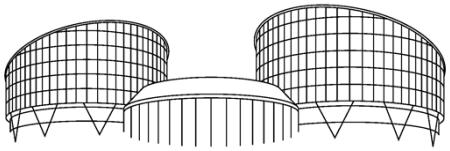

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF ZAREMA MUSAYEVA AND OTHERS v. RUSSIA

(Application no. 4573/22)

JUDGMENT

Art 2 (substantive and procedural) • Life • Repeated public death threats by high-level Chechen officials against the applicants in a climate of impunity prevailing in the region • Backdrop of numerous and serious violations of human rights in Chechnya at the relevant time • Real and immediate risk to the applicants' lives • Authorities' failure to take any preventive measures, including the initiation of an effective investigation

Art 3 (substantive and procedural) • Inhuman and degrading treatment of the applicants by the Chechen police • No effective investigation

Art 5 § 1 • Arbitrary administrative detention of the first applicant

Art 18 (+ Art 5) • Restriction for unauthorised purposes • Deprivation of the first applicant's liberty with ulterior purpose of retaliating against her family members involved in human rights work and opposition activities in Chechnya

Art 6 § 1 (criminal) • Fair hearing • First applicant unable to effectively participate in the administrative proceedings against her • Absence of a prosecutor in breach of the requirement of impartiality

Art 34 • Hinder exercise of right of individual application • Refusal to provide information requested constituting a failure to comply with interim measures under Rule 39

STRASBOURG

28 May 2024

FINAL

28/08/2024

This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.

In the case of Zarema Musayeva and Others v. Russia,

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

Pere Pastor Vilanova*, President*,
Jolien Schukking,
Georgios A. Serghides,
Darian Pavli,
Peeter Roosma,
Ioannis Ktistakis,
Oddný Mjöll Arnardóttir*, judges*,
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 4573/22) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by three Russian nationals, ("the applicants") on 21 January 2022;

the decision to give notice of the application to the Russian Government ("the Government");

the decision to indicate an interim measure to the Government under Rule 39 of the Rules of Court;

the information submitted by the parties and the applicants' observations;

the decision of the President of the Section to appoint one of the elected judges of the Court to sit as an *ad hoc* judge, applying by analogy Rule 29 § 2 (see *Kutayev v. Russia*, no. 17912/15, §§ 5-8, 24 January 2023);

Having deliberated in private on 16 April 2024,

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

INTRODUCTION

1. The case concerns the first applicant's forcible removal from Nizhniy Novgorod to Grozny in January 2022, her subsequent detention in Chechnya, her administrative conviction and criminal proceedings brought against her there. It also concerns death threats against all three applicants by the local authorities and their ill-treatment by the Chechen police.

THE FACTS

2. The first applicant is Ms Zarema Musayeva (also spelt Musaeva), who was born in 1969; the second applicant is Mr Sayda Yangulbayev (also spelt Saidi Yangulbaev), who was born in 1958; and the third applicant is Ms Aliya Yangulbayeva, who was born in 2000. The applicants were represented by Ms E. Valieva, a lawyer practising in Nizhniy Novgorod.

3. The Government were initially represented by Mr M. Galperin, former Representative of the Russian Federation to the European Court of Human Rights, and later by his successor in that office, Mr M. Vinogradov.

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

I. BACKGROUND

5. The first and second applicants are married and have three sons and a daughter, the third applicant. The first applicant suffers from diabetes and requires five insulin injections a day. In 2015 and 2017 the second applicant, a former judge of the Supreme Court of the Chechen Republic, and his sons, Abubakar and Ibrahim Yangulbayev (also spelt Iangulbaev and Yangulbaev), were allegedly subjected to torture by State agents in Chechnya because of their opposition to the local leadership. Following these events, in 2017 the applicants fled the region and moved to the Nizhniy Novgorod region (approximately 2,000 km away). Fearing for his life, Ibrahim Yangulbayev left Russia and applied for asylum in Norway.

6. On 28 December 2021 Abubakar Yangulbayev, who worked for the human rights NGO Committee Against Torture and lived in Pyatigorsk in the Stavropol region (about 500 km from Grozny), was questioned by police officers from Chechnya. The officers searched his home and told him that he was a witness in a terrorism investigation. These measures were taken against him because of his alleged involvement in the activities of the Chechen opposition Telegram channel "1ADAT" (see *S.T. and Y.B. v. Russia*, no. 40125/20, § 5, 19 October 2021, in which the Court found that one of the applicants in that case had been abducted in another region of Russia and taken to Chechnya, where he had been ill-treated by the Chechen police and the video of this humiliating ill-treatment had subsequently been disseminated online). Following these events, and fearing abduction by State agents and subsequent torture in Chechnya, Abubakar Yangulbayev fled Russia on 29 December 2021.

7. In January 2022 the applicants were living in Nizhniy Novgorod, while their official address was in Zavolzhye in the Nizhniy Novgorod region. Fearing abduction by the Chechen authorities, they planned to leave Russia for a foreign country on 21 January 2022.

II. THE FIRST APPLICANT'S FORCIBLE REMOVAL AND SUBSEQUENT EVENTS

A. The first applicant's removal from her place of residence

8. At around 2 p.m. on 20 January 2022, while the applicants were packing to leave Russia, a group of five or six police officers arrived at their home. The officers, who claimed to be from Chechnya, demanded entry and

stated that they intended to take the first and second applicants to Grozny for questioning in connection with a fraud case. The applicants called their lawyer, Ms Z., who arrived at 5.30 p.m. The Chechen officers produced a summons dated 11 January 2022 for a witness interview scheduled for 14 February 2022, alleging non-compliance with a previous summons sent to an address in Gorodetskiy in the Nizhniy Novgorod region. However, the address stated did not exist and the applicants had never received a summons.

9. At 6.30 p.m. the applicants allowed two local police officers to enter the flat, who stated that they were unable to help in the situation and left. At around 7 p.m. representatives of NGO Crew Against Torture, Mr. B. and Mr Kh., arrived at the block of flats.

10. At 7.40 p.m. the applicants allowed one of the Chechen police officers, who introduced himself as officer A.M., to enter the flat. After the second applicant showed him his identity card, which stated that he was a retired federal judge, the officer said that, given his status, only the first applicant would be taken to Grozny for questioning. The officers ignored questions from the applicants' lawyer and representatives as to whether the first applicant could be questioned at home or at a police station in Nizhniy Novgorod instead of being forcibly taken to Grozny.

11. At around 8 p.m. the police officers broke into the applicants' flat and used physical force against those inside. They shoved the third applicant to the floor and the second applicant aside, grabbed the first applicant and dragged her out. Despite her pleas for essential items, including medication vital to her health, warm clothes, shoes and her passport, she was not allowed to take any of these with her. On the stairs, the first applicant lost consciousness and was dragged to the entrance of the block of flats. She was then forced to walk barefoot in the snow to a waiting car. The police officers forced her into the car and drove off.

B. The first applicant's transfer from Nizhniy Novgorod to Chechnya

12. Between 20 and 21 January 2022 the first applicant was driven non-stop for roughly twenty-four hours from the Nizhniy Novgorod region to Grozny, a distance of approximately 2,000 km, in the custody of the Chechen police officers. Throughout the journey, she was deprived of her diabetic medication and food. She was forced to use the side of the road for toilet purposes in the snow, barefoot and without warm clothing, and subjected to verbal abuse by the officers. She was also punched in the face by one of them.

C. Subsequent events

13. On the evening of 21 January 2022 the second and third applicants underwent a medical examination at Nizhniy Novgorod Trauma Unit no. 34,

which revealed that they had suffered a facial injury and a head injury respectively.

14. On 22 January 2022 the second and third applicants left Russia.

15. On 3 February 2022 the second applicant was stripped of his status as a federal judge by the Chechen Council of Judges and lost his immunity.

16. Between February and September 2022 the applicants' lawyers complained to the Nizhny Novgorod police about the applicants' ill-treatment and a violation of their right to respect for their home during the first applicant's removal. However, on 13 October 2022 and again on 23 January 2023 the police refused to open a criminal case for lack of *corpus delicti*.

D. Public statements by Chechen officials

17. On 21 January 2022 the Chechen President, Ramzan Kadyrov, made the following remarks on Telegram:

> "... In any case, I declare that either imprisonment or death awaits this family [the Yangulbayevs]."

Later that evening, he posted on the platform:

> "The Yangulbayevs were summoned three times before yesterday's incident ... Today, after the woman [the first applicant] was brought to Grozny, she attacked a police officer and almost took out his eye. She has already earned herself a real prison sentence."

18. On 22 and 24 January 2022 respectively President Kadyrov stated on Telegram that the applicants' family should be arrested and punished and that "if they resist[ed], they should be killed ...".

19. On 24 January 2022 the Speaker of the Chechen Parliament, Magomed Daudov, posted a video on Instagram in which Ramzan Kadyrov expressed his contempt for the applicants' family and threatened them with consequences if they did not calm down:

> "... Shame on you [the Yangulbayevs]. You claim that I abducted your mother in front of your father ... Are you men then? ... What are you going to do? ... If you don't calm down, we'll really show you how it is. You haven't seen anything yet."

20. Between 24 January and 4 February 2022 President Kadyrov and other high-ranking Chechen officials, including Mr Delimkhanov, a member of the Russian State Duma, publicly declared their intention to kill all members of the applicants' family, referring to it as a "blood feud" and promising to "hunt" them down, including threatening to "cut their heads off".

21. On 1 February 2022 President Kadyrov appealed to the international community via the social media platform VKontakte, threatening to find the members of the applicants' family abroad:

> "... I appeal to the countries that have given shelter to these scumbags: do not expect gratitude from them, but they will certainly sow seeds of discord in you. It is better to

throw them out of the country and return them to Russia, because their stay will bring no good to your countries ...

From now on, the [Yangulbayev] family will have to live their lives looking [over their shoulders], flinching at every knock on the door ..."

22. On 2 February 2022 the Chechen Deputy Prime Minister, Abuzayed Vismuradov, posted a video on social media threatening to behead members of the Yangulbayev family. The video featured the First Deputy of the Chechen Head of Government, Isa Tumkhadzhiyev, and senior Chechen law enforcement officials. On the same day, a demonstration against the Yangulbayev family took place in Grozny, where thousands of participants made death threats against the applicants' family, stomping on and burning photographs of the family members.

23. On the same date the head of the Grozny police department and the head of the Chechen Ministry of Emergency Situations published videos on their Instagram accounts containing threats against the applicants' family, including statements such as "We will kill you, rip off your heads, rip out your tongues and hang you".

24. On 4 or 5 February 2022 the head of the Kurchaloy district police department in Chechnya took to Instagram to call on Chechens living in Europe to find the applicants' family members and "cut their heads off".

25. Despite these explicit threats and public statements, the authorities in Russia showed no reaction. The repeated calls to harm the applicants' family members were not investigated, despite repeated complaints by the applicants and their representatives.

III. INTERIM MEASURE

26. On 21 January 2022 the applicants' representatives applied for interim measures under Rule 39 of the Rules of Court, requesting that the first applicant be protected from the risk of enforced disappearance, ill-treatment and unlawful detention by State agents. On 31 January 2022 they requested that the first applicant be released from detention, be allowed to undergo a medical examination by non-Chechen doctors and be given access to legal counsel. They also requested an investigation into the circumstances of her forcible transfer and that the criminal proceedings against her be conducted in another region of Russia. Lastly, they stated that the purpose of the first applicant's transfer and subsequent detention was to put pressure on her sons and husband to cease their opposition activities and return to Chechnya to surrender to the local authorities in exchange for her possible release.

27. In response to the Court's requests for information, the Government stated that the first applicant had been forcibly transferred because she had failed to respond to a previous summons in a criminal case.

28. On 13 February 2022 the Court, in accordance with Rule 39, instructed the Government to ensure that the first applicant received the

necessary medical treatment, to provide fortnightly updates on the treatment provided to her and to inform the Court of any measures taken to safeguard her rights under the Convention. However, shortly afterwards, in early March 2022, the Government stopped providing the information requested.

IV. ADMINISTRATIVE PROCEEDINGS AGAINST THE FIRST APPLICANT

29. At approximately 6.50 p.m. on 21 January 2022, immediately upon arriving in Grozny, the first applicant was taken to the Leninskiy district police station for questioning, which lasted about twenty minutes.

30. During that time she was visited by Mr Soltayev, the Chechen Human Rights Ombudsman, who filmed a few seconds of the meeting with her on his mobile phone and posted the video on Instagram later that day. In the video, the first applicant, who was sitting up and appeared barely conscious, denied that any physical force had been used against her and said that she had received an injection. According to the applicants, she felt unwell, was unable to stand up and did not receive an insulin injection until 9 p.m.

31. According to the police records, at about 7.15 p.m., shortly after the first applicant's questioning, the following occurred:

> "... in front of police station no. 1 [the first applicant] used coarse insults towards people, did not respond to requests [to calm down], showed aggression and insulted human dignity and public morals, thus violating public order."

At 7.20 p.m. the first applicant allegedly scratched the left cheek of officer M.A. while he was drawing up an administrative offence report for disorderly conduct (see paragraph 17 above).

32. At approximately 10 p.m. the Leninskiy District Court in Grozny (renamed the Akhmatovskiy District Court in March 2023) found the first applicant guilty of disorderly conduct (Article 20.1 § 1 of the Code of Administrative Offences, "petty hooliganism" – *мелкое хулиганство*) and sentenced her to the maximum sanction under that Article, fifteen days' administrative detention, to be served in a special remand prison run by the Chechen Ministry of Internal Affairs. The case was examined in the absence of the prosecutor and the applicant's lawyer. The decision did not outline the factual circumstances of the charge, except referring to the police reports and mentioned that "[the first applicant] did not furnish any explanations on the substance of the case". At the beginning of the hearing, at 10.10 p.m., the first applicant lost consciousness and an ambulance was called for her. She regained consciousness in the remand prison on 22 January 2022.

33. According to the Government, on 21 January 2022 the first applicant underwent a compulsory medical examination prior to her placement in the remand prison, which showed that her state of health was compatible with detention. No medical or other documents were submitted in support of this assertion. According to the applicants, no such examination took place.

34. On 22 January 2022 the first applicant was given food in the remand prison for the first time since she had left Nizhniy Novgorod.

35. On 28 January 2022 an officer in the remand prison handed the first applicant's lawyer, Mr N., a statement dated 24 January 2022 in which she had refused legal assistance owing to her state of health.

36. According to the Government, the first applicant was examined on 3 February 2022 by a specialist in internal medicine, a neurologist and an endocrinologist, who found her state of health to be satisfactory. No medical or other documents were submitted in support of this assertion.

37. Between 21 January and 4 February 2022 the first applicant was not allowed any visitors in detention. She was then visited by her lawyers and three members of the Public Monitoring Commission of the Chechen Republic.

38. On 2 February 2022 the applicant's lawyer, Mr N., appealed against the first applicant's administrative conviction to the Supreme Court of the Chechen Republic, which dismissed the appeal on 4 February 2022, stating that he was not a party to the administrative proceedings and that the appeal should not therefore be considered. He appealed against this decision to the Fifth Cassation Court of General Jurisdiction. On 23 August 2022 the court ruled that the decision of the Supreme Court of the Chechen Republic was "erroneous and not based on law" and that he could represent the first applicant in the proceedings. The cassation court sent the case back to the Supreme Court of the Chechen Republic for fresh examination, which, at the date of the latest information submitted to the Court, was still pending.

V. CRIMINAL PROCEEDINGS AGAINST THE FIRST APPLICANT

A. General information

39. On 27 January 2022 a criminal case was opened against the first applicant on the grounds that she had struck a police officer in the face during questioning at the police station on 21 January 2022 (see paragraphs 17 and 31 above). On 31 January 2022 she was charged with using violence to endanger the life or health of a representative of the authorities (Article 318 § 2 of the Criminal Code).

40. On 22 March 2022 another criminal case was opened against the first applicant for fraud (under Article 159 § 3 of the Criminal Code – see paragraph 8 above).

41. On 4 July 2023 the Akhmatovskiy District Court in Grozny convicted the first applicant on the above charges and sentenced her to five and a half years' imprisonment. On 12 September 2023 the Supreme Court of the Chechen Republic upheld her conviction on appeal, reducing the term of imprisonment to five years and changing the type of penal institution in which she was to serve her sentence.

B. The first applicant's pre-trial detention and confinement in a metal cage during court hearings

42. On 1 February 2022 the Staropromyslovskiy District Court in Grozny (renamed the Visaitovskiy District Court in March 2023) remanded the applicant in custody until 1 April 2022 pending an investigation into her alleged use of force against a police officer. On 10 February 2022 the Supreme Court of the Chechen Republic dismissed an appeal lodged by the applicants' lawyers and upheld that decision. The first applicant's pre-trial detention was subsequently extended several times and appeals lodged by the first applicant's lawyers were to no avail.

43. On 4 February 2022 the first applicant's lawyers were allowed to visit her in detention. She looked weak, could barely walk and was unable to stand up by herself as her diabetes and low blood pressure had not been properly treated. She denied having made the statement refusing legal assistance (see paragraph 35 above).

44. On 10 February, 20 and 27 April and 23 May 2022 the first applicant was placed in a metal cage at the Staropromyslovskiy District Court in Grozny during the hearings concerning her pre-trial detention.

RELEVANT LEGAL FRAMEWORK AND PUBLIC MATERIAL

I. DOMESTIC LAW

45. For a summary of relevant domestic law, see *Kutayev* (cited above, §§ 67-69), *Butkevich v. Russia* (no. 5865/07, §§ 33-48, 13 February 2018), *Gremina v. Russia* (no. 17054/08, §§ 53-56 and §§ 58-60, 26 May 2020) and *Navalnyy v. Russia* ([GC], nos. 29580/12 and 4 others, § 43, 15 November 2018), with further references.

II. INTERNATIONAL MATERIAL

46. For relevant Council of Europe and European Union material concerning the Chechen Republic, see *Kutayev* (cited above, §§ 72-74).

47. On 22 January 2022 the Diplomatic Service of the European Union published a document entitled "Statement by the Spokesperson on abductions and other human rights cases in the Russian Republic of Chechnya", the relevant part of which reads as follows:

> "... Credible reports of continuous violations of human rights in Chechnya, the inaction of federal authorities in Moscow and the impunity of those responsible for unlawful actions towards Chechen human rights defenders and their relatives are a source of concern.

> Recently reported cases of abduction, including the violent detention and forceful transfer to Chechnya of Ms Zarema Musayeva, the mother of the former lawyer of the "Committee Against Torture" Mr Abubakar Yangulbayev and Russian opposition blogger Mr Ibragim Yangulbayev in the city of Nizhny Novgorod, add to the already long list of human rights abuses in Chechnya.
>
> The European Union calls on the Russian authorities to release Ms Musayeva, to investigate the case as well as to put an end to the persecution of human rights defenders and their family members and release those detained under the pretext of trumped-up charges immediately ..."

48. On 3 June 2022 the Parliamentary Assembly of the Council of Europe issued a report entitled "The continuing need to restore human rights and the rule of law in the North Caucasus region" (doc. 15544), the relevant part of which reads as follows:

> "... Mr Yangulbayev's family became a target of the Chechen authorities after his son, Ibragim Yangulbayev, started reporting on human rights violations committed in Chechnya in 2015. He complained about being arbitrarily detained on politically motivated charges in 2017 and tortured by the Chechen police. His brother, Abubakar Yangulbayev, a human rights defender, was arrested and released after being questioned as a witness in December 2021 while reporting on kidnappings of the family's relatives, two of them remain in detention. In January 2022, his elderly mother, Zarema Musayeva, was secretly arrested and held in inhuman conditions without proper medical assistance ..."

49. On 31 March 2022 the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health of the Office of the United Nation's High Commissioner on Human Rights issued a communication to the Russian government, the relevant part of which reads as follows:

> "... we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged search in Mr. Abubakar Iangulbaev's flat ... all of which was reportedly in retaliation for his legitimate human rights work. We also bring to the attention ... the alleged disproportionate use of force against his mother Mrs. Zarema Musaeva, her alleged arbitrary detention, criminalisation and denial of access to legal assistance ..."

50. On 5 October 2023 the European Parliament adopted Resolution 2023/2882(RSP) on the case of Zarema Musaeva, the relevant part of which reads as follows:

> "... In January 2022, under the pretext of requiring her testimony in a criminal case, Zarema Musaeva was unlawfully abducted from elsewhere in Russia and placed in pre-trial detention in Chechnya. After having been denied proper legal defence, she was sentenced to five years in prison on charges of fraud and assaulting the authorities; whereas her health has deteriorated since her detention.
>
> Ms Musaeva is the wife of former Chechen Supreme Court judge Saidi Yangulbaev and mother of human rights defender Abubakar and opposition bloggers Ibrahim and Baysangur Yangulbaev. Her sons are vocal critics of the Head of the Chechen Republic, Ramzan Kadyrov, and his autocratic rule. Kadyrov has publicly threatened to

‘eliminate’ the Yangulbaev family members. The EU and the United States have placed Kadyrov and his closest associates on the sanctions list for serious human rights violations.

Members strongly condemn the kidnapping and politically motivated detention of Zarema Musaeva and regards these as acts of retaliation for her sons’ legitimate human rights work and political views ...”

THE LAW

I. PRELIMINARY REMARKS

51. The Government did not comment on the admissibility or merits of the application. However, their abstention from further participation in the proceedings does not release them from their duty to cooperate with the Court, which is not prevented from continuing with the examination of applications over which it retains jurisdiction. The Court may draw such inferences as it deems appropriate from a party’s failure or refusal to participate effectively in the proceedings (Rule 44C of the Rules of Court; see also *Georgia v. Russia (II)* (just satisfaction) [GC], no. 38263/08, §§ 25-27, 28 April 2023; *Svetova and Others v. Russia*, no. 54714/17, §§ 29-31, 24 January 2023; and *Glukhin v. Russia*, no. 11519/20, §§ 42-43, 4 July 2023).

II. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

52. The applicants complained that they and their family members had received repeated death threats and that the authorities had failed to investigate these incidents. They relied on Article 2 of the Convention, the relevant part of which reads as follows:

Article 2

“1. Everyone’s right to life shall be protected by law ...”

A. Admissibility

1. The Court’s jurisdiction

53. The Court first observes that the facts giving rise to the alleged violations of the Convention occurred prior to 16 September 2022, the date on which the Russian Federation ceased to be a party to the Convention. The Court therefore decides that it has jurisdiction to examine this complaint (see *Fedotova and Others v. Russia* [GC], nos. 40792/10 and 2 others, §§ 68-73, 17 January 2023, and *Pivkina and Others v. Russia* (dec.), nos. 2134/23 and 6 others, § 46, 6 June 2023).

2. Applicability of Article 2 of the Convention

54. The Court must determine the applicability of Article 2 of the Convention (see *Tagiyeva v. Azerbaijan*, no. 72611/14, § 53, 7 July 2022), noting that it has already examined the merits of Article 2 complaints by individuals who were convinced of the seriousness of the threat to their lives, even though that risk never materialised (see *R.R. and Others v. Hungary*, no. 19400/11, §§ 26-32, 4 December 2012; *Selahattin Demirtaş v. Turkey*, no. 15028/09, §§ 30-36, 23 June 2015; and *Makuchyan and Minasyan v. Azerbaijan and Hungary*, no. 17247/13, §§ 93-94, 26 May 2020).

55. In the present case, a number of high-level Chechen officials repeatedly made public threats against the applicants, calling for a blood feud and the murder of their entire family (see paragraphs 17-24 above). The Court has already commented on the climate of impunity prevailing in the region, having adjudicated in cases of murders, enforced disappearance and torture of persons perceived by the Chechen authorities as opponents (see, as recent examples, *inter alia*, *Estemirova v. Russia*, no. 42705/11, §§ 68-72, 31 August 2021; *Kutayev*, cited above, § 100, 24 January 2023; *S.T. and Y.B. v. Russia*, no. 40125/20, §§ 77 and 84, 19 October 2021; *Lapunov v. Russia*, no. 28834/19, §§ 105-106, 12 September 2023; and *N.A. and Others v. Russia*, no. 48523/19, §§ 67, 73 and 76, 21 November 2023) and the documented unwillingness of the local law enforcement authorities to cooperate in the investigation of allegations of abductions and subsequent ill-treatment (see *S.T. and Y.B. v. Russia*, cited above, §§ 72-73). In the light of the above, the Court finds that these public threats were real and imminent and that the applicants were in a life-threatening situation, even though no actual injury occurred. The second and third applicants escaped the country, but the first applicant was unable to do so because she had been detained by the Chechen police (see paragraphs 5-6 and 14 above).

56. The Court therefore finds that the above-mentioned circumstances bring the applicants' complaint within the scope of Article 2 of the Convention. The fact that they survived the threats does not affect this conclusion.

3. Other issues as to admissibility

57. Given that the Government did not raise any objections as to the admissibility of the complaints, the Court need not consider the matter of exhaustion of domestic remedies of its own motion (see *Yefimov and Youth Human Rights Group v. Russia*, nos. 12385/15 and 51619/15, § 31, 7 December 2021, and *Dobrev v. Bulgaria*, no. 55389/00, §§ 112-14, 10 August 2006). The Court finds that the applicants' complaints are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

58. The Court refers to the relevant principles on positive and procedural obligations under Article 2 as established in its case-law and set out in *Osman v. the United Kingdom* (28 October 1998, §§ 115-16, *Reports of Judgments and Decisions* 1998-VIII), *Huseynova v. Azerbaijan* (no. 10653/10, §§ 105-16, 13 April 2017) and *Kurt v. Austria* ([GC], no. 62903/15, §§ 157-60, 15 June 2021), with further references.

59. The Court must determine whether the domestic authorities knew or ought to have known at the relevant time of the existence of a real and immediate risk to the applicants' lives from criminal acts of a third party and, if so, whether they failed to respond to that risk by proactively and comprehensively assessing its nature and extent and by taking adequate preventive measures.

60. The documents submitted show that officials in Chechnya, including the President, the Speaker of Parliament and a number of senior law enforcement officers, publicly called for the murder of the applicants and their family. They organised the residents' demonstration against the applicants' family and even addressed Chechens living abroad, asking them to take steps to "cut [the applicants'] heads off" (see paragraphs 17-24 above). Thus, not only were the authorities aware of the risk to the applicants' lives, but their representatives were in fact the sources of the public death threats. Nothing in the documents submitted shows that any steps were taken by the Russian authorities, either at regional or federal level, to assess these threats and the risk they posed to the applicants' lives and/or to take measures to prevent this risk from materialising. The applicants' complaints requesting an investigation into the threats were ignored (see paragraph 25 above).

61. In the light of the foregoing, and against the background of numerous and serious violations of human rights in Chechnya at the relevant time (see paragraph 55 above), the Court concludes that the domestic authorities were fully aware of the existence of a real and immediate risk to the applicants' lives. Despite that, they did not take any preventive measures which could reasonably have been expected of them, including failing to discharge the obligation to initiate an effective investigation into the matter.

62. The foregoing considerations are sufficient to enable the Court to conclude that there has been a violation of Article 2 of the Convention under its substantive and procedural limbs in respect of all three applicants.

III. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

63. Relying on Articles 2 and 3 of the Convention, the first applicant complained that her forcible removal had been life-threatening and that she had been subjected to inhuman and degrading treatment by the police officers. The second and third applicants complained that they had been ill-treated by

police officers on 20 January 2022 and that they had suffered mental anguish as a result of their inability to ascertain the first applicant's fate between 21 January and 3 February 2022. Their numerous complaints to the authorities had been to no avail.

64. The Court, being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 114, 20 March 2018), finds it appropriate to examine these complaints under Article 3, which reads as follows:

Article 3

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. Admissibility

65. As regards the second and third applicants' complaint that they suffered mental anguish and distress as a result of being unable to ascertain the first applicant's fate between 21 January and 3 February 2022, the Court notes the following. The circumstances of the incident, such as the presence at the scene of local police officers, the applicants' representatives, the reasons given for the first applicant's removal to Grozny and the length of time during which her fate remained unknown to her family members (contrast *Adzhigitova and Others v. Russia*, nos. 40165/07 and 2593/08, § 227, 22 June 2021, and *N.A. and Others v. Russia*, cited above, § 90), lead the Court to conclude that this part of the complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

66. The Court finds that the applicants' other complaints concerning the events of 20 and 21 January 2022 are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention (see also the conclusions on the Court's jurisdiction in paragraph 53 above) and must therefore be declared admissible.

B. Merits

1. The first applicant's transfer between 20 and 21 January 2022

67. The first applicant complained that the Chechen police had forced her out of her home, barefoot, without identity papers and without her medication, in order to forcibly transfer her by car for almost twenty-four hours from Nizhniy Novgorod to Grozny. During the transfer she had not been given food or medication, had been slapped and insulted by the officers, and had not been allowed to go to the toilet in a proper place or in privacy. She submitted that the use of physical force against her had been neither justified nor necessary (see paragraph 12 above). The conditions of her

journey had seriously aggravated her medical condition, which had led to her lose consciousness at the hearing of her administrative case (see paragraph 32 above).

68. In the absence of any explanation by the Government (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 83 and 108, ECHR 2015) and in view of the applicants' detailed submissions about the circumstances of the events, as well as the first applicant's documented loss of consciousness during the hearing on 21 January 2022, the Court finds that her account is credible and accepts that she was subjected to treatment as described by her. Having regard to the circumstances of her removal from her place of residence and subsequent transfer (compare *Gremina v. Russia*, no. 17054/08, § 90, 26 May 2020), the Court finds that the police officers subjected her to ill-treatment with the intention of humiliating and degrading her and that this caused her severe mental suffering amounting to inhuman and degrading treatment.

69. The above allegations (see paragraph 16 above) were not duly investigated, contrary to the authorities' procedural obligation under Article 3 of the Convention (see *Lyapin v. Russia,* no. 46956/09, §§ 128-40, 24 July 2014, and *Samesov v. Russia,* no. 57269/14, §§ 54-63, 20 November 2018).

2. The second and third applicants' ill-treatment on 20 January 2022

70. The second and third applicants complained that they had been ill-treated by the police officers who had taken the first applicant away and that the authorities had failed to investigate the matter.

71. Having regard to the circumstances of the incident and the medical documents provided to substantiate the applicants' allegations (see paragraphs 11 and 13 above), and in the absence of any explanation from the Government as to the necessity or proportionality of the force used (compare with *Dzwonkowski v. Poland*, no. 46702/99, § 58, 12 April 2007, and *Antayev and Others v. Russia*, no. 37966/07, §§ 95-96, 3 July 2014), the Court finds that the second and third applicants were subjected to inhuman and degrading treatment in violation of Article 3 of the Convention.

72. As in the case of the first applicant, the allegations made by the second and third applicants were not properly investigated (see paragraphs 16 and 69 above).

3. Conclusion

73. There has therefore been a violation of Article 3 of the Convention under its substantive and procedural limbs in respect of all three applicants in respect of the events of 20 and 21 January 2022.

IV. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION AND ARTICLE 18 TAKEN IN CONJUNCTION WITH ARTICLE 5

74. The first applicant complained that her administrative detention had been unlawful and that her right to liberty had been restricted for purposes other than those prescribed by the Convention. She relied on Articles 5 and 18 of the Convention, the relevant parts of which read as follows:

Article 5

"1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

...

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so; ..."

Article 18

"The restrictions permitted under [the] Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed."

A. Admissibility

75. The Court notes that the applicant's complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. They are not inadmissible on any other grounds (see also the applicable conclusions on the Court's jurisdiction in paragraph 53 above) and must therefore be declared admissible.

B. Merits

76. The first applicant complained that her forcible removal by the police and subsequent administrative detention for fifteen days had not complied with the Convention and had been used as a pretext to put pressure on her relatives to cease their opposition activities against the Chechen authorities and for her husband and sons to return to Chechnya to exchange themselves for her freedom. She argued that the manner in which her apprehension had occurred could be characterised as an abduction. She also pointed to the timing of the events once she was in Grozny: no sooner had the investigator interviewed her as a witness than she was charged with an administrative offence and several days after with a criminal offence, all in the absence of legal counsel of her own choice. The District Court had completely

disregarded her medical condition that should have, under national law, prevented her administrative detention.

1. Whether the first applicant's detention complied with Article 5 of the Convention

77. The relevant general principles under Article 5 § 1 have been summarised as follows (see *S., V. and A. v. Denmark* [GC], nos. 35553/12 and 2 others, §§ 74-76, 22 October 2018, and *Kutayev*, cited above, §§ 118-23, with further references): deprivation of liberty should be in accordance with domestic law and consistent with the purpose of protecting the individual from arbitrariness. Detention will be "arbitrary" if, despite complying with the letter of domestic law, there has been an element of bad faith or deception on the part of the authorities or if they have neglected to attempt to apply the relevant legislation correctly. The purpose of the restrictions permitted by the relevant sub-paragraph of Article 5 § 1 must be respected in both ordering and executing the deprivation of liberty. In addition, there must be some connection between the ground relied on for the authorised deprivation of liberty and the place and conditions of detention.

78. Given the seriousness of the allegations and the degree of persuasion required in this context, the Court will examine the measures taken before and after the first applicant's arrest and the evidence gathered by the authorities (see, in a similar context, *Ibrahimov and Mammadov v. Azerbaijan*, nos. 63571/16 and 5 others, § 117, 13 February 2020).

79. The Government have not submitted observations and the Court will therefore base its assessment on the applicants' submissions and the information provided by the Government in the context of the Rule 39 procedure (see paragraphs 26-28 above and the principles outlined in paragraph 52 above). According to the Government, on 20 January 2022 the first applicant was taken away to be questioned as a witness in a criminal case and on 21 January 2022, shortly after being taken to the Grozny police station for questioning, she insulted unidentified persons outside the station, for which she was sentenced by the Akhmatovskiy District Court to fifteen days' administrative detention. However, the Court is not convinced that the Government have provided sufficient and credible evidence to support their version of events.

80. The first applicant was under the exclusive control of the authorities from the time she was forcibly removed from her home on 20 January 2022 (see paragraphs 29 and 32 above). The reason for this measure was her alleged failure to comply with a previously issued summons to give a witness statement in a fraud case concerning a third party. The summons had been sent to a non-existent address but the Chechen police nevertheless went to the applicants' actual place of residence. They went there on the eve of the applicants' planned move from Russia to another country. It is noteworthy that the Chechen police did not even consider interviewing the first applicant

in Nizhniy Novgorod, either at her home or at a local police station, as suggested by the applicants, but instead chose to break into her flat, drag her out by force and then drive her thousands of kilometres without basic necessities such as medicine, food or warm clothing (see, *mutatis mutandis*, *Gremina*, cited above, § 72, and compare *Vasiliciuc v. the Republic of Moldova*, no. 15944/11, § 40, 2 May 2017).

81. The first applicant characterised her own forcible removal as abduction, and the Court has found above a breach of Article 3 in respect of all three applicants in connection to the ill-treatment sustained in the course of that event (see paragraphs 67-72 above). President Kadyrov's statement on 24 January 2022 referring to the incident as "abduction" of the first applicant (see paragraph 19 above) supports her claim in this respect, as does the lack of reasons as to why her questioning in Nizhny Novgorod was not possible.

82. Then, late on 21 January 2022 the District Court found the first applicant guilty of "petty hooliganism" and convicted her to a maximum possible sentence of fifteen days' detention. This decision was made notwithstanding the first applicant's medical condition, the lack of any explanation from her on the circumstances of the case, as well as absence of a legal representative or a prosecutor (see paragraph 32 above). Leaving the question of fairness of these proceedings to separate examination below, the Court finds it difficult to comprehend how the District Court had failed to address the factual incongruity of the charge against the first applicant. By that time she had been under the police control for over twenty-four hours as a witness and was obviously unwell. The details of the charge or the persons whom she had allegedly insulted had not been identified. It does not appear that the District Court has carried out any examination of reasonableness of the allegations made against her, before ordering her detention.

83. The Court also observes that the timing of the events was remarkable. No sooner had the investigator questioned the first applicant as a witness than she was charged with an administrative offence, placed in detention, and, a few days later, charged with a criminal offence. Such hurriedness suggests that the Chechen officials were prepared for such a development and wanted the first applicant as a defendant, not a witness (see, *mutatis mutandis*, *Khodorkovskiy v. Russia*, no. 5829/04, §§ 134-43, 31 May 2011, and *Yunusova and Yunusov v. Azerbaijan* (no. 2), no. 68817/14, §§ 91-97, 16 July 2020).

84. The Government have not submitted observations and accordingly have not relied on any sub-paragraphs of Article 5 § 1 to justify the first applicant's administrative detention. As already pointed out, any deprivation of liberty should be in keeping with the purpose of protecting the individual from arbitrariness (see paragraph 77 above). Having regard to the circumstances of the present case, the Court finds that the first applicant's detention between 20 January and 4 February 2022 did not meet the minimum requirements set by Article 5 § 1 of the Convention and was arbitrary (see,

mutatis mutandis, *Navalnyy v. Russia* ([GC], no. 29580/12 and 4 others, §§ 71-72, 15 November 2018). These proceedings constituted no more than formal grounds to justify her deprivation of liberty, and involved an element of bad faith on the part of the authorities, including the court (see *Kutayev*, § 134, and, *a contrario*, *S., V. and A. v. Denmark*, § 155, both cited above).

85. In view of the foregoing, the Court considers that the first applicant's administrative detention failed to comply with Article 5 § 1 of the Convention.

2. Whether the first applicant was deprived of her liberty for a purpose in breach of Articles 5 and 18 of the Convention

86. The finding that the first applicant's arrest was arbitrary is not in itself a sufficient basis for a separate examination of a complaint under Article 18, unless the allegation that this restriction was applied for a purpose not prescribed by the Convention appears to be a fundamental aspect of the case (compare *Rashad Hasanov and Others v. Azerbaijan*, nos. 48653/13 and 3 others, § 120, 7 June 2018, and *Ibrahimov and Mammadov*, cited above, § 150, with further references). The Court should therefore examine whether there is proof that the authorities' actions were actually driven by an ulterior purpose (see *Merabishvili v. Georgia,* [GC], no. 72508/13, §§ 287-317, 28 November 2017; *Navalnyy*, cited above, §§ 164-65; *Khadija Ismayilova v. Azerbaijan (no. 2)*, no. 30778/15, § 112, 27 February 2020; and *Kutayev*, cited above, §§ 136-37).

87. The Court considers that, in the present case, it can be established beyond reasonable doubt that such proof follows from a juxtaposition of the relevant circumstances of the case with contextual factors (see, for a similar approach, *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, nos. 74288/14 and 64568/16, § 106, 14 October 2021, and *Kutayev*, cited above, § 137).

88. In the first place, the first applicant is the mother of a family opposed to the Chechen authorities whose members have received repeated death threats from high-ranking local officials in the climate of fear prevailing in the region (see paragraph 55 above). Her case cannot therefore be regarded as an isolated incident and should be examined in the context of a general crackdown on human rights activists and persons perceived to be in opposition to the local authorities (see *Kutayev*, cited above, § 138).

89. Secondly, the Court has already held that the first applicant's arrest was arbitrary (see paragraph 85 above) and that she was subjected to treatment prohibited by Article 3 of the Convention (see paragraph 73 above). In this connection, the Court takes particular note of the reaction of a number of international organisations, which expressed their support for the first applicant and their concern about the real reasons for her arrest and subsequent prosecution (see paragraphs 47 and 49 above). Those concerns were also echoed in the Resolution of the Parliamentary Assembly of the

Council of Europe (see paragraph 48 above) and in the Resolution of the European Parliament (see paragraph 50 above).

90. Thirdly, the Court notes that the Chechen President made repeated public statements to the effect that the applicants' family members should be arrested and punished. It also notes the involvement of high-ranking officials, including senior law enforcement officers, in the events in question and the organisation by the Chechen authorities of a demonstration by thousands of local residents against the applicants' family (see paragraphs 17-24 above). Such virulent and close attention to the applicants' family members cannot be explained by any other reason than the importance of their capture for the highest levels of the Chechen Government.

91. The Court considers that the above circumstances, taken as a whole, in particular the involvement of the applicants' family members in human rights work and opposition activities in Chechnya, the applicants' imminent departure from Russia, the use of ill-treatment against them, the direct involvement of officials at the highest level in the first applicant's case and the repeated public statements made by the Chechen President, as well as the general situation of intimidation of human rights defenders and members of the opposition in the region, indicate that the authorities' actions were motivated by improper reasons. The real purpose of the measures taken against the first applicant was to retaliate against her family members. In the light of these considerations, the Court finds that the restriction of the first applicant's liberty was imposed for purposes other than those prescribed by Article 5 § 1 of the Convention.

92. There has accordingly been a violation of Article 18 of the Convention taken in conjunction with Article 5.

V. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

93. The first applicant complained of a breach of the guarantees of a fair trial in both the administrative and the criminal proceedings against her. She relied on Article 6 of the Convention, the relevant part of which reads as follows:

Article 6

"1. In the determination of ... any criminal charge against him, everyone is entitled to a fair and public hearing ...

3. Everyone charged with a criminal offence has the following minimum rights:

(b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing ..."

A. Admissibility

94. Under Russian law, a court of appeal is the highest ordinary court for administrative proceedings (see *Smadikov v. Russia* (dec.), no. 10810/15, 31 January 2017), while in criminal proceedings there is a two-tier cassation procedure (see *Anikeyev and Yermakova v. Russia* (dec.), nos. 1311/21 and 10219/21, §§ 26-27, 13 April 2021).

95. In the present case, while the administrative proceedings against the first applicant were concluded on 23 August 2022, that is, before Russia ceased to be a party to the Convention on 16 September 2022 (see paragraph 38 above and *Fedotova and Others,* cited above, §§ 68-73, and *Pivkina and Others*, cited above, § 46), the criminal proceedings against her were concluded after that date, on 12 September 2023 (see paragraph 41 above)

96. Accordingly, only the complaint relating to the administrative proceedings falls within the Court's jurisdiction (see also the conclusions on the Court's jurisdiction in paragraph 53 above) and the remainder of the complaint under this provision is incompatible *ratione temporis* with the provisions of the Convention and must be rejected in accordance with Article 35 §§ 3 (a) and 4.

B. Merits

97. According to the first applicant, the proceedings against her were unfair as the court assumed the role of the prosecution and she could not participate in the proceedings effectively owing to her loss of consciousness.

98. Given that, as a result of the proceedings, she was given a custodial sentence (see paragraph 32 above), those proceedings should be classified as "criminal" in nature (see *Mikhaylova v. Russia*, no. 46998/08, §§ 57-74, 19 November 2015).

99. For a summary of the relevant principles, see *Karelin v. Russia* (no. 926/08, §§ 52 and 58-59, 20 September 2016) and *Murtazaliyeva v. Russia* ([GC], no. 36658/05, § 91, 18 December 2018, with further references).

100. The Court reiterates that Article 6, read in its entirety, guarantees the right of an accused person to participate effectively in a criminal trial, which includes, *inter alia*, the right not only to be present, but also to hear and follow the proceedings and to have the opportunity to be aware of the submissions and evidence of the other party and to have a real opportunity to comment on them (see *Zahirović v. Croatia*, no. 58590/11, § 42, 25 April 2013, with further references), and that it is the task of the prosecution to present and substantiate the criminal charge with a view to adversarial argument with the other party (see *Karelin*, cited above, § 77).

101. The documents submitted show that the first applicant was in a poor state of health during the examination of her administrative case by the

Leninskiy District Court of Grozny, that she was not represented and that a prosecutor was not present (see paragraph 32 above). In the light of its findings in the above-mentioned cases, the Court cannot but conclude that in such circumstances the absence of a prosecutor violated the requirement of impartiality and that the first applicant could not effectively participate in the proceedings.

102. There has therefore been a violation of Article 6 § 1 of the Convention in respect of the first applicant.

VI. COMPLIANCE WITH ARTICLE 34 OF THE CONVENTION

103. With regard to compliance with Article 34 of the Convention, the Court will examine whether the Government's refusal to provide the information requested constitutes a failure to comply with the interim measures indicated by the Court under Rule 39 and an infringement of the applicants' right to an individual application. Article 34 provides as follows:

Article 34

> "The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right".

104. The Court reiterates that, under Article 34, the Contracting States undertake to refrain from any act or omission which may hinder the effective exercise of the right of individual application and that a respondent State's failure to comply with an interim measure constitutes a violation of that right (see *Mamatkulov and Askarov v. Turkey* [GC], nos. 46827/99 and 46951/99, §§ 102 and 125, ECHR 2005 I; *Savriddin Dzhurayev v. Russia*, no. 71386/10, §§ 211-13, ECHR 2013; and *Ecodefence and Others v. Russia*, nos. 9988/13 and 60 others, § 195, 14 June 2022).

105. On 13 February 2022 the Court, having regard to the subject matter of the present case, indicated an interim measure to the Government under Rule 39, requiring them to ensure that the first applicant received the necessary medical treatment and to provide fortnightly updates. However, shortly afterwards, in early March 2022, they stopped providing the information requested (see paragraph 28 above).

106. In view of the crucial role played by interim measures in the Convention system, they must be strictly complied with by the State concerned (see *Savriddin Dzhurayev*, cited above, § 217). By failing to provide the information requested, the State has frustrated the purpose of the interim measure, which was to maintain the status quo pending examination of the application by the Court (see *Ecodefence and Others*, cited above, § 194).

107. Consequently, the Court concludes that the Russian authorities have failed to comply with the interim measures ordered by the Court under Rule 39, in breach of their obligation under Article 34.

VII. REMAINING COMPLAINTS

108. Under Article 3 of the Convention, the applicants complained that the first applicant had been placed in a metal cage during the procedural hearings of her criminal case, under Article 5 of the Convention that her pre-trial detention had been extended without an assessment of her personal situation, under Article 6 § 2 that her right to be presumed innocent during the administrative proceedings against her had been violated, under Article 8 of the Convention that their right to respect for their home had been violated during the events of 20 January 2022, and under Article 2 of Protocol No. 7 to the Convention that the first applicant's sentence of administrative detention had been reviewed belatedly on appeal.

109. Having regard to the facts of the case and its findings under Articles 2, 3, 5, 6, 18 taken in conjunction with Article 5 and Article 34 of the Convention, the Court considers that it has examined the main legal questions raised in the present application and that there is no need to give a separate ruling on the remaining complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

VIII. APPLICATION OF ARTICLE 41 OF THE CONVENTION

110. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

111. The applicants did not make a claim in respect of either pecuniary damage or costs and expenses. They left the amount of compensation in respect of non-pecuniary damage to the Court's discretion.

112. Making its assessment on an equitable basis (see *Bouyid,* cited above*,* § 138), the Court considers it appropriate to award the first applicant 52,000 euros (EUR) and the second and third applicants EUR 6,500 each in respect of non-pecuniary damage, plus any tax that may be chargeable on those amounts.

FOR THESE REASONS, THE COURT

1. *Holds,* unanimously, that it has jurisdiction to deal with the applicants' complaints in so far as they relate to facts that took place before

16 September 2022 and that the Government's failure to cooperate presents no obstacles in this regard;

2. *Declares*, unanimously, the applicants' complaints under Articles 2 and 3 as well as the first applicant's complaints under Article 5 § 1 concerning the unlawfulness of her detention, under Article 6 § 1 concerning the unfairness of the administrative proceedings against her, under Article 18 in conjunction with Article 5 concerning her detention admissible; and the applicants' other complaints under Articles 3 (in respect of mental anguish and distress) and 6 (in respect of criminal proceedings) inadmissible;

3. *Holds*, unanimously, that there has been a violation of Article 2 of the Convention under its substantive and procedural limbs in respect of all three applicants;

4. *Holds*, unanimously, that there has been a violation of Article 3 of the Convention under its substantive and procedural limbs in respect of all three applicants;

5. *Holds*, unanimously, that there has been a violation of Article 5 § 1 of the Convention in respect of the first applicant's administrative detention;

6. *Holds*, unanimously, that there has been a violation of Article 6 § 1 of the Convention in respect of the first applicant's administrative trial;

7. *Holds*, unanimously, that there has been a violation of Article 18 of the Convention in conjunction with Article 5 in respect of the first applicant;

8. *Holds*, unanimously, that the respondent State has failed to comply with its obligation under Article 34 of the Convention;

9. *Holds*, by six votes to one, that there is no need to examine the admissibility and merits of the remaining complaints under Articles 3, 5, 6 § 2 and 8 of the Convention and under Article 2 of Protocol No. 7 to the Convention;

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

(i) EUR 52,000 (fifty-two thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to the first applicant;
(ii) EUR 6,500 (six thousand five hundred euros) each, plus any tax that may be chargeable, in respect of non-pecuniary damage, to the second and third applicants;

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

Done in English, and notified in writing on 28 May 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško Registrar	Pere Pastor Vilanova President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Serghides is annexed to this judgment.

PARTLY DISSENTING OPINION OF JUDGE SERGHIDES

1. As the introduction of the judgment indicates, this case concerns the first applicant's forcible removal from Nizhniy Novgorod to Grozny in January 2022, her subsequent detention in Chechnya, her administrative conviction and criminal proceedings brought against her there, and lastly, death threats against all three applicants by the local authorities and their ill-treatment by the Chechen police.

2. I voted in favour of all the operative provisions of the judgment save for point 9, which "holds that there is no need to examine the admissibility and merits of the remaining complaints under Articles 3, 5, 6 § 2 and 8 of the Convention and under Article 2 of Protocol No. 7 to the Convention".

3. The relevant part of the judgment concerning point 9, under the seventh heading of "Remaining complaints" is cited below verbatim:

> "108. Under Article 3 of the Convention, the applicants complained that the first applicant had been placed in a metal cage during the procedural hearings of her criminal case, under Article 5 of the Convention that her pre-trial detention had been extended without an assessment of her personal situation, under Article 6 § 2 that her right to be presumed innocent during the administrative proceedings against her had been violated, under Article 8 of the Convention that their right to respect for their home had been violated during the events of 20 January 2022, and under Article 2 of Protocol No. 7 to the Convention that the first applicant's sentence of administrative detention had been reviewed belatedly on appeal.
>
> 109. Having regard to the facts of the case and its findings under Articles 2, 3, 5, 6, 18 taken in conjunction with Article 5 and Article 34 of the Convention, the Court considers that it has examined the main legal questions raised in the present application and that there is no need to give a separate ruling on the remaining complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014)."

4. Regarding the Court's decision that there is no need to examine the remaining complaints mentioned in paragraph 108 of the judgment, as quoted above, I would argue that since these complaints were raised by the applicants, the Court has a duty to examine them, failing which the applicants' rights would not be afforded any protection whatsoever by the Court. Like any other Convention right that has allegedly been infringed, the rights in question must be examined and given practical and effective protection by the Court, as required by the principle of effectiveness (both as a norm of international law and a method of interpretation) and that of indivisibility of rights, and by the right of individual application, which is the cornerstone of the Convention.

5. Ultimately, the Court cannot afford an applicant effective protection if it decides, as in the present case, not to deal with the relevant complaints. I respectfully disagree with the Court's holding in paragraph 109 that it has considered the main legal questions, without examining the remainder of the complaints, as the latter could also raise main legal questions. Without

examining them, it was not safe to argue that they did not also raise main legal issues themselves. In any event, I am against the idea of distinguishing between "main" and "secondary" complaints. In my humble submission, a refusal to examine an alleged violation because it is "secondary", in addition to what I have argued above, amounts to a denial of justice as regards the complaints not examined; it runs counter to the jurisdiction, task and role of the Court to interpret and apply the pertinent provisions of the Convention and the Protocols thereto, as provided by Article 32 of the Convention; it shows disregard for, and an absolute lack of protection of, the Convention rights which are not examined; it is arbitrary; it undermines the legitimacy of the Court and the trust of the public that should be placed in it.

6. It should be noted that all the remaining complaints, in response to which the present judgment held that there was no need to give a separate ruling, were very serious ones. Furthermore, the rights safeguarded by Articles 3, 5, and 6 § 2 of the Convention are considered by the case-law of the Court as fundamental rights in a democratic society.

7. As is clear from paragraph 109 of the present judgment (text quoted above), in its decision not to address the remainder of the complaints, the Court refers, in a parenthesis, to paragraph 156 of the Grand Chamber judgment in *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* ([GC], no. 47848/08, ECHR 2014), without making any further comment.

It is my humble view that what the Grand Chamber decided in that case, based on the facts of that case, the submissions of the parties and its own findings, namely, not to give a separate ruling on certain complaints, was not meant to establish a recommended practice for the Court in future cases, that is to say, to arbitrarily pick up and choose complaints on which to decide and not to consider the rest. It neither intended to establish or enunciate a legal principle nor to make an authoritative interpretation and application of a Convention provision.

Therefore, the Court in the present case should not simply parenthetically refer to *Valentin Câmpeanu* in order to justify its lack of consideration of the complaints it deems to fall outside of the main legal questions of the case. Even if it could be argued that ultimately there is now an established practice of the Court, which consists in picking up and choosing the complaints which it considers as "main" and leaving the other complaints without any consideration at all, such practice is erroneous for the above reasons and should be abandoned.

8. In conclusion, I would argue that it is not compatible with the duty of the Court, as the guardian of human rights in Europe, to first select certain complaints as worthy of consideration, and after deciding on them, to be content that it has sufficiently performed its duty and therefore to opt out of considering the remainder.

Furthermore, a finding that there have been further violations in respect of one or more of the remaining complaints would also be pertinent because it could be reflected in an increase in the amount awarded for non-pecuniary damage.

APPENDIX

List of applicants:

No.	Applicant's Name	Year of birth	Nationality
1.	Ms Zarema MUSAYEVA	1969	Russian
2.	Mr Sayda YANGULBAYEV	1958	Russian
3.	Ms Aliya YANGULBAYEVA	2000	Russian