office. In so far as those documents are legible, E.S. concluded, in a concise manner, that the first applicant's allegations were unfounded. On the same date he sent to the first applicant two letters informing him of those decisions.

On 1 March 2005 the district prosecutor's office received the second applicant's complaint to investigator M. about her son's ill-treatment in the Leninskiy ROVD, in which she described in detail how the first applicant had been tortured, including the burning of his face. The complaint was transferred to investigator E.S., who, by a decision of 3 March 2005 refused to open a criminal case into those allegations, stating that they had already been examined and dismissed as unfounded.

By decision of 18 March 2005 investigator G. of the district prosecutor's office dismissed the first applicant's complaints about his alleged ill-treatment, forwarded to him by the Supreme Court of the Chechen Republic. He referred to previous refusals to institute criminal proceedings into the first applicant's alleged ill-treatment and concluded that his allegations were unfounded.

By a letter of 10 May 2005 investigator G. of the district prosecutor's office informed the first applicant that he had examined his complaints about the alleged ill-treatment forwarded by Office of the Prosecutor General of the Russian Federation and that he had refused to open a criminal investigation into those allegations.

On an unspecified date in 2005 the second applicant complained about her son's ill-treatment to prosecutors of various levels.

By decision of 3 January 2006 investigator B. of the prosecutor's office of the Chechen Republic refused to open a criminal case into the first applicant's alleged ill-treatment with reference to the statements by investigator G. of the district prosecutor's office, interviewed by B., and officers R.Kh., I.A., M.Kh., A.A., T.T. and Z.T. of the Leninskiy ROVD, interviewed by the Supreme Court of the Chechen Republic, apparently during the examination of the first applicant's criminal case (see below).

On 20 March 2006 the prosecutor's office of the Chechen Republic replied to the second applicant that the inquiry into her son's alleged ill-treatment had been thorough and the decision of 3 January 2006 refusing to institute criminal proceedings was well-founded.

On 31 March 2006 the first applicant and on an unspecified date the second applicant requested access to the case-file concerning the inquiry into the first applicant's ill-treatment complaint dismissed on 3 January 2006. This request was turned down on 11 April 2006.

By decision of 17 November 2006 the Zavodskoy District Court of Grozny dismissed the second applicant's complaint under Article 125 about the decision of 3 January 2006. The court considered that the impugned decision was well-founded and that the arguments concerning the ill-treatment of the first applicant were effectively refuted by the findings of the domestic courts which had convicted him by a final judgment of 15 June 2006 (see below).

C. The first applicant's trial

On an unspecified date in 2005 the criminal case against the first applicant was sent for trial to the Supreme Court of the Chechen Republic. The charges against the first applicant included participation in an organised armed group, eight counts of aggravated murder, two counts of terrorism, two counts of aggravated assault against law-enforcement officials and unlawful acquisition, storage and carrying of arms and explosives committed in an organised group.

1. Relevant information from the trial court hearing record

Before the trial court the first applicant consistently submitted that he had given his self-incriminating statements under torture, referring to specific dates and methods used, as well as naming some of the alleged perpetrators. Among other things, he referred to his ill-treatment between 8 and 11 January, on 3 and 28 February, 23 March and 24-25 May 2005. He further asserted that officers I.A. and R.Kh. of the Leninskiy ROVD had beaten him up before his participation as a witness in a hearing in a criminal case concerning L.M. and Mr Vladovskiy, so as to secure his testifying against them on 3 February 2005, which he ultimately did. He asserted that

he had been ill-treated by officers of the Leninskiy ROVD each time he had been transferred to its premises and that, whilst those police officers had initially mistreated him with a view to obtaining his confessions, they then tortured and beat him up so that he confirmed his earlier statements, including during the on-the-spot verifications of his statements, and also in reprisal for his complaints about the ill-treatment. The first applicant asserted that he was only able to raise the issue of ill-treatment while outside the premises of the Leninskiy ROVD and the control of its police officers but that his continued transfers back to that authority had exposed him to further ill-treatment, so that he had to sign further self-incriminating statements, even in the presence of his lawyer because he knew that the latter could not protect him from torture once he was left alone with the Leninskiy ROVD police officers.

In connection with the first applicant's allegations of ill-treatment the trial court summoned and interviewed several police officers of the Leninskiy ROVD, as well investigator E.S. of the district prosecutor's office. Police officers M.Kh, R.Kh., I.A. and A.A. and investigator E.S. flatly denied having ill-treated the first applicant or "applied any unlawful methods" to him or having seen anyone in their presence do so. In their submission, he had voluntarily given detailed information concerning the offences of which he stood charged in court.

According to the trial hearing record, I.A. also stated that the first applicant had burnt his face because he had fainted during an interrogation and had fallen on a hot stove. I.A. was unable to explain why the first applicant had suddenly fainted while being interviewed. A.A. submitted that he had witnessed the applicant's fall on the stove and had tried to prevent him from falling but had not succeeded in doing so. A.A. also specified that the police officers had collected the first applicant's "explanations" without a lawyer and that when the first applicant was interviewed by the investigator, a lawyer was generally present. E.S. asserted that all investigative steps were carried out in the presence of the first applicant's lawyer, that he had carried out an inquiry into the applicant's allegations of ill-treatment, including the circumstances in which the applicant had sustained the burn, and had concluded that his submissions were unfounded.

2. Inquiry initiated by the trial court

On 11 October 2005 the presiding judge granted the request of the prosecution and instructed the prosecutor's office of the Chechen Republic to examine the first applicant's allegations that he had been repeatedly ill-treated by officers of the Leninskiy ROVD, including officers I.A. and R.Kh., with a view to obtaining his confessions.

On 17 October 2005 the inquiry was entrusted to the deputy prosecutor of the district prosecutor's office Mr D., who interviewed officers I.A. and R.Kh. of the Leninskiy ROVD and investigators E.S. and G. of the district prosecutor's office in the time span between 24 and 30 October 2005. Their statements, as contained in their written "explanations", can be summarised as follows. I.A. denied having applied physical force to the applicant and stated that all investigative steps involving the latter had been carried out in accordance with the law and in the presence of a lawyer. R.Kh. denied having applied physical or psychological pressure to the applicant and stated

that he had burnt his face when he had fallen at a stove after having fainted during an interrogation. E.S. and G., in their identically worded explanations, denied having applied “unlawful methods of investigation” to the applicant or having been aware that such methods had been applied to him. According to them, all investigative steps involving the first applicant had been carried out in the presence of a lawyer and neither E.S. nor G. had received during the preliminary investigation any complaints from the first applicant or his lawyer concerning his alleged ill-treatment.

By decision of 30 October 2005 D. refused to institute criminal proceedings into the first applicant’s alleged ill-treatment. The decision relied on the statements by officers I.A. and R.Kh. and investigators E.S. and G. who denied having ill-treated the first applicant or having received complaints from him or his lawyer to that effect during the preliminary investigation. It further stated, with reference to conclusions of earlier inquiries, that the applicant must have sustained the injuries to his face after having fainted during an interrogation and having fallen on a stove and without involvement of the police officers. The decision also contained references to the logbook of the police ward of the Leninskiy ROVD concerning admitted detainees. According to an entry of 10 January 2005, the applicant was admitted to the facility at 5.20 p.m. with “complaints about health; bruises on the face and back”. Another entry dated 23 October 2005 indicated: “complaints about headache, dizziness. [Medical] assistance provided”. Having regard to the foregoing, deputy prosecutor D. concluded that the applicant’s allegations of ill-treatment in the Leninskiy ROVD were unfounded.

The documents of the inquiry were appended to the criminal case-file.

3. The trial court judgment of 26 December 2005

By judgment of 26 December 2005 the trial court found the first applicant guilty of having participated in an organised armed group founded by an individual in respect of whom criminal proceedings had been severed in a separate criminal case, six counts of aggravated murder, participation in terrorist attacks and assaults on law-enforcement officials and one count of unlawful acquisition, possession and carrying of arms and explosives. In finding the first applicant guilty the trial court relied in the first place on the his pre-trial statements given on 9, 11, 13 and 24 January 2005; 2 February, 24 March, 25 May, 1 and 8 July 2005, as well as during the on-the-spot verification of his statements on 15 January 2005. In respect of those statements the court noted that it considered them to contain detailed accounts of how the applicant had committed the offences of which he stood accused and that his allegations that they had been given under torture were a defence strategy adopted by him. Moreover, his allegations of ill-treatment had been verified and dismissed as unfounded by the prosecutors in the course of an inquiry. The police officers interviewed by the trial court denied having mistreated the first applicant and asserted that he had confessed to the imputed crimes of his own free will. According to the medical examination, the bruise and the abrasions on the first applicant’s face could have been sustained as a result of his falling on the hot stove. The applicant gave his statements in the presence of his lawyers.

The trial court went on to note that on 3 February 2005 the first applicant had participated in a hearing in a separate criminal case against M.L. and Mr Vladovskiy, where he had acknowledged that he had participated, in concert with those two individuals, in an explosion against a military convoy in autumn 2002. Although in the ensuing hearing on 18 February 2005 in that case the first applicant had withdrawn that statement as given under duress, it was confirmed by a pre-trial statement by M.L. to the effect that M.L. and the first applicant had in concert murdered Kh. and had committed two terrorist acts and two assaults against law-enforcement officials. Accordingly, the trial court accepted the first applicant's statement of 3 February 2005 as reliable.

The trial court further held that the first applicant's guilt was also confirmed, among other things, by a number of pre-trial statements by M.L., statements by investigator E.S. and police officers of the Leninskiy ROVD in which they submitted that the first applicant had confessed to all crimes of his own will; (pre-trial) statements by several victims who submitted that they had discovered their relatives' corpses or learnt from other persons that they had been killed; statements by several persons who submitted that unknown persons had exploded military vehicles, and a number of crime scene inspection and ballistic reports and medical forensic examinations. The trial court also referred to the "information" from the Chechen Department of the Federal Security Service (hereinafter also "the FSB") and the Operational and Search Bureau no.2 to the effect that in 2002 the first applicant had joined an illegal organised armed group and had participated in its activities.

The trial court sentenced the first applicant to twenty five years' imprisonment, to be counted as from 9 January 2005.

By a decision of 26 December 2005 the trial court terminated the applicant's criminal prosecution on charges of theft, one count of murder and one count of unlawful possession of arms following the prosecution decision to withdraw those charges.

The applicant appealed against his conviction, arguing, among other things, that he had been convicted on the basis of his self-incriminating statements obtained under torture. He stressed that although at the pre-trial stage the police officers of the Leninskiy ROVD had obtained his confessions to having committed fifteen offences, they chose to advance before the trial court charges concerning only six of those crimes. He further stressed that the materials of the case file unequivocally indicated that L.M.'s incriminating statements against him concerning their participation, together with Mr Vladovskiy, in explosive attacks against military forces had been likewise obtained under torture and that, despite the torture, Mr Vladovskiy had not confessed, although he had had to cut his veins. The first applicant further stressed that police officers of the Leninskiy ROVD had, in fact, admitted having applied force to him, stating that "it was not beyond what was permitted".

4. Appellate court judgment of 15 June 2006

By judgment of 15 June 2006 the Supreme Court of Russia found that the trial court's conclusions in respect of the first applicant's conviction regarding his participation in several episodes of explosion of military

vehicles, qualified as terrorist acts and assaults on law-enforcement officials were contradictory. Accordingly, it set aside the trial court's judgment in that part and sent it for a fresh examination by the trial court. The court upheld the judgment of 26 December 2005 in the remaining part and decreased the first applicant's imprisonment term to twenty years. Finding that the case-file contained evidence that the first applicant had been arrested on 8 January 2005, the appellate court held that that date, and not 9 January 2005, was to be taken as the starting date for the applicant's serving the sentence.

5. The trial court judgment of 13 October 2006

By judgment of 13 October 2006 the Supreme Court of the Chechen Republic found the first applicant guilty of assault at law-enforcement officials and terminated the proceedings as regards the connected charges of participation in terrorist acts and further assaults because the prosecution had withdrawn them. Having regard to those conclusions and the appellate court judgment of 15 June 2006, the trial court sentenced the first applicant to twenty one years' imprisonment.

It is unclear if the first applicant appealed against that judgment.

D. The first applicant's alleged ill-treatment in 2012 and the related proceedings

At about 11 a.m. on 25 April 2012 several persons wearing masks entered cell no. 2 of the punishment ward of colony IK-4 in the Saratov Region, where the first applicant was held at the material time with other inmates, and started beating them up. Shortly thereafter they took the first applicant to cell no. 13 where they cuffed his hands, suspended him to the ceiling and started kicking and hitting him with their truncheons. A.K., head of one of the departments of the Saratov branch of the Federal Service for the Execution of Sentences (hereinafter also "the FSS"), as well as officers S.D., D.Sh. and V.R. of the correctional colony participated in the first applicant's beatings. After a while the first applicant fainted. A nurse was called to him, checked his arterial tension which had significantly dropped, made an injection and left. Following her departure the first applicant was again suspended by handcuffs and the beatings continued, the officers cursing at the first applicant and humiliating him. After a while they took him back to cell no. 2 where they put him on his knees, his hands cuffed behind his back. The first applicant started having heart problems, following which a nurse was called again to him and made an injection. In the first applicant's submission, all those events were recorded on a video camera and his co-detainees F.A. and S.Ya. had witnessed his state after the beatings.

In the evening on the same day when the first applicant and other detainees were recuperating their mattresses, they were ordered to run and, while running, were kicked with truncheons on their legs. The same events occurred in the morning of 26 April 2012 when the first applicant woke up and during his walk on that day. At the time of those beatings A.K., S.D. and D.Sh. allegedly said that the first applicant and his mother were to be shot dead, cursing them and using abusive language. During the entire day

they made the first applicant squat down and do the press-ups, humiliating him. In the first applicant's submission, this treatment continued until 27 April 2012.

On 4 May 2012 M.B., member of the Public Supervisory Commission of the Chechen Republic, wrote to the prosecutor of the Saratov Region, the regional ombudsman, the head of the Saratov branch of the FSS and the head of the FSS of Russia, submitting that she had been alerted by the first applicant's mother to her son's ill-treatment on 25-26 April 2012 by officers A.K., S.D., D.Sh. and V.R. The letter stated that on 3 May 2012 the first applicant had been visited by a lawyer, who had confirmed the fact of his client's ill-treatment, stating that the first applicant's entire body had been covered with bruises, that both his hands had borne marks of handcuffs by which he had been suspended during the beatings and that his left hand had been severely damaged. M.B. requested that the bodies to which she was addressing her letter examined the situation and took the necessary measures.

By letter of 10 May 2012 the deputy prosecutor of the Saratov Region informed the first applicant's mother that following her complaints, on 5 May 2012 officials of the prosecutor's office had visited colony IK-4 to verify her submissions. During the on-the-spot check they had examined the relevant documentation and interviewed the first applicant and other inmates who alleged that officers of the correctional colony had applied "unlawful means" to them. Following the check, the relevant materials had been sent to the competent bodies with a view to deciding whether a criminal case was to be opened.

On 12 May 2012 the first applicant's lawyer A.M. complained to the prosecutor supervising penitentiary institutions in the Saratov Region and the investigating department of the investigative committee of Russia in the Saratov Region that on 25 and 26 April 2012 the first applicant had been subjected to ill-treatment, describing it in detail and enclosing the first applicant's detailed description of it. A.M. further submitted that when he had managed to visit his client on 11 May 2012, despite being hindered in this by the colony officials under various pretexts, he had noticed numerous bruises on his back, forearm and legs, traces of cuffing on his arms and an injury to the joint of the left shoulder. When A.M. talked to the head of the colony S.D., the latter allegedly told him that he had beaten the first applicant up and would continue doing so. A.M. requested that the first applicant's forensic medical examination be immediately conducted and that a criminal case be opened with a view to bringing A.K., S.D., D.Sh. and V.R., responsible for his client's ill-treatment, to justice.

On 12 May 2012 an expert of the Forensic Medical Expert Bureau of the town of Pugachev examined the first applicant on the colony premises. According to his report no. 298 of the same date, the first applicant submitted that he had been hit with a truncheon on 26 April 2012. He complained about pain in the liver region and in the left shoulder. The expert established that the first applicant had four extended yellowish-purple bruises measuring from 3×1 cm to 7×1 cm on the front external parts of his hips. The report further noted that, according to the first applicant's medical file, at 3 p.m. on 26 April 2012 he was examined by a prison doctor "in connection with eventual injuries sustained as a result of

application of special means”; his state of health was considered “satisfactory”, and the following injuries were recorded: “traces of handcuffs on both wrists, numerous bruises of linear form (4) and purple colour [measuring] about 3,0×8,0 cm on the hips and buttocks”. Having examined the first applicant, his medical file and his submissions, the expert concluded that at the time of his examination the applicant had four bruises on front external part of his hips and that, according to the medical file, the first applicant had had bruises on his buttocks. The expert considered that the bruises on the hips could have been caused by an impact of a blunt solid object or objects more than twelve to fourteen days but less than twenty-one days prior to the examination and that the bruises on the buttocks could have been sustained in the time span of one day prior to the first applicant’s examination by the prison doctor. Accordingly, he concluded that the above-mentioned injuries could have been sustained on the date and the circumstances described by the first applicant.

By a letter of 15 May 2012 investigator A.K. of the Pugachevskiy Interdistrict investigating department (hereinafter also “the investigating department”) informed the first applicant and other detainees that by a decision of the same date he had refused to institute criminal proceedings into their allegations of ill-treatment. The letter stated that the decision was enclosed and that it was amenable to a review by higher-ranking investigating authorities or a court. A copy of the decision of 15 May 2012 was not provided to the Court.

On 26 May 2012 a letter along the same lines was sent to the first applicant’s mother.

By letter of 29 June 2012 the prosecutor’s office of the Saratov Region informed the first applicant’s mother that on 4 June 2012 head of the investigating department had set aside the decision of 15 May 2012 refusing to institute criminal proceedings into her son’s alleged ill-treatment and ordered that an additional inquiry be carried out. On 13 June 2012 another refusal to open a criminal case had been issued and on 29 June 2012 it had been, yet again, quashed by the head of the investigating department who instructed his subordinates to carry out an additional inquiry. In the meantime, on 14 May 2012 the first applicant had been transferred to correctional colony OTB-1 in the Saratov Region with a view to having his state of health examined by doctors.

By letter of 5 July 2012 the investigating department informed the first applicant’s mother that on an unspecified date it had decided not to institute criminal proceedings into her son’s alleged ill-treatment and that she could challenge it before higher-ranking prosecutors or a court. The decision refusing to open a criminal case was not enclosed to the letter.

By letter of 9 August 2012 the prosecutor’s office of the Saratov Region informed the first applicant’s mother that the refusal to open a criminal case into the ill-treatment of her son issued on 13 June 2012 had been set aside on 23 July 2012 and that an additional inquiry ordered in that connection was under way.

COMPLAINTS

In his application form the first applicant complains under Article 3 of the Convention that he was continuously ill-treated and tortured in the Leninskiy ROVD in Grozny in the period from 8 January to 7 February 2005, as well each time he was subsequently placed there or was otherwise under the control of the police officers of that authority and, in particular, on 28 February, 22 March and 23 May 2005. Under the same Convention provision he complains that the authorities failed to carry out an effective investigation of his alleged ill-treatment.

The first applicant further submits under Article 5 that his repeated prolonged detention in the police ward of the Leninskiy ROVD was in breach of Article 5 § 1 of the Convention and that his detention after conviction was unlawful because the conviction itself was unfair.

Under Article 6 §§ 1 and 2 of the Convention the first applicant complains that he was convicted on the basis of self-incriminating statements obtained under torture and that the domestic courts incorrectly assessed the evidence before them.

He also complains under Article 6 § 1 that the examination of the complaint against the refusal to institute criminal proceedings issued on 3 January 2006 had been unfair, without providing further details.

The first applicant further submits that he was deprived of effective remedies in respect of his complaints under Article 3 concerning his ill-treatment in the Leninskiy ROVD and the lack of investigation, as well as the complaints under Article 5 concerning his detention there and his complaints under Article 6 about the criminal proceedings against him, in breach of Article 13 of the Convention.

The second applicant complains under Article 3 that she endured mental suffering because of the first applicant's ill-treatment and the authorities' refusal to investigate it.

In his letters of 24 July and 11 September 2012 the first applicant complains under Article 3 that on 25 and 26 April 2012 he was ill-treated by officers of colony IK-4 in the Saratov Region and that the authorities refused to investigate his alleged ill-treatment.

QUESTIONS TO THE PARTIES

1. Having regard to the first applicant's specific submissions, was there a violation of Article 3 of the Convention on account of his alleged ill-treatment, threats and intimidation in the period between 8 January and 18 June 2005, while he was on the premises of the Leninskiy ROVD or otherwise under the control or in presence of police officers of the Leninskiy ROVD in Grozny?

In addressing the above question the parties are requested to deal, *inter alia*, with the following points:

(a) Once in the hands of the authorities:

- (i) What was the exact time of the first applicant's arrest?
- (ii) Was the first applicant informed of his rights? If so, when, and what rights was he informed about upon his arrest?
- (iii) What was the exact time of his admission to the Leninskiy ROVD on 8 January 2005?
- (iv) Was he given access to a lawyer after his admission and, if so, when?
- (v) Was he given access to a doctor and, if so, when and was his medical examination conducted out of the hearing and out of sight of police officers and other non-medical staff?
- (vi) Was he given the possibility of informing a family member, friend, etc. about his detention and his location and, if so, when?
- (vii) On what dates and during what periods of time in the time span between 8 January and 20 July 2005 was the first applicant held on the premises of the Leninskiy ROVD in Grozny, including its police ward (*ИБС Ленинского РОВД г. Грозного*)?
- (viii) In what other detention facilities and on which dates was the first applicant held in the period between 8 January and 20 July 2005?

(b) What activities involving the first applicant were conducted at the premises of the Leninskiy ROVD and outside those premises by officers of the Leninskiy ROVD and investigators S.E. and G. of the district prosecutor's office or with their participation in the time span between 8 January and 20 July 2005, and at which times of the day? What was the first applicant's procedural status? What confessions and/or statements did the applicant give during that period (please submit relevant documents, in particular, records containing the first applicant's statements/confessions, which are **legible**/provide their typed copies, where necessary)? Was the applicant given access to a lawyer before and during each such activity?

2. Have the authorities complied with their positive obligation under Article 3 of the Convention to carry out an effective investigation into the first applicant's allegations of ill-treatment? In particular:

(a) Were the investigating authorities who carried out the inquiries into the first applicant's allegations of ill-treatment independent from the investigating authorities who were responsible for investigating the criminal case against him?

(b) Which officers from which police department(s) were involved in the inquiries into the first applicant's complaints of police ill-treatment? What operational and other activities did they carry out in the course of the inquiries and were those sufficient to ensure that the investigation into alleged torture be thorough and effective?

(c) The parties are invited to specify, in particular:

-whether forensic medical examinations/ medical expert examinations were performed in respect of the first applicant in order to establish the nature and the origin of his injuries?

-when was the first applicant questioned/interviewed in respect of his allegations of ill-treatment in the framework of each of the inquiries conducted into it?

The Government are requested to submit relevant **legible** documents and, if need be, their typed copies, in response to each of the above questions, including, but not limited to:

-forensic expert report no. 29 of 14 January 2005 in respect of the first applicant;

-the logbooks of the police ward of the Leninskiy ROVD (*книга учета лиц, содержащихся в ИВС*) for the period between 8 January and 20 July 2005;

-the medical logbook of individuals admitted to the police ward of the Leninskiy ROVD (*медицинский журнал первичного учета лиц, поступающих в ИВС Ленинского РОВД*) for the period between 8 January and 20 July 2005,

- similar logbooks in respect of all other detention facilities in which the first applicant was held between 8 January and 20 July 2005, including remand prison IZ-20/1.

3. Having regard to the first applicant's submissions concerning the events of 25 and 26 April 2012 in colony IK-4 in the Saratov Region, was there a violation of Article 3 of the Convention on account of his alleged ill-treatment?

4. Have the authorities complied with their positive obligation under Article 3 of the Convention to carry out an effective investigation into the first applicant's allegations of ill-treatment? In particular:

(a) Which officers from which law-enforcement authorities were involved in the inquiry/ies into the first applicant's complaints of ill-treatment? What operational and other activities did they carry out in the course of the inquiries and were those sufficient to ensure that the investigation into alleged torture be thorough and effective?

(c) The parties are invited to specify when was the first applicant questioned/interviewed in respect of his allegations of ill-treatment in the framework of each of the inquiries conducted into it?

The Government are requested to submit relevant **legible** documents and, if need be, their typed copies, in response to each of the above questions, including , but not limited to:

- the first applicant's medical file;
- entire case-file concerning inquiry no. 177 pr/sk-12, and
- all decisions refusing to institute criminal proceedings into the first applicant's alleged ill-treatment.

5. On what self-incriminating statements did the domestic courts rely in convicting the first applicant? Were all those statements obtained in the presence of a lawyer? Was the fairness of the first applicant's trial undermined in view of the domestic courts' reliance, in convicting him, on his self-incriminating statements, allegedly obtained under torture, and some of them (in addition) obtained in the absence of a lawyer, so as to be in breach of Article 6 §§ 1 and 3 (c) of the Convention (see *Gäfgen v. Germany* [GC], no. 22978/05, §§ 165-66, ECHR 2010, and *Salduz v. Turkey* [GC], no. 36391/02, § 55, ECHR 2008)?

6. Did the first applicant have at his disposal effective domestic remedies for his complaints under Article 3 of the Convention about his alleged ill-treatment in 2005, as required by Article 13 of the Convention?