



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

THIRD SECTION

**CASE OF ORLOV AND OTHERS v. RUSSIA**

*(Application no. 5632/10)*

JUDGMENT

STRASBOURG

14 March 2017

**FINAL**

**18/09/2017**

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



**In the case of Orlov and Others v. Russia,**

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

Helena Jäderblom, *President*,

Branko Lubarda,

Luis López Guerra,

Dmitry Dedov,

Pere Pastor Vilanova,

Alena Poláčková,

Georgios A. Serghides, *judges*,

and Stephen Phillips, *Section Registrar*,

Having deliberated in private on 21 February 2017,

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

## PROCEDURE

1. The case originated in an application (no. 5632/10) 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 the four Russian nationals listed below (“the applicants”) on 8 December 2009.

2. The applicants were represented by lawyers from the NGO EHRAC/Memorial Human Rights Centre. The Russian Government (“the Government”) were represented by Mr G. Matyushkin, Representative of the Russian Federation to the European Court of Human Rights.

3. The applicants alleged under Articles 3, 5 and 13 of the Convention and Article 1 of Protocol no. 1 to the Convention that in November 2007 they had been abducted and subjected to ill-treatment by State agents in Ingushetia and that the authorities failed to effectively investigate the matter.

4. On 9 October 2012 the application was communicated to the Government.

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

5. The applicants are:

1) Mr Oleg Petrovich Orlov, who was born in 1953,

2) Mr Artem Dmitrievich Vysotskiy, who was born in 1974,

3) Mr Stanislav Valeryevich Goryachikh, who was born in 1986,  
and

4) Mr Karen Edvardovich Sakhinov, who was born in 1982.

The applicants live in Moscow.

#### **A. The circumstances of the case**

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

##### *1. Background information*

6. At the material time the first applicant was the Chairman of Memorial, a Russian non-governmental human rights organisation. The second applicant was a reporter for REN TV, a Russian television company. The third applicant was a camera operator and the fourth applicant an assistant camera operator with REN TV.

7. Following the death of a six-year-old boy, Rakhim Amriev, in the course of a counter-terrorist operation in the Chemulga settlement in Ingushetia on 9 November 2007, a protest meeting against abuse of authority by the security forces was planned in Nazran, the capital of Ingushetia, for 24 November 2007. On 22 November 2007 REN TV dispatched a team consisting of the second, third and fourth applicants in order to cover the protest planned for 24 November 2007. The first applicant was on a business trip in Nazran at that time. All four applicants were staying in the Hotel Assa in Nazran (“the hotel”).

##### *2. The applicants’ abduction from the hotel and ill-treatment*

8. On 23 November 2007 at about 9 p.m. the first applicant returned to the hotel from Memorial’s office in Nazran. Two and a half hours later (at about 11.30 p.m.), three men in balaclava masks and camouflage uniforms, armed with automatic weapons, burst into his room. The men neither introduced themselves nor produced any documents. They pointed their guns at the first applicant, ordered him to lie face down on the floor and asked him the reason for his trip to Ingushetia. The applicant explained that he worked for the NGO and had arrived in Nazran to monitor the human rights situation in Ingushetia. The men collected all of the applicant’s belongings and put them into a bag. He attempted to protest but was kicked in the ribs by one of the intruders. They then pulled a black plastic bag over his head, took him out of the hotel and forced him into a minibus.

9. On the same evening, the three other applicants returned to the hotel from Vladikavkaz, where they had been working on a news story. At about 11 p.m. they gathered in the second applicant’s room. At about 11.30 p.m. five men in balaclavas and camouflage uniforms, armed with automatic

weapons, burst into the room. Without any explanation, they forced the third and fourth applicants to the floor, kicked them, and put black plastic bags over their heads. These two applicants were then taken down to the lobby and put into the minibus with the first applicant. Despite the bag over his head, the third applicant was able to see other figures dressed in camouflage uniforms in the lobby.

10. When the intruders broke into the second applicant's room, they struck him on the shoulder with a rifle butt so that he fell onto the floor. They then ordered him to look away. In reply to his question as to their identities, the men kicked him and hit him with their rifle butts. One of the intruders told him in unaccented Russian that they were from the Ministry of the Interior. They collected his personal belongings and his professional equipment and put it into bags. They then pulled a black plastic bag over his head and, continuing to beat him, took him out of the room and down to the minibus.

11. At the time of their abduction, the applicants were wearing jeans or tracksuit trousers, shirts, T-shirts and slippers and were taken out as they were. The abductors did not allow them to put on shoes or warm clothing.

12. In the minibus one of the abductors asked the second, third and fourth applicants who they were. They introduced themselves. The first applicant also started to explain who he was but was silenced with a number of blows. One of the abductors told the driver that the hotel had been "mopped-up" and ordered him to drive off. The applicants were ordered to be silent and to keep their heads bowed; the abductors threatened them with beatings and promised they would shoot them if they did not obey. All of the abductors spoke unaccented Russian.

13. The minibus drove for about an hour. Initially it went through the streets of Nazran. The windows were not obscured and through the bags on their heads the applicants could see the streetlights and the headlights of passing cars. According to the third applicant, the bag on his head was loose enough to enable him to see that their abductors did not put aside their weapons during the drive. He concluded they must be State agents.

14. Some time later the minibus drove along a country road and stopped in a snow-covered field. The applicants were taken out of the minibus one by one and beaten up with kicks and blows from rifle butts. One of the abductors told the applicants that they would be shot and ordered his colleagues to fetch silencers from the bus. The applicants thought that they were going to be executed on the spot. One of the abductors checked the minibus, but could not find the silencers. The abductors ordered the applicants to remain on the ground until they had left, threatened to kill them if they returned to Ingushetia in future, and drove off. The applicants took the bags off their heads and saw a white Gazel minibus driving away.

15. The applicants ran off in the opposite direction, fearing that their abductors would return to execute them. Walking in the snow, they suffered

from the cold as they had neither overcoats nor proper shoes. After about an hour they reached the Nesterovskaya settlement, where they knocked on local residents' doors asking for help. After some time one of the residents let them in and called the police. The police arrived and took the applicants to the local police station, where they were provided with medical assistance.

### *3. Official investigation into the incident*

16. Early in the morning of 24 November 2007 the applicants were taken by the police to the Nazran District Department of the Interior (*Отдел внутренних дел Назрановского района (РОВД)*) (the Nazran ROVD) and made statements concerning their abduction and ill-treatment. The second applicant asked a police officer whether he knew who was responsible for the incident. In reply the officer did not say anything but typed on his mobile phone three letters "FSB" (*ФСБ*), (the Russian Federal Security Service (*Федеральная Служба Безопасности*)).

#### **(a) Main witness statements taken during the investigation**

17. On 24 November 2007 the Ingushetia Investigative Committee ("the investigative committee") opened an investigation into the incident under Articles 139, 144 and 161 of the Russian Criminal Code (violation of privacy, obstruction of the lawful professional activity of journalists, and robbery) and opened criminal case no. 07560126. In the decision it was stated that the crime in respect of the applicants had been committed by unidentified perpetrators who had used violence.

18. On 24 November 2007 the investigators questioned the second applicant, who stated that at about 11 p.m. on 23 November 2007 he and the third and fourth applicants had been in the second applicant's room at the hotel when a group of five or six armed men in balaclava masks and camouflage uniforms had forced their way into the room. The men had been armed with automatic rifles. The applicants thought that they must be from a law-enforcement agency. The intruders had searched the room and collected the applicants' personal belongings and their professional equipment. They had then blindfolded the applicants, taken them down to the minibus and driven somewhere. They had stopped in a field and had subjected the applicants to severe beatings with rifle butts and kicks, as a result of which the second applicant had twice lost consciousness. Thereafter the abductors had driven off and the three applicants had spoken to the first applicant, who introduced himself as Mr Orlov. They had then made their way to the nearest village, where they had gone to the local police station, and from there they had been taken back to Nazran.

19. On the same date, 24 November 2007, the investigators questioned the third and fourth applicants, whose statements were similar to that of the second applicant. In particular, both applicants also stated that the

abductors, who had also beaten them unconscious, must have been from a law-enforcement agency.

20. On the same date, 24 November 2007, the investigators questioned the first applicant's colleague, Ms E.S., who stated that she had been called to come to the police station, where she had found the first applicant covered in bruises and hematomas, without an overcoat, and wearing slippers and dirty clothing.

21. On 24 November 2007 the investigators questioned the hotel duty manager, Ms M.K., who stated that their hotel was usually guarded by police security officers, but they had been called off duty at about 9 p.m. on 23 November 2007 when a Deputy Minister of the Interior of Ingushetia had telephoned the hotel and ordered them to leave the premises. At least one other Deputy Minister of the Interior of Ingushetia had been staying at the hotel at the material time and his security officers had also been called off. The witness had asked the second Deputy Minister whether he had been aware that his security had been called off, and he had confirmed that he had been aware of it. At about 11.30 p.m. on 23 November 2007 a group of about fifteen armed men in balaclavas and camouflage uniforms had arrived at the hotel in a white Gazel minibus without registration plates. The men had told her that they had been conducting an identity check within the framework of counter-terrorist operation and ordered her to provide the registration log of the hotel's guests. Having checked the names, some of the men had gone upstairs whilst others had stayed in the lobby and held the staff at gunpoint. The intruders, who had communicated among themselves by gestures, had taken her and the other staff members' mobile telephones and removed the sim-cards and the batteries. About twenty minutes later the intruders who had gone upstairs had returned with four blindfolded men with sacks over their heads and had put the four men into the white minibus and driven off. The witness had not gone into the rooms raided by the intruders, but had been able to see from the corridor that everything inside the rooms had been turned upside-down.

22. On 24 November 2007 the investigators twice questioned the hotel's managing director, Mr R.M., who stated that he had not been at the hotel during the events in question, but had been informed by his staff about the abduction of four of the hotel's guests.

23. On 24 November 2007 the investigators questioned the first applicant, whose statement was similar to the account of the events submitted to the Court. In addition, he stated that at about 11.30 p.m. on 23 November 2007 someone had knocked at the door of his room and a female voice asked him to open. After that, the intruders had rushed in and subjected him to questioning about the purpose of his visit to Ingushetia. They had thrown him to the floor, collected his mobile telephone, documents and other belongings, blindfolded him with a black sack and taken him out to the minibus, where he had seen the other applicants. The

abductors had then driven for about an hour, stopped and taken the four men out and assaulted them with kicks and rifle butts. The abductors had threatened to kill the first applicant; during the beating, the sack over his head had been displaced and he had seen the abductors and their vehicle. The abductors had left the applicants lying in the field in the cold, with no warm clothing, and had driven off having told them not to return to their region.

24. On 24 November 2007 the investigators again questioned the second applicant, whose statement was similar to the one given previously and to the account before the Court. He additionally stated that he was sure that the abductors, who had acted as a well-organised professional group, must have been agents of a police special task unit. During their search of his room, one of the abductors had told him that they were from the police and that they would take him to the police station. The applicant also provided the investigators with a list of items stolen by the abductors, including his personal belongings, cash, passport, professional equipment, and credit cards and stated that the overall monetary value of his stolen items amounted to 46,500 Russian rubles (RUB) (about 1,300 euros (EUR)) and that of the stolen company's equipment to 580,000 RUB (about 16,200 EUR).

25. On 24 November 2007 the investigators again questioned the third applicant, whose statement was similar to the account before the Court. He also stated that the abductors, who had acted as a well-organised professional group, had beaten him and the other applicants severely, and that he had lost consciousness at least once. He also provided the investigators with a list of items stolen by the abductors, including his personal belongings, cash, documents and professional equipment.

26. On 24 November 2007 the investigators again questioned the fourth applicant, whose statement was similar to the account before the Court. He also stated that the abductors, who had acted as a well-organised professional group, had beaten him and the other applicants severely, and that when he had been taken out to the abductors' minibus, the first applicant had already been there. He also provided the investigators with a list of items stolen by the abductors, including his personal belongings, cash, documents and professional equipment.

27. On 26 November 2007 the investigators questioned police sergeant I.S., who stated that on the evening of 23 November 2007 he and three other police officers, G.O., A.M. and Kh.T., were on their regular duty at the hotel, where they had been assigned to ensure the safety of the hotel guests in addition to the hotel's own security service. The police at the hotel worked in groups of four officers, in twenty-four hour shifts, starting at 9 a.m. each day. In addition to the police presence at the hotel, the administrator also had a special button to call the police in case of emergency. At about 9 p.m. on 23 November 2007 the administrator had

told them that Deputy Minister of the Interior A.Kh. had telephoned. Officer G.O had spoken to the Deputy Minister, who had ordered the officers to leave the hotel and go to the building of the Ministry of the Interior. The witness and his colleagues had gone to the Ministry of the Interior, where Colonel Gu. had told them to remain, without giving any explanation. At 9 a.m. on the following morning, the four officers had been dismissed from their shift and gone home. According to the witness, he had learnt of the applicants' abduction from hotel staff two days after the event. Prior to 23 November 2007 their security team had never been called off duty from the hotel.

28. On 26 November 2007 the investigators also questioned the hotel security guard, Mr S. Dz., who stated that on the evening of 23 November 2007 he had been on duty at the hotel with his colleague Mr Z. Ko. The hotel's security service worked in teams of two guards in twenty-four-hour shifts. A team of four police officers had also guarded the hotel. At least two deputy Ministers of the Interior of Ingushetia had been staying at the hotel. The hotel's lobby was equipped with CCTV cameras. At about 9.50 p.m. the police officers had left the hotel, which they had never done before. At about 11.30 p.m., as he was locking the back door, he had seen a group of five armed men in balaclavas and camouflage uniforms who had ordered him and his partner to stand up against the wall. The witness had thought that the men must have been a police special forces unit conducting a special operation. The men had searched them and taken them into the hotel lobby, where there were five more armed men in balaclavas and camouflage uniforms holding at gunpoint the duty manager, Ms M.K., and restaurant employees Ms O.A. and Mr T.Ga. The men had behaved like a special forces unit during a special operation; in unaccented Russian they had ordered everyone to lie down on the floor, be quiet and not to move. They had not beaten anyone. At about 12.30 a.m. they had left. The witness had not seen whether the intruders had taken anyone with them. He stressed that he had been certain that the intruders must have been law-enforcement agents. It was only on the following day that he had learnt that the intruders had abducted the applicants.

29. On 26 November 2007 the investigators questioned the other security guard who had been on duty at the hotel on the evening of 23 November 2007, Mr Z. Ko. His statement was similar to that of his colleague Mr S. Dz. and he also provided a detailed description of the intruders' firearms and stated that they had acted under a chain of command. The intruders had guarded all the exits and entrances to the hotel, the stairs and the elevator. Then they had taken his and the others' mobile telephones, removed the batteries and sim-cards and thrown them onto the floor. While they had been held at gunpoint in the lobby, some of the women had started crying and panicking. One of the intruders, who had acted like the one in charge, had told them in unaccented Russian that they

just needed to check something and would then leave. The witness emphasised that the intruders had acted as a well-organised group and that they must have been a highly-trained special police unit. The intruders had spent about half an hour at the hotel. After their departure, he had learnt that they had taken away the applicants.

30. On 27 November 2007 the investigators questioned the managing director of the hotel's restaurant, Mr T.Ga., who stated that at about 11.10 p.m. on 23 November 2007 he had just gone down from the restaurant into the lobby with his colleagues Ms O.A. and Ms L.Dz. when three men armed with machine guns, wearing balaclavas and camouflage uniforms, had run up to them and ordered them by gesturing to lie down on the floor and not to move. About ten to fifteen more intruders had already been in the lobby; they had not spoken among themselves and had communicated by gesturing. Both of the hotel security guards were already lying on the floor. The intruders had taken his mobile telephone and removed its sim-card and battery.

31. On 27 November 2007 the investigators questioned police officer G.O., who made a statement about the events similar to that given by his colleague, sergeant I.S. (see paragraph 27 above). In addition he stated that he and his colleagues had been providing security for the hotel's residents, including the Deputy Ministers of the Interior Selivanov and Seliverstov, who were in residence there at the time. At about 8 p.m. on 23 November 2007 a duty officer from the Ministry of the Interior had arrived at the hotel and told them that a Deputy Minister of the Interior had ordered the security team to leave the hotel and go to the Ministry of the Interior building. The witness had refused to do so, as there had been no orders from his superior officers to this effect. Then, about two hours later, the Deputy Minister of the Interior in charge of the borders, Mr A. Kh., had phoned the hotel and ordered the police security group to go to the Ministry of the Interior to secure its premises. The witness and his colleagues had spent the night there and it was not until the next morning that he had learnt about the applicants' abduction from the hotel.

32. On the same date, 27 November 2007, the investigators also questioned the police officers Kh.T. and A.M., whose statements were similar to those of their colleagues I.S. and G.O (see paragraphs 27 and 31 above).

33. On 27 November 2007 the investigators also questioned the hotel's cook and a waitress, Ms L.Dz. and Ms O.A., whose statements were similar to that of Mr S. Dz. (see paragraph 28 above). In addition, both women stated that they had seen the applicants being taken away by the intruders and that the applicants, who had had black sacks over their heads, had not been wearing outdoor shoes or warm clothing. In addition, Ms O.A. had seen the abductors' white Gazel minibus without official registration plates.

34. On 27 November 2007 the investigators again questioned the hotel's administrator, Ms M.K., who reiterated her earlier statement (see paragraph 21 above) and added that the intruders had told her that they had come to conduct an identity check and were from the anti-terrorist unit of the police. They refused to let her see their service documents. Some of the intruders had stayed in the lobby while others had ordered her to go to the first applicant's room to ask him to open the door, which she had done. Later, she had seen the men take the applicant outside and had seen their white minibus. She also stated that she was now not sure whether the intruders had in fact been from a law-enforcement agency and that she did not remember whether anyone had called off the four police officers who had been on duty at the hotel on 23 November 2007.

35. On various dates in November and December 2007 the investigators questioned two police officers from the Nesterovskaya police station and four officers from the Sunzhenskiy district police station whose statements concerning the circumstances of the applicants' arrival at the police station in the early hours of 24 November 2007 were similar to the applicants' account before the Court.

36. On 9 December 2007 the investigators questioned Ingushetia Deputy Minister of the Interior A. Kh., who stated that he was in charge of the security of the administrative border of Ingushetia. To his knowledge, the hotel's police security service had consisted of officers from the Special Task Unit, in view of the fact that high-ranking law-enforcement officials were staying at the hotel, including two Deputy Ministers of the Interior, Mr Seliverstov and Mr Selivanov. He had called the police officers off duty from the hotel on the evening of 23 November 2007 as there had been a threat of attacks on the building of the Ministry of the Interior and the officers had therefore been needed elsewhere. He had not known that on that date the applicants had been staying at the hotel and learnt of their abduction and beating only the following morning when he read the police service incidents report.

37. On 17 December 2007 the investigators questioned Deputy Minister of the Interior of Ingushetia Mr V. Selivanov, who stated that he had been resident in the hotel since mid-October 2007. On the evening of 23 November 2007 he had been in his room, had not heard anything and had not seen the police security guards that evening. He had been unaware of the reasons for the guards' recall from the hotel and learnt of the applicants' abduction and ill-treatment only the next day.

38. On 18 January 2008 the investigators questioned First Deputy Minister of the Interior of Ingushetia Mr S. Seliverstov, whose statement was similar to that given by Mr V. Selivanov (see the paragraph above).

39. On various dates in January and March 2008 the investigators questioned eleven police officers, who stated that on 23 November 2007 they had manned various checkpoints on the motorway between Ingushetia

and Chechnya, on the roads between Nazran and the Ordzenikidzevskaya settlement, and in the vicinity of the local airport. They did not recall the white Gazel minibus with abductors passing through their checkpoint due to the large number of similar vehicles going through daily, but said that any vehicle of that type passing through in the evening or at night should have been stopped and registered in the log.

40. On 20 February 2008 the investigators questioned Mr Sh.A. and Mr A.Ge., both of whom stated that they had been present during the crime-scene examination on 24 November 2007 at the hotel and that during the examination they had not seen any CCTV cameras on its premises.

41. On 23 February 2008 the investigators questioned the hotel manager Ms L.T, who stated that she had not been at the hotel on 23 November 2007.

42. On 24 February 2008 the investigators questioned Mr Akh.D., who stated that on the night of 23 November 2007 he had been at home in the Sunzhenskiy district of Nesterovskaya when at about 1 a.m. four men had knocked at his door. The men, who were not wearing warm clothing, had traces of beatings and were suffering from the cold; they had told him that they had been abducted from Nazran, beaten and left in the fields near the village. He had let the men in and then had gone to the Nesterovskaya police station to report the incident.

43. On various dates in February 2008 the investigators also questioned several witnesses in Nesterovskaya whom the applicants had asked for help on the night of 24 November 2007 and who had refused to open the door.

44. On various dates between December 2007 and April 2008 the investigators questioned more than forty employees of the school situated near the hotel. The persons questioned were primarily teachers or administrators. All of them gave similar statements to the effect that they worked at the school during the day, that they had therefore not witnessed the events late at night on 23 November 2007 and had learnt about them some time later. None of the school's security guards or night watchmen was questioned.

**(b) Main steps taken by the investigation**

45. On 24 November 2007 the investigators granted each of the applicants victim status in the criminal case. In the decision they listed the items of their professional equipment and personal belongings taken by the perpetrators, including cash, credit cards, mobile phones, clothes, a laptop, tape recorder, service identity cards and a digital camera.

46. On the same date, 24 November 2007, the investigators ordered a forensic expert examination of each of the applicants. On 29 November 2007 the medical forensic examiner issued report no. 735, which described the numerous bruises and hematomas received by the third applicant as being ones of a "light degree of gravity". The same report described the

injuries of the second applicant as unsuitable for forensic categorisation due to the absence of a chest X-ray and conclusions of other medical specialists. As for the injuries of the first and fourth applicants, they did not qualify for a degree of gravity, there being a “lack of lasting impact on his health”.

47. On 24 November 2007 the investigators examined the crime scene at the hotel, collected some fingerprints and ordered an expert forensic examination thereof. No other evidence was found. On 12 December 2007 the experts concluded that the fingerprints were not suitable for examination.

48. On 25 November the applicants left for Moscow, where on 26 November 2007 the second applicant was admitted to hospital and received medical treatment in connection with his injuries, which included cerebral concussion. He was discharged from hospital on 4 December 2007.

49. On 26 November 2007 the investigators seized and examined the registration log of the hotel guests.

50. On 26 November 2007 the head of the Ingushetia investigative committee issued instructions for the investigators, ordering them to take these steps, amongst others:

“ [...] 4) to identify and question the Deputy Minister of the Interior who, according to the statement of Ms M.K., telephoned the hotel at about 9 p.m. and recalled the police security officers; [...]

9) to identify the police officers who had manned the checkpoints on motorway “Kavkaz” on 23 November 2007 and question them about the passage of the Gazel minibus and examine the passing vehicles’ registration logs; [...]

15) to identify persons who had been staying at the hotel at the material time and question them about the events; [...]

17) to establish whether there were CCTV cameras inside and outside the hotel and examine their contents; [...]

51. On 27 November 2007 the investigators took fingerprints from six employees of the hotel for comparative forensic examination of the fingerprints collected at the crime scene.

52. On 5 December 2007 the investigators examined the registration log of vehicles passing the Volga-20 checkpoint during November 2007. No passage of a Gazel minibus on 23 November 2007 was recorded.

53. On 7 December 2007 the Nazran town police department replied to the investigators that there had been no CCTV cameras in the vicinity of the crime scene.

54. On 8 December 2007 the Ingushetia Minister of the Interior, Colonel Medov, wrote to the investigators, stating that on 23 November 2007 his Deputies Mr Seliverstov and Mr Selivanov, as well as a number of other police officers from other regions of Russia had been staying at the hotel. They had all “been resting in their rooms” at the time of the abduction and had no pertinent information to offer the investigation.

55. On 10 December 2007 the first applicant asked the investigators to change the legal classification of the crimes committed against him and the other applicants to that of “exceeding official powers”, a crime that is committed by State agents and punishable under Article 286 of the Russian Criminal Code. In particular, he stated that within the scope of their official powers, the perpetrators had been able to unlawfully break into the applicants’ rooms, search them, take away their property, deprive them of liberty and subject them to ill-treatment.

56. On 13 December 2007 the investigators rejected the request as unsubstantiated, referring to the lack of evidence of the involvement of State agents in the incident.

57. On 4 February 2008 the investigators asked the hotel to inform them whether any CCTV cameras capable of recording had been in use on 23-24 November 2007. On 8 February 2008 the hotel replied that there had been “no working CCTV cameras” on their premises on the dates in question.

58. On 22 February 2008 the investigators again examined the crime scene at the hotel. No evidence was collected.

59. On 22 May 2008 the investigators requested the permission of the Nazran District Court to obtain a list of the mobile telephone calls made between 11 p.m. on 23 November and 12 a.m. on 24 November 2007 in the vicinity of the hotel. Permission was granted on 30 May 2008.

60. On 26 May 2008 the preliminary investigation was suspended for failure to identify the perpetrators.

61. On 27 May 2008 the head of the Ingushetia Investigative Committee overruled the decision to suspend proceedings as premature and unsubstantiated and ordered that the investigators take such additional steps as were possible even in the absence of identified perpetrators.

62. On 29 May 2008 the first applicant complained to the head of the Nazran Branch of the Investigative Committee, alleging that the crime against him and the other applicants had been perpetrated by State agents but that the investigation was not taking any steps to examine this theory. He requested that the theory of State agents’ involvement be examined. In particular, he pointed out the following facts:

- due to the security threats in the region at the material time, the hotel was usually guarded by several police officers. However, about two hours prior to the abduction, the police officers had been recalled by their superior and a vehicle had been despatched to pick them up and take them to another location. The police officers had therefore been removed from the hotel in order not to create obstacles for the applicants’ abduction;

- two Deputy Ministers of the Interior were living permanently at the hotel. However, after examining the list of hotel residents, the abductors had gone straight to the applicants, showing no interest in

the law-enforcement officials. Had they been members of illegal armed groups, they would have targeted the officials and not the applicants;

- the perpetrators identified themselves to the hotel receptionists as members of an anti-terrorism unit. They behaved professionally, had a chain of command, were well-equipped and spoke unaccented Russian;

- the abduction took place on the eve of the planned protest meeting; the police should therefore have been on high alert. The minibus carrying the armed men and the applicants was driving for some time through the well-lit streets of Nazran and should have passed several checkpoints; however, it was not checked at any of them. Moreover, even though the vehicle's windows were not obscured, the perpetrators did not attempt to conceal their machine guns;

- the hotel employees told the first applicant and his two colleagues from Memorial, Mr Sh. and Ms S., that immediately after the abduction they had informed the hotel's managing director about the incident. He had arrived at the hotel about half an hour after the abduction and had called the police. The police had allegedly promised to take all necessary measures to find the applicants. However, they had not taken any steps in that direction and it was allegedly not until 4 a.m. that they had received information about the abduction, from colleagues at Nesterovskaya police station. The police's failure to react in a timely manner showed that the perpetrators had been State agents and that the abduction had been planned and executed as a special operation.

The applicant asked that his request be included in the investigation file, but received no reply.

63. On 28 January 2009 the first applicant requested permission to have access to the investigation file.

64. On 30 January 2009 the investigators granted the request in part, namely in respect of the records of investigative actions which had been carried out with the applicants' participation and the investigator's decisions to order forensic examinations and expert reports. Access to the rest of the file's contents was refused.

65. On 7 April 2009 the first applicant appealed against the above refusal. On 24 April 2009 the Magas District Court in Ingushetia dismissed the complaint, stating that victims in criminal proceedings could familiarise themselves with the entire contents of the investigation file only after completion of the investigation. On 9 June 2009 the Ingushetia Supreme Court upheld that decision on appeal.

66. On 28 April 2008 the first applicant asked the investigators to inform him of the progress in the criminal proceedings. On 3 June 2008 they replied that the investigation had been suspended on 26 May 2008.

67. On 10 June 2008 the investigators familiarised the first applicant with the conclusions of the forensic medical examination. He pointed out that in addition to the bruises and hematomas received as the result of the beating by the abductors, he had been subjected for about an hour to extremely cold temperatures while wearing only the very light clothing in which he had been taken from the hotel.

68. On 26 June 2008 the investigation was again suspended.

69. On 28 January 2009 the first applicant's lawyer requested access to the entire contents of the investigation file. On 30 January 2009 he was allowed to familiarise himself only with documents concerning the investigative steps taken with his participation.

70. On 11 April 2011 the Interim Deputy Head of the Ingushetia Investigative Committee overruled the decision to suspend the investigation as premature and unsubstantiated and ordered that it be resumed and the investigators take additional steps.

71. On 16 March 2011 the investigators requested that the Interim Deputy Prosecutor of Ingushetia order the police to take steps to examine the theory of the involvement of State agents in the applicants' abduction and ill-treatment.

72. On 3 April 2011 the investigators issued an official statement addressed to the Minister of the Interior criticising the failure of the police to take the steps necessary to identify the perpetrators of the applicants' abduction. The document stated:

“... from the very beginning of the investigation no operational search information of relevance and importance has been provided [to the investigators] regarding the identities of the possible culprits.

Such violations of the procedure committed by the operational officers of the police create obstacles for the full, thorough and objective investigation...the facts stated demonstrate the Ingushetia police's complete ignorance in respect of the requirements of criminal procedure, their lack of discipline and the absence of any control over their work by the senior officers.

There can be no change in this unhealthy situation as regards the operational units of the Ingushetia Ministry of the Interior [the police] when it comes to the execution of the investigators' lawful requests without your personal intervention. Your intervention could change the basis of the operational search officers' attitude to the execution of their tasks...”

73. On 30 May 2011 the Head of the Criminal Police Department of the Ministry of the Interior replied to the investigators, stating that as the result of their criticism they had conducted an internal inquiry and implemented various disciplinary measures against the officers responsible for their failure to take the necessary steps.

74. On 4 May 2011 the hotel's administration replied to the investigators' request of 29 April 2011, stating that on 23 November 2007 there had been no CCTV cameras on their premises.

75. On 11 May 2011 the investigation was suspended again. The proceedings are still pending.

76. The Government did not contest the factual circumstances of the events as presented by the applicants. They added only that at the material time four Deputy Ministers of the Interior had been residing at the hotel. In addition to Mr Seliverstov and Mr Selivanov, Mr Seriy and Mr Magera were also staying there.

77. In their submission before the Court on 1 February 2013 the Government stated that "it has been positively confirmed that on 23 November 2007 [the applicants] were subjected to ill-treatment by unidentified perpetrators. There is no information showing that the crime was committed by representatives of the law-enforcement agencies or other State agents".

78. In reply to the Court's request for a copy of the investigation file, the Government furnished its contents, amounting to 1182 pages. According to the applicants, the documents submitted did not contain copies of the transcripts of the questioning of the first applicant, in which he had stressed the involvement of State agents in the abduction and ill-treatment.

## II. RELEVANT DOMESTIC LAW

79. For a summary of the relevant domestic law see *Suleymanov v. Russia*, no. 32501/11, §§ 103-111, 22 January 2013.

## THE LAW

### I. EXHAUSTION OF DOMESTIC REMEDIES

#### A. The parties' submissions

80. The Government submitted that the investigation into the applicants' allegations was still in progress. They further argued that it had been open to the applicants to lodge complaints against any of the alleged acts or omissions of the investigators and to claim compensation.

81. The applicants argued that the ongoing investigation into their allegations fell below the Convention standards. They disagreed with the Government and pointed out that their inability to have access to the entire contents of the investigation file had precluded them from effective appealing against the investigators' decisions in the domestic courts.

## **B. The Court's assessment**

82. The Court will examine the arguments of the parties in the light of the Convention's provisions and its relevant practice (for a pertinent summary, see *Estamirov and Others v. Russia*, no. 60272/00, §§ 73-74, 12 October 2006).

83. As regards a civil action, the Court has already found that this procedure alone cannot be regarded as an effective remedy in the context of similar claims brought under Article 3 of the Convention (see *Sadykov v. Russia*, no. 41840/02, § 275, 7 October 2010). In the light of the above, the Court confirms that the applicants were not obliged to pursue civil remedies and dismisses the Government's objection in this regard.

84. As regards domestic criminal law remedies, the criminal investigation into the applicants' allegations has been pending since 24 November 2007. The parties dispute the effectiveness of that investigation.

85. The Court considers that the Government's objection raises issues concerning the effectiveness of the investigation which are closely linked to the merits of the applicants' complaints. It therefore joins this objection to the merits and considers that the issue falls to be examined below (see also paragraphs 105, 111 and 117 below).

## **II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION**

86. The applicants complained that they had been abducted and subjected to ill-treatment by State agents and that the authorities had failed to investigate the matter effectively. Article 3 of the Convention reads:

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

87. The Government submitted that the ongoing investigation had found no evidence of the alleged involvement of State agents in the incident.

88. The applicants reiterated their complaint.

### **A. Admissibility**

89. The Court notes that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

## **B. Merits**

### *1. The alleged ill-treatment*

#### **(a) The parties' submissions**

90. The applicants disagreed with the Government's submission of non-involvement of State agents in the incident and stated that they had been abducted and ill-treated by them. In support of their allegation they referred to the following facts:

- At the material time, the hotel was routinely secured around the clock by a special police unit to ensure the personal safety of the high-ranking law-enforcement officials who were resident there. That police unit, the hotel guards and the law-enforcement officials were all armed; the only time the police security unit had ever been recalled from duty at the hotel by their superiors was shortly before the attack on the applicants. Considering the overall security situation in the region at the material time and the frequent attacks on law-enforcement officials, it was improbable that the hotel would have been left for the evening without an assigned security team;
- The hotel management had a special alarm button to call the police, who were supposed to arrive at the hotel within five minutes, but for some reasons this had not happened during the applicants' abduction. It had taken more than an hour for the police to arrive at the hotel after the incident was reported by two of its employees. Moreover, after the police were informed about the applicants' abduction from the hotel, none of the police officers had shown any interest in the fate of their colleagues who had been staying there;
- The four police security officers who had been withdrawn from the hotel on the evening of 23 November 2007 and reassigned to the Ministry of the Interior had not carried out any special task and had simply spent the night in the Ministry building;
- The perpetrators had arrived as a group of ten to fifteen men, who had spoken unaccented Russian, had acted openly without fear of being discovered, had conducted themselves as a highly organised, well-trained group with a clear chain of command, had communicated by gestures, and had all worn the same uniforms and carried the same type of firearms. Moreover, they had told the hotel's employees that they had been conducting an antiterrorist operation and identity check and told the applicants that they would take them to the police station. The applicants and the hotel's employees had understood the intruders to be from one of the law-enforcement agencies. The perpetrators' vehicle had crossed several checkpoints that night without being stopped, despite having no official registration numbers;

- The perpetrators, who had searched for the applicants by looking for their names in the hotel's guest registration log, had targeted only them and not any of the law-enforcement officials. They had beaten the applicants, saying that the latter should leave the region and never come back. The applicants had arrived in Ingushetia to report on the opposition meeting of 24 November 2007 in Nazran, to visit local human rights defenders, and to report on human rights violations;
- The official investigation accepted the applicants' theory of the involvement of State agents in the incident but failed to take any steps to examine it. Nor did the investigation take any serious steps to examine the involvement of illegal armed groups or the possible commission of the crime by other perpetrators;
- The police had been aware who the perpetrators were, but had failed to take active steps to find them. For instance, the police had been informed about the abduction shortly after it happened, but they had informed neither the checkpoints nor the local police stations that the perpetrators had driven off in a minibus without registration plates, nor had they taken any steps to locate the vehicle and apprehend the abductors.

91. The applicants further submitted that the treatment to which they had been subjected by the perpetrators amounted to torture, since they had been beaten, taken out in the cold without warm clothing, and left in the snow.

**(b) The Court's assessment**

92. Relevant summaries of the principles concerning the examination of complaints of ill-treatment allegedly perpetrated by State agents may be found in *Suleymanov*, cited above, §§ 125-29, and of the assessment of the level of its severity in *Bouyid v. Belgium* [GC], no. 23380/09, §§ 86-90, ECHR 2015.

93. The Court observes that the parties were not in dispute as to the circumstances of the incident as presented by the applicants and that the only point on which they disagreed was whether the perpetrators had been State agents. The Court therefore finds it established that on the night of 23 November 2007 the applicants were taken from the hotel and ill-treated. The Court's task is to establish whether State agents were the perpetrators of that removal and ill-treatment and if so, whether the State should be held responsible for it.

94. In the present case no assessment of evidence was carried out by the domestic courts. It is therefore for the Court to assess the facts of the case as presented by the parties. To this end the Court notes, among the evidence furnished by the parties, the statements about the incident given by the applicants and the other eye-witnesses.

95. From the documents submitted it is apparent that the events had taken place on the eve of a protest meeting in Nazran, when the local

authorities had introduced reinforced security measures (see paragraphs 7 and 35 above). Several high-ranking law-enforcement officials had been staying at the hotel at the time and for this reason, in addition to its own security guards, the hotel had been provided with a reinforced 24-hour police security unit (see paragraphs 21, 27 and 28 above). The entire police unit had been ordered to leave the hotel shortly before the arrival of the perpetrators and taken for the night to the premises of the Ministry of the Interior, leaving none of their officers to ensure security of the hotel, even though at least two Deputy Ministers of the Interior were in their rooms (see paragraphs 31 and 36-38 above). The perpetrators arrived at the hotel – as a group of more than a dozen men in camouflage uniforms armed with machine-guns – in a minibus without official registration plates. Their vehicle had been able to drive around freely in spite of the missing number plates and the checkpoints on the roads. It had driven through well-lit streets with unobscured windows, carrying men wearing balaclavas and camouflage uniforms and armed with machine guns. The perpetrators had presented themselves as law-enforcement agents (see paragraphs 21, 24 and 34 above), had checked the hotel's registration log and had gone to the applicants' rooms, showing no interest in any other hotel residents. Their behaviour and the manner in which they had taken the applicants out of their rooms and beaten them showed that they had been an organised, well-trained unit with a clear chain of command carrying out a special task. The official witness statements given by the applicants and the hotel staff reflect their opinion that the perpetrators were members of a law-enforcement agency who were carrying out a special operation (see paragraphs 16, 18-19, 24, 25, 28 and 29 above).

96. Considering the above, the Court finds that the material before it constitutes sufficient evidence to support the applicants' allegations to the required standard of proof "beyond reasonable doubt". Given that the Government have advanced no plausible explanation for the events in question, the Court finds that the persons who took the applicants from the hotel to the field near Nesterovskaya and subjected them to ill-treatment on the night of 23 November 2007 were State agents.

97. The Court has no doubt that the aforementioned ill-treatment caused the applicants physical pain and suffering, and that it was inflicted on them intentionally. In the light of the relevant principles indicated in its case-law (see paragraph 92 above) and the documented impact of that ill-treatment on the applicants' health (see paragraphs 46 and 48 above) the Court is satisfied that the accumulation of the beatings and threats inflicted on the applicants, along with their abandonment in the cold in the vicinity of Nesterovskaya, amounted to inhuman and degrading treatment within the meaning of Article 3 of the Convention

98. Accordingly, there has been a violation of the substantive aspect of Article 3 of the Convention.

## 2. *The effective investigation*

### (a) **The parties' submissions**

99. The Government argued that the pending investigation into the applicants' ill-treatment complied with the Convention standards and that the applicants could have challenged its decisions in domestic courts.

100. The applicants submitted that the investigation had proved ineffective and pointed out that numerous important steps had been taken either belatedly or not at all. They also argued that the progress of the investigation and its suspensions had been criticised by superior officials, who had overruled certain decisions as unsubstantiated and premature, and that the police's failure to take the most important steps had been criticised by the senior officers.

### (b) **The Court's assessment**

101. A summary of the principles concerning compliance with the requirements of effective investigation in cases involving violations of Article 3 of the Convention allegedly perpetrated by State agents may be found in *Mocanu and Others v. Romania* [GC], nos. 10865/09, 45886/07 and 32431/08, §§ 314-26, ECHR 2014 (extracts).

102. Turning to the circumstances of the present case, the Court observes that during the early days of the proceedings, those investigating the applicants' allegations obtained information concerning the possible involvement of State agents. However, no steps were taken to examine that theory and none of the officers from the local special task units was questioned about the possible deployment of their colleagues for a special operation at the hotel. Nor were any measures aimed at identifying the perpetrators' vehicle by checking the minibuses belonging to the local law-enforcement agencies. The Court also notes that according to the witness statements, CCTV cameras were in use at the hotel on the date of the abduction (see paragraphs 28 and 57 above). However, no steps were taken to obtain footage from them in spite of direct orders from the senior officers to this end (see paragraph 51 above). This failure to obtain critical evidence, combined with the repeatedly criticised lack of willingness to investigate on the part of the police (see, for example, paragraphs 71-72 and 73 above) show that the investigation into the applicants' abduction and ill-treatment cannot be said to have been effective as required by Article 3 of the Convention.

103. The Government argued that the applicants had been granted victim status in the criminal case and should therefore have sought judicial review of the investigating authorities' decisions as part of the exhaustion of domestic remedies. However, even leaving aside the police's failure to take appropriate steps and assuming that the applicants would eventually have access to the entire contents of the case file – which would have enabled

them to assess the effectiveness of the investigation – the Court finds that, considering the nature and urgency of the matter, it is questionable whether appeals against the investigators’ decisions would have succeeded in redressing the defects in the investigation, or that they would have expedited its progress or positively influenced its conduct (see, for a similar situation, *Suleymanov*, cited above, § 149; *Shafiyeva v. Russia*, no. 49379/09, § 95, 3 May 2012; and *Buzurtanova and Zarkhmatova v. Russia*, no. 78633/12, § 115, 5 November 2015).

104. The Court is also mindful of its findings concerning the systematic failure to investigate abductions attributable to State agents in the region between 1999 and 2006 (see *Aslakhanova and Others v. Russia*, nos. 2944/06, 8300/07, 50184/07, 332/08 and 42509/10, § 219, 18 December 2012) and the re-occurrence thereof after that period (see a recent example, *Ibragim Tsechoyev v. Russia*, no. 18011/12, § 70, 21 June 2016).

105. Considering the above elements, the Court finds that the remedy cited by the Government was ineffective in the circumstances and dismisses their objection as regards the applicants’ failure to exhaust domestic remedies within the context of the criminal investigation.

106. In the light of the foregoing, the Court considers that the applicants did not have the benefit of an effective investigation into their abduction and ill-treatment. It consequently finds a violation of the procedural head of Article 3 of the Convention.

### III. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION

107. The applicants alleged that the abductors had unlawfully deprived them of liberty in violation of Article 5 of the Convention, which, in so far as relevant, reads:

“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;

...

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within

a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.”

108. The Government did not deny that the applicants had been deprived of their liberty by the abductors but stressed that State agents had not been involved.

109. The applicants reiterated their complaint.

#### **A. Admissibility**

110. The Court notes that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

#### **B. Merits**

111. The Court observes that in the present case the applicants were abducted and subjected to ill-treatment for several hours. Considering the circumstances of the incident and the fact that the perpetrators of the applicants' abduction and ill-treatment were State agents (see paragraph 96 above), the Court finds that the applicants were subjected to unacknowledged detention representing a complete negation of the guarantees contained in Article 5 of the Convention to secure the right of individuals in a democracy to be free from arbitrary detention (see *Çiçek v. Turkey*, no. 25704/94, § 164, 27 February 2001). Having already found that no effective remedy existed which would have permitted the applicants to establish the identities of the individuals involved and hence to put their complaints to the domestic authorities (see paragraph 105 above), the Court dismisses the Government's objection as regards the applicants' failure to exhaust domestic remedies.

112. Therefore, the Court finds a violation of the applicants' right to liberty and security of the person enshrined in Article 5 of the Convention.

### **IV. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION**

113. The applicants complained that the abductors had taken their personal belongings and valuables and had therefore deprived them of their

property in violation of Article 1 of Protocol No. 1 to the Convention provides, in particular:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. ...”

114. The Government stated that State agents were not responsible for the alleged violation.

115. The applicants reiterated their complaint.

### **A. Admissibility**

116. The Court notes that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

### **B. Merits**

117. The Court notes that the Government did not dispute either the amount of the property taken by the abductors or the applicants' title to it. In the light of the fact that the Court has already found above that the men who abducted the applicants on the night of 23 November 2007 were State servicemen, it finds that the loss of the applicants' property was imputable to the respondent State. Accordingly, there was an interference with the applicants' right to respect for the protection of their property. Having already found that no effective remedy existed which would have permitted the applicants to establish the identities of the individuals involved and hence to put their complaints to the domestic authorities (see paragraph 105 above), the Court dismisses the Government's objection as regards the applicants' failure to exhaust domestic remedies.

118. In the absence of any justification on the part of the State for its agents' actions in that regard, the Court finds that there has been a violation of the applicants' right to protection of property, as guaranteed by Article 1 of Protocol No. 1 to the Convention.

## **V. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION**

119. The applicants complained that, contrary to Article 13 of the Convention they did not have effective domestic remedies against the alleged violations. Article 13 of the Convention provides:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

120. The Government contested the claim and stated that the applicants had had an opportunity to challenge any acts or omissions on the part of the investigating authorities in court but had failed to do so.

121. The applicants reiterated their complaint.

122. The Court notes that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible. However, having regard to its conclusions above, the Court considers it unnecessary to examine the issues separately under Article 13 of the Convention (see, for example, *Suleymanov*, cited above, § 157).

## VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

123. 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.”

### A. Pecuniary damage

124. The applicants claimed the following amounts by way of compensation in respect of the pecuniary damage sustained as a result of their abduction and ill-treatment: the first applicant claimed 64,500 Russian rubles (RUB) (about 1,610 euros (EUR)), the second applicant claimed RUB 46,500 (about 1,160 EUR) and the fourth applicant RUB 33,000 (about 830 EUR). The amounts claimed were substantiated by copies of documents in the investigation file. The third applicant did not make any claims under this head.

125. The Government did not dispute the amounts claimed, but submitted that the claim should not be granted as the investigation was still pending.

126. Having regard to its aforementioned conclusions and the parties' submissions, the Court awards EUR 1,610 to the first applicant, EUR 1,160 to the second applicant and EUR 830 to the third applicant in respect of pecuniary damage, plus any tax that may be chargeable on these amounts.

### **B. Non-pecuniary damage**

127. The applicants left the determination of the amount to be awarded to the Court.

128. The Government stated that the finding of a violation would constitute adequate satisfaction.

129. Regard being had to the parties' submissions and its findings, the Court awards the applicants EUR 19,500 each, plus any tax that may be chargeable on that amount.

### **C. Costs and expenses**

130. The applicants were represented by lawyers from the NGO EHRAC/Memorial Human Rights Centre. Their aggregated claim in respect of costs and expenses for legal representation amounted to 2,052 pounds sterling (GBP) (about EUR 2,400). The applicants submitted a breakdown of costs and supporting documents, including fee notes, translators' invoices and a claim for administrative and postal costs, and requested that the payment be transferred to the representative's bank account in the UK.

131. The Government made no comments under this heading.

132. The Court has to establish whether the costs and expenses were actually incurred and whether they were necessary. Bearing this in mind, the Court awards the applicants the amount of EUR 2,400 together with any tax that may be chargeable to them, the net award to be paid into the representatives' bank account, as identified by the applicants.

### **D. Default interest**

133. 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 to the merits the Government's objection concerning non-exhaustion of domestic remedies and dismisses it;
2. *Declares* the application admissible;
3. *Holds* that has been a substantive violation of Article 3 of the Convention;

4. *Holds* that there has been a procedural violation of Article 3 of the Convention;
5. *Holds* that there has been a violation of Article 5 of the Convention;
6. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;
7. *Holds* that it is not necessary to examine the issues under Article 13 separately;
8. *Holds*
  - (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, except for the payment in respect of costs and expenses:
    - (i) EUR 1,610 (one thousand six hundred and ten euros) to the first applicant, plus any tax that may be chargeable, in respect of pecuniary damage;
    - (ii) EUR 1,160 (one thousand one hundred and sixty euros), to the second applicant, plus any tax that may be chargeable, in respect of pecuniary damage;
    - (iii) EUR 830 (eight hundred and thirty euros), to the fourth applicant, plus any tax that may be chargeable, in respect of pecuniary damage;
    - (iv) EUR 19,500 (nineteen thousand five hundred euros) to each of the applicants, plus any tax that may be chargeable, in respect of non-pecuniary damage;
    - (v) EUR 2,400 (two thousand four hundred euros), plus any tax that may be chargeable to the applicants, to be converted into British pounds sterling at the rate applicable at the date of settlement, in respect of costs and expenses, to be paid into the representatives' bank account;
  - (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 14 March 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips  
Registrar

Helena Jäderblom  
President