



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

Communicated on 8 July 2014

FIRST SECTION

Application no. 68059/13  
V.K.  
against Russia  
lodged on 20 October 2013

**STATEMENT OF FACTS**

The applicant is a Russian national who was born in 2001 and lives in St Petersburg. He is represented before the Court by Ms E. Shadrina, a lawyer practising in St Petersburg.

**A. The circumstances of the case**

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

*1. The applicant's ill-treatment in a public nursery school and his parents' complaints to various local authorities*

In August 2004 the applicant started attending public nursery school no. 42. His teachers were Ms Kh., Ms P. and an assistant teacher Ms Ch.

In the spring of 2005 the applicant's parents noticed a change in his behaviour. In particular, he became nervous and unwilling to go to the nursery school. During the summer holidays the applicant's physiological state significantly ameliorated and his mood returned back to normal. However, as soon as he resumed the nursery school in September 2005, he became again nervous and frightened of the dark and noises. He resisted going to the nursery school and refused to discuss school with his parents or sister.

On 7 November 2005, when picking him up from the nursery school, the applicant's mother noticed that his eyes were twitching and that he had a bruise on his left temple. The applicant complained that his neck and eyes were aching. The teacher Ms P. told the applicant's mother that the children had been given eye drops containing an antibiotic sulfacetamide. According to her, one of the children in the class had an eye infection and it was

necessary to take preventive measures against its spreading among the children.

On 8 November 2005 the applicant was examined by an ophthalmologist who noted a bruise on his temple. She found no symptoms of any eye infection or disease. She recommended a consultation by a neurologist to verify whether the eye tics could have neurological causes.

On the same day the applicant started to have mouth tics.

On 14 November 2005 the applicant's mother lodged a complaint with the local department of consumer protection and protection of well-being. She complained that the teachers of nursery school no. 42 had used physical force against her son when administering eye treatment as a result of which her son had developed nervous tics.

On 15 November 2005 the applicant was examined by a neurologist and was diagnosed with hyperkinesia (a state of excessive restlessness which is featured in a large variety of disorders that affect the ability to control motor movement, which it is manifested through an increase in muscular activity that can result in excessive abnormal movements, excessive normal movements, or a combination of both and which is mainly psychological in nature).

On 16 November 2005 the applicant's mother complained to the local department of education about the incident of 7 November 2005 and asked that the applicant be transferred to another nursery school.

By letter of 23 November 2005 the local department of consumer protection and protection of well-being replied to the applicant's mother's complaint that the director of nursery school no. 42 had been disciplined for breaching sanitary norms.

By letter of 29 November 2005 the local department of education replied to the applicant's mother that the facts described in her complaint had been confirmed in part and that the director of the nursery school, teachers Ms Kh. and Ms P. and medical nurse Ms Pt. had been disciplined. It had been decided to transfer the applicant to another public nursery school.

When the applicant learnt that he would not have to return to nursery school no. 42, he was happy and told his parents that he had been mistreated by Ms Kh. and Ms P. For example, he had been punished for the failure to sleep during the afternoon sleeping hours. Sometimes he had been put on a folding bed in the lavatory room. The lights had been switched off and the teachers had told him that he would be eaten by rats. The applicant had felt very frightened as he had once seen a rat in the lavatory room. On other occasions he had been forced to stand in the neighbouring room, barefooted and wearing only his panties, during the entire duration of the sleeping hours. He had been freezing. The applicant had been also on occasions hit on the back with a fist. Once the teachers had taped his mouth with a sellotape. As he had started to suffocate, he had tried to remove the sellotape. The teachers had then taped his hands behind his back. Some other children had been also subjected to similar punishments. They had been forbidden from telling their parents about that.

The applicant also told his parents in detail about what had happened on 7 November 2005. He had been given eye drops twice. In the morning Ms Kh. had bended his head back by force so that his neck had ached. In the afternoon, she had sat on the applicant's legs and tried to force his eyes

open with her hands. Frightened, the applicant had resisted. Ms Kh. had then slapped him on his face.

On 21 December 2005 the local department of education informed the applicant's mother that the director of nursery school no. 42 had been dismissed.

By letter of 13 March 2006 the local department of education informed the applicant's father that an internal inquiry had established that teachers Ms Kh. and Ms P. had put some of the children to sleep outside the sleeping quarters. That fact, although denied by Ms Kh. and Ms P., had been confirmed by assistant teacher Ms Ch. and by the grandmother of one of the children. Ms Kh. and Ms P. had been disciplined.

By letter of 17 July 2006 the Vice Governor of St Petersburg informed the applicant's mother that medical nurse Ms Pt. had been disciplined.

## *2. Criminal proceedings against the applicant's father*

On 14 November 2005 teacher Ms Kh. and medical nurse Ms Pt. complained to the police that that morning the applicant's father had assaulted them and had threatened to kill them.

On 22 November 2005 the police opened criminal proceedings against the applicant's father on suspicion of uttering death threats.

On the next day the applicant's father was questioned by the investigator. He stated that his conflict with Ms Kh. and Ms Pt. had arisen because his four-year-old son had been mistreated by the staff of the nursery school. He denied assaulting Ms Kh. or Ms P. or uttering death threats against them.

On 9 December 2005 the applicant's father was again questioned by the investigator and repeated his previous statements.

On 28 December 2005 the applicant's father was charged with attempted murder of Ms Pt. in the morning of 14 November 2005.

On 18 April 2006 one of the staff members of nursery school no. 42 stated in writing that Ms Pt. had attempted to convince her and other staff members to give false testimony against the applicant's father in the framework of the criminal proceedings against him.

On 11 November 2007 the charges against the applicant's father were dropped and the criminal proceedings discontinued.

## *3. Civil proceedings*

On 21 February 2006 the applicant's mother sued nursery school no.42 for compensation for the health damage sustained by the applicant.

On 30 June 2006 the Kirovskiy District Court of St Petersburg approved a friendly settlement agreement between the applicant's mother and nursery school no. 42. According to that agreement, the nursery school was to pay the applicant's mother 5,000 Russian roubles (RUB, approximately 150 euros (EUR)) in compensation of medical expenses.

## *4. Criminal investigation into the allegations of ill-treatment*

### **(a) Pre-investigation inquiry**

On 29 September 2006 the applicant's mother complained to the Kirovskiy District prosecutor's office of her son's ill-treatment by the staff

of nursery school no. 42. She described the incident of 7 November 2005, complained that during the sleeping hours her son had been occasionally locked in the lavatory room with the lights off and submitted that as a result of such treatment he had developed nervous tics. She also submitted that she had not received adequate response to her complaints to the local department of education and the local department of consumer protection and protection of well-being.

By letter of 27 October 2006 the Kirovskiy District prosecutor's office informed the applicant's mother that an inquiry had been opened into her allegations of ill-treatment. It also noted that the local department of education had failed in its obligation under section 9 of the Minors Act to inform the prosecutor's office about the applicant's ill-treatment.

On 2 November 2006 the investigator questioned several of the parents of the children who had attended nursery school no. 42 together with the applicant. Some of them stated that their children had never complained about being mistreated by teachers Ms P. or Ms Kh. Others stated that their children had told them about being locked in the corridor or in the lavatory room where they had previously seen rats. They also confirmed that on 7 November 2005 eye drops had been given to the children without the parents' consent.

Assistant teacher Ms Ch. stated to the investigator that on 7 November 2005 two children had shown symptoms of eye infection. Teacher Ms Kh. had consulted medical nurse Ms Pt. who had decided to give eye drops to all children to prevent the spread of the infection. The parents' consent had not been obtained. The drops had been given by the teacher herself rather than by the medical nurse. Ms Kh. had used physical force against those children who had resisted. Many of them had been frightened and cried. Immediately after that the applicant's eyes had started twitching. Ms Ch. also stated that both Ms Kh. and Ms P. had many times put certain children, including the applicant, to sleep on folding beds in the lavatory room or in the corridor. Ms Kh. and Ms P. had often shouted at the children and had punished them by sending them to the lavatory room. She had once seen a child tied with a string to his chair.

The investigator also questioned Ms Kh. who denied mistreating the applicant or other children. She stated that on 7 November 2005 the children had been given eye drops by the medical nurse. The children had submitted to the treatment without any resistance or stress. No physical force had been used against the applicant or other children. The applicant had already had nervous tics before 7 November 2005.

On an unspecified date in the beginning of November 2006 the applicant was questioned by the investigator. The applicant's mother and a psychologist were present during the questioning. The applicant described the incident of 7 November 2005. He also stated that he and some other children had been often put to sleep on a folding bed in the corridor or in the lavatory room with the lights turned off or left standing in the corridor with little clothes on. They had been frightened and cold.

On 8 November 2006 the Kirovskiy District prosecutor's office refused to open criminal proceedings against the teachers of nursery school no. 42, finding no evidence of a criminal offence. The applicant's parents were not given a copy of that decision.

On 12 January 2007 the Kirovskiy District prosecutor's office annulled its decision of 8 November 2006 and resumed the pre-investigation inquiry.

The investigator questioned the teacher Ms P. and the medical nurse Ms Pt. who gave the same testimony as Ms Kh.

On 22 January 2007 the Kirovskiy District prosecutor's office for a second time refused to open criminal proceedings against the teachers for the same reasons as before.

On 29 May 2007 the applicant's mother appealed against the decision of 22 January 2007 to the Kirovskiy District Court.

On 20 June 2007 the Kirovskiy District prosecutor's office annulled its decision of 22 January 2007. On 29 June 2007 it again refused to open criminal proceedings against the teachers for the same reasons as before.

On 4 July 2007 the Kirovskiy District Court discontinued the proceedings in respect of the applicant's mother's complaint of 29 May 2007 on the ground that the decision of 22 January 2007 had been in the meantime annulled.

On 6 July 2007 the Kirovskiy District prosecutor's office issued a new decision refusing to open criminal proceedings against the teachers for the same reasons as before.

On 25 October 2007 the applicant's mother asked the Kirovskiy District prosecutor's office to annul the decision of 6 July 2007 and to open criminal proceedings against the teachers of nursery school no. 42.

On 1 November 2007 the Kirovskiy District prosecutor's office rejected her request.

On 4 December 2007 the applicant's mother appealed against the decision of 6 July 2007 to the Kirovskiy District Court.

On 24 December 2007 the Kirovskiy District prosecutor's office annulled the decision of 6 July 2007 and resumed the pre-investigation inquiry. It noted that it was necessary to question the children who had attended the nursery school together with the applicant and their parents, to obtain an expert opinion on the counter-indications and side-effects of the eye drops given to the children and to question other teachers of the nursery school.

On 16 January 2008 the Kirovskiy District Court discontinued the proceedings in respect of the applicant's mother's complaint of 4 December 2007 on the ground that the decision of 6 July 2007 had been in the meantime annulled.

On 17 January 2008 the case was transferred to the Kirovskiy District police department for further inquiry.

In February 2008 the investigator questioned the parents of some of the children who had attended the nursery school together with the applicant. They stated that they did not have any complaints against teachers Ms P. and Ms Kh. None of them gave permission to question their children.

The investigator also questioned one of the teachers of nursery school no. 42. She stated that she could not communicate any useful information.

On 29 February 2008 the Kirovskiy District police department refused to open criminal proceedings against Ms P. and Ms Kh., finding no evidence of a criminal offence.

The applicant's parents were not informed about that decision. On 14 April 2008 the applicant's mother asked the Kirovskiy District

prosecutor's office for information about the results of the pre-investigation inquiry.

By letter of 22 April 2008 the St Petersburg prosecutor's office criticised the Kirovskiy District prosecutor's office for the delays in the conduct of the pre-investigation inquiry and for its ineffectiveness.

On 4 May 2008 the Kirovskiy District prosecutor's office replied to the applicant's letter of 14 April 2008, informing her of the decision of 29 February 2008 not to open criminal proceedings.

On 16 May 2008 the applicant's mother asked the Kirovskiy District prosecutor's office to send her a copy of the decision of 29 February 2008.

On 23 May 2008 the Kirovskiy District police department annulled the decision of 29 February 2008.

On 29 May 2008 the applicant's mother complained to the Prosecutor General of the Russian Federation that the pre-investigation inquiry into her son's ill-treatment had been ineffective.

On 11 June 2008 the St Petersburg prosecutor's office again criticised the Kirovskiy District prosecutor's office for the delays in the conduct of the pre-investigation inquiry and for its ineffectiveness.

On 26 June 2008 the Kirovskiy District police department informed the staff of nursery school no. 42 that criminal proceedings into the applicant's allegations of ill-treatment would not be opened because the prosecution had become time-barred.

On 30 June 2008 the Kirovskiy District police department refused to open criminal proceedings into the allegations of ill-treatment, finding no evidence of a criminal offence.

On 4 July 2008 the Kirovskiy District prosecutor's office quashed the decision of 30 June 2008 and ordered a further inquiry.

On 8 July 2008 the Kirovskiy District police department informed Ms Kh. that the pre-investigation inquiry would be closed because the prosecution was time-barred.

On 11 July 2008 the Kirovskiy District police department refused to open criminal proceedings against Ms Kh. It found that, although there was evidence that Ms Kh.'s actions amounted to a criminal offence, the criminal proceedings were time-barred.

On 29 July 2008 the St Petersburg prosecutor's office quashed the decision of 11 July 2008, finding that the inquiry had been incomplete. It noted that it was necessary to question the children who had attended the nursery school together with the applicant and their parents, to establish the seriousness of the health damage sustained by the applicant, to obtain and analyse the documentation governing the actions of the staff of public nursery schools, and to investigate Ms P.'s actions.

On 9 August 2008 the investigator questioned one of the parents who stated that his son had never complained of being ill-treated by Ms P. or Ms Kh.

On 11 August 2008 the Kirovskiy District police department refused to open criminal proceedings against Ms Kh., finding that there was no evidence of a criminal offence. It noted that due to summer holidays it was impossible to question the children or their parents, to obtain the applicant's medical certificates or the documentation governing the actions of the staff of public nursery schools.

On 11 September 2008 the Kirovskiy District police department again refused to open criminal proceedings against Ms Kh., finding no evidence of a criminal offence.

On 21 November 2008 the St Petersburg prosecutor's office again criticised the Kirovskiy District prosecutor's office for the delays in the conduct of the pre-investigation inquiry and for its ineffectiveness.

On 26 November 2008 the applicant's parents again complained to the Prosecutor General that the inquiry into their son's ill-treatment by the staff of nursery school no. 42 had been ineffective.

On 1 December 2008 the investigator questioned the mother of a child who had attended the nursery school together with the applicant. She stated that her daughter had never been mistreated by the staff of the nursery school.

#### **(b) Investigation**

On 19 January 2009 the Kirovskiy District police department opened criminal proceedings against Ms Kh. and Ms P.

On 5 and 6 February 2009 Ms Kh. and Ms P. were questioned by the investigator. They relied on their right to silence and refused to testify.

On 4 March 2009 the applicant was granted the procedural status of victim. The applicant's mother was recognized as his representative.

On the same day the applicant was questioned by the investigator in the presence of counsel, his mother and a teacher. The applicant stated that Ms Kh. and Ms P. had often punished him and some other children. In particular, on many occasions they had put him to sleep in the lavatory room and had threatened that he would be eaten by rats. Ms Kh. had once splashed paint over his friend's face because she had not liked his drawings. On another occasion she had taped his mouth and hands with a sellotape. She had also slapped him on the face when he had refused to open his eyes to receive eye drops. The applicant also stated that Ms Kh. and Ms P. had forbidden him from telling his parents about those punishments.

On 10 March 2009 the investigator questioned the applicant's mother. She described the applicant's change in behavior and mood after he had started to go to the nursery school. She had further described the incident of 7 November 2005 and the subsequent development of nervous tics. She also related her conversation with her son during which he had for the first time told her about being mistreated by Ms Kh. and Ms P. She finally stated that he son continued to suffer from nervous tics and followed treatment.

On 11 March 2009 the psychologist who treated the applicant stated to the investigator that the applicant had suffered from a neurological disorder since November 2005. His health had ameliorated as a result of the treatment.

On 24 March 2009 the applicant was brought to nursery school no. 42 where he repeated his previous statements. In particular, he showed the location in the lavatory room where his folding bed had been placed and the location at the entry hall where he and other children had been forced to stand wearing only their panties and T-shirts and keeping their arms up and apart during the entire duration of the sleeping hours. He further showed where and how he had been taped with a sellotape and where and how he had been given eye drops. He also showed a closet where he had been

locked in the dark. He finally told the investigator that if he had not slept during the sleeping hours Ms Kh. and Ms P. had pushed his head against the bed until it started to ache. Counsel, the applicant's mother, a psychologist and a teacher were present during the questioning.

On 27 March 2009 the investigator ordered an expert psychiatric examination of the applicant.

On 6 and 22 April 2009 the investigator questioned two of the teachers of nursery school no. 42. They stated that they had never seen Ms Kh. or Ms P. ill-treating the children. One of them also stated that the applicant had already had nervous tics before the incident of 7 November 2005.

On 9 April 2009 the investigator questioned the parents of two children who had attended the nursery school together with the applicant. They stated that their children had never been mistreated by Ms Kh. or Ms P. They refused to give authorisation to question their children.

On the same day the applicant's mother was also questioned and confirmed her previous statements. She added that the applicant was still following treatment for nervous tics.

On 10 April 2009 medical nurse Ms Pt. was questioned. She repeated her previous submissions.

On 10 April 2009 a panel of psychiatrists and psychologists examined the applicant and issued an expert opinion. They found that the applicant continued to suffer from nervous tics. Given that such tics could have both organic and neurological causes, it was impossible to establish a causal link between the events of November 2005 and his current neurologic disorder. Given the applicant's age and the lapse of time that had passed since the events in question, the applicant could not remember correctly those events. He was therefore psychologically incapable of testifying in the framework of the criminal proceedings.

In May 2009 the investigator questioned several more parents of the children who had attended the same nursery school as the applicant. They all stated that their children had never been mistreated by the teachers. One of them stated that her daughter had told her about the applicant and another boy being put to sleep separately from the others. She however did not know the details. The parents refused to give permission to question their children.

On 21 May 2009 Ms P. was questioned and denied ill-treating the applicant or other children. She stated that the applicant had had nervous tics since September 2005.

On 22 May 2009 the investigator questioned another teacher of nursery school no. 42 who stated that she had never seen Ms P. or Ms Kh. mistreating the children.

On 8 June 2009 the applicant's mother asked the investigator to declare the expert opinion of 10 April 2009 inadmissible as evidence. She argued, in particular, that the panel did not include an expert in child psychiatry. She asked for an additional psychiatric examination of the applicant.

On 9 June 2009 the applicant was questioned again. He repeated his previous statements. He also added that Ms Kh. had hit him on the back.

On 10 June 2009 the investigator rejected the applicant's mother's request of 8 June 2009, finding that the expert opinion of 10 April 2009 had



been obtained in accordance with the procedure prescribed by law and contained clear findings.

On 19 June 2009 assistant teacher Ms Ch. was questioned. She repeated her previous statements.

On 22 June 2009 the investigator questioned Ms Kh. who denied ill-treating the applicant or other children. She stated that the applicant had had nervous tics since the summer of 2005 and that assistant teacher Ms Ch. had given false testimony against her to take vengeance for the critical remarks she had made in respect of Ms Ch.'s unsatisfactory work.

On 30 June 2009 the investigator organised confrontation interviews between Ms Ch. and Ms P. and then between Ms Ch. and Ms Kh. All participants confirmed their previous statements.

On 17 July 2009 the applicant's mother submitted to the investigator a copy of a medical certificate showing that the applicant did not have any anomalies in the brain. She argued that the certificate proved that the applicant's neurological disorder was psychological rather than organic in nature.

On 17 July 2009 the Kirovskiy District police department discontinued the criminal proceedings against Ms Kh. and Ms. P., finding that their actions amounted to battery and cruel treatment of minors, offences under Article 116 § 1 and 156 § 1 of the Criminal Code. The prosecution of those offences was time-barred. There was insufficient evidence of premeditated infliction of health damage of medium severity, an offence under Article 112 of the Criminal Code. Moreover, according to the experts, the applicant could not remember the relevant events correctly and was psychologically incapable of testifying in the framework of the criminal proceedings.

On 27 July 2009 the Kirovskiy District prosecutor's office quashed the decision of 17 July 2009, finding that the investigation was incomplete, and ordered further investigative measures. In particular, it noted that it was necessary to question the parents of other children and the former director of the nursery school and to perform an additional expert psychiatric examination of the applicant.

On 29 August 2009 the applicant's mother complained to the Kirovskiy District prosecutor's office that, despite her numerous requests, she had not still been given copies of the decisions of 17 and 27 July 2009.

On 2 September 2009 the criminal proceedings were suspended. On 16 September 2009 that decision was quashed and the investigation was resumed.

On 16 September 2009 the investigator ordered an additional expert medical examination of the applicant.

In September 2009 the investigator questioned for a second time some of the parents already questioned before. They all confirmed their previous statements.

On 21 September 2009 the investigator questioned the former director of nursery school no. 42. She stated that Ms Kh. and Ms P. were competent and affectionate teachers appreciated by the children and their parents. She had never received any complaints against them.

On 23 September 2009 the applicant's mother complained to the Prosecutor General that the investigation had been flawed with delays and had been ineffective and that she had no access to the case file.

On 9 October 2009 a panel of medical experts examined the applicant's medical records and issued an expert opinion. They noted that his nervous tics could have both organic and neurological causes. It was therefore impossible to establish a causal link between the events of September to November 2005 and the applicant's current neurologic disorder.

On 11 November 2009 the investigator questioned a child psychiatrist who, after examining the applicant's medical records, stated that there had been a causal link between the traumatic experience suffered by the applicant in the nursery school from September to November 2005 and his persistent neurological disorder.

On 11 November 2009 the Kirovskiy District police department discontinued the criminal proceedings against Ms Kh. and Ms. P. for the same reasons as set out in the decision of 17 July 2009.

On 12 November 2009 the applicant's mother asked the investigator to declare the expert opinion of 9 October 2009 inadmissible as evidence.

On 22 April 2010 an expert psychiatrist and an expert psychologist analysed the applicant's medical records at the applicant's mother's request. They found that in the absence of any anomalies in the applicant's brain, his nervous tics could not be organic in nature. It was highly probable that they were psychological in nature, that is they had been caused by a psychological trauma. Given that the nervous tics had for the first time appeared in November 2005, there was a causal link between the cruel treatment in the nursery school to which the applicant had been subjected from September to November 2005 and his nervous tics. Finally, the experts noted that the applicant was intellectually developed and did not suffer from any memory or intellect disorders. His statements to the investigator were detailed and consistent. There were therefore no reasons to consider that the applicant could not remember the relevant events correctly and was psychologically incapable of testifying in the framework of the criminal proceedings.

On 26 April 2010 the applicant's mother challenged the decision of 11 November 2009 before the Kirovskiy District Court.

On 25 June 2010 the Kirovskiy District Court found that the decision of 11 November 2009 had been unlawful because the findings contained in that decision were contradictory. It held, in particular, that in order to resolve the contradictions it was necessary to perform a new psychiatric examination of the applicant.

On 19 July 2010 the Kirovskiy District prosecutor's office quashed the decision of 11 November 2009 and ordered further investigative measures.

By letter of 26 August 2010 the St Petersburg prosecutor's office criticised the Kirovskiy District prosecutor's office for the delays and ineffectiveness of the investigation.

On the same day the Kirovskiy District prosecutor's office gave instructions to the Kirovskiy District police department as regards further investigative measures to be performed.

On 15 September 2010 the investigator suspended the investigation. On 11 October 2010 that decision was annulled by the investigator's superior as unlawful.

On 14 October 2010 the applicant's mother was questioned. She stated that, although Ms Ch.'s sister was her neighbour, she did not have any personal relations with Ms Ch.

On 21 October 2010 Ms Ch. was questioned. She confirmed her previous statements and added that she had never talked to the applicant's parents except in the nursery school.

On 22 October 2010 the investigator suspended the investigation. On 28 October 2010 that decision was annulled by the investigator's superior as unlawful.

On 29 November 2010 the investigator ordered a new psychiatric examination of the applicant.

On 15 December 2010 the investigator suspended the investigation. On 11 January 2011 that decision was annulled by the investigator's superior as unlawful.

On 14 January 2011 a panel of experts in psychiatry and psychology examined the applicant and analysed his medical records. When interviewed by the experts, the applicant stated that he would like to forget about what had happened to him in the nursery school but he was constantly reminded of the events during the investigation. He affirmed that his tics were aggravated each time that he remembered, or had to discuss, the treatment to which he had been subjected in the nursery school. The experts confirmed that the aggravation of the tics was indeed related to the applicant's memories of the nursery school. The experts found that before November 2005 the applicant had not suffered from any psychiatric disorder. There had been a causal link between his nervous tics and the prolonged psychologically traumatic experience to which he had been subjected in the nursery school from September to November 2005. Many years later he still continued to suffer from nervous tics. He had therefore suffered health damage of medium severity. The experts further noted that the applicant did not suffer from any memory or intellect disorder and that his intellectual development corresponded to his age, he was therefore capable of understanding and relating the relevant events correctly. However, his ability to remember the events decreased with the time. If in 2006 he had been still capable of remembering the relevant events correctly, with the passage of time his memory of the events had become unrealistic and distorted. His statements both in 2009 and at the moment could not therefore be relied upon in the criminal proceedings. Moreover, given that each discussion of the relevant events revived the traumatic experience and prevented him from moving on, his further participation in investigative measures was inadvisable.

On 15 January 2011 the investigator suspended the investigation. On 28 March 2011 that decision was annulled by the investigator's superior as unlawful.

On 4 April 2011 the investigator questioned a psychiatric expert chosen by the applicant's mother. The expert stated that she disagreed in part with the expert opinion of 14 January 2011. In her opinion, the applicant had suffered severe health damage rather than health damage of medium severity.

On 28 April 2011 the investigator suspended the investigation. On 29 April 2011 that decision was annulled by the investigator's superior as unlawful.

On 17 May 2011 the applicant's mother again complained to the Prosecutor General about the delays and ineffectiveness of the investigation.

On 16 June 2011 the investigator resumed the investigation. On the same day he decided to suspend it again. On 28 June 2011 that decision was annulled by the investigator's superior as unlawful.

On 15 August 2011 the investigator allowed the applicant's mother's request and declared the expert opinions of 10 April and 9 October 2009 inadmissible as evidence.

On 17 August 2011 the applicant's mother lodged a new complaint with the Prosecutor General about the delays and ineffectiveness of the investigation.

On 23 August 2011 Ms P. was questioned. She confirmed her previous submissions.

On the same day the investigator organised confrontation interviews between Ms P. and Ms Ch. and between medical nurse Ms Pt. and Ms Ch. Ms P. and Ms Ch. confirmed their previous statements. Ms Pt. however stated that she had lied during the previous questionings about giving the eye drops to the children on 7 November 2005. In fact the eye drops had been given by Ms Kh. without her permission. She had lied about that fact because she had had pity of Ms Kh. and had not wanted her to be punished.

On 30 August 2011 the investigator organised a confrontation interview between Ms Kh. and Ms Ch. They both confirmed their previous statements.

On 2 September 2011 the investigator questioned the mother of a child who had attended the nursery school together with the applicant. She stated that her son had never complained of mistreatment by the nursery school staff.

On 10 October 2011 the Kirovskiy District police department informed the applicant that the criminal proceedings had been suspended from 2 to 16 September, from 23 to 30 September, from 9 to 12 October, from 15 October to 5 November and from 6 to 11 November 2009, from 15 September to 11 October, and from 22 October to 28 November 2010, from 15 December 2010 to 11 January 2011, from 15 January to 28 March, from 28 to 29 July, from 16 June to 4 August, and from 5 to 6 September 2011. The decisions to suspend the investigation had been taken by the investigator on the basis of medical certificates showing that Ms Kh. was on maternity leave. All those decisions had been annulled by the investigators' superior as unlawful.

On 14 October 2011 the Kirovskiy District prosecutor's office found that the decision of 15 August 2011 declaring the expert opinions of 10 April and 9 October 2009 inadmissible as evidence was insufficiently reasoned and had therefore to be annulled. It was further necessary to question the experts who had made the expert opinion of 14 January 2011 and the children who had attended the nursery school together with the applicant and to perform an additional expert examination of the applicant. It was also necessary to check the validity of the medical certificates provided by Ms Kh. which had served as a basis for the suspension of the investigation.

After the performance of the above investigative measures, it was necessary to charge Ms P. and Ms Kh. with relevant criminal offences and send the case for trial.

On 24 October 2011 medical nurse Ms Pt. was questioned. She confirmed her statements made during the confrontation interview of 23 August 2011.

On 25 October 2011 the investigator questioned one of the experts who had participated in the expert examination of 10 April 2009. The expert confirmed the findings contained in the expert opinion of 10 April 2009.

On 26 October 2011 the investigator questioned one of the experts who had participated in the expert examination of 9 October 2009. The expert confirmed the findings contained in the expert opinion of 9 October 2009.

On the same day the investigator questioned the same psychiatrist expert who had been already questioned on 4 April 2011. She confirmed her previous statements.

On 28 October 2011 the investigator questioned a music teacher from nursery school no. 42. She stated that she had never seen Ms P. or Ms Kh. mistreating the children. The applicant had had nervous tics before November 2005.

On 31 October 2011 the applicant's mother complained to the Kirovskiy District Court about the excessive length and the ineffectiveness of the investigation.

On 2 November 2011 the investigator questioned two more teachers from the nursery school. They both stated that they had never seen Ms P. or Ms Kh. ill-treating the children and that the applicant had had nervous tics before November 2005. One of them also stated that assistant teacher Ms Ch. had sometimes brought the applicant home in the evening because she lived in the same block of flats as the applicant. Ms Ch. had often shouted on the children in the nursery school and they were afraid of her.

On the same day the investigator questioned one of the experts who had participated in the expert examination of 14 January 2011. The expert confirmed the findings contained in the expert opinion of 14 January 2011.

On 6 November 2011 the Kirovskiy District police department annulled the decision of 15 August 2011 declaring the expert opinions of 10 April and 9 October 2009 inadmissible as evidence.

On 9 November 2011 the applicant's mother lodged a new complaint with the Kirovskiy District Court. She complained that, although sufficient evidence of ill-treatment had been gathered, Ms P. and Ms Kh. had not been still charged with a criminal offence. She further argued that the applicant had sustained severe health damage as a result of the ill-treatment.

By letters of 16 and 18 November 2011 the St Petersburg prosecutor's office informed the applicant's mother that the investigator and the officials of the Kirovskiy District prosecutor's office responsible for supervising the case had been disciplined for the delays and ineffectiveness of the investigation.

Between 16 November and 2 December 2011 the investigator questioned four of the children who had attended the nursery school together with the applicant. They all stated that Ms Kh. and Ms P. had been kind to them and had never mistreated them or other children.

On 22 November 2011 the mother of one of the children who had attended nursery school no. 42 stated to the investigator that her son had never been ill-treated by the staff of the nursery school.

On 24 November 2011 the applicant's father was questioned. He gave the same submissions as the applicant's mother.

On 28 November 2011 the applicant's mother asked the investigator to declare the expert opinions of 10 April and 9 October 2009 inadmissible as evidence. On 29 November 2011 the investigator rejected her request, finding that the expert opinions had been obtained in accordance with the procedure prescribed by law.

On 2 December 2011 the Kirovskiy District prosecutor's office noted that the investigation had been conducted with serious delays and shortcomings. In particular, the investigator had not still appointed an additional expert examination of the applicant and had not questioned the children who had attended the nursery school together with the applicant.

On 5 December 2011 Ms Kh. asked the investigator to discontinue the proceedings. She was suspected of inflicting health damage of medium severity, an offence under Article 112 of the Criminal Code. The limitation period for that offence was six years. The proceedings had therefore become time-barred. On the same day the prosecutor rejected the request, finding that the previous expert examinations had returned contradictory results. It was therefore necessary to perform a new expert examination in order to establish the severity of the health damage sustained by the applicant. The investigation could not therefore be discontinued.

On 7 December 2011 the investigator organised a confrontation interview between the applicant's mother and one of the teachers of the nursery school already questioned on 2 November 2011. They both confirmed their previous submissions.

On 12 December 2011 the investigator questioned the director of nursery school no. 42 who had taken up that position in December 2005. She gave positive references to Ms P. and Ms Sh. She stated that she had never seen them mistreating the children or received any complaints from the parents.

On 12 December 2011 Ms Kh. challenged the investigator's decision of 5 December 2011 before the Kirovskiy District Court. She submitted that the investigation was time-barred and should be therefore discontinued.

On 13 December 2011 the investigator organised a confrontation interview between Ms Ch. and one of the teachers of the nursery school. Ms Ch. confirmed her previous submissions, while the teacher stated that Ms P. and Ms Kh. had never mistreated the children, that Ms Ch. had shouted on the children, that Ms. Ch. had sometimes babysat the applicant and that the applicant had had nervous tics before November 2005.

On 15 December 2011 Ms P. asked the investigator to discontinue the proceedings. She was suspected of inflicting health damage of medium severity, an offence under Article 112 of the Criminal Code. The limitation period for that offence was six years. The proceedings were therefore time-barred. On the same day the prosecutor rejected the request, finding that the previous expert examinations had returned contradictory results. It was therefore necessary to perform a new expert examination in order to establish the severity of the health damage sustained by the applicant. The investigation could not therefore be discontinued.

On 19 December 2011 the applicant's mother lodged a new complaint with the Kirovskiy District Court. She again submitted that the investigation was too long and ineffective.

On 23 December 2011 the investigator questioned one of the experts who had performed the expert examination of 14 January 2011. The expert confirmed the findings contained in the expert opinion.

On 30 December 2011 the investigator suspended the investigation on the ground that Ms P. was on leave and could not therefore participate in the investigative measures.

On 12 January 2012 the Kirovskiy District Court examined the applicant's mother's complaint of 9 November 2011 and found that it had no competence to assess whether the evidence was sufficient to bring the charges. It was for the investigator to assess the collected evidence and to decide whether the charges were to be brought.

On 17 January 2012 the Kirovskiy District Court examined the applicant's mother's complaint of 19 December 2011 and allowed it in part. In particular, it found that under Article 162 § 5 of the Code of Criminal Procedure in especially complex criminal cases the investigation could be extended up to twelve months by the head of the regional investigative authority. Criminal investigation could be extended beyond twelve months in exceptional circumstances by the head or deputy head of the Investigative Committee of the Russian Federation. In the present case the investigation had been extended by the head of the Kirovskiy District police department who had no competence to do it. All extensions of the investigation after 18 November 2010 had been therefore unlawful. It was not necessary to examine whether the decisions to suspend the investigation had been lawful because those decisions had been annulled by the investigator's superior.

On 31 January 2012 the applicant complained to the Kirovskiy District prosecutor's office about the investigator's refusal of 29 November 2011 to declare the expert opinions of 10 April and 9 October 2009 inadmissible as evidence. On 3 February 2012 the Kirovskiy District prosecutor's office found that the decision of 29 November 2011 had been lawful.

On 7 February 2012 the Kirovskiy District Court examined the applicant's mother's complaint of 31 October 2011 and found that her rights had been indeed breached by the failure to provide her with copies of the numerous decisions to suspend the investigation. However, given that all of those decisions had been annulled, it was not necessary to examine the applicant's complaint relating to those decisions. Moreover, given that the decisions had been annulled by the investigator's superiors, the court concluded that the superiors had carried out an effective supervision over the course of the investigation.

On 8 February 2012 the Kirovskiy District Court examined Ms Kh.'s complaint of 12 December 2011 and rejected it. It found that it was necessary to perform an additional expert examination to establish the severity of the health damage sustained by the applicant. If the experts found that the applicant had sustained severe health damage, the limitation period would be ten years and the proceedings would not be time-barred.

On 17 April 2012 the St Petersburg City Court quashed the Kirovskiy District Court's decision of 17 January 2012 for procedural defects and remitted the applicant's mother's complaint of 19 December 2011 for a new

examination before the same District Court. The applicant did not submit any documents relating to the further examination of the complaint of 19 December 2011.

On 18 April 2012 the St Petersburg City Court quashed the Kirovskiy District Court's decision of 7 February 2012 and remitted the applicant's mother's complaint of 31 October 2011 for a new examination before the same District Court.

In reply to the applicant's mother's complaints about the delays and ineffectiveness of the investigation, the Kirovskiy District prosecutor's office held, in its decisions of 30 March and 21 May 2012, that the investigation had been suspended on 30 December 2011 because the case file had been sent to the Kirovskiy District Court on 15 December 2011. The investigation would be resumed after the return of the case file from the court.

On 9 July 2012 the St Petersburg police department annulled the investigator's decision of 30 December 2011 by which the investigation had been suspended. It found that that decision had been unlawful and ordered that the investigation be resumed.

On the same day the St Petersburg police department annulled all the extensions of the investigation issued after 16 June 2011. It found that the investigation had been extended by an unauthorised person. In particular, it had been extended by the head of the Kirovskiy District police department instead of by the head of the regional investigative authority as established by law.

On 11 July 2012 the investigator questioned a teacher of nursery school no. 42 who had repeated her previous submissions.

On 13 July 2012 Ms Kh. asked the investigator to discontinue the investigation because the proceedings were time-barred. On the same day the investigator rejected the request for the same reasons as before.

On 16 July 2012 the investigator questioned the mother of one of the children who had attended the nursery school together with the applicant. She confirmed her previous submissions, namely that her son had never been mistreated by the staff of the nursery school and she did not have any complaints against Ms P. or Ms Kh.

On the same day the investigator questioned the director of nursery school no. 42 who had taken up that position in December 2005. She repeated her previous submissions.

On 18 July 2012 the applicant's mother asked the Kirovskiy District Court to accelerate the examination of her complaint of 31 October 2011. On the same day the Kirovskiy District Court rejected her complaint. It found that the complaint of 31 October 2011 had been received by the court on 23 April 2012. The judge had obtained the case file and had held several hearings. The next hearing had been fixed for 14 September 2012 because the judge was on annual leave.

On 18 July 2012 the applicant's mother lodged a new complaint with the Kirovskiy District Court. She complained about the delays and the ineffectiveness of the investigation. In particular, she submitted that the investigation had been many times suspended unlawfully.

On 24 July 2012 medical nurse Ms Pt. was again questioned. She confirmed her statements of 23 August 2011 and 24 October 2011. In



particular, she repeated that she had lied during the first questionings about giving the eye drops to the children on 7 November 2005. In fact the eye drops had been given by Ms Kh. without her permission.

On 25 July 2012 the applicant's mother lodged a complaint with the Krasnogvardeyskiy District Court of St Petersburg. She raised the same issues as in her complaint of 18 July 2012.

On 7 August 2012 the investigator found that after 16 June 2011 the investigation had been extended in breach of the procedure and time-limits provided by law. The investigative measures carried out between 16 June 2011 and 9 July 2012 had been therefore unlawful and all evidence collected during that period was inadmissible.

On 10 August 2012 the Kirovskiy District police department discontinued the criminal proceedings against Ms Kh. and Ms P., finding that there was insufficient evidence of a criminal offence. It noted that only four witnesses had confirmed the fact of ill-treatment: the applicant, the applicant's mother, Ms Ch. and Ms Pt. in her statements of 24 July 2012. The experts had found that, because of his age, the applicant's description of the events was unreliable and his further participation in investigative measures was inadvisable. There were therefore doubts about the credibility of his statements. The applicant's mother's statements were equally unreliable because she had learned about the events from the applicant. Ms Pt.'s statements of 24 July 2012 contradicted her previous statements and statements by other witnesses. They could not therefore be considered reliable either. The expert opinions establishing a causal link between the ill-treatment and the applicant's nervous disorder could not serve as evidence of ill-treatment because it was not in the experts' competence to establish the fact of ill-treatment. The expert opinions had been made on the assumption that such ill-treatment had taken place. Ms Ch.'s statements were therefore the only evidence of ill-treatment. The investigator considered they were insufficient to prove the fact of ill-treatment. The investigator further noted that all evidence collected between 16 June 2011 and 9 July 2012 had been declared inadmissible. Given that that evidence did not contain any proof of ill-treatment, it was not necessary to collect it again in accordance with the procedure established by law.

The applicant's parents were not informed about that decision.

On 13 August 2012 the Kirovskiy District Court allowed the applicant's mother's complaint of 18 July 2012 in part. It found that the investigator had not still organised an additional expert examination of the applicant although he had been instructed to do so in August 2010 and then again in August 2011. It also found that the applicant's mother had been unlawfully denied access to some documents in the case file.

On 24 August 2012 the Krasnogvardeyskiy District Court dismissed the applicant's mother's complaint of 25 July 2012. It found that complaints were well-founded. However, given that on 10 August 2012 the investigation had been discontinued for the lack of evidence of a criminal offence, they had to be dismissed.

On the same day the applicant's mother, who had learned from the text of the decision of 24 August 2012 that the criminal proceedings had been discontinued, asked for a copy of the investigator's decision of 10 August 2012. She received a copy of that decision on 27 August 2012.

On 9 October 2012 the applicant's mother challenged the decision of 10 August 2012 to discontinue the criminal proceedings before the Kirovskiy District Court.

On 16 October 2012 the St Petersburg City Court quashed the decision of 13 August 2012 on the ground that Ms P. and Ms Kh. had not been informed of the hearing of 13 August 2012 and had been therefore absent. It remitted the applicant's mother's complaint of 18 July 2012 for a new examination before the Kirovskiy District Court.

On 23 October 2012 the applicant's mother challenged the decision of 10 August 2012 to discontinue the criminal proceedings before the St Petersburg prosecutor's office. On 23 November 2012 the St Petersburg prosecutor's office found that the decision of 10 August 2012 had been lawful.

Meanwhile, on 15 November 2012 the St Petersburg City Court quashed the decision of 24 August 2012. It found that some of the applicant's mother's complaints had not been examined, that the decision had been based on certain documents that had not been examined during the hearing and that, while finding some of first applicant's complaints well-founded, the court had dismissed them. It remitted the applicant's mother's complaint of 25 July 2012 for a new examination before the Krasnogvardeyskiy District Court.

On 22 November 2012 the Krasnogvardeyskiy District Court sent the applicant's mother's complaint of 25 July 2012 to the Kirovskiy District Court, finding that it was within the territorial jurisdiction of that court.

On 27 December 2012 the Kirovskiy District Court discontinued the examination of the complaint of 25 July 2012. It found that it was no longer necessary to examine the complaint because the investigation had been discontinued on 10 August 2012 for the lack of evidence of a criminal offence.

On 14 February 2013 the Kirovskiy District Court allowed the complaint of 31 October 2011 in part. It found that the investigator's decisions to suspend the investigation issued between 15 September 2010 and 6 October 2011 had been unlawful. The applicant's mother's rights had been moreover breached by the investigator's failure to inform her about the suspensions of the investigation. Her complaint that the investigator had had intentionally delayed the investigation with the aim of making the proceedings time-barred was however unsubstantiated. The investigation had been discontinued for the lack of evidence of a criminal offence rather than on the ground that the proceedings were time-barred.

On 22 April 2013 the St Petersburg City Court upheld the decision of 27 December 2012 on appeal. At the same time it criticised the District Court for the unjustified delay in sending the case file to the City Court.

On 24 April 2013 the Kirovskiy District Court examined the applicant's mother's complaint of 18 July 2012 and allowed it in part. It found that the applicant's mother had been unlawfully denied access to some documents in the case file. It however rejected the remainder of her complaints relating to the alleged ineffectiveness of the investigation. In particular, the court established that the investigator had not complied with the prosecutor's instructions as to additional investigative measures to be performed. However, the prosecutor had later confirmed the investigator's decision to

discontinue the investigation, thereby accepting that it was no longer necessary to comply with his previous instructions and to perform the investigative measures in question. The investigator's actions had been therefore lawful.

On 2 August 2013 the Kirovskiy District Court rejected the applicant's mother's complaint of 9 October 2012 challenging the decision of 10 August 2012 to discontinue the criminal proceedings. It found that that the investigation had been thorough and effective. The investigator had questioned many witnesses and performed other investigative measures. The decision to discontinue the investigation had been amply reasoned. The court had no competence to assess the evidence collected in the course of the investigation or to verify whether the investigator's finding that that evidence was insufficient to establish the fact of ill-treatment was well-founded. The breaches of procedure committed during the investigation – such as the failure to promptly notify the applicant's mother about certain procedural decisions taken by the investigator or the investigator's failure to comply with the prosecutor's instructions – were insufficiently serious to warrant the quashing of the decision of 10 August 2012.

On 6 August 2013 the St Petersburg City Court upheld the decision of 24 April 2013 on appeal, finding it lawful, well-reasoned and justified.

On 24 December 2013 the St Petersburg City Court quashed the decision of 2 August 2013 on appeal and found that the decision of 10 August 2012 to discontinue the investigation had been unlawful. It found that the investigation had been ineffective. In particular, given that all evidence collected between 16 June 2011 and 9 July 2012 had been declared inadmissible, it was necessary to perform anew the investigative measures carried out during that period and to carry out further investigative measures indicated by the prosecutor's office. The court also noted that although the applicant's statements given after 2006 were indeed unreliable according to the experts, his statements before that could be taken into account in the assessment of evidence. The City Court also criticised the District Court for the delays in the examination of the applicant's mother's complaint of 9 October 2012 and the resulting excessive length of the judicial proceedings.

On 20 February 2014 the investigation was resumed.

On 28 February 2014 the investigator questioned the applicant's father who repeated his previous submissions.

On the same day the investigator organised a confrontation interview between the applicant's mother and one of the teachers of the nursery school already questioned on 2 November 2011. They both confirmed their previous submissions.

On the same day the investigator questioned two of the experts who had participated in the expert examination of 14 January 2011. The experts confirmed the findings contained in the expert opinion of 14 January 2011, in particular that the applicant had suffered health damage of medium severity.

On 5 March 2014 the applicant's mother applied to the investigator, asking that Ms P. and Ms Kh. be charged with premeditated infliction of severe health damage. She further asked that the expert opinions of 10 April and 9 October 2009 be declared inadmissible as evidence. On 7 March 2014

the investigator rejected her requests. He found that there was no evidence of premeditated infliction of severe health damage. The expert opinions had been obtained in accordance with the procedure prescribed by law.

On 12 March 2014 the investigator organised confrontation interviews between assistant teacher Ms Ch. and medical nurse Ms Pt. and between Ms Ch. and the teacher who had participated in the confrontation interview of 28 February 2014. All the participants confirmed their previous statements.

On 12 March 2014 the applicant's mother asked the investigator that her neighbor and some other teachers from the nursery school be questioned. She also asked that certain materials from the civil case file be included in the criminal case-file. In particular, she asked to include in the criminal case file a written statement of 18 April 2006 by one of the staff members of nursery school no. 42 that medical nurse Ms Pt. had attempted to convince her and other staff members to give false testimony against the applicant's family. On 17 March 2014 the investigator rejected her requests, finding that the teachers' statements and the documents from the civil case-file were irrelevant to the criminal case. He however allowed her request to question the neighbor.

On 13 March 2014 the investigator questioned Ms P. and Ms Kh. Ms P. confirmed her previous statements. Ms Kh. refused to testify. They both asked that the criminal proceedings be discontinued as time-barred.

On the same day the investigator organised a confrontation interview between Ms P. and Ms Ch. They both confirmed their previous statements.

On 14 March 2014 the applicant's mother complained about the ineffectiveness of the investigation to the Kirovskiy District police department, the Kirovskiy District prosecutor's office and the St Petersburg prosecutor's office.

On 17 March 2014 the investigator questioned the applicant's neighbour who stated that the applicant's tics had started in November 2005. She also stated that the applicant's parents were on good terms with Ms Ch.'s sister but she had not noticed any relationship between the applicant's parents and Ms Ch. herself.

On 17 March 2014 the Kirovskiy District police department replied to the applicant's mother's complaint of 14 March 2014 that all necessary investigative measures had been performed and all relevant facts had been established. It was therefore not necessary to carry out any further investigative measures. On the same day the Kirovskiy District prosecutor's office also replied to the applicant's mother that the investigation had been thorough and complete. There was no need for any further investigative measures.

On 18 March 2014 the Kirovskiy District police department discontinued the criminal proceedings against Ms P. and Ms Kh., finding that their actions did not amount to a criminal offence under Article 112 of the Criminal Code. In particular, although they had indeed given eye drops to the applicant, thereby causing him health damage of medium severity, there was no evidence that they had had an intention of causing such damage. The infliction of health damage had not been therefore intentional or premeditated.

On 20 March 2014 the applicant's mother challenged that decision before the St Petersburg prosecutor's office, complaining that the investigation had been incomplete.

On 18 April 2014 the St Petersburg prosecutor's office found that the decision of 18 March 2014 to discontinue the criminal proceedings had been lawful.

On 7 April 2014 the applicant's mother challenged the decision of 18 March 2014 before the Kirovskiy District Court. The judicial proceedings are still pending.

#### *4. The applicant's medical documents*

The applicant is regularly examined by a neurologist. After the initial diagnosis of hyperkinesia on 15 November 2005 (see above), he was examined by a neurologist on 2 February, 24 April and 10 October 2006 and 26 January, 25 April, 18 and 22 May 2007. He complained of nervous tics, sleeping difficulties, nervousness and fears. The neurologist noted that the symptoms had been caused by a prolonged psychologically traumatic experience in the nursery school in 2005. The applicant was prescribed treatment.

On 27 September 2007 the applicant's medical documents were examined by a child psychiatrist who found that before November 2005 the applicant had not suffered from any neurological or psychiatric disorders. He had however on occasions showed allergic reactions. In 2005 he had been subjected to a prolonged psychologically traumatic experience in the nursery school. Against the background of that prolonged traumatic experience, the incident of 7 November 2005 involving use of violence had served as a trigger for his present neurological disorder. An allergic reaction to the eye drops could have also contributed to the development of the disorder. The psychiatrist concluded that there had been a causal link between the traumatic experience suffered by the applicant in the nursery school from September to November 2005 and his persistent neurological disorder.

From September 2007 to June 2008 the applicant followed a course of treatment for nervous tics.

On 22 October 2008 the applicant's medical documents were again examined by a child psychiatrist who found that the applicant continued to suffer from a medium severity neurological disorder.

From March to June 2009 the applicant took a new course of treatment for nervous tics. Another course of treatment was followed by him from January to April 2010.

## **B. Relevant domestic law**

### *1. The Criminal Code*

The statute of limitation is fixed as follows:

- two years for minor offences;
- six years for offences of medium severity;
- ten years for serious offences;
- fifteen years for especially serious offences (Article 78).

Before 7 December 2011 minor offences were premeditated and unpremeditated offence for which the Criminal Code prescribed a maximum penalty of up to two years' imprisonment. Offences of medium severity were premeditated offences for which the Criminal Code prescribed a maximum penalty of between two and five years' imprisonment or unpremeditated offences for which the Criminal Code prescribed a maximum penalty of more than two years' imprisonment. Serious offences were premeditated offences for which the Criminal Code prescribed a maximum penalty of between five and ten years' imprisonment. Especially serious offences were premeditated offences for which the Code prescribed a maximum penalty of more than ten years' imprisonment or a heavier penalty (Article 15 as in force until 7 December 2011).

On 7 December 2011 Article 15 was amended. In accordance with the amended Article 15, minor offences are premeditated and unpremeditated offence for which the Criminal Code prescribes a maximum penalty of up to three years' imprisonment. Offences of medium severity are premeditated offences for which the Criminal Code prescribes a maximum penalty of between three and five years' imprisonment or unpremeditated offences for which the Criminal Code prescribes a maximum penalty of more than three years' imprisonment. The definition of serious and especial serious criminal offences remained unchanged (Article 15 as in force since 7 December 2011).

Premeditated infliction of severe health damage, that is damage resulting, among others, in a psychiatric disorder, is punishable by up to eight years' imprisonment (Article 111 § 1). The same health damage inflicted on a minor is punishable by up to ten years' imprisonment (Article 111 § 2).

Premeditated infliction of health damage of medium severity resulting in a lengthy illness is punishable by up to three years' imprisonment (Article 112 § 1). The same health damage inflicted on a minor is punishable by up to five years' imprisonment (Article 112 § 2).

Battery or other violent acts causing physical pain are punishable by up to three months' arrest (Article 116).

Cruel treatment of minors by parents, teachers or other staff members of educational institutions is punishable by up to three years' imprisonment (Article 156).

## *2. The Code of Criminal Procedure*

Criminal investigation must be completed within two months (Article 162 § 1). The investigation may be extended up to three months by the head of the investigative authority (Article 162 § 4). In especially complex criminal cases the investigation may be extended up to twelve months by the head of the regional investigative authority. In exceptional circumstances the investigation may be extended beyond twelve months by the head or deputy head of the Investigative Committee of the Russian Federation (Article 162 § 5 as in force at the material time).

## *3. The Minors Act*

The Federal Law on the Basic Measures for Preventing Child Neglect and Delinquency of Minors, no. 120-FZ of 24 June 1999 ("the Minors Act")

provides that state authorities dealing with minors, such as, among others, local departments of education, have an obligation to safeguard the rights and legitimate interests of minors and to protect minors from discrimination, physical or psychological violence, insult, rough treatment, sexual or other exploitation. They must immediately inform the prosecutor's office about any breaches of the rights or freedoms of minors. They must also immediately inform the police about the facts of cruel treatment of minors or other criminal acts against minors committed by parents or other persons (section 9 § 2 (1) and (5)).

## COMPLAINTS

The applicant complains under Articles 3 and 13 of the Convention about his ill-treatment by the teachers of public nursery school no. 42 and about the excessive length and ineffectiveness of the investigation into his allegations of ill-treatment.

## QUESTIONS TO THE PARTIES

1. The Government are requested to provide examples of case-law on application of Article 156 of the Criminal Code to teachers of public nursery and secondary schools.

2. Was the applicant subjected to torture or inhuman or degrading treatment or punishment from September to November 2005, in breach of Article 3 of the Convention?

3. Did Russia bear responsibility under Article 3 of the Convention for the applicant's alleged ill-treatment by the teachers of public nursery school no. 42 (see *Costello-Roberts v. the United Kingdom*, 25 March 1993, Series A no. 247-C)?

4. Did Russia fulfil in the applicant's case its positive obligation to protect children under its control from torture, inhuman or degrading treatment or punishment (see *O'Keeffe v. Ireland* [GC], no. 35810/09, ECHR 2014 (extracts))?

5. Was the investigation into the applicant's allegations of ill-treatment prompt, thorough and effective?

6. Did the applicant have at his disposal an effective domestic remedy for his complaint under Article 3, as required by Article 13 of the Convention?