



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

THIRD SECTION

CASE OF IDRISOV AND OTHERS v. RUSSIA

*(Applications nos. 19498/11 and 10 others –
see appended list)*

JUDGMENT

STRASBOURG

14 December 2021

This judgment is final but it may be subject to editorial revision.

In the case of Idrisov and Others v. Russia,

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

Peeter Roosma, *President*,

Dmitry Dedov,

Andreas Zünd, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the applications (no. 19498/11 and 10 others) 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 ten Russian nationals (“the applicants”) on the various dates indicated in the appendix;

the decision to give notice of the applications to the Russian Government (“the Government”);

the parties’ observations;

the decision to reject the Government’s objection to examination of application Edigov v. Russia (no. 17972/15) by a Committee;

Having deliberated in private on 23 November 2021,

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

INTRODUCTION

1. Between 2009 and 2017 the applicants were arrested on suspicion of belonging to illegal armed groups and having committed crimes of a terrorist nature in the North Caucasus region. The applicants alleged, among other things, that they had been ill-treated by law-enforcement officers and that they had been convicted on the basis of confession statements obtained under duress.

THE FACTS

2. The applicants are Russian nationals. A list of the applicants and their personal details are set out in the appendix.

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

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

I. IDRISOV v. RUSSIA (No. 19498/11)

5. On 3 August 2009 unknown persons committed a murder attempt on the Head of the Shalinskiy Department of the Interior (“OVD”) by

exploding his vehicle in the village of Avtury in Chechnya. A criminal case into the matter was opened.

A. Alleged ill-treatment and unrecorded detention

6. On 3 September 2009 at about 1 p.m. officers of the Shalinskiy OVD arrested the applicant on suspicion of the attempted murder. The applicant was taken to the premises of military battalion “Yug” and questioned about the crime. The officers handcuffed him, tied his ankles, suspended him from a rail, kicked and punched him, poured water on him and administered electric shocks to him, forcing him to confess to the explosion.

7. On 4 September 2009 at about 7 a.m. the applicant’s arrest record was drawn up.

8. On the same day the applicant was interviewed as a suspect. He confessed to having participated in the attack. He subsequently reiterated his confession statements during the interviews on 5 September and 9 December 2009.

9. On 5 September 2009 the applicant was taken to a temporary detention facility (“IVS”). According to its medical notes, the applicant had a haematoma on his face, and bruises on his right foot.

10. On 8 September 2009 an ambulance doctor examined the applicant at the OVD. He was diagnosed with a closed brain injury, and a haematoma on the back of his head. According to the applicant, his ill-treatment continued until 21 October 2009.

11. On 14 December 2009 and 26 May 2010 the applicant underwent forensic medical examinations. According to forensic reports, he had no injuries.

B. Inquiry into the alleged ill-treatment

12. On 28 April 2010 the applicant complained about his ill-treatment to an investigator.

13. Between April 2010 and February 2011, the investigators issued at least six refusals to open a criminal case. The decisions were overruled by superior investigators as incomplete. According to the latest refusal of 21 February 2011, the applicant sustained minor injuries during the arrest due to his resistance. He had never been taken to the premises of battalion “Yug”. The investigator found the applicant’s allegations unfounded and aimed at evading criminal responsibility. He relied mainly on the statements of police and military officers, who had denied the allegations of ill-treatment.

C. The applicant's trial

14. On 8 June 2010 the Supreme Court of Chechnya convicted the applicant on charges of terrorism and belonging to illegal armed groups to nine years of imprisonment, relying on his confessions of 4 and 5 September and 9 December 2009. The applicant pleaded partially guilty, arguing that he had been arrested on 3 September 2009, ill-treated by the State officers, who had forced him to confess. The court dismissed his allegations, referring to one of the refusals to open a criminal case dated 27 May 2010. It counted the applicant's detention from 4 September 2009, the date of his arrest record.

15. On 15 September 2010 the Supreme Court of Russia dismissed the applicant's appeal and upheld the conviction.

II. MAGOMADOV AND MAGOMADOV v. RUSSIA (No. 2309/13)

16. The applicants are Mr Khavash Magomadov and Mr Bislan Magomadov. They are relatives. The applicants' personal details are indicated in the appendix.

A. Alleged ill-treatment and unrecorded detention in September 2010

17. On 19 September 2010 officers of Police Division no. 4 in Grozny arrested the applicants near local market and took them to an abandoned house in Katayama in the vicinity of Grozny. During the arrest, the officers shot Khavash Magomadov in the left leg.

18. The officers placed the applicants in separate rooms and interrogated them about a series of attacks on law-enforcement officers. They subjected the applicants to electric shocks, poured boiling water on them, and beat them with rubber truncheons. The applicants had been thus detained for several days and after they had agreed to confess, they were taken to the police station.

19. On 25 September 2010 the applicants' arrest records were drawn up. They were interviewed on the same day, and they confessed to several attacks.

20. On 12 October 2010 the investigator ordered the applicants' forensic medical examinations. According to their forensic reports, Khavash Magomadov had a piercing gunshot wound on his left hip, and Bislan Magomadov had burn wounds on both legs. The applicants' injuries could be inflicted within three weeks before the examination.

21. On 18 October 2010 the applicants were transferred to remand prison no. 20/1 in Grozny. A doctor drew up a report recording the applicants' injuries.

22. On 9 November 2010 Khavash Magomadov was examined again by a forensic expert. According to his report, the applicant had circular burn wounds on his feet, left shank and right foot, and bruises on the legs. It was impossible to establish how and when the injuries had been caused.

B. Alleged ill-treatment in December 2010

23. Between 20 and 28 December 2010 the applicants were held in IVS no. 4 in Grozny, where the officers again ill-treated them, subjecting them to electric shocks, and suffocation with a bag.

24. On 24 December 2010 Bislan Magomadov attempted to commit a suicide by cutting his arms, neck, belly and chest. He was taken to a hospital.

25. On 29 December 2010 both applicants underwent forensic examinations. According to forensic reports, Khavash Magomadov had bruises on his left feet and hand caused by an impact of a current-carrying wire, and scars on the lower limbs. As to Bislan Magomadov, he was diagnosed with multiple bruises and abrasions on his chest, belly and both forearms possibly inflicted by a cutting object, a circular abrasion on his right hand possibly caused by an impact of a current-carrying wire. It was impossible to determine when the injuries could have been inflicted “due to the lack of medical documents”.

C. Inquiry into the alleged ill-treatment

26. On 26 October 2010 an investigator initiated a pre-investigation inquiry into the infliction of the applicants’ injuries following the report drawn up by a remand prison doctor on 18 October 2010.

27. Between November 2010 and December 2012, the investigators issued at least fourteen refusals to open a criminal case into the alleged ill-treatment in September and December 2010. Mainly relying on the statements of police and IVS officers, the investigator found that no force had been used against the applicants. The refusals were subsequently overruled as incomplete.

28. On 17 September 2012 the Staropromyslovskiy District Court rejected the applicants’ complaint against the refusal dated 20 August 2008, referring to their conviction of 21 March 2012 (see below).

29. On 14 November 2012 the Supreme Court of Chechnya quashed the court decision and remitted the applicants’ complaint for a new examination.

30. On 23 November 2012 a senior investigator overruled the refusal of 20 August 2008. After a new inquiry, on 3 December 2012 the investigator again refused to open a criminal case.

D. The applicants' trial

31. On 21 March 2012 the applicants were convicted by a jury at the Supreme Court of Chechnya to twenty-five years of imprisonment each. They were found guilty of several episodes of murder attempts on law-enforcement officers and belonging to illegal armed groups. The applicants' confessions were given at the trial to the jury as the evidence against the applicants.

32. The trial court ordered to count the applicants' detention from 24 September 2010.

33. On 10 July 2012 the Supreme Court of Russia examined the applicants' appeal and dismissed their arguments that the conviction was based on evidence obtained as a result of ill-treatment.

III. MAGOMEDOV v. RUSSIA (No. 8414/13)

A. Alleged ill-treatment

34. On 15 August 2010 a group of armed men apprehended the applicant in Makhachkala in Dagestan and took him to an abandoned house, where they suffocated him with a bag, wrapped electric wires to his fingers and administered electric shocks to him, forcing him to confess to belonging to illegal armed groups. The applicant was then taken to the premises of the anti-extremism centre in Dagestan (*Центр по противодействию экстремизму МВД России по Республике Дагестан*) where he confessed of a number of terrorism-related crimes.

35. On 17 August 2010 the officers of the Centre took the applicant to the District Police Department in Makhachkala ("ROVD") where the applicant was interviewed as a suspect.

36. On 18 August 2010 the applicant's arrest record was drawn up and the applicant was interviewed. He reiterated his confessions also on 25 August 2010.

37. On 18 August 2010 the applicant was taken to the IVS where a doctor refused to admit the applicant due to his injuries. The officers then took him to a hospital where he was diagnosed with a cheekbone fracture. He was then admitted to the IVS.

38. After about two weeks the applicant was transferred to remand prison, where the officers initially refused to admit the applicant because he had unhealed injuries. The applicant was admitted when he said that he had fallen down the stairs.

B. Inquiry into the alleged ill-treatment

39. On 16 February 2011 the applicant was interviewed in the presence of a lawyer of his choosing. He retracted his confessions and complained about his ill-treatment.

40. On 17 February 2011 the applicant underwent a forensic medical examination. According to forensic report, the applicant had a deviated nasal septum and a scar on his left wrist originated from a healed wound inflicted by handcuffs.

41. On 14 March 2011 the investigator refused to open a criminal case and found that the applicant's arrest had been carried out by police officers (*МОПО ГY MBД Poccuu no CKΦO*) and that for this reason his complaint should be transferred to the Department of the Ministry of the Interior in the North Caucasus Federal District (*ГY MBД Poccuu no CKΦO*). The investigator noted that the applicant's allegations could not be verified without police officers' statements.

42. The outcome of the applicant's complaint transferred to the Department of the Ministry of the Interior is unclear.

C. The applicant's trial

43. On 30 May 2012 the Supreme Court of Chechnya convicted the applicant of belonging to illegal armed groups, several murder attempts on law-enforcement officers and other terrorism-related crimes. He was sentenced to seventeen years of imprisonment. The court relied on his confessions of 18 and 25 August 2010.

44. The applicant partially admitted his guilt, arguing that the confessions had been obtained under duress. The court examined the applicant's medical documents and concluded that his allegations of ill-treatment were unfounded.

45. On 20 August 2012 the Supreme Court of Russia dismissed the applicant's appeal and upheld the conviction.

IV. EDILBIYEV v. RUSSIA (Nos. 62835/13 AND 41560/20)

A. Alleged ill-treatment and unrecorded detention

46. On 5 July 2011 at about 11 a.m. officers of the Federal Security Service ("FSB") arrested the applicant in Moscow. They took him to an undisclosed location, where they handcuffed him, subjected him to electric shocks, suffocated him with a bag, threatened him with sexual violence. The officers interrogated the applicant about the preparation to a terrorist attack.

47. Meanwhile, on 7 July 2011 the applicant's father lodged a complaint with an investigation department about the applicant's disappearance on 5 July 2011, stating that the applicant had went to work and had not

returned home. On the same day the FSB informed the applicant's father that the applicant was wanted for terrorism-related crimes.

48. On 8 July 2011 the FSB officers took the applicant to the city outskirts, where he was arrested by police officers. According to the applicant's arrest record, he was arrested near his house. The applicant was taken to a police station where he was interviewed as a suspect and confessed of terrorism-related crimes; he was then taken to a remand prison.

49. According to the remand prison medical notes, the applicant had multiple haematomas, bruises on his body, hands, and face.

50. On 12 July 2011 the applicant reiterated his confession at the interview as a suspect.

51. According to undated statements of the applicant's mother and his lawyer, they visited the applicant in the remand prison two weeks after his arrest. They stated that he had had numerous bruises on his face and body. The applicant had told them that he had been severely beaten.

B. The applicant's trial

52. On 10 December 2012 the Moscow City Court convicted the applicant of belonging to illegal armed groups and manufacturing of explosives. The court relied on his confessions given during the investigation. The applicant partially admitted his guilt.

53. At the trial the applicant complained about his unlawful detention between 5 and 8 July 2011 and ill-treatment and argued that he had confessed under duress. The court heard the investigator, who submitted that no pressure had been put on the applicant during his interviews. The court dismissed the applicant's allegations of unlawful detention and ill-treatment as unfounded.

54. The trial court sentenced the applicant to sixteen years of imprisonment and counted his detention from 8 July 2011.

55. On 27 March 2013 the Supreme Court of Russia endorsed the reasoning of the Moscow City Court and upheld the conviction.

C. The applicant's complaints about his ill-treatment

56. On 30 July 2013 the applicant's lawyer lodged a complaint with the Investigation Office in Moscow submitting detailed factual information about the applicant's abduction on 5 July 2011 and unlawful detention until 8 July 2011 and subsequent ill-treatment. The complaint was transferred to the Military Investigation Division in Moscow.

57. On 8 November 2013 the Division informed the applicant's lawyer that the complaint had been transferred to military investigative department no. 517 in Moscow.

58. On 12 December 2013 the military investigative department informed the applicant's lawyer that the issues raised in her complaint had been examined by the trial court in the conviction of 10 December 2012, and that there were no grounds to open a pre-investigation inquiry.

D. Other relevant information

59. Since 25 April 2013 the applicant has been serving his sentence in colony no. 25 in the Republic of Komi. The colony is located about 3,000 km away from the Chechen Republic, where the applicant's relatives live.

60. On 3 October 2019 the applicant's mother's request to transfer the applicant to serve his sentence closer to the Chechen Republic was dismissed.

V. EKTUMAYEV v. RUSSIA (No. 65036/14) AND MADAYEV v. RUSSIA (No. 66406/14)

61. On 17 April 2012 early in the morning an explosive device detonated near the police station of the Sunzhenskiy OVD (*ОМВД по Сунженскому району*) in the village of Assinovskaya in Chechnya.

A. Alleged ill-treatment

62. On 17 April 2012 police officers of the Sunzhenskiy OVD arrested the applicants and took them to the police station, questioning about the explosion. The officers handcuffed them, suffocated them with a bag, kicked and punched them, beat them with rubber truncheons, subjected them to electric shocks, and threatened with sexual violence, forcing them to confess to the explosion. The applicants agreed to sign the documents. The applicants' arrest records were drawn up on the next day.

63. On 18 and 20 April 2012 the applicants were interviewed as suspects, having confessed to the crime.

64. On 19 April 2012 the applicants underwent forensic medical examinations. No injuries were found on them.

65. On 18 May 2012 the applicants again underwent forensic medical examinations. According to the relevant reports, the applicants had multiple scars on their bodies, in particular, on the knees and shoulders. The injuries could be inflicted within a month before the examination.

B. Inquiry into the alleged ill-treatment

66. On 26 June 2012, following the applicants' interviews, an investigator drafted a report on the discovery of evidence of crime (*паном*

об обнаружении признаков преступления), according to which the applicants had complained about their ill-treatment.

67. On 16 July 2012 and 26 August 2013 the investigator refused to open a criminal case, relying on the statements of police officers, who had denied the use of force against the applicants.

68. On 18 February 2015 the applicants' lawyer challenged the latest refusal at the Achkhoy-Martan District Court.

69. On 2 March 2015 a senior investigator overruled the refusal of 26 August 2013.

70. On the same day the Achkhoy-Martan District Court rejected the applicants' complaint and discontinued the proceedings.

71. On 12 March 2015 the investigator again refused to open a criminal case on the same grounds as before.

C. The applicants' trial

72. On 17 September 2013 the Supreme Court of Chechnya convicted the applicants of belonging to illegal armed groups, several murder attempts on law-enforcement officers and storage of explosives, and sentenced them both to about nine years of imprisonment. It relied on the applicants' confessions given on 18 and 20 April 2012. The applicants pleaded not guilty and argued that they had been ill-treated and their confessions had been obtained under duress. The court dismissed their allegations, referring to the refusals to open a criminal case.

73. On 6 March 2014 the Supreme Court of Russia dismissed the applicant's appeal and upheld the conviction.

74. On 2 April 2014 Mr Madayev, being detained in a remand prison at that time, received a copy of the Supreme Court decision, as confirmed by the prison administration stamp on the document.

VI. CHIBIYEV v. RUSSIA (No. 70960/14)

75. On 21 September 2014 at the outskirts of Karabulak in Ingushetia a group of unidentified persons opened fire at law-enforcement officers, killing one of them. A criminal investigation was opened.

A. Alleged ill-treatment and unrecorded detention

76. On 29 October 2014 at about 7 a.m. officers of the Nazran OVD (*ОМВД по г. Назрань*) arrested the applicant at his house in Pliyev and took him to an undisclosed location. According to the applicant, the officers tied his hands and feet, suffocated him with a plastic bag, kicked and punched him, forcing him to confess to belonging to illegal armed groups.

77. Following the applicant's abduction, his mother and a lawyer lodged several complaints with the prosecution office and human rights organisations about the applicant's abduction.

78. On 30 October 2014 at 9 p.m. the applicant's administrative arrest record was drawn up and the applicant was taken to the office of the anti-extremism centre in Ingushetia. According to the record, the applicant had a bruise on his face.

79. On 31 October 2014 a duty officer drew up a report on administrative offence (*протокол об административном нарушении*) that the applicant had disobeyed police orders and offered resistance during the arrest.

80. On the same day the Magas District Court found the applicant guilty of having committed administrative offence and ordered his detention for five days.

81. On 1 November 2014 an investigator drew up the applicant's arrest record.

82. On 3 November 2014 the applicant's mother saw the applicant at the court hearing concerning his detention on remand. According to her, the applicant's face was covered with black bruises, numerous abrasions on his forehead as if "someone had pushed it against asphalt".

B. Inquiry into the alleged ill-treatment

83. On 11 November 2014 the applicant's mother complained to an investigator about the applicant's abduction on 29 October 2014 and his subsequent ill-treatment.

84. On 2 December 2014 the applicant underwent a forensic medical examination. According to forensic report, the applicant had a bruise on his left foot, inflicted within one month before the examination. It was qualified as not having caused any harm to his health.

85. On 11 December 2014 the investigator refused to open a criminal case on the grounds that the injuries found on the applicant had not been qualified as having caused harm to his health.

86. On 19 March 2015 the Magas District Court granted the applicant's appeal against the refusal and quashed it, noting that the investigator had not questioned the officers, solely relying on the conclusions of the forensic report and failing to reason his decision.

87. On 28 April 2015 the investigator again refused to open a criminal case, relying on the statements of police officers who had denied the applicant's allegations.

C. Proceedings related to the applicant's administrative detention

88. On 2 February 2015 the applicant appealed against the decision of the Magas District Court of 31 October 2014, arguing that the court had failed to examine properly the facts of his apprehension.

89. On 24 March 2015 the Supreme Court of Ingushetia dismissed the applicant's appeal as unfounded.

D. Other relevant information

90. On 31 October 2014 the applicant's mother applied to the Court for interim measures under Rule 39 of the Rules of the Court, complaining that the applicant had been abducted on 29 October 2014 by State agents.

91. On 6 November 2014 the Court requested information from the Government about the applicant's whereabouts.

92. On 17 November 2014 the Government submitted information about the applicant's arrest (see paragraphs 78-81 above).

93. In view of the information provided by the Government, the Court refused to apply interim measures.

VII. EDIGOV v. RUSSIA (No. 17972/15)

94. Before the events in question the applicant lived in Sweden. On 31 July 2012 he came to Urus-Martan in Chechnya to visit his relatives.

A. Alleged ill-treatment and unrecorded detention

95. On 3 August 2012 local police officers arrested the applicant near his house in Urus-Martan. The applicant's relatives and neighbours witnessed his abduction. The applicant was then taken to Grozny. The officers applied electric shocks to his fingers, forcing him to confess to the murder of a police officer, but the applicant refused. He was kept in a police station until 12 September 2012 handcuffed to a bed. The wounds on his fingers got infected, and between 16 and 18 August 2012 a nurse provided him with basic medical aid.

96. On 12 September 2012 the applicant signed a confession statement. On the same day his arrest was recorded, and he was placed in an IVS in Grozny.

B. Inquiry into the alleged ill-treatment

97. On 21 September 2012 the applicant was transferred to a remand prison. According to his medical notes, the applicant had burned scars on little fingers of both hands. On the same day a report on the discovery of evidence of crime ("*рапорт об обнаружении признаков преступления*")

was drawn up. The applicant explained that the burns resulted from electric shock during installation of wires in a house.

98. On 15 and 29 October 2012 two refusals to open a criminal case were issued, which were overruled shortly thereafter.

99. On an unspecified date between November 2012 and January 2013 the applicant underwent a forensic medical examination. According to the forensic report of 22 January 2013, the applicant had scars on his fingers of both hands, inflicted within three months before the applicant's examination.

C. The applicant's trial

100. On 15 May 2013 the criminal court proceedings chaired by Judge A. started at the Supreme Court of Chechnya.

101. On 18 June 2013 the applicant retracted his confession statement given during the investigation and earlier in court, complaining about unrecorded detention between 3 August and 12 September 2012 in the police department in Grozny and ill-treatment by electric shocks.

102. On the same day, the court ordered an inquiry into the applicant's allegations.

1. Inquiry into the alleged ill-treatment

103. In July 2013 the applicant again underwent a forensic examination. According to the forensic report of 17 July 2013, the applicant had multiple scars on his fingers and one scar on his forehead, which could have been inflicted within a year or a year and a half before the examination, and caused by the contact with electric wires.

104. On 22 July and 16 August 2013 the investigator issued two refusals to open a criminal case on the grounds that the applicant had not complained about ill-treatment during the investigation. The investigator referred to the statements of police officers who had denied the use of force, dismissing the applicant's and his relatives' statements as unreliable. The refusals were eventually overruled as incomplete.

2. Judicial inquiry into the alleged ill-treatment

105. On 6 September 2013 the court closed the hearing. In his final word, the applicant reiterated his version of the events, naming police officers who had detained and ill-treated him. The applicant provided a detailed description of the events. Following the applicant's statement, Judge A. resumed the proceedings in view of new circumstances.

106. The court heard, among others, the applicant's mother, police officers identified by the applicant, the investigator who had drawn up the

applicant's arrest record, forensic experts, the investigator who had been in charge of the applicant's criminal prosecution, and the nurse.

107. On 8 October 2013 a prosecutor requested the recusal of Judge A. from the proceedings. The judge dismissed the prosecutor's request.

3. Withdrawal of Judge A. from the applicant's case

108. On 1 November 2013 Judge A. withdrew from the applicant's case. In his decision to withdraw the judge stated that the Minister of the Interior of the Chechen Republic, Lieutenant-General R.A., had called him and warned him against the delivery of an acquittal judgment, insisting that the applicant had been guilty. The judge decided that in view of the interference by the Minister he could no longer preside in the criminal case because it had put into question his impartiality and independence. The judge also stated that the trial court had been provided "with sufficient evidence confirming the applicant's statements that on 3 August 2012 police officers [under Mr R.A.'s command] had abducted him and deprived him of his liberty until 12 September 2012, and subjected him to torture by electric shocks".

4. The applicant's conviction

109. Following the withdrawal of Judge A., the applicant's trial started anew. On 23 May 2014 the Supreme Court of Chechnya, chaired by Judge Al., convicted the applicant as charged and sentenced him to fourteen years of imprisonment to be counted from 12 September 2012, the date of his official arrest. The court relied on his confession statements made during the investigation.

110. On 7 November 2014 the Supreme Court of Russia dismissed the applicant's appeal upholding the conviction of the first-instance court.

D. Other relevant information

111. On 9 December 2013 a prosecutor of the Prosecutor General's Office requested the Chief of the Russian Investigation Committee to decide on the issue of criminal prosecution in the case concerning the interference in the work of the judge of the Supreme Court of Chechnya. On 16 January and 4 March 2014 a criminal investigation into the matter was refused as ill-founded.

112. Between 16 January and 11 June 2014 the Deputy Head of the Special Investigative Department of the Main Investigative Department in the North Caucasus Federal District ("*Управление по расследованию особо важных дел Главного следственного управления Следственного комитета России по Северо-Кавказскому федеральному округу*"), Colonel So., refused to open a criminal investigation into the applicant's

alleged grievances at least four times. All refusals, except for the latest one, were hierarchically overruled as incomplete and inconsistent.

113. According to the applicant, he challenged the latest refusal of 11 June 2014 before the courts but in vain.

VIII. KHAYBULAYEV v. RUSSIA (No. 32268/15)

114. On 15 March 2013 in the town of Buynaksk in Dagestan an explosive device detonated in a residential area. A criminal investigation into the matter was opened.

A. Alleged ill-treatment

115. On 20 July 2013 police officers of the Buynaksk OVD (*ОМВД по г. Буйнакск*) arrested the applicant and took him to the police station. The officers kicked and punched him all over his body, suffocated him with a bag, subjected him to electric shocks, forcing him to confess to the explosion.

B. Inquiry into the alleged ill-treatment

116. On 23 July 2013 the applicant's lawyer complained to an investigator about the applicant's ill-treatment.

117. On 24 July 2013 the applicant underwent a forensic medical examination. According to forensic report, the applicant had abrasions on his face and hands, bruises on his back inflicted by the impact of a hard blunt object within four days before the examination.

118. On 8 August 2013 the investigator refused to open a criminal case, mainly relying on the statements of police officers, who had denied the applicant's allegations. Two more refusals were issued on 28 August 2013 and 14 March 2014. The refusals had been overruled as incomplete.

119. On 18 November 2014 the Buynaksk District Court granted the applicant's complaint against the refusal of 8 August 2013. It found that the investigator had failed to question IVS officers and medical staff. It declared the refusal unlawful.

120. On 26 December 2014 the Supreme Court of Dagestan quashed the court decision of 18 November 2014 on the grounds that the refusal of 8 August 2013 had already been quashed, and discontinued the proceedings.

IX. SHAKHRUYEV v. RUSSIA (No. 42330/18)

A. Alleged ill-treatment

121. On 5 July 2017 officers of the anti-extremism centre in Dagestan (*Центр по противодействию экстремизму МВД России по Республике Дагестан*) arrested the applicant near the village of Semender in Dagestan

on suspicion of participation in an illegal armed group and took him to the premises of the anti-extremism centre. The officers kicked and punched him on his head, subjected him to electric shocks, suffocated him with a bag, forcing him to confess to terrorism crimes. The applicant's arrest record was drawn up on the following day.

122. On 6 July 2017 the applicant was interviewed as a suspect and he confessed to the crimes. He subsequently reiterated his statements during the on-site reconstruction of events on 7 July 2017.

123. On 7 July 2017 the applicant was taken to the IVS. According to its medical records, the applicant had haematomas on his right eye and shoulder, in the pelvic area and buttocks, multiple bruises on his back, stomach, right leg, feet, and a bruise on his cheek.

124. On 9 July 2017 the applicant was transferred to a remand prison, where he was diagnosed with haematomas on his right eye, back, and left buttock.

B. Inquiry into the alleged ill-treatment

125. On 3 October 2017 the applicant complained about his ill-treatment to an investigator. The applicant's complaint was registered on 30 October 2017.

126. On 12 October 2017 the investigator refused to open a criminal case, mainly relying on the statements of police officers, who had denied the applicant's allegations.

127. On 1 March 2018 a prosecutor overruled the refusal as incomplete.

128. The outcome of the proceedings is unclear.

C. The applicant's trial

129. On 23 March 2018 the Kirovskiy District Court in Makhachkala convicted the applicant of membership in illegal armed groups, relying on his confession statements given during the investigation, and sentenced him to eleven years of imprisonment. The applicant pleaded not guilty, arguing that he had been ill-treated and that he had confessed under duress. The court dismissed his arguments and noted that the applicant had been represented by a lawyer during the investigation.

130. On 16 May 2018 the Supreme Court of Dagestan dismissed the applicant's appeal and upheld the conviction.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

131. For the relevant provisions of domestic law on the prohibition of torture and other forms of ill-treatment and the procedure for examining a criminal complaint, see *Ryabtsev v. Russia* (no. 13642/06, §§ 48-52,

14 November 2013), and *Lyapin v. Russia* (no. 46956/09, §§ 96-102, 24 July 2014).

132. For the relevant domestic law and practice concerning the rights of suspects, see *Turbylev v. Russia* (no. 4722/09, §§ 46-49, 6 October 2015).

133. Article 393 § 1 of the Code of Criminal Procedure provides that a copy of the appeal decision must be sent to the defendant within three days after the receipt of the copy by the first-instance court.

RELEVANT COUNCIL OF EUROPE MATERIAL

134. The relevant parts of the Public statement of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) concerning the Chechen Republic and other republics of the North Caucasian region of 11 March 2019 read as follows [Original emphasis]:

“Since it issued the 2007 public statement, the CPT has carried out a further three visits to the Chechen Republic (in April 2009, April/May 2011 and November/December 2017), while seeking to pursue a constructive dialogue with the Russian authorities on various matters related to the treatment of persons detained by the law enforcement agencies in that Republic. Regrettably, it is clear from the information gathered by the Committee in the course of those visits that **resort to torture and other forms of ill-treatment by members of law enforcement agencies in the Chechen Republic remains widespread**, as does the related practice of unlawful detentions which inevitably heightens significantly the risk of resort to ill-treatment, in particular due to the denial of fundamental safeguards. Further, it remains deeply worrying that, in their responses to the CPT’s visit reports, the Russian authorities have failed to acknowledge the gravity of the situation.

...

It should also be emphasised that the widespread practice of police ill-treatment is not unique to this republic of the Russian Federation; this problem has been repeatedly highlighted also in respect of other republics of the North Caucasian region after the 2007 public statement, in particular in the context of the CPT’s 2008, 2009, 2011 and 2016 ad hoc visits to the Republics of Dagestan, Ingushetia, Kabardino-Balkaria and North Ossetia. [...] The Committee’s findings in the course of those visits demonstrated that resort to torture and other forms of severe ill-treatment remained a common occurrence in law enforcement establishments in these republics.

As had been the case during previous CPT visits to these republics, the visiting delegations received a considerable number of credible allegations of physical ill-treatment of detained persons whilst in the custody of law enforcement agencies. The ill-treatment alleged was often of such a severity that it could amount to torture; the methods involved included the infliction of electric shocks to various parts of the body (e.g. toes, fingers, ears and genitals), extensive beating and asphyxiation using a plastic bag or gas mask. In a number of such cases, allegations of ill-treatment were supported by medical evidence, in the form of both traumatic lesions directly observed by the delegations’ forensic medical experts and entries in medical documentation examined in detention facilities.

...”

THE LAW

I. JOINDER OF THE APPLICATIONS

135. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. PRELIMINARY ISSUES

136. In the cases of Mr Edilbiyev (no. 62835/13), Mr Madayev (no. 66406/14) and Mr Edigov (no. 17972/15), the Government raised objections regarding the admissibility of the applications.

A. Edilbiyev v. Russia (nos. 62835/13 and 41560/20)

1. Complaints under Articles 3 and 5 of the Convention

137. The Government submitted that the trial court had examined the applicant's ill-treatment complaint and dismissed it. They further submitted that the applicant's representative's complaint was similarly dismissed by the investigators with reference to the findings of the trial court. The applicant failed to lodge a complaint about his alleged unrecorded detention. He "should have brought his complaint to the domestic authorities at least in substance". In the Government's view the applicant had failed to do so and thus had failed to exhaust domestic remedies under Articles 3 and 5 of the Convention.

138. The applicant submitted that he had complained about his detention and ill-treatment for the first time during the trial. His representative's criminal complaint lodged with the investigation office and military investigation unit was dismissed without even a pre-investigation inquiry. The applicant submitted that he had had raised the issues "in substance" before the national authorities.

139. The Court has found that in the Russian legal system the power of a court to reverse a decision not to institute criminal proceedings is a substantial safeguard against the arbitrary exercise of powers by the investigating authorities and is normally considered as an effective remedy (see *Trubnikov v. Russia* (dec.), no. 49790/99, 14 October 2003). In certain circumstances a more flexible approach in matters of exhaustion might be called for, taking into account that the rule of exhaustion of domestic remedies must be applied with some degree of flexibility and without excessive formalism (see *Vladimir Fedorov v. Russia*, no. 19223/04, § 45, 30 July 2009).

140. Firstly, the Court is satisfied that the applicant raised the issue before the competent authority, the investigation office. His complaint contained specific information about the dates and place of his detention

and nature of ill-treatment, as well as description of perpetrators (see paragraph 56 above), to constitute an arguable claim in respect of which the authorities were under an obligation to conduct an effective investigation. However, the authorities considered it unnecessary to open any inquiry into the applicant's allegations, relying on the findings of the trial court (see paragraphs 56-58 above).

141. Secondly, the Court notes that the trial court took cognisance of the merits of the applicant's claims by questioning the applicant, relevant witnesses and examining the documents, and dismissed those claims as unfounded (see paragraph 53 above) thus embarking in judicial examination of the complaint. The reasoning of both the trial court and the Supreme Court of Russia, on the applicant's appeal, was not confined to the compatibility of the applicant's complaint with the formal requirements (see *Vladimir Fedorov*, cited above, § 47; *Akulinin and Babich v. Russia*, no. 5742/02, §§ 31 and 33, 2 October 2008; and *Shlychkov v. Russia*, no. 40852/05, § 53, 9 February 2016).

142. The Court considers that, in the circumstances of the present case, the applicant therefore cannot be said to have failed to exhaust domestic remedies. The Government's objection as to the non-exhaustion of domestic remedies must be dismissed.

2. *Complaint under Article 8 of the Convention*

143. Mr Edilbiyev (no. 41560/20) complained about his allocation to a remote penal facility irrespective family life considerations (see paragraphs 59 and 60 above).

144. The Court finds that the applicant has not availed himself of the new judicial remedy, which is effective in respect of such complaints (see *Dadusenko and Others v. Russia* (dec.), nos. 36027/19 and 3 others, § 34, 30 September 2021).

145. It follows that this complaint must be rejected in accordance with Article 35 § 4 of the Convention.

B. Madayev v. Russia (no. 66406/14)

146. The Government submitted that the applicant had failed to comply with the six-month time-limit for lodging his complaints under Articles 3 and 6 of the Convention. The Government considered that the period of six months should be counted from the appeal decision of the Supreme Court of Russia of 6 March 2014 and that the applicant had lodged his application more than six months from that date, on 2 October 2014.

147. The applicant submitted that he had lodged his application within six months of being served with the reasoned appeal decision of the Supreme Court on 2 April 2014.

148. The Court reiterates that where an applicant is entitled to be served automatically with a copy of the final domestic decision, the object and purpose of Article 35 § 1 of the Convention are best served by counting the six-month period as running from the date of service of the copy of the written decision, irrespective of whether that decision was previously delivered orally (see *Akif Hasanov v. Azerbaijan*, no. 7268/10, § 27, 19 September 2019, with further references).

149. The Court observes that the Supreme Court of Russia adopted its appeal decision on 6 March 2014 and the applicant was served with a written copy of the Supreme Court decision on 2 April 2014 (see paragraph 74 above). The Code of Criminal Procedure provides for automatic service of an appeal court decision on a defendant (see paragraph 133 above). The applicant lodged his application with the Court on 2 October 2014, that is within a period of six months calculated from the date of service of the appeal decision. He therefore complied with the six-month rule. The Government's objection must be accordingly dismissed.

C. Edigov v. Russia (no. 17972/15)

150. The Government argued that the applicant had failed to exhaust domestic remedies in respect of his complaints under Articles 3 and 5 of the Convention, because he had not challenged the latest refusal of 11 June 2014 before the domestic courts. The applicant stated that he had challenged the refusal of 11 June 2014 and the court dismissed his complaint on 5 February 2016. The Court was not provided with a copy of the court decision of 5 February 2016.

151. The Court reiterates that, in principle, a judicial appeal against a decision not to institute criminal proceedings offers a substantial safeguard against the arbitrary exercise of power by the investigating authority and in the ordinary course of events such an appeal constitutes an effective remedy where the prosecution has decided not to investigate the claims (see *Trubnikov v. Russia* (dec.), no. 49790/99, 14 October 2003). However, in the present case, the authorities refused to open a criminal case for at least eight times (see paragraphs 98, 104 and 112 above). The Court considers that in this case such an appeal would be devoid of any purpose. The Court finds that the applicant was not obliged to pursue that remedy and holds that the Government's objection should therefore be dismissed (see *Chumakov v. Russia*, no. 41794/04, § 91, 24 April 2012; *Nitsov v. Russia*, no. 35389/04, § 41, 3 May 2012; and *Nekrasov v. Russia*, no. 8049/07, § 78, 17 May 2016).

III. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

152. Mr Idrisov (no. 19498/11), Mr Khavash Magomadov and Mr Bislan Magomadov (no. 2309/13), Mr Edilbiyev (no. 62835/13), Mr Chibiyev (no. 70960/14) and Mr Edigov (no. 17972/15) complained that they had been kept in unrecorded detention in breach of Article 5 § 1 of the Convention, the relevant part of which reads as follows:

“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:

...”

A. Admissibility

153. The Court notes that the 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

1. *The parties' submissions*

154. The applicants claimed that following their actual arrests, they had been kept in unrecorded detention for several days before their detention had been properly recorded.

155. As regards the cases of Mr Idrisov (no. 19498/11), Mr Khavash Magomadov and Mr Bislan Magomadov (no. 2309/13), the Government stated that “the documents submitted by the applicants were sufficient for the Court to examine them in compliance with its case-law”.

156. In respect of Mr Edilbiyev (no. 62835/13), Mr Chibiyev (no. 70960/14) and Mr Edigov (no. 17972/15) the Government asserted that the applicants' arrests had been in compliance with the domestic law and that there had been no violation of Article 5 § 1 of the Convention.

2. *The Court's assessment*

157. Having regard to the case materials and the parties' submissions, the Court finds that there is sufficient factual basis to conclude that Mr Idrisov, Mr Khavash Magomadov and Mr Bislan Magomadov were detained in unrecorded detention between 3 and 4 September 2009 (Mr Idrisov) and between 19 and 25 September 2010 (Mr Khavash Magomadov and Mr Bislan Magomadov).

158. As regards Mr Edilbiyev and Mr Chibiyev, the Court observes that, contrary to the Government's submissions, the applicants' actual arrests on

5 July 2011 and 29 October 2014, respectively, were confirmed by the case materials, in particular, by the applicant's relatives' prompt reaction following their arrests (see paragraphs 47 and 77 above). Also, on 31 October 2014 Mr Chibiyev's mother lodged a request under Rule 39 of the Rules of the Court complaining about the applicant's abduction on 29 October 2014 (see paragraph 90 above). The Court notes that Mr Edigov's arrest was witnessed by his relatives on 3 August 2012 (see paragraph 95 above). It is striking that Mr Edigov was held incommunicado for about forty days before his arrest was formally recorded (see paragraph 96 above).

159. Besides, the Court notes the CPT's observations regarding the widespread practice of unlawful detentions in the Chechen Republic and other republics in the North Caucasus (see paragraph 134 above).

160. The Court finds that the applicants' unrecorded detention was a complete negation of the fundamentally important guarantees contained in Article 5 of the Convention, and was incompatible with the requirement of lawfulness and with the very purpose of this Article (see *Golubyatnikov and Zhuchkov*, nos. 44822/06 and 49869/06, § 83, 9 October 2018, with further references). There has accordingly been a violation of Article 5 § 1 of the Convention in respect of Mr Idrisov (no. 19498/11), Mr Khavash Magomadov and Mr Bislan Magomadov (no. 2309/13), Mr Edilbiyev (no. 62835/13), Mr Chibiyev (no. 70960/14) and Mr Edigov (no. 17972/15).

IV. ALLEGED VIOLATION OF ARTICLES 3 AND 13 OF THE CONVENTION

161. The applicants complained that they had been subjected to ill-treatment at the hands of law-enforcement officers and that no effective investigation into their complaints had been carried out. Mr Idrisov (no. 19498/11), Mr Khavash Magomadov and Mr Bislan Magomadov (no. 2309/13), Mr Edilbiyev (no. 62835/13), Mr Chibiyev (no. 70960/14) and Mr Edigov (no. 17972/15) also complained that there had been no effective remedies available in respect of their complaints of ill-treatment. They relied on Articles 3 and 13 of the Convention, the relevant parts of which read as follows:

Article 3

“No one shall be subjected to torture or to inhuman or degrading treatment ...”

Article 13

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority ...”

A. Admissibility

162. The Court notes that the 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

1. *The parties' submissions*

163. The applicants maintained their complaints.

164. As regards the cases of Mr Idrisov (no. 19498/11), Mr Khavash Magomadov and Mr Bislan Magomadov (no. 2309/13), Mr Magomedov (no. 8414/13), Mr Ektumayev (no. 65036/14), Mr Khaybulayev (no. 32268/15) and Mr Shakhryev (no. 42330/18) the Government stated that “the documents submitted by the applicants were sufficient for the Court to examine them in compliance with its case-law”.

165. As to Mr Chibiyev (no. 70960/14), referring to the Court’s judgment in the case of *Goryachkin v. Russia* (no. 34636/09, 15 November 2016), the Government argued that there had been no procedural obligation to open criminal proceedings into the matter in view of the absence of any evidence of the alleged ill-treatment.

166. In the case of Mr Edilbiyev (no. 62835/13) and Mr Edigov (no. 17972/15), the Government maintained the conclusions of the domestic inquiries. As to Mr Madayev (no. 66406/14), the Government did not submit their observations on the merits.

2. *The Court's assessment*

(a) **Alleged ill-treatment**

167. The Court has already established that Mr Idrisov (no. 19498/11), Mr Khavash Magomadov and Mr Bislan Magomadov (no. 2309/13), Mr Edilbiyev (no. 62835/13), Mr Chibiyev (no. 70960/14) and Mr Edigov (no. 17972/15) were apprehended by State officers on suspicion of them having committed various terrorism-related crimes and held for several days in unrecorded detention in violation of Article 5 of the Convention (see paragraph 160 above).

168. The Court notes that Mr Magomedov (no. 8414/13), Mr Ektumayev (no. 65036/14), Mr Madayev (no. 66406/14), Mr Khaybulayev (no. 32268/15) and Mr Shakhryev (no. 42330/18) were also arrested by State officers on suspicion of them having committed various terrorist acts (see paragraphs 34, 62, 115 and 121 above).

169. The Court observes that all the applicants claimed that they had been subjected to torture. They provided detailed and consistent accounts of the circumstances of the alleged ill-treatment, which involved severe

beatings, including by rubber truncheons, administration of electric shocks, suffocation using bags, threats of sexual violence (see paragraphs 6, 18, 34, 46, 62, 76, 115 and 121 above). The Government did not dispute the applicants' statements.

170. After spending varying periods of time at the hands of State officers, the applicants were found to have sustained injuries of varying degrees of severity, as recorded by forensic medical experts and detention facilities, and testified by witness statements, not disputed by the Government (see paragraphs 9, 10, 20, 22, 25, 37, 49, 51, 65, 82, 117 and 123 above).

171. The Court takes particular note of the findings made by the Supreme Court of Chechnya chaired by Judge A. as a result of the judicial inquiry into Mr Edigov's ill-treatment and summarised in the judges decision to withdraw (see paragraph 108 above). The Court notes that, having examined the police officers, forensic experts and other relevant witnesses, the Supreme Court of Chechnya chaired by Judge A. found that the applicant had been deprived of his liberty for about forty days and subjected to "torture by electric shocks" (*ibid.*). The Court notes that the Government did not question these findings, nor were they disputed subsequently during the trial or overruled in the final conviction judgment of 23 May 2014 by the Supreme Court of Chechnya. The Court therefore takes the findings of Judge A. concerning the applicant's ill-treatment at the hands of the police officers as an established fact.

172. The above factors, cumulatively, are sufficient to give rise to a presumption in favour of the applicants' accounts of the events and to satisfy the Court that the applicants' allegations of ill-treatment in police custody were credible.

(b) Effectiveness of the investigation

173. The Court observes that the applicants' credible allegations of police ill-treatment were dismissed by the investigators as unfounded mainly because of the statements of the police officers denying the applicants' ill-treatment. The investigators issued several decisions refusing to open criminal proceedings, some of which were quashed as unlawful and incomplete (see paragraphs 13, 27, 30, 41, 67, 71, 85, 87, 98, 104, 112, 118 and 126 above).

174. The Court notes that in the case of Mr Edilbiyev, the domestic authorities did not even open a pre-investigation inquiry into credible allegations of ill-treatment, let alone a fully fledged criminal investigation (see paragraph 58 above). The Court also notes that it took the authorities almost a month to register Mr Shakhruyev's complaint about his ill-treatment (see paragraph 125 above).

175. The Court dismisses the Government's argument that there had been no procedural obligation to investigate Mr Chibiyev's allegations of

ill-treatment. It notes that, contrary to the circumstances of the case of *Goryachkin* (cited above), referred to by the Government (see paragraph 165 above), it has already found that Mr Chibiyev had made an arguable claim (see paragraph 172 above).

176. The Court further observes that the medical examinations of the applicants were either carried out with a significant delay. In the cases of Mr Idrisov, Mr Khavash Magomadov and Mr Bislan Magomadov, MrMagomedov, Mr Ektumayev, Mr Madayev and Mr Chibiyev, Mr Edigov and Mr Khaybulayev up to six months had passed between the alleged ill-treatment and the applicants' forensic examinations (see paragraphs 11, 20, 40, 65, 84, 99 and 117 above).

177. In the case of Mr Khavash Magomadov and Mr Bislan Magomadov (no. 2309/13) and Mr Edigov (no. 17972/15), forensic experts concluded that they had injuries, including the ones that could have been caused by electric wires (see paragraphs 25 and 103 above). Although the expert was not able to determine the timeframe when the injuries had been inflicted, it was clear that by the time of their examination the applicants had been under State control for several months already. In the case of Mr Khaybulayev, the expert concluded that his injuries had been inflicted within four days before the examination, that is within the time he had been in custody (see paragraph 117 above).

178. Despite this, the investigators completely ignored the experts' conclusions and consistently refused to open a criminal case, relying only on police officers' unsupported statements denying the use of force.

179. The Court lastly notes that Mr Edilbiyev and Mr Shakhruyev did not undergo forensic examinations at all, despite them having apparently visible injuries recorded by doctors in the detention facilities (see paragraphs 49 and 123 above).

180. The Court has previously found that in the context of the Russian legal system in cases of credible allegations of treatment proscribed under Article 3 of the Convention, it is incumbent on the authorities to open a criminal case and conduct a proper criminal investigation. The Court has no reason to hold otherwise in the present cases, which involve credible allegations of particularly serious ill-treatment (see *Lyapin v. Russia*, no. 46956/09, §§ 129 and 132-36, 24 July 2014). The Court holds that the Government have failed to discharge their burden of proof and produce evidence capable of casting doubt on the applicants' account of events, which it therefore finds established (see *Olisov and Others v. Russia*, nos. 10825/09 and 2 others, § 85, 2 May 2017, and *Ksenz and Others v. Russia*, nos. 45044/06 and 5 others, §§ 102-04, 12 December 2017).

(c) Legal classification of ill-treatment

181. The applicants alleged that they had been subjected to torture.

182. The Court also notes the CPT's observations concerning the serious human rights violations committed by law-enforcement officers in the Chechen Republic and other republics of the North Caucasian region. It is notable that the applicants' descriptions as to the techniques of ill-treatment, such as infliction of electric shocks, asphyxiation and extensive beatings, correspond to the CPT's observations made between 2008 and 2019 in various detention facilities in the region (see paragraph 134 above).

183. Considering that the ill-treatment inflicted on the applicants, supported by medical evidence, clearly caused severe physical and mental suffering, and that the sequence of events also demonstrates that the pain and suffering was inflicted on them intentionally, namely with the aim of extracting confessions that they had committed terrorist acts (see *Lolayev v. Russia*, no. 58040/08, § 79, 15 January 2015), the Court concludes that the ill-treatment in issue amounted to torture (see *Abdulkadyrov and Dakhtayev v. Russia*, no. 35061/04, § 70, 10 July 2018).

(d) Conclusion

184. There has, accordingly, been a violation of Article 3 of the Convention under its substantive and procedural limbs in respect of all the applicants. In the light of this finding, the Court considers that it is not necessary to examine whether there has also been a violation of Article 13 of the Convention in respect of Mr Idrisov (no. 19498/11), Mr Khavash Magomadov and Mr Bislan Magomadov (no. 2309/13), Mr Edilbiyev (no. 62835/13), Mr Chibiyev (no. 70960/14) and Mr Edigov (no. 17972/15).

V. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

185. Mr Idrisov (no. 19498/11), Mr Khavash Magomadov and Mr Bislan Magomadov (no. 2309/13), Mr Magomedov (no. 8414/13), Mr Edilbiyev (no. 62835/13), Mr Ektumayev (no. 65036/14), Mr Madayev (no. 66406/14), Mr Edigov (no. 17972/15) and Mr Shakhruyev (no. 42330/18) complained that their convictions had been based on their confession statements obtained as a result of their ill-treatment, which had rendered their trials unfair. Mr Edigov (no. 17972/15) also complained that due to the pressure exerted on Judge A. by the Chechen Minister of the Interior, the trial court could not be presumed independent or impartial. They relied on Article 6 § 1 of the Convention, the relevant part of which reads as follows:

“In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal ...”

A. Admissibility

1. *The parties' submissions*

186. Regarding Mr Edigov's (no. 17972/15) complaint about the alleged lack of independence of the trial court, the Government considered the applicant's allegations baseless, because Judge A. had withdrawn from the applicant's proceedings due to his belief that the principle of independence would be breached should he continue to preside. They further noted that the new judge assigned to the applicant's criminal case was not involved in the alleged conflict with the Minister of the Interior of Chechnya and there was nothing to indicate that the new judge's impartiality or independence had been breached.

187. Mr Edigov maintained the complaint.

2. *The Court's assessment*

188. The Court reiterates that in order to establish whether a tribunal can be considered "independent", in particular, from the executive, regard must be had to, among other things, the existence of guarantees against outside pressures (see *Maktouf and Damjanović v. Bosnia and Herzegovina* [GC], nos. 2312/08 and 34179/08, § 49, ECHR 2013 (extracts), with further references therein, and *Denisov v. Ukraine* [GC], no. 76639/11, § 60, 25 September 2018).

189. In the present case, the Court observes that Judge A. withdrew from the case, alleging pressure from the Minister of the Interior (see paragraph 108 above). The applicant's criminal case was then transferred to another judge, Mr Al. The examination of the case started anew.

190. The Court considers that the issue is therefore whether, after the withdrawal of Judge A., the trial court chaired by Judge Al. in the applicant's criminal proceedings could be considered "independent and impartial". The Court observes that it was not provided with any evidence casting doubt on the independence and impartiality of that court. Nothing in the case file indicates that Judge Al. was subjected to the alleged pressure by the Minister or in any other way involved in the incident, as previously Judge A. The applicant failed to substantiate his complaint that the trial court presided by Judge Al. which had delivered the applicant's conviction of 23 May 2014 had been subjected to pressure from the inside or outside the judiciary. Nor has this been alleged in the domestic proceedings in any way.

191. It follows therefore that Mr Edigov's complaint under Article 6 of the Convention regarding the alleged lack of independence and impartiality in his criminal case is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

192. The Court notes that the remainder of the applications 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

193. The applicants maintained their complaints. The Government contended that in addition to the applicants' written confession statements, their convictions had been based on other evidence obtained during the investigations. The trial courts had examined the applicants' allegations of ill-treatment and dismissed them as unsubstantiated.

194. The Court reiterates that the admission of confession statements obtained in violation of Article 3 of the Convention renders the associated criminal proceedings as a whole automatically unfair, irrespective of the probative value of those statements and irrespective of whether their use was decisive in securing the defendant's conviction (see *Gäfgen v. Germany* [GC], no. 22978/05, § 166, ECHR 2010; *Turbylev v. Russia*, no. 4722/09, § 90, 6 October 2015; and *Belugin v. Russia*, no. 2991/06, §§ 69-71, 26 November 2019).

195. In the present case, the Court has already found that the applicants were subjected to torture at the hands of State officers (see paragraph 183 above), as a result of which the applicants gave confession statements, which were subsequently used for their conviction. The domestic courts did not exclude the confession statements as inadmissible evidence, relying, *inter alia*, on the investigators' decisions not to open criminal cases into the alleged ill-treatment and referred to them when convicting the applicants of crimes to which they had confessed in those statements (see paragraphs 14, 33, 44, 53, 72, 109 and 129 above). The Court concludes that the trial courts failed to carry out an independent and comprehensive review of the applicants' credible allegations that their self-incriminating statements had been the result of police violence (see *Belugin*, cited above, § 81).

196. In such circumstances, the Court concludes that the domestic courts' use of the applicants' confessions obtained in violation of Article 3 of the Convention, regardless of their impact on the outcome of the criminal proceedings, rendered the applicants' trials unfair. Accordingly, there has been a violation of Article 6 § 1 of the Convention in respect of Mr Idrisov (no. 19498/11), Mr Khavash Magomadov and Mr Bislan Magomadov (no. 2309/13), Mr Magomedov (no. 8414/13), Mr Edilbiyev (no. 62835/13), Mr Ektumayev (no. 65036/14), Mr Madayev (no. 66406/14), Mr Edigov (no. 17972/15) and Mr Shakhruyev (no. 42330/18).

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

197. 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.”

198. The amounts claimed by the applicants in respect of non-pecuniary damage and costs and expenses are indicated in the appendix.

199. Mr Magomedov (no. 8414/13) and Mr Khaybulayev (no. 32268/15) provided copies of their contracts for legal services in support of their claims for costs and expenses incurred before the Court. Other applicants did not provide copies of the contracts with their lawyers for legal services.

200. The Government stated that Article 41 of the Convention should be applied in accordance with the Court’s established case-law.

201. Wherever the Court finds a violation of the Convention, it may accept that the applicants have suffered non-pecuniary damage which cannot be compensated for solely by the finding of a violation, and make a financial award. As to costs and expenses, the Court has to establish whether they were actually incurred and whether they were necessary and reasonable as to quantum (see *McCann and Others v. the United Kingdom*, 27 September 1995, § 220, Series A no. 324).

202. Having regard to the conclusions and principles set out above and to the parties’ submissions, the Court awards the applicants the amounts detailed in the appendix, plus any tax that may be chargeable to them on those amounts.

203. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Dismisses* the Government’s objections concerning exhaustion of domestic remedies in respect of the complaints of Mr Edilbiyev (no. 62835/13), Mr Madayev (no. 66406/14) and Mr Edigov (no. 17972/15);
3. *Declares* Mr Edigov’s (no. 17972/15) complaint under Article 6 of the Convention regarding the alleged lack of independence and impartiality of the trial court, and Mr Edilbiyev’s (no. 41560/20) complaint under Article 8 of the Convention regarding his allocation to a remote penal facility inadmissible, and the remainder of the applications admissible;

4. *Holds* that there has been a violation of Article 3 of the Convention under its substantive and procedural limbs in that all applicants were subjected to torture in police custody, and that no effective investigation into their complaints was carried out by the authorities;
5. *Holds* that there has been a violation of Article 5 § 1 of the Convention in respect of Mr Idrisov (no. 19498/11), Mr Khavash Magomadov and Mr Bislan Magomadov (no. 2309/13), Mr Edilbiyev (no. 62835/13) and Mr Chibiyev (no. 70960/14) and Mr Edigov (no. 17972/15);
6. *Holds* that there has been a violation of Article 6 § 1 of the Convention in respect of Mr Idrisov (no. 19498/11), Mr Khavash Magomadov and Mr Bislan Magomadov (no. 2309/13), Mr Magomedov (no. 8414/13), Mr Edilbiyev (no. 62835/13), Mr Ektumayev (no. 65036/14), Mr Madayev (no. 66406/14), Mr Edigov (no. 17972/15) and Mr Shakhruyev (no. 42330/18);
7. *Holds* that there is no need to examine the complaints under Article 13 of the Convention;
8. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, plus any tax that may be chargeable to the applicants, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the amounts indicated in the appended table at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
9. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 14 December 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

{signature_p_2}

Olga Chernishova
Deputy Registrar

Peeter Roosma
President

APPENDIX

List of cases:

No.	Case name Application no. Lodged on	Applicant Year of Birth Place of Residence Represented by	Non-pecuniary damage	Costs and expenses
1	Idrisov v. Russia 19498/11 05/03/2011	Zubayr IDRISOV 1991 Chechnya Anton RYZHOV	Sought by the applicant	
			At the Court's discretion	Not claimed
			Awarded by the Court	
			EUR 52,000 (fifty-two thousand euros)	-
2	Magomadov and Magomadov v. Russia 2309/13 25/12/2012	Khavash MAGOMADOV 1982 N. Novgorod Russian Bislan MAGOMADOV 1982 Moscow Olga SADOVSKAYA	Sought by the applicants	
			At the Court's discretion	Not claimed
			Awarded by the Court	
			EUR 52,000 (fifty-two thousand euros) to each applicant	-
3	Magomedov v. Russia 8414/13 23/01/2013	Arslan MAGOMEDOV 1986 Magadan Dokka ITSLAYEV	Sought by the applicant	
			At the Court's discretion	EUR 3,280
			Awarded by the Court	
			EUR 52,000 (fifty-two thousand euros)	EUR 3,000 ¹ (three thousand euros)
4	Edilbiyev v. Russia 62835/13 27/09/2013	Mansur EDILBIYEV 1986 Verkhniy Chov	Sought by the applicant	
			EUR 60,000	EUR 7,200
			Awarded by the Court	

¹ The amount is to be paid to the bank account of the applicant's representative.

IDRISOV AND OTHERS v. RUSSIA JUDGMENT

No.	Case name Application no. Lodged on	Applicant Year of Birth Place of Residence Represented by	Non-pecuniary damage	Costs and expenses
5	Edilbiyev v. Russia 41560/20 27/08/2020	Daria TRENINA	EUR 52,000 (fifty-two thousand euros)	-
6	Ektumayev v. Russia 65036/14 06/09/2014	Yusup EKTUMAYEV 1993 Tyumen MEMORIAL HUMAN RIGHTS CENTRE	Sought by the applicant	
			At the Court's discretion	EUR 3,891
			Awarded by the Court	
			EUR 52,000 (fifty-two thousand euros)	-
7	Madayev v. Russia 66406/14 02/10/2014	Makhmud MADAYEV 1990 Assinovskaya Igor KALYAPIN	Sought by the applicant	
			At the Court's discretion	Not claimed
			Awarded by the Court	
			EUR 52,000 (fifty-two thousand euros)	-
8	Chibiyev v. Russia 70960/14 03/11/2014	Maskhud CHIBIYEV 1990 Pliyev STICHTING RUSSIAN JUSTICE INITIATIVE	Sought by the applicant	
			At the Court's discretion	EUR 4,173
			Awarded by the Court	
			EUR 52,000 (fifty-two thousand euros)	-
9	Edigov v. Russia 17972/15 10/04/2015	Suleyman EDIGOV 1985 Irkutsk COMMITTEE AGAINST TORTURE	Sought by the applicant	
			At the Court's discretion	Not claimed
			Awarded by the Court	
			EUR 52,000 (fifty-two thousand euros)	-
10	Khaybulayev v. Russia 32268/15 26/06/2015	Rustam KHAYBULAYEV 1972 Ishkarty	Sought by the applicant	
			At the Court's discretion	EUR 3,864
			Awarded by the Court	

IDRISOV AND OTHERS v. RUSSIA JUDGMENT

No.	Case name Application no. Lodged on	Applicant Year of Birth Place of Residence Represented by	Non-pecuniary damage	Costs and expenses
		STICHTING RUSSIAN JUSTICE INITIATIVE	EUR 52,000 (fifty-two thousand euros)	EUR 3,000 ² (three thousand euros)
11	Shakhryev v. Russia 42330/18 24/08/2018	Abutalib SHAKHRUYEV 1987 Novyy Sad Arsen SHABANOV	Sought by the applicant	
			EUR 60,000	Not claimed
			Awarded by the Court	
			EUR 52,000 (fifty-two thousand euros)	-

² The amount is to be paid to the bank account of the applicant's representative.