

The case concerns the alleged ill-treatment of the applicants by law-enforcement officers during arrest and custody, and the Russian authorities' failure to conduct an effective investigation into the complaints about such ill-treatment.

---

THIRD SECTION  
**CASE OF MININ AND OTHERS v. RUSSIA**  
*(Applications nos. 29120/06 and 8 others – see appended list)*  
JUDGMENT  
STRASBOURG  
27 July 2021

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

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

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

Darian Pavli, President,  
Dmitry Dedov,  
Peeter Roosma, judges,  
and Olga Chernishova, Deputy Section Registrar,

Having regard to:

the applications (nos. 29120/06 and 8 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 nine Russian nationals (“the applicants”) on the various dates indicated in the appended table;

the decision to give notice to the Russian Government (“the Government”) of the complaints concerning the applicants’ alleged ill-treatment by law-enforcement officers and the lack of effective investigation therein and to declare inadmissible the remainder of the applications;

the parties’ observations;

Having deliberated in private on 6 July 2021,

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

**INTRODUCTION**

1. The case concerns the alleged ill-treatment of the applicants by law-enforcement officers during arrest and custody, and the Russian authorities’ failure to conduct an effective investigation into the complaints about such ill-treatment.

**THE FACTS**

2. The applicants are Russian nationals who were arrested on various dates between 2004 and 2012 on suspicion of having committed crimes in different Russian regions. The applicants’ details and their representatives’ details are set out in the appended table.

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

4. The relevant facts in respect of each application, as submitted by the parties, may be summarised as

follows.

## **I. MININ v. RUSSIA, No. 29120/06**

### **A. The events of 15 December 2004**

5. On 15 December 2004 at around 5 a.m. officers of the Sovetskiy police station of Kurgan (ОМ Советский УВД г. Кургана) arrested the applicant while he was attempting to rob a shop. During his arrest the applicant fired several shots from a sawn-off shotgun at the police officers who were carrying out the arrest (injuring one of them), and then dropped the gun and attempted to escape. According to both the applicant and the Government, in the course of the arrest one of the police officers knocked the applicant off his feet, put a knee between his shoulder blades, twisted his arms behind his back and placed handcuffs around his wrists. The applicant was then taken to a police car where, once inside (according to his version of events), the police officers struck him on the head and body. According to the applicant (who did not provide any specific details) the beatings continued at the Sovetskiy police station.

6. At 6.50 p.m. on the same date the applicant was taken to the Kurgan Emergency Care Hospital (БСМП г. Кургана), where he was examined by a doctor. According to his medical file, the applicant had soft-tissue bruises on his face and a closed fracture of the ninth rib on the left.

7. At 11 p.m. the applicant was transferred to a temporary detention facility (IVS) at the Kurgan Directorate of Internal Affairs. On 16 December 2004 at 12.30 a.m. he was examined by a paramedic, who recorded the following injuries in the IVS logbook: soft-tissue bruises on the face and head, bruises on the back and hips, and a fractured rib on the left side.

### **B. Official inquiry into the alleged ill-treatment**

8. On 16 December 2004 the applicant was placed in pre-trial detention and transferred to Kurgan Region Remand Prison IZ-45/1. Upon his arrival at the remand prison the applicant was examined by a member of the medical staff, who recorded the following injuries in the logbook: contusions in the interscapular and lumbar regions, a contusion of the soft tissues around the right eye and an abrasion on the forehead.

9. On the same date the applicant lodged a complaint with the investigating authorities regarding his ill-treatment by the police officers of the Sovetskiy police station.

10. On 11 January 2005 an investigating officer ordered a forensic medical examination. According to expert report no. 207 of 14 January 2005, the applicant had soft-tissue bruises on the face and closed fractures of the eighth and ninth ribs on the left, all caused by a blunt hard object. The expert concluded that as a result of the described fractures the applicant had suffered damage of medium severity to his health, but noted that it was impossible to establish the time of their infliction.

11. On 4 February 2005 and 6 April 2005 the investigating officer refused to open a criminal investigation following the complaint lodged by the applicant. He concluded that the applicant could have been either injured in the course of his arrest or beaten by his acquaintances before the attempted robbery. At the same time the investigating officer held that the police officers had not applied any physical force to the applicant. Both refusals were later quashed by a higher investigating authority on unspecified dates.

12. On 5 September 2005 the investigating officer opened a criminal investigation in respect of the applicant's alleged ill-treatment. On 19 October 2005 the applicant was accorded the status of injured party in the criminal proceedings.

13. According to additional expert report no. 7923 dated 27 October 2005, at the material time the applicant had closed fractures of the eighth and ninth ribs on the left side that had been inflicted by a blunt hard object; the injuries were classified as having caused damage to the applicant's health of medium severity. The expert also noted in the report that on 17 December 2004 the applicant had

undergone another medical examination. According to the respective medical certificate, he had a contusion in the interscapular region that had been inflicted by a blunt hard object some time within the twenty-four hours preceding the examination, a contusion around his right eye inflicted by a blunt hard object some time within the forty-eight hours preceding the examination, and soft-tissue bruises in the lumbar region and abrasions on his forehead. The expert concluded that the described injuries could not be classified constituting damage to the applicant's health and noted that the medical documents did not contain any information attesting to their having been caused by the applicant "falling from his own height" (при падении с высоты собственного роста).

14. On an unspecified date the investigating officer interviewed the medical expert. The latter asserted that the closed fractures of the eighth and ninth ribs could have been inflicted during the applicant's arrest, when one of the police officers had knocked him off his feet and pushed him down to the ground with a knee.

15. On 19 December 2005 the investigating officer suspended the criminal investigation owing to a lack of suspects. In the respective decision he concluded that the applicant could have been injured before being taken to the police station – that is to say either in the course of his arrest by the police officers or while being escorted to the police station. To verify the latter version, it had been necessary to interview Z., one of the police officers who had escorted the applicant to the police station. However, Z.'s examination was no longer possible, as on 26 August 2005 he had died. On an unspecified date the decision to suspend the criminal investigation was quashed.

16. On 18 May 2010 the investigating officer ordered another forensic expert examination. According to expert report no. 335 of 31 May 2010, the closed fractures of the eighth and ninth ribs and the bruise around the right eye could have been inflicted on the applicant in the circumstances described by the police officers who had performed his arrest.

17. The criminal investigation was later suspended on 16 July 2010 and 31 January, 29 March and 20 September 2011. It appears that no other procedural decisions were taken after that.

### **C. The applicant's trial**

18. On 25 August 2005 the Kurgan Regional Court in a jury trial convicted the applicant of attempted robbery, illegal possession of firearms and an armed assault on a police officer.

19. On 10 March 2006 the Supreme Court of the Russian Federation dismissed a cassation appeal lodged by the applicant and upheld his conviction. The Supreme Court noted in its decision that the issue related to the lawfulness of the physical force applied to the applicant by the police officers after his arrest was not subject to examination during the course of the proceedings related to the applicant's criminal case.

## **II. YEROSHENKO v. RUSSIA, No. 2378/08**

### **A. The events of 23 and 24 November 2006**

20. On the night of 23 and 24 November 2006 police officers of the organised crime unit of the Orenburg Region (УБОП Оренбургской области) arrested the applicant near the settlement of Akbulak in the Orenburg Region. According to the applicant, during his arrest the police officers beat him and strangled him with a cord. He was then taken to the Akbulak police station where, according to his version of events, the police officers continued to beat him and attempted to rape him with a rubber stick (резиновая палка).

21. On 24 November 2006 at 8.05 a.m. an investigating officer drew up a record of the applicant's arrest. At about 8 or 9 a.m. the applicant was placed in the police station's IVS. Later the applicant was taken to the investigating officer for questioning, informed his lawyer of his ill-treatment by the police officers and

asked to see a doctor.

22. On the same date at 11.10 a.m. the applicant was taken to the Akbulak Central District Hospital (Акбулакская ЦРБ), where he underwent an X-ray examination and was hospitalised in a surgical unit. The applicant was diagnosed with closed craniocerebral injury, concussion and blunt trauma to the right eye. Moreover, the applicant (according to his medical file) upon arrival had a major contusion on his face, abrasions on both forearms and a bruise on the right side of the thorax. The applicant remained an inpatient at the hospital until 4 December 2006.

23. According to reports written by the police officers (all dated 24 November 2006), the applicant had resisted arrest and had attempted to escape, and the police officers had had to use physical force against him. The reports did not contain any description of the physical force applied. One of the police officers indicated in his report that the applicant had struck him several times.

## **B. Official inquiry into the alleged ill-treatment**

24. On 4, 6 and 9 December 2006 the applicant complained of his ill-treatment to the investigating authorities. On 13 December 2006 the applicant's lawyer lodged a further complaint on behalf of the applicant with the Akbulak district prosecutor's office.

25. On 14 December 2006 the investigating officer interviewed the applicant and several police officers about the events of 24 November 2006 and ordered a forensic medical examination of the applicant.

26. According to the forensic medical examination act dated 18 December 2006, the applicant had the following injuries: a closed craniocerebral injury, concussion, contusions on the face and a bruise on the right side of the thorax (all inflicted with a blunt hard object) and abrasions on both forearms (caused by handcuffs). Those injuries were classified as causing damage of minor severity to his health.

27. On 21 December 2006 the investigating officer refused to open a criminal investigation into the applicant's complaint of 13 December 2006. On 26 January 2007 that refusal was quashed.

28. On 15 February 2007 the investigating officer again refused to open a criminal investigation. The investigating officer concluded that the applicant could have been injured in the course of his arrest. The investigating officer noted that according to the testimony given by the police officers who had carried out the arrest, they had had justifiable reason to assume that the applicant would be armed and had had to use physical force against him in order to overcome the vigorous resistance that he had put up. In particular, the police officers asserted that the applicant had hit one of them and had started to fight with another of them, and that in the process of the fight they (that is to say the applicant and the police officer in question) had collided with a car and fallen to the ground. The investigating officer concluded that the physical force applied to the applicant had been proportionate, given the circumstances of his arrest and the nature of the criminal offence committed. The respective decision also suggested that by complaining of ill-treatment the applicant had been attempting to avoid criminal responsibility for his actions.

29. On 10 May 2007 the applicant lodged a complaint under Article 125 of the Code of Criminal Procedure of the Russian Federation (CCrP) with the Akbulak District Court of the Orenburg Region about the refusal of 15 February 2007 to open a criminal investigation. On 29 May 2007 the district court discontinued the proceedings because the applicant's criminal case had been transferred to the trial court for examination. On 10 July 2007 the Orenburg Regional Court upheld the first-instance decision.

30. On 27 July 2009 the applicant lodged a complaint with a higher investigating authority regarding the refusal of 15 February 2007 to open a criminal investigation. On 13 August 2009 his complaint was dismissed. On 30 September 2009 the Sol-Ilets'k District Court of the Orenburg Region dismissed the applicant's complaint against that decision. On 19 November 2009 the Orenburg Regional Court upheld

the first-instance decision. The courts noted that the investigating officer's refusal of 15 February 2007 had been relied on by the trial court in the applicant's criminal proceedings and could only be challenged together with the sentence imposed on 24 June 2008 (see paragraph 33 below).

### **C. The applicant's trial**

31. On 18 June 2007 the trial judge ordered a forensic medical examination of the applicant.

32. According to expert report no. 5387, dated 14 August 2007, at the material time the applicant had the following injuries: soft-tissue haematomas and a contusion on his face, and abrasions on the upper limbs which could have been inflicted by blunt hard objects and which did not cause any damage to his health. The expert also concluded that the diagnosis of concussion had not been confirmed by any objective data, and noted that the medical file did not contain any information about injuries to or in the area of the rectum.

33. On 24 June 2008 the Akbulak District Court of the Orenburg Region convicted the applicant of extortion. The court also rejected, inter alia, the applicant's allegations that he had been ill-treated by the police officers.

## **III. ALAYEV v. RUSSIA, No. 44541/08**

### **A. The events of 10 March 2006**

34. On 10 March 2006 at about 4 p.m. officers of the Nizhniy Novgorod regional department of the Federal Drug Control Service (УФСКН по Нижегородской области – FSKN) wearing plain clothes arrested the applicant at his flat on suspicion of drug dealing. The applicant submitted that the police officers had introduced themselves as the gas company workers, forced their way into his flat, punched and beat him while holding both of his arms; he had then attempted to escape and call for help but had been brought back to his flat, forced to his knees and handcuffed, after which the police officers had continued to beat him.

35. Later in the evening, after a search of the applicant's flat conducted from 5.15 to 6.25 p.m., the FSKN officers drew up a report on the use of physical force; in that report they indicated that the applicant had resisted arrest and that they had had to apply physical force and place handcuffs on him.

36. During the evening of the same day the applicant was transported to the IVS at the Nizhniy Novgorod Region Central Internal Affairs Directorate, where he spent the night.

37. On 11 March 2006 at 10.40 a.m. the investigating officer interviewed the applicant as a suspect in the criminal case. At 3 p.m. the applicant was taken to Nizhniy Novgorod Region Remand Prison IZ-52/1. Upon his arrival, the applicant was examined by a doctor on duty. According to that doctor's report of 11 March 2006 (addressed to the head of the remand prison) and a medical certificate issued on 13 March 2006, the applicant had a contusion around his right eye and two abrasions on his left forearm.

38. On 13 March 2006 the applicant wrote an explanatory note to the administration of the remand prison in which he indicated that he had been injured during his arrest and that he had no claims against the remand prison.

### **B. Official inquiry into the alleged ill-treatment**

39. On 21 March 2006 the applicant lodged a complaint with the investigating authorities regarding his alleged ill-treatment by the above-mentioned police officers. On 22 March 2006 his lawyer lodged a similar complaint.

40. On 23 March 2006 the investigating authorities opened an inquiry into the applicant's alleged ill-treatment. The investigator interviewed some of the police officers who had arrested the applicant or who

had arrived on the scene soon thereafter.

41. On 3 April 2006 the investigating officer refused to open a criminal investigation. The refusal was based solely on the testimony of three police officers, who insisted that the applicant had resisted arrest and that they had had to use physical force against him, push him to the floor and place handcuffs around his wrists. On 10 May 2007 that refusal was quashed by a prosecutor.

42. On 14 May 2007 the investigating officer issued another similar refusal.

43. The applicant lodged a complaint regarding the latest decision, and on 16 October 2007 the Sormovskiy District Court of Nizhniy Novgorod ruled the refusal unlawful on procedural grounds. On 7 December 2007 the Nizhniy Novgorod Regional Court quashed the first-instance decision and sent the applicant's complaint back to the district court for a fresh examination.

44. On 10 January 2008 the Sormovskiy District Court of Nizhniy Novgorod dismissed the applicant's complaint. On 4 March 2008 the Nizhniy Novgorod Regional Court dismissed a cassation appeal lodged by the applicant and upheld the first-instance decision.

### **C. The applicant's trial**

45. On 27 March 2006, upon the investigating officer's request, the remand prison issued the description of the injuries identified on the applicant's body upon his arrival on 11 March 2006 (see paragraph 37 above).

46. On 4 April 2006 the investigating officer ordered a forensic medical examination.

47. On 13 April 2006 the applicant underwent an X-ray examination. On 14 April 2006 the radiologist concluded that the applicant had a nasal-bone fracture.

48. According to expert report no. 982 of 26 April 2006, the applicant was missing four teeth on his upper jaw on the right-hand side, but their roots were still in their sockets; he also had two unconsolidated fractures of the nasal bones and frontal process of the maxilla, contusions on the face, and abrasions on the left forearm. The expert classified the contusions on the face, abrasions on the left forearm and one of the nasal-bone fractures as constituting minor-severity damage to the applicant's health and concluded that they had been caused by blows with blunt objects (probably in the form of kicks and punches). The expert could not rule out the possibility that those injuries had been inflicted on 10 March 2006. The other fracture was classified as constituting medium-severity damage (also caused by a blunt object). The expert also concluded that the fracture could have been inflicted between two and three weeks before the X-ray examination. It was impossible to establish the exact time when the applicant had lost his upper teeth.

49. On 3 May 2006 the investigating officer separated the case-file material concerning the applicant's alleged ill-treatment from his case file and transferred it to the investigating authorities for a separate inquiry.

50. In mid-May 2006 the applicant's trial began. During the trial the Sormovskiy District Court of Nizhniy Novgorod questioned, inter alia, the police officers who had performed the applicant's arrest. The latter testified that the applicant had resisted arrest and they had had to hold his hands in a "hammerlock" and place handcuffs around his wrists, and that the applicant had fallen to the floor several times during his arrest.

51. On 3 July 2006 the Sormovskiy District Court of Nizhniy Novgorod convicted the applicant of several criminal offences. When passing sentence the district court found that the police officers had not committed any violations in the course of the applicant's arrest, that they had used physical force in order to prevent the applicant from fleeing and destroying the evidence, that the applicant had vigorously

resisted arrest and that the measures applied to him had been proportionate.

52. On 15 September 2006 the Nizhniy Novgorod Regional Court dismissed a cassation appeal lodged by the applicant and upheld his conviction.

#### **D. Other relevant information**

53. On 15 January 2014 the applicant died.

54. On 22 December 2017 the applicant's representatives informed the Court that his brother, Mr Aleksandr Nikolayevich Alayev, had expressed his wish to maintain the application.

55. On 11 February 2020 the applicant's representatives informed the Court that they had lost contact with the applicant's brother. However, the applicant's widow, Mrs Nina Fedorovna Alayeva expressed her wish to maintain the application and to pursue it before the Court in her late husband's stead.

### **IV. KONOVALOV v. RUSSIA, No. 46231/09**

#### **A. The events of 20 August 2008**

56. On 20 August 2008 at about 3 p.m. police officers of a special unit of the criminal police (ОМЧК КМ УВД по Оренбургской области) arrested the applicant in the street in Orsk, Orenburg Region, on suspicion of drug dealing. The arrest was carried out within the context of an undercover surveillance operation (наблюдение). The police officers who performed the arrest were wearing uniform and masks. According to the applicant, during the arrest they forced him to the ground, put a t-shirt over his head, forced him into a car and beat him.

57. Later the same day, the applicant was taken to the Leninskiy District police station of Orsk (ОВД по Ленинскому Району МО г. Орск). At 6 p.m. the investigator drew up a record of the applicant's arrest and ordered that he undergo a forensic medical examination.

58. On 21 August 2008 the applicant was examined by a medical expert. According to expert report no. 3356 of 1 September 2008, the applicant had multiple contusions and abrasions on his face, various parts of his body, legs and arms, as well as soft-tissue bruises on the head. The expert concluded that those injuries had been inflicted within less than twenty-four hours before the applicant's examination by blunt hard objects, but that they had not caused any damage to his health.

#### **B. Official inquiry into the alleged ill-treatment**

59. On 10 September 2008 the applicant lodged a complaint with the investigating authorities regarding his alleged ill-treatment.

60. On 22 September 2008 the investigating officer refused to open a criminal investigation regarding the applicant's complaint.

61. The applicant lodged a complaint and on 22 October 2008 the Leninskiy District Court of Orsk declared the refusal unlawful. The Orenburg Regional Court later quashed the first-instance judgement and found that the applicant's complaint should be examined by the first-instance court in the applicant's criminal case.

62. On 27 November 2009 the investigating officer again issued a refusal to open a criminal investigation into the applicant's alleged ill-treatment. The investigating officer found that the police officers had used physical force and handcuffs to overcome the applicant's resistance and to prevent him from fleeing. The refusal referred, inter alia, to (i) the fact that the applicant had been arrested in the course of committing a crime, (ii) the testimony of a police officer, who had explained that he and his fellow officers had laid the applicant down on the ground, twisted his arms behind his back and handcuffed him, and (iii) the

applicant's prior conviction for unlawful arms possession, which had given the police officers justified reasons to assume that the applicant could have been armed. The investigating officer also referred to expert report no. 3356 and noted that the applicant had not sustained any damage to his health. The refusal also cited the testimony given by two other police officers, according to whom the applicant had not offered any resistance during his arrest but had made one movement that could have been interpreted as an attempt to escape, after which physical force had been applied to him.

63. The applicant again challenged the refusal to open a criminal investigation. On 4 May 2010 the Orenburg Regional Court, in the final instance, upheld the refusal holding that it had been issued by a proper authority, and that in the course of the inquiry the investigating officer had taken all actions necessary for the examination of the applicant's claim of ill-treatment.

### **C. The applicant's trial**

64. On 17 December 2008 the Leninskiy District Court of Orsk convicted the applicant of possession of drugs. On 24 February 2009 the Orenburg Regional Court dismissed a cassation appeal lodged by the applicant and upheld his conviction. The district and regional courts concluded that the physical force, as described by the police officers, had been lawfully applied to the applicant in order to overcome his resistance and attempts to run away, while the rest of the injuries identified on the applicant's body, except for those caused by the use of handcuffs, had been inflicted under some other unclear circumstances. The courts also acknowledged that the police officers had failed to report the use of handcuffs during the arrest, but found that that fact did not render their report on the crime inadmissible.

## **V. GROUZIS v. RUSSIA, No. 66227/10**

### **A. The events of 28 and 29 December 2008**

65. On 28 December 2008 at 1.30 p.m. officers of the Krasnyy Kut Department of the Federal Drug Control Service in the Saratov Region (Краснокутский УФСКН по Саратовской области) arrested the applicant in the town of Novouzensk on suspicion of drug dealing. The arrest was carried out in the course of a "sting operation", during which some of the police officers were wearing masks. According to the applicant, during his arrest the police officers knocked him off his feet and beat him.

66. Later in the day the applicant was taken to the Novouzensk Railway Station, where the police officers searched him. He was subsequently taken for interrogation to the police station. According to the applicant, the police officers continued to beat him both at the railway station and at the police station.

67. On 29 December 2008 at about 8 p.m. the applicant was released and went to the Novouzensk Central District Hospital (Новоузенская ЦРБ). According to the medical certificate of 29 December 2008, at 10 p.m. the applicant was examined by a doctor and was diagnosed with multiple haematomas of the hips.

68. Later in the evening the applicant took photos of his injuries. The photos submitted by the applicant show a major contusion on the inner side of his right hip and a bruise on his right elbow.

69. On 30 December 2008 the applicant was admitted as an inpatient by the Novouzensk Central District Hospital. According to the relevant extract from his medical file, the applicant stayed at the hospital until 13 January 2009 and was diagnosed with a closed craniocerebral injury, concussion, multiple soft-tissue bruises on his body and limbs, and arterial hypertension. It appears from the extract that the applicant explained to the doctors that his injuries had resulted from his having fallen off the roof of his house on the evening of 29 December 2008. In his submissions to the Court the applicant clarified that he had given the doctors that story on the advice of his lawyer so that the hospital would not report that information to the police, as he had been afraid that they would put further pressure on him.



## **B. Official inquiry into the alleged ill-treatment**

70. On 21 January 2009 the applicant lodged a complaint with the investigating authorities regarding his alleged ill-treatment.

71. On 19 March 2009 the investigating officer refused to open a criminal investigation in respect of the applicant's complaint. On 23 March 2009 that decision was quashed by a higher investigating authority.

72. On 10 July 2009 the investigating officer ordered a forensic medical examination of the applicant. On 18 July 2009 the investigating officer issued another refusal to open a criminal investigation, which was quashed on 26 November 2009.

73. According to expert report no. 238 of 19 November 2009, at the material time the applicant had multiple bruises on his left shoulder and left shin, which had been inflicted by blunt hard objects. The medical experts decided that the closed craniocerebral injury and concussion had to be excluded from the scope of the examination, as neither of the medical documents they had been provided with described any injuries on the applicant's head. They also concluded that the rest of the injuries could have been inflicted in the circumstances described by the police officers who had performed the applicant's arrest – that is to say when they had knocked the applicant off his feet to prevent him from fleeing. According to the medical experts, the applicant's heart condition had no causal link with the injuries sustained on 28 December 2008.

74. On 19 February 2010 the investigator issued another refusal to open a criminal investigation, referring mainly to the explanations of the police officers and the expert report. According to the testimony of the police officers, one police officer knocked the applicant off the feet, twisted his arms behind his back and placed handcuffs on him when he had offered resistance and attempted to escape. The investigating officer concluded that the physical force, as described by the police officers, had been lawful and that they had not exceeded their powers.

75. Apart from the police officers' testimony, the text of the refusal of 19 February 2010 also cited the testimony of other arrestees apprehended on 28 December 2008 and detained together with the applicant at the Krasnyy Kut police station. Two of them had claimed having witnessed the police officers beating and kicking the applicant, while several others had seen injuries on the applicant's legs. However, the investigating officer concluded that the respective statements were not trustworthy in view of their friendly relations with the applicant and found that the applicant's allegations about his being ill-treated at the police station were not corroborated by any evidence.

76. The applicant appealed against the refusal of 19 February 2010. On 6 July 2010 the Krasnokutskiy District Court of the Saratov Region dismissed his complaint. On 1 September 2010 the Saratov Regional Court upheld that decision. The district and regional courts mainly relied on the reasoning of the refusal of 19 February 2010.

## **VI. TSYKALO v. RUSSIA, No. 61817/11**

### **A. The events of 29 September 2009**

77. On 29 September 2009 at about 4.30 p.m. officers of the special unit of the Orenburg regional department of the Federal Security Service in Orsk (УФСБ России по Оренбургской области в г. Орске) arrested the applicant on suspicion of bribery. According to the applicant, during his arrest the FSB officers punched and kicked him on the head and various parts of his body, and hit his head against a car.

78. At 5.58 p.m. on the same day the applicant underwent a medical examination. According to medical examination act no. 3913 of 30 September 2009, the applicant had abrasions on the right side of his forehead, on his right temple, on the left knee and on the back of the right hand, as well as a contusion

on the right ear and soft-tissue bruises on his left shoulder blade. The expert concluded that those injuries had been inflicted by blunt hard objects several hours before the examination but had not caused any damage to the applicant's health.

## **B. Official inquiry into the alleged ill-treatment**

79. On 25 December 2009 the applicant lodged a complaint about his ill-treatment with the investigating authorities.

80. On 12 March 2010 the applicant was examined by a medical expert. According to expert report no. 935, dated 19 October 2010, on the date of his examination the applicant had had multiple brownish stains on the right side of his forehead, on the front of his head, on the right and left sides of his back, on the back of both of his wrists and hands, and on his left shin. The expert concluded that those injuries had been caused by a blunt hard object between five and six months before the applicant's examination and had not caused any damage to the applicant's health.

81. On 7 April 2011, following the applicant's complaint, the investigating officer refused to open a criminal investigation. According to the testimony of the FSB officers cited in the refusal, during the arrest one of them had had to hold the applicant by his right hand and push him to the ground to prevent him from fleeing. The FSB officers had also asserted that after falling to the ground the applicant had refused to show his hands and that they had had to apply physical force in order to be able to handcuff him. The investigating officer concluded that the applicant's injuries had resulted from his having resisted, and that the FSB officers' actions and use of handcuffs had been lawful. On 10 May 2011 that decision was quashed by a higher authority.

82. On 16 May 2011 the investigating officer issued another refusal to open a criminal investigation. In addition to the testimony of the FSB officers, the text of the refusal also cited the testimony of a bystander, P., who had witnessed the applicant's arrest. The latter attested to having seen one of the FSB officers holding the applicant by the neck and pushing his head against a car, after which another FSB officer had kicked the applicant in the crotch. According to P., throughout the described events the applicant's hands had been behind his back.

83. On 15 July 2011, upon the applicant's complaint, the Privolzhskiy Circuit Military Court, in the final instance, upheld the refusal of 16 May 2011. It relied in its decision on the conclusions reached by the investigating officer and held that the physical force had been used against the applicant in order to overcome his resistance and had been proportionate.

## **VII. PALATOV v. RUSSIA, No. 10031/13**

### **A. The events of 18 October 2009**

84. On 18 October 2009 at 11.40 p.m. the police officers arrested the applicant at his friend's flat in Pskov on suspicion of robbery. According to the applicant, during his arrest the police officers hit him several times with a rubber truncheon on his left hip, and later, on their way to the patrol car, punched him one time in the chest. According to the applicant, in the car he also cut his own forearm with a razor blade in order to protest the police officers' actions.

85. Later in the day the applicant was escorted to police station no. 3 of Pskov (3 ГОМ УВД по г. Пскову).

86. According to a report submitted on 18 October 2009 by a police officer who had taken part in the applicant's arrest, no physical force or special equipment had been applied to the applicant.

87. On 20 October 2009, upon his arrival at Pskov Region Remand Prison IZ-1, the applicant was examined by medical staff. According to the resulting medical certificate, dated 29 October 2009, the applicant had the following injuries: incised wounds on the left forearm, haematomas on the left hip and

on the thorax on the right.

## **B. Official inquiry into the alleged ill-treatment**

88. On 6 November 2009 the applicant complained of his ill-treatment to the investigating authorities.

89. On 9 November 2009 the investigating officer ordered a forensic medical examination. On 15 November 2009 the investigating officer refused to open a criminal investigation.

90. According to medical examination report no. 2739, dated 26 November 2009, the applicant had a haematoma on the front of his hip that could have been inflicted on 18 September 2009 by a blunt hard object; that object had not caused any damage to the applicant's health.

91. On 12 March 2010 the refusal of 15 November 2009 was quashed by the Pskov Town Court. The investigating officer subsequently issued several other decisions refusing to institute a criminal investigation on, inter alia, 31 March, 25 August and 12 December 2010 and 8 June and 16 October 2011. All those decisions were subsequently quashed on various dates by a higher investigating authority.

92. On 5 October 2012 the investigating officer issued the latest refusal to open a criminal investigation. The refusal cited the testimony of a friend of the applicant, who attested to having seen one of the police officers giving the applicant several blows on the leg with a rubber truncheon. It also cited the statements made by the police officers, who had initially denied having applied any physical force to the applicant, suggesting that the applicant might have injured himself, as he had been drunk at the time of the arrest. However, the police officers later acknowledged that one of them might have jabbed the applicant with a truncheon after the latter had refused to get into the patrol car. The investigating officer concluded that despite the police officers' failure to report any use of physical force or special equipment against the applicant, they had acted in a lawful manner when putting an end to the applicant's criminal behaviour and overcoming his resistance.

93. On 11 June 2013 the Pskov Town Court dismissed the applicant's complaint against the decision of 5 October 2012. It found that the refusal to open a criminal investigation had been lawful, as the investigating officer had conducted a comprehensive inquiry into the applicant's allegations by collecting all necessary evidence, examining all the relevant witnesses, providing a plausible explanation for the applicant's injuries and concluding that the police officers' actions had been lawful, given the circumstances of the arrest. On 5 September 2013 the Pskov Regional Court upheld that decision on appeal.

## **VIII. NAKAGUTOV v. RUSSIA, No. 42417/13**

### **A. The events of 20 December 2012**

94. On 20 December 2012 at 10 p.m. police officers of police station no. 2 in Yekaterinburg (ОП № 7 УМВД России по г. Екатеринбург) arrested the applicant at his friend's flat on suspicion of sexual abuse of a minor. According to the applicant, in the course of the arrest the police officers knocked him off his feet, placed handcuffs around his wrists and punched and kicked various parts of his body.

95. After the arrest the applicant was taken to the police station, where he signed a confession, and was later taken to a medical facility, where he received emergency treatment.

96. On 21 December 2012 the applicant was examined by medical experts. According to expert report no. 12435 of 29 January 2013, he had the following injuries: contusions on the left cheekbone and left elbow; abrasions on the left hand, on the right side of the lumbar region and on the right hip; abrasions on the right wrist (probably inflicted by handcuffs); and intradermal haemorrhage on the right side of his back. The experts concluded that those injuries had been caused by blunt hard objects one to three days before the examination, but that they had not caused any damage to the applicant's health.

## **B. The official inquiry into the alleged ill-treatment**

97. On 1 February 2013 the applicant lodged a complaint about his ill-treatment with the investigating authorities.

98. On 19 May 2013 the investigating officer refused to open a criminal investigation into the applicant's alleged ill-treatment. The investigating officer concluded that one injury on the applicant's hands had been inflicted by his victim, while other injuries might have been inflicted by the police officers during his arrest. The investigating officer noted that the use of physical force against the applicant had been justified, given the circumstances of the arrest and need to protect the victim. He also referred to the fact that the police officers had provided the applicant with the requisite medical aid after his arrest, and suggested that the applicant could already have been injured before the described events.

99. On 9 July 2013 the Oktyabrskiy District Court of Yekaterinburg dismissed his complaint against the decision of 19 May 2013. On 9 September 2013 the Sverdlovsk Regional Court upheld that decision on appeal.

100. On 31 July 2014 the investigating officer issued another refusal to institute a criminal investigation.

## **IX. VERBITSKIY v. RUSSIA, No. 31915/14**

### **A. The events of 1 and 2 February 2011**

101. On 1 February 2011 at about 10 p.m. officers of the Saint Petersburg department of the Federal Drug Control Service (УФСКН России по Санкт-Петербургу и Ленинградской области), supported by a special police unit, arrested the applicant and his acquaintance, B., in the street in the course of a special operation. According to the applicant, during his arrest the FSKN officers punched and kicked him in various parts of his body and limbs and handcuffed him. It also appears from the case file that before the arrest the FSKN officers conducted a "sting operation" in respect of the applicant's brother, and that during the arrest they mistook the applicant for the latter.

102. The applicant was taken to the FSKN headquarters where, according to him, the beatings continued until 6 a.m. on 2 February 2011. After that the applicant was released.

103. According to a report dated 2 February 2011 submitted by one of the police officers, during the arrest they had had to apply physical force and handcuffs to the applicant and to B. in order to prevent them from fleeing.

104. On 2 February 2011 at 1.35 p.m. the applicant was examined by a doctor at the traumatology unit at polyclinic no. 60 in Pushkin. According to the certificate of 14 February 2011, the applicant had the following injuries: bruises on the head, on the right side of the thorax, on the left upper limb; and bruises on and compression of both wrists. On the same date the traumatology unit reported the applicant's injuries to the police.

### **B. The official inquiry into the alleged ill-treatment**

105. According to the applicant, on 4 February 2011 he lodged his first complaint with the investigating authorities. On 28 February and 26 May 2011 he lodged further complaints regarding his alleged ill-treatment by the FSKN officers.

106. On 25 July 2011 the investigating officer refused to institute criminal proceedings in respect of his complaint. On 18 August 2011 that refusal was quashed by a higher investigating authority.

107. On 9 September 2011 the investigating officer ordered a forensic medical examination of the applicant. According to report no. 1761 of 9 September 2011, the applicant had the following injuries at the material time: soft-tissue bruises on the head, contusions on the limbs and a bruise on the thorax.

The report concluded that those injuries had not caused any damage to the applicant's health.

108. The investigating officer subsequently issued several further decisions refusing to institute a criminal investigation on, inter alia, 27 September and 2 December 2011, 20 February and 29 June 2012, and 29 June 2013. All those decisions were subsequently quashed on various dates by either a higher investigating authority or by a court.

109. On 19 February 2014 the investigating officer issued the last refusal to open a criminal investigation. According to the testimony of the police officers and members of the special police unit cited in the refusal, the applicant and B. had refused to obey orders and leave their car; accordingly, the officers of the special police unit had had to force them out of it "in an appropriate manner", secure them near the car and place handcuffs on their wrists. The police officers who had arrived on the site after the applicant's and B.'s apprehension had testified to not having seen anyone applying physical force towards them. Some of the officers who had arrived after the apprehension had stated that they had taken the handcuffs off the applicant's wrists as soon as they had realised that they had apprehended the wrong person. The investigating officer concluded that the applicant might have been injured during his arrest at the point when the police officers had had to apply physical force in order to overcome his resistance, and held that there had been no unlawful actions on the part of the police.

110. The applicant complained under Article 125 of the CCrP about the investigating authorities' failure to conduct a proper inquiry into his alleged ill-treatment. On 23 January 2014 the Pushkin District Court of Saint Petersburg dismissed his complaint. On 4 March 2014 the Saint Petersburg City Court upheld this decision on appeal.

## RELEVANT LEGAL FRAMEWORK AND PRACTICE

111. For the relevant provisions of domestic law regarding the prohibition of torture and other forms of ill-treatment and the procedure for examining a criminal complaint, see *Lyapin v. Russia*, no. 46956/09, §§ 96-102, 24 July 2014, and *Ryabtsev v. Russia*, no. 13642/06, §§ 48-52, 14 November 2013.

112. Paragraph 16 of the Instruction on police officers' execution of their obligations and rights in police stations of the Ministry of the Interior after persons are taken into police custody (order no. 389 of the Ministry of the Interior of the Russian Federation of 30 April 2012) provides that a police officer on duty must inform his superior of all cases in which a person arrested and taken to police custody has visible wounds or injuries or is in a state that requires urgent medical intervention. Similar rules have been in force in respect of the police since 2009.

## THE LAW

### I. JOINDER OF THE APPLICATIONS

113. 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

114. The Government made preliminary objections in three cases, *Yeroshenko v. Russia* (no. 2378/08), *Alayev v. Russia* (44541/08), and *Konovalov v. Russia* (46231/09).

#### A. *Yeroshenko v. Russia*, no. 2378/08

115. The Government submitted that the applicant had failed to comply with the six-month time-limit. They indicated that a final decision in respect of the applicant's complaint regarding his alleged ill-treatment had been taken on 10 July 2007. The Government furthermore stated that the applicant had dispatched his first letter to the Court on 26 December 2007, whereas the application form had been sent on 14 July

2008 – that is to say more than six months from either the date of the final domestic decision or the date of the applicant's first letter to the Court.

116. The Court observes that on 26 December 2007 the applicant submitted his first letter which contained a short summary of facts and his complaint about his alleged ill-treatment. By a letter of 15 January 2008 the Court invited the applicant to submit the application form within six months of the date of that letter. The applicant complied with the Court's instructions and dispatched his application form on 15 July 2008. The Court therefore accepts the date of the applicant's first letter as the date on which the present application was lodged. The applicant's complaint was thus lodged on 26 December 2007 – that is to say within six months of the delivery of the decision of 10 July 2007. Accordingly, the Court dismisses the Government's objection in respect of this point.

## **B. Alayev v. Russia, no. 44541/08**

### *1. Locus standi of the applicant's widow*

117. The Court notes that the applicant, Mr Alayev, died on 15 January 2014 – that is to say after lodging his application with the Court (see paragraph 53 above). Mrs Alayeva, the applicant's widow, maintained the application.

118. The Government objected and submitted that Mrs Alayeva had no legitimate interest in pursuing the application, and that the rights enshrined by Article 3 of the Convention were eminently personal and non-transferable.

119. The Court notes that it normally permits the next of kin to pursue an application, provided that they have a legitimate interest, in the event that the original applicant died after lodging the application in question with the Court (see *Murray v. the Netherlands* [GC], no. 10511/10, § 79, 26 April 2016). The Court has previously ruled that in applications concerning Article 3 of the Convention a close relative of the late applicant has standing to pursue the application (see *Magnitskiy and Others v. Russia*, nos. 32631/09 and 53799/12, § 176, 27 August 2019, with further references).

120. Having regard to the subject matter of the application and all the information in its possession, the Court considers that the applicant's widow, Mrs Alayeva, has a legitimate interest in pursuing the application and that she thus has the requisite locus standi under Article 34 of the Convention. It therefore dismisses the Government's objection regarding this point.

### *2. Compliance with the six-month time-limit*

121. The Government questioned the exact date of submission of the application form. They furthermore argued that given the fact that (i) the applicant had submitted the completed application form only on 10 March 2009, while (ii) the final domestic decision in respect of his complaint about the alleged ill-treatment had been taken on 4 March 2008, the applicant had failed to comply with the six-month time-limit.

122. The Court observes that the applicant submitted his first letter, which contained a short summary of the facts and his complaint about the alleged ill-treatment, on 22 August 2008. By a letter of 19 September 2008 the Court invited the applicant to submit the application form within six months of the date of that letter. The applicant complied with the Court's instructions and dispatched his application form on 11 March 2009. The Court therefore accepts the date of the applicant's first letter as the date of the lodging of the present application. The applicant's complaint was thus lodged with the Court on 22 August 2008 – that is to say within six months of the decision of 4 March 2008. Accordingly, the Court dismisses the Government's objection regarding this point.

## **C. Konovalov v. Russia, no. 46231/09**

123. The Government submitted that the applicant had failed to comply with the six-month time-limit. They argued that the applicant had lodged the completed application form only on 14 October 2009, while the final domestic decision in respect of his complaint regarding the alleged ill-treatment had been delivered on 24 February 2009.

124. The Court observes that on 4 August 2009 the applicant submitted his first letter, which contained a short summary of the facts and his complaint about his alleged ill-treatment. By a letter of 26 August 2009 the Court invited the applicant to lodge his application form by 21 October 2009. The applicant complied with the Court's instructions and dispatched his application form on 14 October 2009. The Court therefore accepts the date of the applicant's first letter as the date of the lodging of the present application. The applicant's complaint was thus lodged on 4 August 2009 – that is to say within six months of the decision of 24 February 2009. Accordingly, the Court dismisses the Government's objection regarding this point.

### **III. ALLEGED VIOLATION OF ARTICLES 3 AND 13 OF THE CONVENTION**

125. The applicants complained under Article 3 that they had been subjected to ill-treatment by State officials in the course of their respective arrests and that the State had failed to conduct an effective domestic investigation into those incidents. Mr Minin, Mr Yeroshenko and Mr Grotuzis also complained that they had been ill-treated by State officials after their respective arrests. The applicants also complained under Article 13 of the Convention that they had had no effective remedy in respect of their complaints of ill-treatment. The relevant parts of the Convention provisions 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 ...”

126. The Government contested their allegations, maintaining the conclusions of the domestic inquiries – that is to say that the applicants had offered resistance during arrest and that the use of force had been justified. They also stated that the inquiries into the applicants' allegations of ill-treatment had been thorough and comprehensive.

#### **A. Admissibility**

127. The Court notes that the applicants' complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It furthermore notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

#### **B. Merits**

##### *1. Credibility of the applicants' allegations of ill-treatment*

128. The Court observes that all the applicants were arrested by the law-enforcement authorities on suspicion of having committed various criminal offences.

129. The Court furthermore observes that after spending different lengths of time in custody the applicants were found to have sustained injuries of various degrees of severity, as recorded by forensic medical experts (see paragraphs 10, 13, 26, 32, 48, 58, 73, 78, 80, 90, 96 and 107 above), detention facilities (see paragraphs 7, 8, 37 and 87 above) or medical institutions (see paragraphs 6, 22, 47, 67, 69 and 104 above).

130. Having examined the respective case files and submissions of the parties, the Court considers that

the injuries sustained by the applicants were well-documented and could arguably have resulted from the violence allegedly suffered by them at the hands of State officials. The above factors are sufficient to give rise to a presumption in favour of the applicants' accounts of events and to satisfy the Court that the applicants' allegations of having been ill-treated while in the custody of the law-enforcement authorities were credible.

## *2. Effectiveness of the investigation into the alleged ill-treatment*

131. The Court observes that the applicants' credible allegations that their injuries had been the result of violence on the part of law-enforcement officers were dismissed by the investigating authorities as unfounded, mainly on the basis of the statements of the respective law-enforcement officers denying any such ill-treatment (see paragraphs 11, 28, 41, 62, 74, 81, 92, 98 and 109 above).

132. The decisions of the investigating authorities refusing to open criminal proceedings (at least two decisions in the case of Mr Minin, one decision in the cases of Mr Yeroshenko, Mr Alayev, Mr Konovalov, Mr Grotuzis, Mr Tsykalo and Mr Nakagutov, and at least six decisions in the cases of Mr Palatov and Mr Verbitskiy) were each time quashed by a higher investigating authority or domestic courts for having been based on an incomplete inquiry, and a fresh inquiry was ordered. The most recent refusals to institute criminal proceedings issued by the investigating officers in the cases of all applicants, except for Mr Minin, were upheld by the domestic courts.

133. The Court also notes in respect of the case of Mr Minin that the courts in the criminal proceedings against the applicant established the circumstances of the applicant's arrest. Nevertheless, a criminal investigation in respect of the specific issue of the lawfulness and proportionality of the use of physical force in respect of the applicant was opened only nine months after the applicant's first complaint about his alleged ill-treatment. These proceedings were subsequently suspended on at least five occasions (see paragraphs 12, 15 and 17 above). It appears from the documents submitted by the Government that after the last suspension on 20 September 2011 no other procedural decisions were taken in the case and that the criminal investigation has never been concluded or discontinued. Furthermore, the delay in the opening of a criminal investigation made it impossible to examine one of the witnesses – and a possible suspect – in order to verify the versions pursued by the investigating authorities (see paragraph 15 above).

134. As regards the quality of the medical evidence, the Court reiterates that proper medical examinations are essential safeguards against ill-treatment (see *Akkoç v. Turkey*, nos. 22947/93 and 22948/93, §§ 55 and 118, ECHR 2000-X). In some cases the forensic examinations were conducted with a significant delay after the events or after the applicants had complained about their alleged ill-treatment (almost a month in Mr Minin's and Mr Yeroshenko's cases, more than a month in Mr Alayev's and Mr Palatov's cases, almost eleven months in Mr Grotuzis's case, and more than seven months in Mr Verbitskiy's case). By the time the applicants were examined, valuable time had been lost and it was impossible to determine the cause or origin of their injuries (see *Tangiyev v. Russia*, no. 27610/05, § 61, 11 December 2012).

135. It is also noteworthy that in the case of Mr Verbitskiy the investigating officer did not request the forensic medical expert to establish the cause and origin of the applicant's injuries (see paragraph 107 above). Moreover, in the cases of Mr Minin, Mr Yeroshenko, Mr Alayev, Mr Grotuzis, and Mr Palatov the experts were provided with insufficient information to give a proper assessment of some of their injuries (see paragraphs 10, 32, 48, 73, 87 and 90 above). Furthermore, it appears from the documents submitted by the parties that in the cases of Mr Minin, Mr Palatov and Mr Nakagutov the medical documentation corroborating the applicants' allegations of ill-treatment that was prepared by the remand prisons was not even sent to the forensic medical experts for examination.



136. In this connection, the Court considers that significant delays such as in the instant cases – as well as the fact that the investigating officers who ordered the expert examinations provided to the forensic experts no information about the injuries identified by the medical staff at the detention facilities – made it impracticable for those experts to provide adequate answers to the questions raised by the requesting authority (see *Mogilat v. Russia*, no. 8461/03, § 64, 13 March 2012).

137. The Court reiterates its finding that the mere carrying out of a pre-investigation inquiry under Article 144 of the Code of Criminal Procedure of the Russian Federation is insufficient if the authorities are to comply with the standards established under Article 3 of the Convention for an effective investigation into credible allegations of ill-treatment in police custody. It is incumbent on the authorities to institute criminal proceedings and conduct a proper criminal investigation in which a full range of investigative measures are carried out (see *Lyapin v. Russia*, no. 46956/09, §§ 129 and 132-36, 24 July 2014).

138. In the case of Mr Minin the Court also finds that the delay in the opening of a criminal investigation and its suspension on multiple occasions discloses a serious deficiency in the criminal investigation that irreparably protracted the proceedings, denying the first applicant an opportunity to have his allegations of ill-treatment investigated effectively. The Court further notes that the expert examination which established the possible origin of Mr Minin's major injuries was conducted only five years and six months after the events (see paragraph 16 above), and that no reasonable explanation was provided for such a serious delay. Such delays in ordering the key measures are, in themselves, indicative of the ineffectiveness of the investigation.

139. The Court has no reason to hold otherwise in the present case, which involves credible allegations of treatment proscribed by Article 3 of the Convention. It finds that the State has failed to carry out an effective investigation into the applicants' allegations of violence on the part of the law-enforcement authorities.

### *3. The Government's explanations*

140. The Government maintained the conclusions of the investigating authorities to the effect that the applicants' injuries had not been attributable to the conduct of the law-enforcement officers and had been either the result of the lawful use of force by the law-enforcement authorities in arresting the applicants or had been sustained in other circumstances.

#### *(a) Mr Minin*

141. The Court observes that the applicant was arrested in the course of his committing a crime. The Court furthermore notes that by the judgement of the Kurgan Regional Court of 25 August 2005 the applicant was convicted, inter alia, of unlawful possession of firearms and an armed assault on a police officer. It was established by that judgement that during his arrest on 15 December 2004 the applicant had offered armed resistance and injured one of the police officers. The Court also observes that it is not disputed by the parties that during the applicant's arrest one of the police officers had used physical force against him, as described in paragraph 5 above. The medical certificates issued by the remand prisons and the expert reports recorded injuries that had been sustained by the applicant on 15 December 2004 (see paragraphs 6, 7, 8, 10 and 13 above). The forensic medical experts and the domestic investigation concluded that the applicant's injuries could have resulted from the physical force applied to him by the police officer at the moment of his arrest (see paragraphs 14, 15 and 16 above).

142. The Court agrees that the location and the type of the applicant's injuries, as described in his medical documentation, correspond to the physical force applied to him at the moment of his arrest. Considering the circumstances of the applicant's arrest and the documents submitted, the Court is unable to find beyond reasonable doubt that the applicant's arrest on 15 December 2004 was carried out in a

manner that constituted a breach of the requirements of Article 3 of the Convention (compare with *Uzhakov and Albagachiyeva v. Russia* [Committee], no. 76635/11, § 108, 23 June 2020, and *Khismatullin v. Russia*, no. 33469/06, §§ 57-60, 11 December 2014).

143. The Court furthermore notes that the applicant also complained about his alleged ill-treatment by police officers after his arrest on 15 December 2004 during his escort to and at the police station. The Court considers that these allegations are not supported by any relevant evidence enabling the Court to find *prima facie* that the applicant was subjected to the alleged ill-treatment after his arrest. In the light of the foregoing, the Court finds it impossible to establish “beyond reasonable doubt” that the applicant had been ill-treated by the police on 15 December 2004 after his arrest.

(b) Other applicants

144. In all the cases the Government argued that the injuries had resulted from the applicants offering resistance during their respective arrests. At the outset the Court notes that in the cases of Mr Konovalov, Mr Grotuzis, Mr Tsykalo, Mr Palatov and Mr Nakagutov it was not provided with any evidence supporting the investigating authorities’ conclusions, such as reports made by the law-enforcement officers to their superiors in relation to the use of force during the applicants’ arrests. In the cases of Mr Konovalov, Mr Tsykalo, and Mr Nakagutov the police officers were particularly obliged to report to their superiors about the use of force during the applicants’ arrests in view of their visible injuries (see paragraphs 58, 78 and 96 above).

145. The Court lastly considers that the Government’s explanation, in respect of all the cases except that of Mr Minin (see paragraphs 141 and 142 above), lacks any assessment of the police officers’ use of force and of any actions on the part of the applicants that could have justified the use of force, as well as an assessment of whether the use of force was indispensable and not excessive (see *Ksenz and Others v. Russia*, nos. 45044/06 and 5 others, § 103, 12 December 2017, and *Ryabov v. Russia*, no. 2674/07, § 47, 17 July 2018).

146. Given that the Government’s explanations were provided as a result of the superficial domestic inquiries which had fallen short of the requirements of Article 3 of the Convention, the Court finds that they cannot be considered satisfactory or convincing. It holds that the Government have failed to discharge their burden of proof and to produce evidence capable of casting doubt on the accounts of events given by Mr Yeroshenko, Mr Alayev, Mr Konovalov, Mr Grotuzis, Mr Tsykalo, Mr Palatov, Mr Nakagutov and Mr Verbitskiy, which it therefore finds established (see *Olisov and Others v. Russia*, nos. 10825/09 and 2 others, §§ 83-85, 2 May 2017, and *Ksenz and Others*, cited above, §§ 102-04).

*4. Legal classification of the treatment*

147. Mr Yeroshenko, Mr Alayev, Mr Konovalov, Mr Grotuzis, Mr Tsykalo, Mr Palatov, Mr Nakagutov and Mr Verbitskiy alleged that they had been subjected to torture and inhuman and degrading treatment.

148. Having regard to the applicants’ injuries, as confirmed by the medical evidence, the Court finds that the law-enforcement authorities subjected Mr Yeroshenko, Mr Alayev, Mr Konovalov, Mr Grotuzis, Mr Tsykalo, Mr Palatov, Mr Nakagutov and Mr Verbitskiy to inhuman and degrading treatment.

*5. Conclusion*

149. There has accordingly been a violation of Article 3 of the Convention under its substantive and procedural limbs in respect of Mr Yeroshenko, Mr Alayev, Mr Konovalov, Mr Grotuzis, Mr Tsykalo, Mr Palatov, Mr Nakagutov and Mr Verbitskiy, and no violation of Article 3 of the Convention under its substantive limb and a violation of that article of the Convention under its procedural limb in respect of Mr Minin. 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.

#### IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

150. 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. The parties' submissions**

151. All the applicants, except for Mr Konovalov, alleged that they had sustained non-pecuniary damage and claimed the amounts indicated in the appended table. Mr Konovalov did not submit a claim for just satisfaction.

152. Mr Grotuzis also claimed 3,877,200 Russian roubles (RUB) and 300,000 euros (EUR) in respect of pecuniary damage. These amounts represented the applicant's estimate of the potential income that he had lost due to his second-degree disability and future medical expenses that would be incurred for treatment of his heart condition.

153. Mr Minin, Mr Yeroshenko and Mr Palatov also claimed reimbursement of costs and expenses. The respective amounts are indicated in the appended table.

154. The Court granted legal aid to Mr Minin and Mr Palatov amounting to EUR 850 euros each by way of reimbursement for their costs and expenses. Neither Mr Minin nor Mr Palatov provided any receipts or agreements in support of the remaining part of their claims for costs and expenses.

155. Mr Yeroshenko submitted a legal-aid agreement signed with his representative in support of his claim for costs and expenses.

156. The Government submitted that should the Court find that there had been violations of the Convention and just satisfaction should be afforded to the applicants, Article 41 of the Convention was to be applied in accordance with the Court's established case-law.

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

157. Wherever the Court finds a violation of the Convention, it may accept that the applicants have suffered non-pecuniary damage that cannot be compensated for solely by the findings of violations, and make a financial award.

158. As to Mr Grotuzis's claim for lost income and future medical expenses, the Court reiterates that there must be a clear causal connection between the damages claimed by an applicant and the violation of the Convention. The Court does not discern any causal link between the violations found and the pecuniary damage alleged. It therefore rejects this part of his claim.

159. 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).

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

##### **C. Default interest**

161. 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. Holds that Mrs Nina Fedorovna Alayeva has locus standi under Article 34 of the Convention to continue the proceedings in Mr Alayev's stead (no. 44541/08);
3. Declares the applications admissible;
4. Holds that there has been a violation of Article 3 of the Convention under its substantive limb in that Mr Yeroshenko, Mr Alayev, Mr Konovalov, Mr Grotuzis, Mr Tsykalo, Mr Palatov, Mr Nakagutov and Mr Verbitskiy were subjected to inhuman and degrading treatment;
5. Holds that there has been no violation of Article 3 of the Convention under its substantive limb in respect of Mr Minin;
6. Holds that there has been a violation of Article 3 of the Convention under its procedural limb in respect of all applicants in that no effective investigation into their complaints was carried out by the authorities;
7. Holds that there is no need to examine the complaint under Article 13 of the Convention;
8. Holds
  - (a) that the respondent State is to pay the applicants, within three months, the following 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 27 July 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova  
Deputy Registrar

Darian Pavli  
President

**APPENDIX**

No.	Case name Application no.  Lodged on	Applicant Year of Birth Place of Residence Nationality	Represented by	Non- pecuniary damage	Costs and expenses
1	Minin v. Russia 29120/06	Yuriy Pavlovich <b>MININ</b> 1955 Magnitogorsk,	Oksana Vladimirovna PREOBRAZHENSKAYA	Sought by the applicant  RUB 3,000,000  (approximately	EUR 5,550

No.	Case name Application no.  Lodged on	Applicant Year of Birth Place of Residence Nationality	Represented by	Non-pecuniary damage	Costs and expenses
2	Yeroshenko v. Russia 2378/08  26/12/2007	<b>Sergey Vasilyevich YEROSHENKO</b> 1961 Akbulak, Orenburg Region Russian	COMMITTEE AGAINST TORTURE	Sought by the applicant  At the Court's discretion  Awarded by the Court  EUR 26,000 (twenty-six thousand euros)	EUR 33,332)  Awarded by the Court  EUR 6,000 (six thousand euros)  -  EUR 9,900  Awarded by the Court  EUR 3,000 (three thousand euros) to be paid into the representative's bank account, as indicated by the applicant
3	Alayev v. Russia 44541/08  22/08/2008	<b>Aleksey Nikolayevich ALAYEV</b> 1961 Nizhniy Novgorod Russian  (died, Mrs Nina Fedorovna	COMMITTEE AGAINST TORTURE	Sought by the applicant  At the Court's discretion  Awarded by the Court  EUR 26,000 (twenty-six thousand euros) to be paid to	Not claimed  -  -

No.	Case name Application no. Lodged on	Applicant Year of Birth Place of Residence Nationality	Represented by	Non-pecuniary damage	Costs and expenses
4	Konovalov v. Russia 46231/09 04/08/2009	<b>Oleg Vasilyevich KONOVALOV</b> 1970 Novotroitsk, Orenburg Region Russian	Sergey Ivanovich KIRYUKHIN	Sought by the applicant  Not claimed  Awarded by the Court  -	  Not claimed   -
5	Grotuzis v. Russia 66227/10 12/10/2010	<b>Edgars Yanisovich GROTUZIS</b> 1989 Saratov Russian		Sought by the applicant  EUR 400,000  Awarded by the Court  EUR 26,000 (twenty-six thousand euros)	  Not claimed   -
6	Tsykalo v. Russia 61817/11 14/09/2011	<b>Konstantin Aleksandrovich TSYKALO</b> 1972 Moscow Russian	Sergey Ivanovich KIRYUKHIN	Sought by the applicant  EUR 30,000  Awarded by the Court  EUR 26,000 (twenty-six thousand euros)	  Not claimed   -

No.	Case name Application no. Lodged on	Applicant Year of Birth Place of Residence Nationality	Represented by	Non-pecuniary damage	Costs and expenses
7	Palatov v. Russia 10031/13 16/01/2013	<b>Aleksey Aleksandrovich PALATOV</b> 1980 Pskov Russian	Yekaterina Viktorovna YEFREMOVA	Sought by the applicants EUR 20,000 Awarded by the Court EUR 20,000 (twenty thousand euros)	EUR 2,000 Awarded by the Court -
8	Nakagutov v. Russia 42417/13 27/05/2013	<b>Aleksandr Viktorovich NAKAGUTOV</b> 1968 Ivdel, Sverdlovsk Region Russian		Sought by the applicant EUR 900,000 Awarded by the Court EUR 26,000 (twenty-six thousand euros)	Not claimed Awarded by the Court -
9	Verbitskiy v. Russia 31915/14 31/03/2014	<b>Yaroslav Yuryevich VERBITSKIY</b> 1987 Saint Petersburg Russian	Stanislav Viktorovich BOCHAROV	Sought by the applicant EUR 70,000 Awarded by the Court EUR 26,000 (twenty-six thousand euros)	Not claimed Awarded by the Court -