



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

FIRST SECTION

Application no. 21123/09
Aslanbek Yaraliyevich VITRIGOV and others
against Russia
lodged on 23 March 2009

STATEMENT OF FACTS

The first applicant, Mr Aslanbek Vitrigov, was born in 1980 and is serving a prison sentence in correctional colony IK-12 in the Arkhangelsk Region. The second applicant, Mr Anzor Agamerzayev, was born in 1980 and is currently held in correctional colony IK-5 in the Belgorod Region. The third applicant, Mr Adam Tuntuyev, was born in 1975 and is serving his sentence in remand prison SIZO-1 in Grozny, the Chechen Republic. All applicants are Russian nationals. They are represented by Messieurs R. Lemaitre, A. Nikolayev, D. Itslayev and A. Sakalov, lawyers of the Stichting Russian Justice Initiative (hereinafter “the SRJI”), an NGO based in the Netherlands with a representative office in Russia.

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

A. The circumstances of the case

1. The background to the case

Before his arrest in 2005 the third applicant had been employed at the Security Service of the President of the Chechen Republic and subsequently - at the counterterrorist department in Argun. The first and second applicants had worked at a sheepfold in the village of Komarovo, helping the second applicant's father, a shepherd.

On 19 July 2005, during an examination of a crime scene by an investigating group of the Department of the Interior of the Nadterechny District (hereinafter also “the Nadterechny ROVD”) in the village of Znamenskoye, the Chechen Republic, a car exploded. As a result of the explosion fourteen persons, including ten ROVD officers, one officer of the

Federal Security Service (hereinafter “the FSB”) and three civilians, died and twenty four others were injured.

On the same day the acting Prosecutor of the Chechen Republic opened a criminal case into the explosion. The case file was assigned the number 49017.

On 31 August 2005 M.Kh., deputy head of the Nadterechny Department of the FSB (hereinafter also “the Nadterechny FSB”), informed the Prosecutor General’s Office in the Federal Southern Circuit (hereinafter “the circuit prosecutor’s office”) that certain Z.V. and S.A. had been implicated in the explosion of 19 July 2005. The letter also stated that operational and search measures aimed at their arrest were under way. According to the applicants, Z.V. and S.A., also considered to have been involved in another violent crime, were “liquidated” by the law-enforcement officials during their attempted arrests in September and December 2005, respectively.¹

2. The applicants’ arrest and alleged ill-treatment

The information summarised below is based on the applicants’ account of the events given in the application form, as well as the written statements made by all applicants and the first applicants’ relatives and neighbours M.V., Zh.K., Kh.V., V.M., Ya.V., V.A., Al.D., R.V. and U.E. on 29 January, 17 and 24 February and 10 and 17 March 2009. In their submissions, the applicants often refer to the same persons as “police officers” and “investigators” at the same time.

(a) As regards the first applicant

At about 12.30 p.m. on 20 July 2005 a group of four policemen of the Nadterechny ROVD, including A.D., arrived at the sheepfold and ordered the first applicant to follow them to the ROVD. The police officers did not produce their documents. They briefly mentioned that the first applicant was to give a written explanation as to whether “he had seen a white car”.

At the ROVD the first applicant was taken to an assembly room to which the policemen repeatedly brought in other persons who pointed at him. After a while M.Kh., the deputy head of the Nadterechny FSB, told the applicant that he was to confess to having bought a car which he had then blasted in Znamenskoye on 19 July 2005. M.Kh. explained to him in detail how the events had unfolded and also extensively questioned him about the property of his family. In the applicant’s submission, M.Kh. must have been either drunk or intoxicated. Faced with the applicant’s refusal to confess, M.Kh. called several police officers who started beating the applicant up. They put a plastic bag on his head, inducing his suffocation, and hit and kicked him on his entire body, breaking his nose. They also put off his pants, squeezed his penis with pliers and poured water over his body. While the ROVD and FSB officers were beating the applicant up, a certain A.Kh., head of the Department for the Investigation of Particularly Serious Crimes of the Prosecutor’s Office of the Chechen Republic (hereinafter also “the

¹<http://www.memo.ru/hr/hotpoints/caucas1/msg/2005/10/m48415.htm>; <http://www.memo.ru/hr/hotpoints/caucas1/msg/2005/09/m48094.htm>

republican prosecutor's office”), told the applicant that he was in charge of the investigation in the explosion case.

According to the interrogation record (*протокол допроса*) of 20 July 2005, at 6.05 and 7.40 p.m. on that date A.Kh. interviewed the first applicant as a witness on the premises of the Nadterechny ROVD. The applicant stated, among other things, that on 3 and 10 July 2005 he had been at his father's sheepfold in the village of Komarovo and denied having bought any vehicles recently. There is no indication that the first applicant was interviewed with the assistance of a lawyer.

Between 9.10 and 10.55 p.m. on 20 July 2005 investigator A.Kh. conducted two identification parades with the participation of the first applicant. There is no indication that a lawyer for the applicant was present during those investigative steps.

On 21 July 2005 A.Kh. informed his superiors that he had arrested the first applicant as a suspect on the premises of the Nadterechny ROVD at 10 a.m. on the same date.

The record of the first applicant's arrest as a suspect (*протокол задержания подозреваемого*) states that he was arrested by investigator A.Kh. at 10 a.m. on 21 July 2005 on the premises of the Nadterechny ROVD pursuant to Articles 91 and 92 of the Code of Criminal Procedure (hereinafter “the CCrP”). According to the arrest record, the first applicant stated that he had not committed any crimes and that he objected to his arrest.

In the evening on 21 July 2005 the first applicant was visited by officers R.T., A.K., M.Kh, K.M. and several others. R.T. told him that he would have to testify as requested by them and swore on the Koran that if he refused, R.T. would rape his sister before his very eyes. The policemen continued beating the applicant up until early in the morning, hitting and kicking him on his head, to the kidneys area and the genitals. They also swore at him and promised to kill his relatives, saying that they were too rich and that they would make them leave the region.

In the morning on 22 July 2005 the ROVD officers continued interrogating the first applicant and instructing him as to what exactly he was to tell later to investigator A.Kh.

In the evening on 22 July 2005, while the first applicant was at the assembly hall, A.K. suggested that the policemen torture him with electric current, after which they brought in a red box with two wires. The applicant's hands were cuffed behind his back, he was made lie down on his belly. Two men sat on his back and one of them was turning the handle to pass electric current through his body.

At about 10 p.m. on 22 July 2005 the policemen dragged the first applicant from the assembly hall to a cell in the ROVD detention ward, which he shared with the second applicant, a certain A.M. and a former police officer named “Aslan”. The first applicant's legs were swollen and he was unable to walk. His penis was black and swollen because of the use of pliers and during several days he had blood in his urine. The first applicant saw that the second applicant had one of his finger nails torn off. In the opposite cell the first applicant also saw the third applicant, who had an injured eye.

On the ensuing days the police and FSB officers repeatedly took the first applicant from his cell for “torture sessions” which took place day and night. They beat him up and tortured him with electricity in their offices at the ROVD and also in several railway carriages located on the ROVD premises, close to the detention ward. They repeatedly threatened him with rape.

In the first applicant’s submission, about a week after his arrest he was taken to the office of R.T., where policeman R.K. and FSB officer M.Kh. were already present. R.T. swore on the Koran that he would rape the first applicant’s sister Khe.V. if he were to “fail him”. On R.T.’s request, an on-duty officer brought Khe.V. to the office. In her presence R.T. asked the first applicant if he agreed to cooperate. Faced with his refusal, R.T. started accosting Khe.V. in front of the applicant, saying that he would undress her. He then abruptly stopped everything and ordered her to leave, following which he told the applicant that he would show him how she would scream. He then called investigator A.Kh., who brought several papers with him. The first applicant, shocked by the incident and considering R.T.’s threats serious, signed all the papers they had given him. Shortly thereafter he was sent back to the detention ward.

According to Khe.V.’s interview record, she was interviewed as a witness by a police officer of the Nadterechny ROVD on the premises of that authority between 6.20 and 7.40 p.m. on 26 July 2005.

In the submission of the first applicant’s relatives, on the date of Khe.V.’s interrogation by the ROVD officers (given as 24 July 2005), she left the ROVD at 11 p.m. in a state of shock and refused to speak. On the following morning she told them that she had seen the first applicant, who had been severely beaten up, that the police officers had tried to persuade her to denounce him, had several times hit her with their truncheons and that she had been threatened with rape. Her relatives had to place her in a hospital two or three days later.

According to the first applicant’s interview record dated 31 July 2005, on that date he confessed to having participated in the explosion in Znamenskoye, together with the second and third applicants. The interview was conducted between 11.25 a.m. and 2.50 p.m. and the record was signed by a lawyer.

Several days later investigator T. of the prosecutor’s office of the Nadterechny District (hereinafter also “the district prosecutor’s office”) interviewed the first applicant on the premises of that authority. The applicant denied his involvement in the explosion and complained to T. about his ill-treatment at the ROVD.

After the first applicant’s return to the ROVD A.K., R.T., M.Kh. and R.K., severely beat him up for denouncing them. They took him to one of the railway carriages and told him to repeat their version of the explosion before the camera. When he refused, A.K. warned him that he would rape him with a truncheon and disseminate the record in the Komarovo village. He then called a masked police officer and they put a plastic bag on the applicant’s head. After that they stretched him on a table with his face down, lowered his trousers and started arguing who would be the first to rape him. Suffocating because of the plastic bag and feeling helpless, the

applicant repeated before the camera everything he was requested to say and signed further papers he was given.

On an unspecified date the first applicant was brought to Znamenskoye for an on-the-spot verification of his statements (*проверка показаний на месте*). The police officers had “prepared” him for that investigative step, telling him what to say and threatening him with further ill-treatment if he failed to do as requested.

In the first applicant’s submission, during the two months of his detention at the ROVD he was not examined by a doctor.

(b) As regards the second applicant

On 21 July 2005 a group of policemen of the Nadterechny ROVD arrived at the sheepfold in Komarovo, where were the second applicant, V.A. and N.V. Six to seven persons grabbed the second applicant and beat him up in front of his relatives. They twisted his arms behind his back, tied them with his belt and threw him into their car, where they continued beating him up on the way to the Nadterechny ROVD.

Upon their arrival the policemen dragged the second applicant to a railway carriage where six ROVD officers were already waiting for them. The applicant was made stand facing the wall, with his legs stretched out, while the policemen hit and kicked him to various parts of his body. The applicant knew three of the police officers – K.G., “Suleyman” and investigator A.K. He did not know the others. When beating him up the policemen requested that he confessed to having participated in the explosion in Znamenskoye, signed the papers they gave him and repeated their version of the explosion to an investigator who would come later. The applicant claimed his innocence and they continued beating him for about two to four hours, after which he was brought to the office of R.T., investigator and head of the Nadterechny ROVD.

At R.T.’s office, in the presence of investigator A.K., M.Kh. and several policemen of the Grozny Department for Fight Against Organised crime (hereinafter also “the UBOP”), R.T. told the applicant that the law-enforcement authorities knew who were the true perpetrators of the explosion and that he was innocent. However, they had already reported to the authorities in Moscow that they had caught the criminals and that they had confessed. R.T. also told him that denying his guilt was useless because they would “break him” anyway and would make him sign anything they wanted.

After that the second applicant was brought back to the railway carriage, where he told M.Kh. and R.T. that he was not guilty. They ordered other police officers “to do the necessary”, after which the policemen started beating him up with a plastic bottle filled with water. They also put a plastic bag on his head, inducing his suffocation. The applicant fainted on several occasions because of the lack of oxygen. The ROVD officers also tortured him with an old field telephone by making him stand with his face against the wall and legs wide apart and passing electric current through the two wires attached to his hands. At the same time they continued kicking him and hitting him with their truncheons.

According to the record of the interview of the second applicant as a witness (*протокол допроса свидетеля*) of 21 July 2005, investigator

A.Kh. questioned him on the premises of the Nadterechny ROVD between 7.40 and 20.50 p.m. The applicant described how he had spent the days of 10, 18 and 19 July 2005. He did not make any self-incriminating statements. There is no indication that he was assisted by a lawyer.

In the second applicant's submission, the beatings continued until early in the morning on 22 July 2005, when he was taken to the ROVD detention ward.

At about midday on 22 July 2005 the first applicant's relatives, whom the policemen had brought to the Nadterechny ROVD on the previous night, saw the second applicant at the ROVD. In their submission, he was severely beaten up and could barely walk. The policemen had to drag him around.

After midday on 22 July 2005 the ROVD officers again took the second applicant to the railway carriage where seven to eight policemen continued beating him and torturing him with electric current. Twenty minutes later A.K. passed by to ask whether the applicant had agreed to sign the confession. Since he had not, the policemen continued torturing him for the next five hours. Unable to stand the ill-treatment, the applicant agreed to confess and signed several pages of a document given to him, without reading it. After that he was taken to the detention ward and told that an investigator would come next morning to take up his testimony.

In the morning on 23 July 2005 the second applicant was taken to investigators A.Kh. and R.T. He told them that he had nothing to say about the explosion and they told other policemen that the applicant "had not been well prepared" and left. The applicant was then taken back to the carriage, where the beatings and torture by electric current continued. The second applicant heard the third applicant scream in a nearby carriage. Unable to stand the ill-treatment, the second applicant agreed to sign a further document requested of him. He was instructed to learn the content of the document and to repeat it later to the investigator, which he did.

According to the second applicant's interview record, he was questioned as a witness between 6.45 and 9.20 p.m. on 23 July 2005 by investigator A.Kh. The document contains a pre-typed statement signed by the second applicant, where he confesses to having participated in the explosion in Znamenskoye together with the first and third applicants. There is no indication that the applicant was assisted by a lawyer during the interview.

The second applicant's arrest record states that he was arrested at 10 a.m. on 24 July 2005 by investigator A.Kh. on the premises of the Nadterechny ROVD.

By decision of 26 July 2005 the Nadterechny District Court of the Chechen Republic authorised the second applicant's placement in custody.

Interviewed as a witness by investigator T. on 26 July 2005, the second applicant confirmed his statement of 23 July 2005. According to the interview record, the second applicant was questioned without a lawyer.

In the second applicant's submission, as a result of the ill-treatment he started having kidneys problems, his eyesight deteriorated and he suffers from enuresis. According to the second applicant, although a lawyer appointed by the investigators was present at some of the initial investigative steps, he disregarded his complaints about the ill-treatment.

(c) As regards the third applicant

On 30 July 2005 the third applicant was instructed by his superior to follow police officers R.T. and R.K. to the Nadterechny ROVD “for an identification parade”. Upon arrival the third applicant was filmed and photographed. At about 11 p.m. on 30 July 2005 he was placed in the ROVD detention ward.

According to the third applicant’s interview record, between 4.50 and 5.30 p.m. on 30 July 2005 investigator A.Kh. questioned him as a witness on the premises of the Nadterechny ROVD. The third applicant denied having participated in any terrorist acts or knowing the first or second applicants and submitted that on 19 July 2005 he had been at work at the counterterrorist department in Argun. During the interview the applicant was not assisted by a lawyer and refused to sign the interview record.

According to the identification record (*протокол предъявления лица для опознания*) of 30 July 2005, the second applicant identified the third applicant as his accomplice, with whom he and the first applicant had bought and blasted the UAZ vehicle in Znamenskoye. The identification was conducted between 7.20 and 7.45 p.m. The third applicant denied knowing the second applicant and refused to sign the record.

After that the third applicant was placed in a solitary cell in the ROVD detention ward, where he was severely ill-treated.

At 8.10 p.m. on 31 July 2005, during a confrontation, the second applicant confirmed his earlier statement, accusing the third applicant of participation in the terrorist act in Znamenskoye. According to the confrontation record, the third applicant submitted that he did not know the first applicant, that had seen him for the first time during the identification parade and that on 19 July 2005 he had been at his working place.

On 30 July 2005 A.Kh. formally arrested the third applicant on suspicion of participation in the terrorist act. The arrest record was drawn up at 9.30 p.m. and stated that the third applicant was arrested at 9.20 p.m. on 30 July 2005 on the premises of the Nadterechny ROVD.

During an identification parade carried out at 6.10 p.m. on 31 July 2005 the first applicant did not recognise the third applicant among the persons presented to him for identification.

On 31 July 2005 the third applicant gave a written statement (*объяснение*) to police officer A.-M.D. of the Nadterechny ROVD, in which he submitted that he had participated in the terrorist act in Znamenskoye in concert with the first and second applicants and that he had committed a number of further crimes in 2002.

On 1 August 2005 the Nadterechny District Court authorised the third applicant’s placement in custody.

In the third applicant’s submission, after his arrest and during the ensuing two months of his detention at the Nadterechny ROVD he was routinely subjected to ill-treatment. In particular, at about 6 p.m. on the evenings policemen would take him to one of their offices and request that he signed the documents they gave him. If he refused, they beat him up with their truncheons and tortured him with electric current, A.Kh. and M.Kh. being among the most cruel torturers.

According to the third applicant, the overnight interrogations were conducted mostly by investigator A.Kh., who repeatedly requested him to

sign undated documents. M.Kh. also participated in the interrogations and when the applicant refused to do as instructed by him, the latter would leave him for several hours with the ROVD and FSB officers who beat him up to obtain what M.Kh. requested of him. The officers took turns to torture him. During the short “respite” periods between the “torture sessions” they made the applicant squat, while one of them, usually the heaviest, sat on his back. After ten minutes in that posture the applicant would have strong pain in his legs and the police officers would tell him that if he stayed in that position for half an hour, he would not feel his legs anymore. Moreover, on several occasions the third applicant was transferred to the Nadterechny FSB, where its officers suspended him to the ceiling by his handcuffs, with a plastic bag on his head.

On an unspecified date in August 2005 the third applicant was brought to the office of R.T., head of the ROVD. There he saw officers A.A., A.K. and the first and second applicants. A.A. asked the second applicant how he had identified the first applicant. He replied that police officers had shown him the first applicant on a video record before the formal identification and had instructed him to identify him. After that A.K. started cursing the second applicant and threatening him with reprisals, following which the applicants were brought back to their cells.

At about 3 a.m. on that night the third applicant heard the second applicant scream and groan from his cell. Shortly thereafter the third applicant was taken to an office where he saw A.K., the first and second applicants and two masked police officers. After the first applicant had been taken away, A.K. ordered the third applicant to have sexual intercourse with the second applicant, who was lying on a table, his hands cuffed to the table legs and trousers lowered down. The third applicant refused to do as ordered, following which A.K. unzipped his pants, took out his penis and started touching the second applicant’s buttocks with it. Shortly thereafter the third applicant was taken back to his cell.

On 7 September 2005 the third applicant was transferred from the ROVD to remand prison IZ-20/2 in Grozny.

On 13 September 2005 he was sent back to the Nadterechny ROVD, where he stayed until 4 October 2005. In the applicant’s submission, on that occasion he was subjected to a particularly severe ill-treatment, following which on 30 September 2005 he confessed to having participated in the explosion in Znamenskoye and a number of other crimes.

On 4 October 2005 the third applicant was transferred to remand prison IZ-20/1 in Grozny. According to his medical check-up record (*акт медицинского освидетельствования*) of the same date, he was found to have the following injuries: bruises on his right shoulder and the right side of the thorax region; crust-covered abrasions on both wrists, around the left eye and on the nose. The third applicant stated to the medics that he had sustained the injuries at the Nadterechny ROVD seven days before.

3. The applicants' complaints about the ill-treatment and the related inquiries

(a) As regards the first applicant

On 9 August 2005 the first applicant's relatives hired Mr Z. to represent him.

On 15 and 18 August 2005 Z. complained to prosecutors of various levels that on 10 and 15 August 2005 investigator T., as well as a number of officers of the ROVD and its detention ward had persistently refused him access to his client under various pretexts and that they had tried to persuade his relatives to hire lawyer E. instead of Z because the investigators had been satisfied with his job. Z. asserted that those State officials were, in reality, waiting for the first applicant's injuries to heal and prevented him from requesting his client's medical examination. He also averred that his client must have been transferred to a remand centre long before and that he was held in the police ward, under the control of the ROVD officers, in breach of the national legislation. Z. requested that all first applicant's statements obtained during his detention at the ROVD and with the participation of lawyer E. be declared inadmissible and that the matter be investigated.

On 22 August and 6 September 2005 the first applicant's mother complained to a number of State authorities, including prosecutors of various levels, that investigator T. and other officials were persistently refusing her son access to Z. because they wished to conceal his injuries and hinder his access to medical assistance. She further complained about the law-enforcement authorities' campaign of harassment against her family, referring to the fact that they had confiscated their passports and had refused to give them back. She also submitted that on 13 August 2005 police officer K. of the Nadterechny ROVD had requested from her 15,000 Russian roubles (RUB) for the services of State-appointed lawyer E. K. alleged that he had paid for E.'s services with his own money and that the first applicant's mother was to pay him back.

On an unspecified date in September 2005 the first applicant was transferred to remand prison IZ-20/2 in the village of Chernokozovo.

It appears that on 5 September 2005 the first applicant was for the first time visited by his lawyer Z.

On the same date the first applicant complained to the republican prosecutor's office that he had been repeatedly ill-treated at the Nadterechny ROVD after his arrest on 20 July 2005 with a view to having him confess to a terrorist act. The appointed lawyer E. had asked him to confess to avoid further ill-treatment. As a result of the ill-treatment, the first applicant had problems breathing, his ribs were broken and there was blood in his urine. A medic had examined him only after a request by his lawyer Z. and as late as in the end of September 2005. According to the stamp, the complaint was sent by the detention facility on 11 October 2005 and received by the addressee on 24 October of the same year.

By decision of 9 September 2005 the deputy Prosecutor of the Chechen Republic partly granted the complaint by the first applicant's mother and requested that her allegations of ill-treatment against the first applicant be verified and he be examined by a medical expert.

On 27 October 2005 investigator A.Kh. of the republican prosecutor's office allowed the first applicant's request for an X-ray, noting that his medical examination was already under way.

On 17 February 2006 the first applicant complained to the republican prosecutor's office about his unrecorded arrest and the ensuing ill-treatment at the Nadterechny ROVD, providing a detailed description of those events and giving the names of the officials implicated in the ill-treatment.

On 13 March 2006 the first applicant filed with the republican prosecutor's office a further complaint about his ill-treatment and unlawful detention along the same lines. He asserted that it was his fourth complaint to that State authority.

On 18 March 2006 the first applicant, interviewed as accused (*обвиняемый*) by an investigator of the republican prosecutor's office, reiterated his submissions concerning the ill-treatment. Among other things, he gave the names, ranks and distinctive features of the officials allegedly involved in it and stated that he would be able to identify them. He also submitted that he had previously told about the ill-treatment his lawyers E. and Z.

On 19 March 2006 investigator A.Kh. extended the term for the inquiry into the first applicant's allegations.

By decision of 26 March 2006 the republican prosecutor's office refused to institute criminal proceedings into the first applicant's alleged ill-treatment. The decision stated that the applicant's guilt in the terrorist attack had been fully proven. On 16 September 2005 he had been examined by a forensic expert. According to expert report no. 208 of the same date, the first applicant had "small superficial abrasions on the left foot", which could have been caused by a blunt solid object four to five days prior to the examination and had not entailed damage to his health. The first applicant's X-rays performed on 17 October 2005 had not revealed any changes to the thorax region and, according to his medical file, no ailments had been noted during his primary medical examination in remand prison IZ-20/2. Accordingly, the expert's conclusions refuted the first applicant's allegations of ill-treatment. Moreover, on 16 September 2005 investigator A.Kh. had identified the first applicant as one of the persons whom he had seen on 19 July 2005 in Znamenskoye at the car which had exploded shortly thereafter. The fact that the first applicant complained about the ill-treatment for the first time eight months after his arrest indicated that he was trying to evade his criminal responsibility, slander the police officers and have his self-incriminating statements declared inadmissible.

On 10 May 2006 the first applicant complained to the prosecutor of the Chechen Republic about his alleged ill-treatment, providing its detailed description and referring to his previous complaints, including those of 27 February and 13 March 2006. It is not entirely clear whether that complaint was replied to.

Following the request for an inquiry into the applicants' allegations of ill-treatment by the Supreme Court of the Chechen Republic (see below), on 12 December 2006 the republican prosecutor's office issued a further decision refusing to open a criminal case. The text of the decision reproduced verbatim the decision of 26 March 2006. In addition, it stated that the medical logbooks concerning the first applicant's primary medical

examination upon admission to the police ward of the Nadterechny ROVD and remand prison “IZ-20/1” contained no evidence indicating that he had been subjected to ill-treatment. Unspecified ROVD police officers flatly denied having applied physical force to the first applicant or having seen anyone do so.

Following the trial court’s direction of 7 March 2007 for an additional inquiry into the applicants’ allegations (see below), on 28 March 2007 the republican prosecutor’s office issued a further decision refusing to open a criminal case. It reproduced verbatim the text of the previous refusals. In addition, it referred to the statement by investigator A.Kh., who maintained that the first applicant had confessed because of the irrefutable evidence against him. According to A.Kh., before every interrogation he had personally verified whether undue pressure had been exerted on the first applicant and his co-accused. A.Kh. had been aware that many police officers of the Nadterechny ROVD were relatives of the victims of the explosion in Znamenskoye. However, it was unconceivable that they could injure the applicants because access to the detention ward was restricted and the co-accused had been taken from it only with a view to participating in various investigative steps, in the presence of their lawyers. A.Kh. opined that the first applicant’s co-detainees, who were residents of Znamenskoye, could have ill-treated him in revenge for the persons who had died in the explosion.

(b) As regards the second applicant

On 26 October 2005 the prosecutor’s office of the Nadterechny District refused to open a criminal case into the second applicant’s complaint about the ill-treatment and unlawful detention, received by it on 17 October 2005. The decision stated that the second applicant, interviewed on an unspecified date, denied having been ever ill-treated by police officers of the Nadterechny ROVD and submitted that he had given all self-incriminating statements of his own free will. He likewise denied having submitted any complaints in that respect. According to forensic report no. 207 of 19 October 2005, the second applicant did not have any bodily injuries at the time of his examination.

On 9 March 2006 the second applicant complained to the prosecutor of the Chechen Republic that after his arrest on 21 July 2005 police officers of the Nadterechny ROVD had repeatedly ill-treated him to obtain his confession in the terrorist act in Znamenskoye. He requested to be interviewed on the premises of remand prison IZ-20/1 and not to be transferred from there to any other detention facility. The complaint was received by the republican prosecutor’s office on 20 March 2006.

On 26 March 2006 A.Kh. granted a request by investigator A.V., his subordinate, for the extension of the term for the inquiry into the second applicant’s allegations.

By decision of 30 March 2006 the republican prosecutor’s office refused to institute criminal proceedings into the second applicant’s alleged ill-treatment. The decision stated that the second applicant’s guilt in the explosion had been fully proven by the materials of the criminal case. According to forensic report no. 210 on 16 September 2005, the second applicant was found to have a scar and several areas of “depigmentation of

the skin on the left lower limb”, developed as a result of the healing of wounds and abrasions, which could have been sustained at the time and in the circumstances described by him, namely as a result of the beatings by police officers on 21 July 2005. The decision went on to state that no other injuries had been found by the expert. Accordingly, the second applicant’s submissions about the ill-treatment were refuted by the expert’s conclusions. There was no other evidence to confirm the ill-treatment, except for the second applicant’s unsubstantiated allegations. Moreover, he had been repeatedly interviewed in the presence of a lawyer and an interpreter. Accordingly, his complaint was aimed at evading his criminal liability and invalidating his initial confession statements.

On 10 April 2006 the second applicant lodged a further complaint about the ill-treatment with the prosecutor of the Chechen Republic, describing in detail the methods used by the ROVD officers. He submitted, among other things, that the expert had examined him only two months after the beatings. Although he still had marks on his hands because of the torture by electricity, by the time of his examination the bruises and other injuries had already disappeared. Moreover, despite his request for an X-ray which he had made because of his fear that he had broken ribs, it had never been performed. In addition, the second applicant had a mark on a left shoulder caused by a burn and a nail torn off a finger on his right foot. In spite of his complaints about those injuries to A.Kh., they were not reflected in any records. The applicant stressed that, in fact, A.Kh. had disregarded all his complaints about the ill-treatment. The applicant requested not to be transferred from remand prison IZ-20/1 to any other detention facility.

By letter of 20 April 2006 the republican prosecutor’s office replied to the second applicant that on 30 March 2006 it had refused to open a criminal case into his allegations. It was further stated that the applicant’s complaint of 10 April 2006 had been appended to the case file concerning the criminal proceedings against the second applicant.

It appears that following the request for an inquiry into the applicants’ allegations of ill-treatment by the Supreme Court of the Chechen Republic (see below), on 12 December 2006 the republican prosecutor’s office issued a further decision refusing to open a criminal case in respect of the second applicant’s complaints.

On 28 March 2007, following the Supreme Court’s direction for an additional inquiry, the republican prosecutor’s office issued a further decision refusing to open a criminal case into the second applicant’s alleged ill-treatment. The text of the decision, while referring to the conclusions set out in forensic report no. 210, reproduced verbatim the text of the refusal to institute criminal proceedings, issued on the same date in respect of the first applicant (see above).

(c) As regards the third applicant

On 8 or 18 August 2005 the third applicant requested the republican prosecutor’s office in writing to urgently order his transfer from the Nadterechny ROVD to a remand prison in Grozny and to carry out his medical examination.

On 13 October 2005 the prosecutor’s office of the Nadterechny District received the third applicant’s medical check-up record of 4 October 2005,

accompanied by his written statement of 11 October 2005, in which he submitted that from 13 to 30 September 2005 he had been detained at the Nadterechny ROVD, where its police officers had beaten him up and tortured with electricity to obtain his confession of participation in the terrorist act in Znamenskoye.

On 22 October 2005 the district prosecutor's office refused to institute criminal proceedings into the third applicant's alleged ill-treatment. A copy of that decision was not submitted by the applicants.

On 23 October 2005 the deputy prosecutor of the Nadterechny District set aside that decision and ordered an additional inquiry.

On 25 October 2005 the district prosecutor's office issued a further decision refusing to institute criminal proceedings. It referred to the medical check-up record of 4 October 2005 and the forensic report no. 206 of 19 October 2005, which established that the applicant had a number of bodily injuries, including scars and abrasions on the nose, both wrists and around the left eye; areas of depigmentation and bruises on his hands and right shoulder, and abrasions and bruises on the right side of the thorax region. According to expert report no. 206, those injuries could have been caused by impact of blunt solid objects four to five days prior to the examination.

The decision went on to state that the third applicant had refused to provide any explanations about the alleged ill-treatment to the officials of the district prosecutor's office. At the same time, ROVD officers S.D., K.G., D.U., A.M. and M.M.Kh. denied having applied physical force to the third applicant or seen anyone do so. According to them, the ROVD detention ward had five cells, which were under permanent supervision of the on-duty staff. Officials of the district prosecutor's office checked the detention ward several times a day, questioning the inmates as to whether they had any complaints. Their check-up records were signed. Suspects held in the detention ward were taken out of their cells under escort and only upon requests by the investigators with a view to carrying out investigative measures. The third applicant had been taken out of his cell only on a written request of investigator A.Kh. of the republican prosecutor's office. On an unspecified date unspecified on-duty officers noticed redness over the third applicant's left eye. He explained that he had injured himself accidentally by hitting a door.

The decision further stated that, according to the detention ward cell occupation log (*журнал покамерного размещения лиц, содержащихся в ИВС*), the third applicant had been held in cell no. 1. The inspection of his cell had not revealed anything "which could have suggested that he had been subjected to violence". It followed from the detainees' circulation log of the detention ward (*журнал вывода обвиняемых и подозреваемых из камер ИВС*) that between 13 September and 4 October 2005 the third applicant had been taken out of his cell to be questioned by investigator A.Kh., to meet a lawyer and for a "conversation" with V.F., officer of the Nadterechny FSB. The log contained no indication that the third applicant had been taken out of his cell upon requests of any other officials. Moreover, according to the written instruction (*письменное указание*) for the head of the detention ward, issued by investigator T.T. of the Main Directorate of circuit prosecutor's office, the first to third applicants were to

be “handed over” (*выдаваться*) outside the ROVD only upon a written approval of investigator A.Kh., who was in charge of the criminal case against them.

Lastly, it was noted that, according to the log of primary medical examination of and medical assistance to the detention ward inmates (*журнал первичного опроса и регистрации оказания медицинской помощи лицам, поступающим для содержания в ИВС Надтеречного РОВД*), the third applicant had not had any health-related complaints in the period from 13 September to 4 October 2005. On 26 September 2005 he had complained about diarrhoea, after which a facility medic had examined him and prescribed him the appropriate medication. Accordingly, the third applicant’s allegation that he had sustained his injuries as a result of ill-treatment by ROVD officers was unfounded.

On 24 April 2006 the third applicant lodged a further complaint about the alleged ill-treatment with the then Head of the Government of the Chechen Republic, Mr R. Kadyrov.

On 30 May 2006 the above complaint was received by the republican prosecutor’s office. On the same date investigator A.V. refused to open a criminal case into the third applicant’s alleged ill-treatment. The decision stated that the third applicant’s guilt in the terrorist act was fully proven by the case file materials. During his medical examination on 16 September 2005 the third applicant had been found to have bruises and abrasions on the left side of the thorax region and scars on both wrists and knees. The injuries to the thorax area and the knees had been caused by impact of blunt solid objects. The bruises and abrasions could have been inflicted three to four days prior to the examination and the scars on the knees – on 4-5 August 2005, as described by the third applicant. Injuries to the wrists could have been sustained as a result of the use of handcuffs in the time span of not earlier than one month prior to the examination. A.V. concluded that the third applicant’s allegations of ill-treatment were not confirmed but effectively refuted by the conclusions of the expert. Moreover, the third applicant’s defence rights had been respected because he had been on several occasions questioned with the assistance of a lawyer and an interpreter. In addition, on 28 September 2005 investigator A.Kh. of the republican prosecutor’s office had identified the third applicant as a person who had abducted a certain S. on 13 July 2005. The fact that the third applicant had not complained about the alleged ill-treatment at the preliminary investigation stage and had raised the matter only several months after his arrest indicated that he was, in reality, seeking to avoid his criminal responsibility, slander the ROVD officers and have his confession statements invalidated.

It remains unclear whether the third applicant was provided with that decision at the material time.

On 30 June 2006 the third applicant’s lawyer Kh.M. requested head of remand prison IZ-20/2 in Grozny to inform him when his client had been admitted there and whether he had had any injuries at the time of admission.

By letter of 6 July 2006 head of the remand prison replied that the third applicant had been admitted to the detention facility on 7 September 2005 and that his examination had revealed scars on both wrists because of the use of handcuffs. On 13 September 2005 the third applicant had been

transferred to the Nadterechny ROVD, from where he had returned to the remand prison on 4 October 2005. When examined on the latter date, he had been found to have bruises on the right shoulder and the right side of the thorax region, abrasions on both wrists, around the left eye and the nose. On 18 October 2005 the third applicant had been again transferred to the ROVD, from where he had returned on 24 October 2005 with an abrasion on the right side of his back. Subsequently, the third applicant had been held in the ROVD between 14 and 23 December 2005, 18 and 27 January 2006 and 10 February 2006 until an unspecified date. On those occasions no injuries had been discovered on him.

By a further letter of 7 July 2006 head of the remand prison informed Kh.M. that upon the third applicant's admission to the facility on 17 September 2005 he had scars on both wrists. The letter, in so far as relevant, went on as follows:

“... 4.10.05. Return [from the Nadterechny ROVD]. On examination a yellow bruise on the third upper part of the right shoulder and the right side of the thorax region. Crust-covered abrasions on the wrists. Yellowness around the left eye and crust-covered abrasions; a longish crust-covered abrasion on the bridge of the nose. [According to the third applicant], the injuries inflicted seven days ago at the ROVD in Znamenskoye.

12.10.05. Examination by medical assistant – diagnosis: acute bronchitis, after-effects of bruising.

24.10.05. Return [from the ROVD]. A crust-covered longish abrasion on the right side of the back, inflicted one week ago.

...

9.12.05. Complaints about heart pain. Diagnosis: simulation ...”

Following the request for an inquiry into the applicants' allegations of ill-treatment by the Supreme Court of the Chechen Republic (see below), on 12 December 2006 the republican prosecutor's office issued a further decision refusing to open a criminal case concerning the third applicant's complaint. It is unclear whether the applicant was provided with a copy of the decision at the material time.

Following the trial court's direction of 7 March 2007 for an additional inquiry into the applicants' complaints about the ill-treatment (see below), on 28 March 2007 the republican prosecutor's office issued a further decision refusing to open a criminal case into those events. The decision reproduced verbatim the text of the previous refusals issued in respect of the third applicant and contained the same reasoning as the refusals issued in respect of the first and second applicant on 28 March 2007 (see above).

On 4 March 2008 the Supreme Court of the Chechen Republic instructed the Naurskiy Interdistrict Investigating Department of the Investigating Committee with the Prosecutor's Office of the Russian Federation in the Chechen Republic (hereinafter also “the investigating department”) to conduct a further inquiry into the third applicant's alleged ill-treatment.

On 14 March 2008 the investigating department, yet again, decided not to institute a criminal investigation into the third applicant's alleged ill-treatment. With reference to statements by ROVD officers Kh.T., S.D., K.G., A.K. and R.K. and FSB officer M.Kh., who denied having applied

physical force to the third applicant, investigator D.M concluded that the third applicant's submissions were unsubstantiated. The decision also stated that the applicant's allegations had been previously dismissed as unfounded.

4. The applicants' trial

On an unspecified date in 2007 the criminal case against the applicants was sent for trial to the Supreme Court of the Chechen Republic.

Before the trial court the applicants denied having committed the offences of which they stood accused and submitted that they had given their self-incriminating statements as a result of torture by police officers. The first applicant also claimed that although a lawyer had been present during some of the investigative steps, in reality he had not provided him with adequate legal assistance.

(a) The first round of proceedings

(i) Judgment of 12 April 2007

In a 76-page long judgment of 12 April 2007 the Supreme Court of the Chechen Republic found the applicants guilty of participation in an organised gang, carrying out of a terrorist act, several counts of murder and assault against law-enforcement officials and unlawful possession of arms. The first and second applicants were sentenced to eighteen and twenty one years' imprisonment respectively. The third applicant received a life imprisonment term. In finding the applicants guilty the trial court relied in the first place on their pre-trial statements in which they admitted their guilt. The court did not give the dates of those statements but noted that they had been made in the presence of the applicants' lawyers. As regards the second applicant, it also observed that he had confirmed his pre-trial confession statement on 23 and 28 July and 15 September 2005. The trial court also relied on testimonies of seventy witnesses; records of crime scene and corpses' inspection, records of identification parades and cross-examination; forensic expert examinations and other pieces of evidence.

As to the applicants' allegations of ill-treatment, the court observed that they had been arrested and questioned in the presence of their representatives, who had also participated in the drawing up of the related procedural documents. Those investigative steps had been taken by various officials of law-enforcement authorities. Accordingly, it based the applicants' conviction on those self-incriminating pieces of evidence in so far as they were coherent and supported by other evidence.

The court went on to note that following its request and also during the preliminary investigation, the republican prosecutor's office had examined the applicants' allegations of ill-treatment and had arrived at well-reasoned decisions that they were unfounded. Moreover, the trial court found convincing the submissions by investigator A.Kh. to the effect that the investigating authorities had not needed to use violence against the applicants to obtain their confessions and that, on the contrary, they had been obliged to protect them from reprisals on the part of the relatives of the victims of the explosion. The court "did not exclude" that those persons could have inflicted bodily injuries on the applicants. It also noted that the

applicants and their lawyers “had avoided participating in the inquiries” conducted by the prosecutors and considered that they had therefore “agreed” with the refusals to institute criminal proceedings into their allegations.

The court stated that its conclusions were further supported by a video record of a conversation (*беседа*) of 23 July 2005 with the participation of the first and second applicants and the police officers. Their interrogation on that date had been conducted by way of “questions and answers”. The applicants had not displayed fear, no injuries could be seen on their faces. They had denied some circumstances and talked about others, which fact indicated that they had had at their disposal various defence strategies and refuted their allegation that they had only signed interrogation records prepared in advance or repeated the information told to them by police officers.

The court also invalidated the record of identification of the third applicant by witness R. because it established that unspecified ROVD officers had several times showed her his photograph before the identification.

(ii) The special decision of 12 April 2007

By special decision (*частное определение*) of 12 April 2007 the Supreme Court drew the attention of the prosecutor of the Chechen Republic to numerous breaches of the rules of criminal procedure in the conduct of the investigation in case no. 49017. In particular, the decision stated that on 13 November 2006 the trial court had ordered the republican prosecutor’s office to conduct an inquiry into the applicants’ allegations of ill-treatment. Although the inquiry itself had lasted one month, the republican prosecutor’s office had delayed the submission of its conclusions to the trial court for three months. Moreover, while the first applicant’s allegations concerning his bodily injuries had been confirmed by the expert, the inquiry had failed to give the answer to the main question, that is the origin of those injuries. The decisions in respect of the second and third applicants were flawed by the same defect. As a result, the trial court had had to order an additional inquiry.

The court went on to state that transcripts of major investigative steps had blank spaces permitting later modifications and add-ups. The majority of conclusions of the forensic experts concerning the corpses had been given on the basis of their visual examinations (*осмотры*) and witness’ statements and in the absence of their autopsies, which was unacceptable. The case file contained materials concerning “liquidation” of nine members of the organised criminal gang during their arrest. However, in none of those cases had the law-enforcement authorities conducted an inquiry of the proportionality of the use of force. The site- and corpses’ inspection reports stated that the killed members of the gang had been armed. However, no arms had been discovered at those crime scenes.

The court instructed the prosecutor of the Chechen Republic to look into the matter and to notify it of the measures taken not later than a month after the receipt of the decision.

There is no indication that there was a follow-up on that decision.

(iii) The applicants' appeal

Between 18 and 24 April 2007 the applicants appealed against the trial judgment. They submitted, among other things, that the trial court had based their conviction on their self-incriminating statements obtained under torture and that the lawyers who had represented them at the initial stages of the investigation had failed to provide them with adequate legal assistance.

(iv) The appellate judgment of 25 September 2007

On 25 September 2007 the Supreme Court of the Russian Federation set aside the applicants' conviction on the ground that the trial court had failed to establish convincingly the role of each of the applicants in the terrorist act and had given too lenient sentences to the first and second applicants. It remitted the case at first instance for a re-trial in a different court composition.

(b) The second round of proceedings*(i) Trial judgment of 15 May 2008*

In a 101-page long judgment of 15 May 2008 the Supreme Court of the Chechen Republic found the applicants guilty of participation in an organised gang, carrying out of a terrorist act, several counts of murder and attempted murder, assaults against law-enforcement officials and unlawful possession of arms and explosives. The first to third applicants were sentenced to seventeen years and six months', nineteen years and six months' and twenty four years' imprisonment, respectively. The court held that the applicants' detention pending investigation and trial was to be counted off towards their sentences and that the starting point for it was to be the date of each of the applicant's actual arrest: 21 July 2005 for the first applicant; 24 July 2005 for the second applicant and 30 July 2005 for the third applicant.

In finding the applicants guilty the trial court relied on their pre-trial confession statements, including those given by the first applicant on an unspecified date and on 31 July 2005, by the second applicant – on an unspecified date and on 23 and 28 July and 15 September 2005, and by the third applicant – on an unspecified date and on 30 September 2005. It also relied on testimonies from some seventy witnesses; records of crime scene and corpses' inspection and other pieces of evidence.

The court considered that the applicants had retracted their confessions because they were trying to avoid their criminal responsibility. Their allegations at trial that they had not been involved in the crimes imputed to them were effectively refuted by their pre-trial confession statements and witness testimonies. The applicants' submission that they had been forced to confess under torture and threats of rape directed against them and their relatives were unfounded because all investigative steps with their participation had been conducted in the presence of defenders and, where necessary, attesting witnesses. The applicants had not made any objections at the time when those investigative steps had been taken.

The republican prosecutor's office and the investigating department had refused to institute criminal proceedings into the applicants' alleged

ill-treatment because their submissions were unfounded and the court found no reasons to question those conclusions.

The trial court excluded as inadmissible evidence the video record of a “conversation” (*беседа*) between the first and second applicants and the ROVD officers because it had not been properly appended to the criminal case file and although it was written on the video tape that it had been recorded on 21 July 2005, it clearly followed from the conversation that it had taken place on a later date.

(ii) The appellate decision of 23 September 2008

On 23 September 2008 the Supreme Court of the Russian Federation upheld the trial judgment on the applicants’ appeal.

B. Relevant Domestic Law

Article 46 of the CCrP provided, at the relevant time (July 2005), for the procedural rights from the moment of arrest of a suspect (*задержание подозреваемого*), including the following rights: to be informed of the suspicion against him; to receive a copy of the decision to initiate criminal proceedings against him or a copy of the arrest record (*протокол задержания*); to make a deposition in relation to the suspicion against him or to remain silent; to have legal assistance from the moment indicated in Article 49 § 3 (2) and (3) of the Code; and to have a confidential meeting with counsel before the first interview.

According to Article 49 of the CCrP, counsel had to participate in a criminal case from the initiation of criminal proceedings against a named person, from the time of the arrest of a suspect in situations described in Articles 91 and 92 of the Code, or when detention of the suspect had been ordered under Article 100 of the Code.

Article 49 also provided that an advocate could be admitted as counsel in a criminal case from the moment when a suspect was apprehended with due regard to Article 91 and 92 of the Code, or when he was remanded in custody under Article 100 of the Code.

It followed from Article 50 of the CCrP that a suspect could retain counsel or have him appointed by the investigating or prosecuting authority. Under Article 51 participation of counsel was mandatory unless the suspect waived his right to legal assistance. It was mandatory in cases concerning an eventual sentence beyond fifteen year’s imprisonment. In such a situation counsel should be retained by the suspect or appointed by the investigating or prosecuting authority, following the procedure under Article 49 of the Code.

Article 92 of the CCrP required that after the suspect had been arrested he should be brought (*доставление*) before an investigating authority or a prosecutor. No later than three hours after this an arrest record should be compiled together with a notice that the suspect had been informed of his rights under Article 46 of the Code. The suspect should be interviewed, and before such interviews, he should, if requested, be afforded an opportunity to have a meeting with counsel.

COMPLAINTS

The applicants complain under Article 3 of the Convention that they were subjected to ill-treatment and that the national authorities failed to investigate it properly.

The first and second applicants complain that because of the belated drawing up of their arrest records they were held in unrecorded and unacknowledged detention which left them in a legal vacuum, contrary to the requirements of Article 5 of the Convention.

With reference to Article 6 of the Convention the applicants complain that the domestic courts convicted them on the basis of their self-incriminating statements obtained under torture. Moreover, a number of investigative measures (including on-site verifications of the applicants' statements and identification parades) were carried out without their lawyers.

Relying on Article 6 §§ 1 and 3 (c) the applicants further complain that the national authorities had breached their right to legal assistance of their own choosing at the initial stages of the criminal proceedings against them.

Lastly, the applicants complain under Article 13 that they did not have effective remedies in respect of their grievances under Article 3.

QUESTIONS TO THE PARTIES

1. Having regard to the applicants' submissions, was there a violation of Article 3 of the Convention on account of their alleged (repeated) ill-treatment, threats and intimidation during and after their arrest by officers of the Nadterechny ROVD and/or any other State authorities in the periods between

- (a) 20 July and 30 September 2005 in respect of the first applicant;
- (b) 21 July and 19 October 2005 in respect of the second applicant, and
- (c) 30 July and 12 October 2005 in respect of the third applicant?

In addressing the above question the parties are requested to deal, *inter alia*, with the following points **in respect of each applicant**:

- (a) After the applicants' arrest:
 - (i) What were the (detention) facilities or law-enforcement authorities on whose premises the applicants were held in the time frame between 20 July and 19 October 2005?
 - (ii) In respect of each and every facility/law-enforcement authority and each applicant:
 - What was the time of the applicants' admission to the facility/law-enforcement authority premises?
 - Were the applicants examined upon admission by the medical staff with a view to recording their eventual injuries, state of health and possible health complaints? If so, when? Were their medical examinations conducted out of the hearing and out of sight of police officers and other non-medical staff?

- Were the applicants given access to a lawyer? If so, when? When did each of them talk to a counsel for the first time after their arrest?

- Were they given the possibility of informing a family member, friend, etc. about their detention and their location and, if so, when?

(b) What activities involving the applicants were conducted in the above-mentioned time span (between 20 July and 19 October 2005), at what facilities/premises of what law-enforcement authorities and at which times of the day? What was the applicants' procedural status? What confessions and/or statements did the applicants give during that period (please submit relevant documents, in particular, (video) records containing the applicants' statements/confessions and on-the-spot verifications of their statements, if any, which are **legible**/provide their typed copies, where necessary)? Were the applicants 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 these applicants' allegations of ill-treatment? In particular:

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

(b) Which officers from which police department(s)/other law-enforcement authorities were involved in the inquiries into the applicants' 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:

(i) whether (forensic) medical examinations were performed in respect of the applicants in order to establish the nature and the origin of their injuries and if so, when?

(ii) when were the applicants questioned/interviewed in respect of their allegations of ill-treatment in the framework of the inquiries conducted into it?

(iii) did the authorities responsible for the inquiries into the applicants' alleged ill-treatment order their psychological/psychiatric examinations in connection with their allegations of ill-treatment and, among other things, the alleged threats of rape against them and their relatives?

(d) Did the absence of instituted criminal proceedings prevent investigative measures, which could correspond to the notion of an effective investigation, as required by the Court's case-law under Article 3 of the Convention (see *Kleyn and Aleksandrovich v. Russia*, no. 40657/04, § 56, 3 May 2012)?

In connection with the above 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:

- entire copies of the case-files concerning the inquiries into the applicants' alleged ill-treatment, which resulted in the following decisions refusing to institute criminal proceedings:

the first applicant	the second applicant	the third applicant
26 March 2006	26 October 2005	22 October 2005
12 December 2006	30 March 2006	25 October 2005
28 March 2007	12 December 2006	30 May 2006
	28 March 2007	12 December 2006
		28 March 2007
		14 March 2008

- entire copies of the applicants' medical files;
- copies of all medical (expert) examinations in respect of each of the applicants, including but not limited to: (i) expert report no. 208 of 16 September 2005 and X-ray of 17 October 2005 in respect of the first applicant; (ii) expert reports nos. 201 and 207 of 16 September and 19 October 2005 in respect of the second applicant, and (iii) expert report no. 206 of 19 October 2005 and report of 16 September 2005 in respect of the third applicant;
- excerpts from logbooks of admission of detainees in respect of all detention facilities in which the applicants were held in the time span between 20 July and 20 October 2005 for the relevant dates and in respect of each of the applicants;
- excerpts from logbooks of primary medical examination of persons admitted to facilities in which the applicants were held in the time span between 20 July and 20 October 2005 for the relevant dates and in respect each of the applicants;
- excerpts from the logbook of the Nadterechny ROVD detention ward cell occupation log (*журнал покамерного размещения лиц, содержащихся в ИВС Надтеречного РОВД*) for the period between 20 July and 20 October 2005 in respect of each of the applicants;
- detainees' circulation log of the detention ward of the Nadterechny ROVD (*журнал вывода обвиняемых и подозреваемых из камер ИВС*) for the period between 20 July and 20 October 2005 in respect of each of the applicants.

3. Did the first and second applicants exhaust domestic remedies and comply with the six-month requirement in respect of their complaint under Article 5 of the Convention about their unrecorded detention? Was there a violation of Article 5 on account of the first and second applicants' allegedly unacknowledged (unrecorded) detention (see *Aleksandr Sokolov v. Russia*, no. 20364/05, §§ 71-73, 4 November 2010)?

In addressing the above questions the Government are invited to provide the following information:

- (a) What was the exact time and place of the first and second applicants' actual arrest?
- (b) When were the arrest records (протокол задержания) drawn up in respect of the first and second applicants?
- (c) What was the legal basis for the first and second applicants' detention after their actual arrest and before the drawing up of the arrest records?

4. Did the applicants have a fair hearing in the determination of the criminal charges against them, in accordance with Article 6 § 1 of the Convention? In particular:

(a) Was there a breach of this provision on account of the alleged violation of the privilege against self-incrimination and the right to remain silent in relation to the applicants' self-incriminating statements, allegedly made under duress and without legal assistance? When were the applicants first informed of their right not to incriminate themselves? Was it before or after they made self-incriminating statements? What was the exact scope of this right under Russian law? What was the exact wording by which such information was conveyed to the applicants? Was such information conveyed in a manner which allowed them to understand the scope of this right and the significance of waiving it? Was any such waiver recorded in the presence of a lawyer or after the applicants had access to legal advice on the question whether or not they should waive their right?

(b) Was there a violation of Article 6 §§ 1 and 3 of the Convention on account of the alleged breaches of the applicants' right to legal assistance after their arrest? In particular:

(i) What was exact scope of the applicants' right to legal assistance at the relevant stage of proceedings? What was the exact wording by which such information was conveyed to the applicants? Noting the cross-references between Articles 46, 49, 91, 92 and 100 of the CCrP in the relevant parts, was such information conveyed in a manner which allowed them to understand the scope of this right, including free legal assistance, and the significance of dispensing with the services of a lawyer?

(ii) Did the applicants waive this right once or several times in July-September 2005? Was any such waiver recorded in writing and in the presence of a lawyer or after the applicants had access to legal advice on the question whether or not they should waive this right?

(iii) Did the absence or delay of legal assistance in July-September 2005 entail "irretrievable" damage to the defence, thus leading to a violation of Article 6 of the Convention (see *Salduz v. Turkey* [GC], no.

36391/02, § 55, ECHR 2008, and *Mehmet Şerif Öner v. Turkey*, no. 50356/08, §§ 21-23, 13 September 2011)?

(c) Was there a violation of Article 6 § 1 of the Convention on account of the use made of any tainted evidence at the applicants' trial (see for comparison *Pavlenko v. Russia*, no. 42371/02, §§ 114-20, 1 April 2010, and *Gäfgen v. Germany* [GC], no. 22978/05, §§ 165-66, ECHR 2010, with further references)? Were any alleged deficiencies arising out of the pre-trial problem relating to duress and legal assistance remedied at the trial and on appeal against the judgment of 15 May 2008?

In addressing the above question the Government are invited to provide copies of the following documents:

(a) the applicants' pre-trial confession statements on which the courts based their conviction, as referred to in the judgment of 15 May 2008;

(b) the first and third applicant's confession statements (*заявление о чистосердечном раскаянии в соучастии в акте терроризма в с. Знаменское Надтеречного р-на (т.4, л.д. 152); заявление обвиняемого Тунтуева в чистосердечном раскаянии, в котором он изложил обстоятельства приобретения автомашины УАЗ для совершения акта терроризма, обстоятельства самого совершения преступления (т.7, л.д. 7-12)*);

(c) the applicants' and their lawyers' points of appeal against the judgment of 15 May 2008, and

(d) hearing records (*протокол судебного заседания*) of the proceedings before the Supreme Court of the Chechen Republic concerning the judgments of 12 April 2007 and 15 May 2008.

5. Did the applicants have at their disposal effective domestic remedies for their complaints under Article 3 of the Convention about their alleged ill-treatment, as required by Article 13 of the Convention?