THIRD SECTION

CASE OF KOVAL AND OTHERS v. RUSSIA

*(Applications nos. 29627/10 and 8 others –
see appended list)*

JUDGMENT

STRASBOURG

5 October 2021

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Koval and Others v. Russia,

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

Peeter Roosma, *President,*
Dmitry Dedov,
Andreas Zünd, *judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the applications (nos. 29627/10 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 an Uzbekistani and 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, the lack of an effective investigation thereof and other complaints under the Court's well-established case-law, and to declare inadmissible the remainder of the applications;

the parties' observations;

Having deliberated in private on 14 September 2021,

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

INTRODUCTION

1. The case concerns the alleged ill-treatment of the applicants at the hands of State officials between 2008 and 2011, and the alleged ineffective investigation in that regard, as well as other complaints under the Court's well-established case-law.

THE FACTS

2. The applicants are an Uzbekistani and Russian nationals who live in various regions in Russia. The applicants' details and information about their representatives are set out in the appended table.

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

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

I. KOVAL v. RUSSIA, APPLICATION No. 29627/10

A. The events of 14 and 15 May 2009

5. The applicant was arrested and convicted in the same criminal proceedings with Mr Yanchenko (see below, application no. 31414/10). On 14 May 2009 at about 6.10 p.m. three police officers arrested the applicant at the flat of his partner, G., on suspicion of robbery. According to the applicant, the police officers dragged him off the bed and beat him. Later in the evening, the applicant was taken to police station no. 3 in Engels, Saratov Region *(3 ОМ УВД по ЭМР*), where, according to the applicant's version of events, the beatings continued until 10 p.m. It also follows from the applicant's account of events that the police officers applied electric shocks to his legs, and that he was barefoot and dressed only in his underwear throughout the entire period after his arrest.

6. On the same date, at 10 p.m., the applicant was taken to the Engels Town Psychiatric Hospital (*ГУЗ "Энгельсская психиатрическая больница"*) for alcohol testing. According to alcohol testing record no. 1986 of 14 May 2009, the applicant was barefoot and dressed in dirty clothes and had the following injuries: multiple abrasions on the lower limbs and a periorbital haematoma on the left side. According to the applicant, he was provided with some clothes just before being taken to the hospital.

7. The applicant was taken back to the police station, charged with the administrative offence of being drunk in a public place and, at around midnight, placed into a cell for administrative detainees where he spent the night. It appears from the material in the case file that on 15 May 2009 the applicant was convicted of that administrative offence.

8. According to the applicant, on 15 May 2009 at 8 a.m. the police officers continued to beat him and apply electric shocks to him. At 9.15 a.m. the applicant signed his confession statement (*явка с повинной*).

9. At 11.20 a.m. an investigating officer, V., drew up the record of the applicant's arrest. At 11.35 a.m. she questioned the applicant in the presence of a lawyer. During the interview the applicant made similar statements as in his confession.

10. At 2.40 p.m. the applicant was taken to the Engels Town Emergency Care Hospital (*МУЗ "Энгельсская городская больница скорой медицинской помощи"*). According to the hospital's response to the inquiry of the Engels District Court of the Saratov Region of 26 August 2009, the applicant had the following injuries at the material time: soft-tissue bruises on the face and contusions on the head.

11. At 3.20 p.m. the applicant was transferred to the temporary detention facility (*ИВС*). Upon his arrival he was examined by a paramedic (*фельдшер*) who indicated the following injuries in the logbook: soft-tissue

bruises on the face, contusions on the head and a haematoma on the left wrist joint.

12. On 18 May 2009 at 5.10 p.m., the applicant was transferred to IZ-64/1 Saratov Region (*ФБУ ИЗ-64/1 ГУФСИН России по Саратовской области*). Upon his arrival the following injuries were indicated in the logbook: soft-tissue bruises and contusions on the face and abrasions on the upper and lower limbs.

B. Official inquiry into the alleged ill-treatment

13. On an unspecified date the applicant lodged his first complaint about his ill-treatment by the police officers. On 6 August 2009 the investigating authorities launched an inquiry into his allegations.

14. According to forensic medical examination report no. 1789 of 12 August 2009, at the material time the applicant had a haematoma on his forehead and a contusion near his left eye. The medical expert concluded that the injuries had been inflicted by hard blunt objects.

15. On 16 August 2009 the investigating officer in charge of the inquiry refused to institute criminal proceedings. On 8 October 2009 that refusal was quashed.

16. On 31 October 2009 the investigating officer issued another refusal to institute criminal proceedings. The applicant attempted to challenge that decision under Article 125 of the Code of Criminal Procedure of the Russian Federation ("the CCrP"). On 18 November 2009 the Engels District Court of the Saratov Region refused to accept his complaint for examination as the applicant had already been convicted. On 3 February 2010 the Saratov Regional Court upheld the first-instance decision in cassation.

17. On 25 November 2009 and 26 February and 4 May 2010, the investigating officer issued further refusals to institute criminal proceedings. On 24 May 2010 the refusal of 4 May 2010 was quashed.

18. On 3 June 2010 the investigating officer issued another refusal to open a criminal case into the applicant's alleged ill-treatment. In his decision the investigating officer relied, *inter alia*, on the testimony of one of the police officers who had carried out the applicant's arrest. According to him, the applicant had been very drunk and had not put up any resistance during the arrest. The police officer denied having used any physical force against the applicant but acknowledged having used handcuffs in view of the applicant's inability to walk in a straight line or talk. The refusal also cited the testimonies of G., who denied having seen the police officers use any physical force against the applicant, and V., who had noticed injuries on the applicant during his first interview and had asked him about their origin. According to V., the applicant had explained that he had hurt himself by accident. The investigating officer concluded that since the applicant had been charged with a serious criminal offence, the use of physical force by

the police officers during his arrest had been lawful and justified. He also concluded that no physical force had been used against the applicant after his arrest, and that his allegations of ill-treatment were merely an attempt to avoid criminal responsibility.

19. The applicant challenged the refusal of 3 June 2010 under Article 125 of the CCrP. On 24 September 2010 the Engels District Court of the Saratov Region dismissed his complaint. On 8 December 2010 the Saratov Regional Court quashed the first-instance decision in cassation and discontinued the proceedings. The regional court held that the applicant's allegations of ill-treatment had been examined and dismissed by the trial court, and that it was open to him to challenge his conviction by means of a supervisory review.

20. On 15 May 2013 the investigating officer issued the most recent refusal to institute criminal proceedings. The contents of that refusal were for the most part identical to the one of 3 June 2010.

C. The applicant's trial

21. On 11 November 2009 the Engels District Court of the Saratov Region convicted the applicant.

22. According to the written record of the trial, G. testified before the district court that she had heard the police officers beating the applicant during his arrest on 14 May 2009 and had later seen bloodstains on the bed sheets.

23. The district court dismissed the applicant's allegations of ill-treatment, relying on the refusal of 31 October 2009, and held that both his confession statement and interview record of 15 May 2009 were admissible as they were consistent with each other and other material in the case file and the applicant had been questioned in the presence of a lawyer. At the same time, the district court held that the administrative offence record of 14 May and the decision of 15 May 2009 convicting the applicant of that administrative offence (see paragraph 7 above) were inadmissible, as they contained information inconsistent with the circumstances of the applicant's arrest on 14 May 2009 as established during the trial.

24. On the same date the district court issued an interlocutory decision acknowledging that the investigating authorities had failed to draw up the record of the applicant's arrest within three hours from his *de facto* apprehension on 14 May 2009, in violation of Article 92 §§ 1 and 3 of the CCrP, and to inform the prosecutor thereof. The district court concluded that the applicant's constitutional right to liberty had thus been violated.

25. On 16 February 2010 the Saratov Regional Court upheld the applicant's conviction in cassation. On 16 July 2012 the Presidium of the Saratov Regional Court upheld the applicant's conviction in the supervisory

review proceedings. The regional court relied in both decisions on the findings of the trial court.

D. Civil proceedings

26. On an unspecified date the applicant lodged a civil claim against the Ministry of Finance of the Russian Federation seeking, *inter alia*, compensation for non-pecuniary damage for his unrecorded detention on 14 and 15 May 2009 and his unlawful administrative prosecution. In his claim the applicant relied on the interlocutory decision of the Engels District Court of the Saratov Region of 11 November 2009.

27. On 24 February 2011 the Oktyabrskiy District Court of Saratov dismissed the applicant's claim. The court noted that the applicant had been convicted of several crimes and sentenced to a prison term, that the trial court had deducted the period of his unrecorded detention from his sentence, and that his situation had, thus, been improved. The district court also noted that the applicant had failed to prove the unlawfulness of the investigating authorities' actions and concluded that he had not submitted any evidence of a violation of his personal non-property rights.

28. On 24 May 2011 the Saratov Regional Court upheld the first-instance decision in cassation. The regional court relied in its decision on the findings of the district court.

II. YANCHENKO v. RUSSIA, APPLICATION No. 31414/10

A. The events of 14 May 2009

29. On 14 May 2009 at about 1 or 2 p.m. the applicant was arrested by three police officers in the street in Engels, Saratov Region, on suspicion of robbery. According to the applicant, after his apprehension the police officers knocked him to the ground, handcuffed him, and started beating and kicking him on the head and body.

30. In the evening, the applicant was taken to police station no. 3 in Engels where, according to his version of events, the police officers continued to kick, punch and beat him with a plastic bottle of water, forcing him to confess.

31. On the same date at 7.10 p.m., the applicant signed a confession statement. At 8.10 p.m. an investigating officer, V., started the applicant's interview as a suspect which lasted until 10.20 p.m. During the interview the applicant made similar statements as in his confession.

32. On 15 May 2009 at 00.21 a.m., the applicant was taken to the Engels Town Emergency Care Hospital and diagnosed with an abrasion of the soft tissues of the face. At 11.30 a.m. the applicant was once again examined by the doctors at the hospital. According to the hospital's response to an

inquiry by the Engels District Court of the Saratov Region of 26 August 2009, the applicant had the following injuries at the material time: closed craniocerebral injury, brain concussion and an abrasion on the face.

33. On the same date the applicant was placed in the temporary detention facility. Upon his arrival there the applicant was examined by a paramedic who indicated the following injuries in the logbook: an abrasion on the face and a bruise on the back.

34. On 19 May 2009 at 12.30 p.m. the applicant was once again taken to the Engels Town Emergency Care Hospital and diagnosed with a closed craniocerebral injury, brain concussion and an abrasion on the face.

35. On 19 May 2009 the applicant was transferred to IZ-64/1 Saratov Region. Upon his arrival, the following injuries were registered in the logbook: a haematoma in the left lumbar region and an abrasion on the nasal bridge.

B. Official inquiry into the alleged ill-treatment

36. According to the applicant, in May 2009 he lodged his first complaint about his ill-treatment with the investigating authorities. On 6 August 2009 the investigating authorities launched an inquiry into his allegations.

37. According to forensic medical examination report no. 1788 of 12 August 2009, at the material time the applicant had the following injuries: abrasions on the nose and forehead. The medical expert concluded that those injuries had been inflicted by hard blunt objects, however, it was impossible to establish when they had been inflicted as the medical documents did not contain a detailed description of them.

38. On 16 August 2009 an investigating officer in charge of the inquiry refused to institute criminal proceedings into the applicant's complaint. On 8 October 2009 that refusal was quashed.

39. On 31 October and 25 November 2009 and 26 February and 4 May 2010, the investigating officer issued further refusals to institute criminal proceedings. Those refusals were quashed on 22 November 2009 and 17 February, 22 April and 24 May 2010 respectively.

40. The applicant attempted to challenge the refusal of 31 October 2009 under Article 125 of the CCrP. On 18 November 2009 the Engels District Court of the Saratov Region refused to accept his complaint for examination as the applicant had already been convicted. On 3 February 2010 the Saratov Regional Court upheld the first-instance decision in cassation.

41. On 3 June 2010 the investigating officer issued another refusal to institute criminal proceedings. In his decision the investigating officer relied, *inter alia*, on the testimony of V., who had noticed injuries on the applicant during his first interview and asked him about their origin. According to V., the applicant had explained that he had hurt himself by

accident. The investigating officer concluded that since the applicant had been charged with a serious criminal offence, the use of physical force by the police officers during his arrest had been lawful and justified. He also concluded that no physical force had been used against the applicant after his arrest, and that his allegations of ill-treatment were merely an attempt to avoid criminal responsibility.

42. On 15 May 2013 the investigating officer issued another refusal to institute criminal proceedings. The contents of that refusal were for the most part identical to the one of 3 June 2010.

C. The applicant's trial

43. On 11 November 2009 the Engels District Court of the Saratov Region convicted the applicant and his co-defendant, Mr Koval (see above, application no. 29627/10). The district court examined the police officers who had carried out the applicant's arrest. The police officers stated that the applicant had not put up any resistance during the arrest but had attempted to flee, and they had had to use physical force and handcuffs to prevent him from escaping. It also appears from the written record of the trial that the applicant's mother testified that she had seen the applicant on 14 May 2009 at noon and that he had had no visible injuries at that time. She also stated that she had seen the applicant on 15 May 2009 at about 1 a.m. and that he had already had abrasions on his face. As in the case of Mr Koval (see paragraph 23 above), the district court dismissed the applicant's allegations of ill-treatment, relying on the refusal of 31 October 2009, and held that both his confession statement and interview record of 14 May 2009 were admissible as they were consistent with each other and with other material in the case file, and the applicant had been questioned in the presence of a lawyer.

44. On 16 February 2010 the Saratov Regional Court upheld the applicant's conviction in cassation. The regional court relied in its decision on the findings of the trial court.

III. PISKUNOV v. RUSSIA, APPLICATIONS Nos. 59280/10 AND 3 OTHERS

A. The events of 26 June 2009

45. On 26 June 2009 at 1 a.m., the applicant was arrested in the street in Bratsk, Irkutsk Region, by police officers on suspicion of banditry, multiple counts of armed robbery and multiple murders. At 3 a.m. the applicant was taken to the temporary detention facility at the police department of the Central Circuit of Bratsk (*ИВС ОВД по ЦО г. Братска*). According to the

applicant, upon his arrival he was examined by a member of the medical staff who recorded in the logbook that he had no injuries.

46. On the same date after 10.20 a.m., the applicant was escorted to the Bratskiy district police department (*ОВД по Братскому Району*) for questioning. According to the applicant, before his interview the investigating officer, M., punched him five or six times on the face, head and body, as well as hitting him once with a rubber truncheon on the neck, inflicting bruises and abrasions on the applicant's face and neck, including a bruise under his left eye. As it follows from the applicant's version of events, he eventually agreed to sign the written record of his interview as a suspect for fear of being ill-treated further.

47. The applicant's allegations of ill-treatment by M. were confirmed by his co-defendant B. in his written statement to the Court of 27 July 2010.

48. On 26 June 2009 at 10 p.m., the applicant was escorted back to the temporary detention facility.

49. On 29 June 2009 the applicant was examined by medical experts of the Bratsk Forensic Medical Examination Division (*Братское Отделение СМЭ*).

50. On 3 February 2009 the applicant was transferred to IZ-38/2 Irkutsk Region (*ФБУ ИЗ-38/2 ГУФСИН России по Иркутской области*).

B. Official inquiry into the alleged ill-treatment

51. On 9 December 2009 the applicant lodged a complaint about his ill-treatment by M. with the Irkutsk Regional Court and asked the trial judge to request his medical documents from the temporary detention facility and the Bratsk Forensic Medical Examination Division. It appears from the material in the case file that his complaint was sent by the remand prison, but never reached the regional court.

52. On 25 January 2010 during the trial hearing in his criminal case, the applicant complained about his ill-treatment by M. On the same date the Irkutsk Regional Court ordered an inquiry into the applicant's allegations of ill-treatment. On 2 February 2010 the investigating authorities, acting on the regional court's order, launched an inquiry.

53. On 8 February 2010 the investigating officer in charge of the inquiry refused to institute criminal proceedings. The investigating officer mainly relied in his refusal on the testimony of M., who denied having used any physical force against the applicant, and the statements of the police officers who had carried out the applicant's arrest. The police officers stated that the applicant and B. had put up armed resistance and attempted to escape and, therefore, they had had to use physical force and handcuffs and fire shots in the air during their arrest. They also denied having used any further physical force against the applicant and B. after their apprehension. The refusal did

not refer to the medical examination act of 29 June 2009 or any other medical documents.

54. The applicant challenged the refusal of 8 February 2010 under Article 125 of the CCrP. On 15 September 2010 the Bratsk Town Court of the Irkutsk Region refused to accept his complaint for examination as the applicant had already been convicted. On 10 November 2010 the Irkutsk Regional Court upheld that decision in cassation.

C. The applicant's trial

55. On 17 March 2010 the Irkutsk Regional Court convicted the applicant of banditry, armed robbery, and multiple murders. The regional court excluded any possibility that the applicant had been forced to incriminate himself during his interview as a suspect on 26 June 2009. It relied on the refusal to institute criminal proceedings of 8 February 2010 and the testimony of the investigating officer M. and the police officers who had denied using any duress in respect of the applicant. It also follows from the police officers' testimony that the applicant had been apprehended in his car and had dropped his gun straight away after they had shot in the air, and that no physical force had been used against him during the arrest. The regional court also noted that the applicant had been questioned on multiple occasions in the presence of a lawyer and concluded that the latter's presence had objectively eliminated any possibility of duress.

56. On 22 July 2010 the Supreme Court of the Russian Federation upheld the applicant's conviction in cassation. In its decision the Supreme Court also relied on the refusal of 8 February 2010 and the findings of the trial court.

D. The applicant's attempts to obtain a copy of the medical examination act of 29 June 2009

57. On 18 February 2010 during the trial hearing in his criminal case, the applicant requested the Irkutsk Regional Court to make an inquiry with the Bratsk Forensic Medical Examination Office about his medical examination on 29 June 2010. On the same date the regional court dismissed the request as the inquiry into his allegations of ill-treatment had been completed.

58. On 14 May 2010 the applicant requested a copy of the medical examination act of 29 June 2009 from the Bratsk Forensic Medical Examination Office. On 4 June 2010 the head of the Bratsk Forensic Medical Examination Office replied to the applicant's request with an extract from Order no. 694 of 21 July 1978 of the Ministry of Health of the USSR, which provided in section 3.8 that two copies of medical examination acts were to be drawn up, one of which was to be sent to the

law-enforcement or judicial authorities, and the other to be stored at the relevant forensic medical examination bureau.

59. On 25 June 2010 the applicant complained about the reply of 4 June 2010 to the Bratsk Town Court of the Irkutsk Region. On 1 July 2010 the town court refused to examine the applicant's complaint under Article 125 of the CCrP. On 14 September 2010 the Irkutsk Regional Court upheld that decision in cassation.

60. In 2013 on an unspecified date, the applicant lodged a civil claim with the Bratsk Town Court of the Irkutsk Region about the refusal to provide him with a copy of the medical examination act of 29 June 2009. On 17 July 2013 the town court dismissed his claim as the applicant had failed to comply with the three-month time-limit for lodging such a claim.

61. On 1 February 2016 the applicant lodged another request for a copy of the medical examination act of 29 June 2009 with the Irkutsk Regional Forensic Medical Examination Bureau. On 2 March 2016 the latter replied that a copy of the medical examination act could be provided only upon a request made by the relevant judicial or investigating authority. On an unspecified date the applicant complained about the reply of 2 March 2016 to the Ministry of Health of the Irkutsk Region. On 24 August 2016 the Deputy Minister of Health of the Irkutsk Region replied that in accordance with the domestic law it was not possible to issue him with a copy of the medical examination act.

E. Other relevant information

62. From 16 March to 24 May 2017 the applicant was detained in IZ-2 Irkutsk Region (*ФКУ СИЗО-2 ГУФСИН России по Иркутской области*). Throughout the entire period of his detention, the prison guards systematically put handcuffs on the applicant whenever he was outside his cell.

63. On 27 March 2017 the head of IZ-2 Irkutsk Region decided to place the applicant under surveillance (*профилактический учёт*) as a prisoner who was likely to abscond or assault members of the prison administration or other law-enforcement officers.

64. On an unspecified date the applicant lodged an administrative claim with the Bratsk Town Court of the Irkutsk Region in which he complained, *inter alia*, about being systematically handcuffed during his detention in IZ-2 Irkutsk Region.

65. On 19 January 2018 the Bratsk Town Court dismissed the applicant's administrative claim. The court noted that the applicant had been sentenced to life imprisonment for having committed particularly grave crimes against human life and public safety, referred to the relevant decision of the head of the remand prison, and concluded that the systematic use of

handcuffs on the applicant had been lawful and in accordance with the domestic law.

66. From 22 April to 23 December 2019 the applicant was detained in IZ-1 Yamalo-Nenetskiy Region (*ФКУ СИЗО-1 УФСИН России по Ямало-Ненецкому автономному округу*). According to him, during his detention there he was under constant surveillance, mostly by female guards, using two closed-circuit television cameras ("CCTV cameras") installed inside the cell in such a way that the entire cell, except for the toilet, was clearly visible.

67. From 21 May to 2 July 2019 the applicant was transported on multiple occasions to the Labytnangi Town Court of the Yamalo-Nenetskiy Region to participate in an unspecified set of proceedings. During the court hearings the applicant was held in a small metal cage installed in the courtroom. Each time he was transported to and from the town court, the applicant was handcuffed.

68. On 29 May 2019 the administrative commission of IZ-1 Yamalo-Nentskiy Region decided to place the applicant under surveillance as a prisoner who was likely to assault members of the prison administration and other law-enforcement officers.

69. On various dates the applicant lodged complaints about his handcuffing with the Labytnangi town police department *(ОМВД России по г. Лабытнанги*) and the Labytnangi town prosecutor's office. On 11 July and 5 August 2019 those authorities replied that his handcuffing had been lawful and based on the decision of the administrative commission of the remand prison and the relevant provisions of the domestic law.

70. It also appears from documents submitted by the Government that the applicant had earlier been placed under surveillance as a prisoner who was likely to assault members of the prison administration and other law-enforcement officers in IK-18 Yamalo-Nenetskiy Region (*ФКУ ИК-18 УСФИН России по Ямало-Ненецкому автономному округу*), his usual place of detention.

71. On 31 January 2020 the applicant was transferred again to IZ-1 Yamalo-Nenetskiy Region. According to him, his current prison cell is also equipped with two CCTV cameras and is constantly monitored by prison guards.

IV. TYGULEV v. RUSSIA, APPLICATION No. 25694/12

A. The events of 22 February 2011

72. On 22 February 2011 between 8 and 9 p.m. the applicant was arrested by police officers in the street in Saratov on suspicion of robbery. According to the applicant, during his arrest the police officers pushed him

down to the ground, twisted his arms behind his back, handcuffed him, and dragged him to a police car.

73. Later in the evening, the applicant was taken to the operative-search division of Criminal Investigations Service no. 1 in the Saratov Region (*ОРЧ по линии УУР № 1 при ГУ МВД РФ по Саратовской области*), where, according to his version of events, three police officers beat him on the head and body, then took him to another office, put him on the carpet face down, handcuffed him, tied his legs together with wire, suffocated him with a gas mask, and applied electric shocks to his legs.

74. On 23 February 2011 the applicant was taken to police station no. 4 (*ОМ № 4*) where at 4 p.m. an investigating officer drew up the record of his arrest. On the same date the applicant signed the record of his interview as a suspect which contained self-incriminating statements.

75. On 24 February 2011 the Leninskiy District Court of Saratov ordered the applicant's pre-trial detention.

76. On the same date the applicant took part in the on-site verification of his statements (*проверка показаний на месте*) and signed the relevant record.

77. On 25 February 2011 upon his arrival at the temporary detention facility at the Saratov Directorate of Internal Affairs (*ИВС УВД по г. Саратову*), the applicant was examined by a doctor who diagnosed him with autonomic dysfunction of hypotonic type and recorded the following injuries in medical examination register no. 123: abrasions to the right malar region, left buccal region and on the left upper eyelid, a yellow-green haematoma in the pit of the left elbow, abrasions on the lower third of both forearms, subcutaneous haemorrhages on the right side of the chest, a bruise on the top of the left foot, an abrasion in the lumbar region of the spinal cord, and a yellow-green haematoma on the posterior surface of the right shoulder.

B. Official inquiry into the alleged ill-treatment

78. On 24 February 2011 the applicant complained about his ill-treatment during his detention hearing at the Leninskiy District Court of Saratov.

79. On 14 March 2011 the applicant complained about his ill-treatment to the investigating authorities.

80. On 20 April 2011 an investigating officer refused to institute criminal proceedings owing to the absence of any evidence of a crime.

81. On 18 May 2011 the applicant lodged another complaint about his ill-treatment by the police officers.

82. On 16 June 2011 the investigating officer issued another refusal to institute criminal proceedings. On 21 June 2011 that refusal was quashed.

83. On 1 July 2011 the investigating officer again refused to institute criminal proceedings. The refusal was based on the testimony of the police officers who stated that the applicant had put up resistance during the arrest and they had had to twist his arms behind his back to prevent him from fleeing. The police officers denied having used any further physical force against the applicant either during or after his arrest.

84. On 1 March 2012 the refusal of 20 April 2011 was quashed.

85. On 10 August 2012 the investigating authorities instituted criminal proceedings in response to the complaint lodged by the applicant's co-defendant, Mr Mikhail Eduardovich Petrov, one of the applicants in *Mansurov and Others v. Russia* ([Committee], nos. 4336/06 and 7 others, § 118-22, 16 February 2021), about his ill-treatment by the same police officers on 22 February 2011.

86. On 31 January 2013 the applicant's wife was questioned in connection with the above-mentioned criminal case. According to her, she had witnessed the police officers pushing the applicant and holding him down on the ground during his arrest. She also testified that on 23 February 2011 she had seen the applicant at the police station, that at that time he had already had injuries on his face, and that on 25 February 2011 she had seen him at the Leninskiy District Court of Saratov and had learnt from him that on 22 February 2011 he and Mr Petrov had been ill-treated by the same police officers.

87. On 21 June 2013 the refusal of 1 July 2011 was quashed, the investigating authorities instituted criminal proceedings in respect of the applicant's complaint, joined them to the criminal proceedings opened on 10 August 2012, and granted the applicant victim status.

88. On 26 June 2013 the investigating officer ordered a forensic medical expert examination. According to expert report no. 3243 of 5 July 2013, the applicant had the following injuries at the material time: abrasions to the right malar region, the left buccal region and on the left upper eyelid, a haematoma on the left elbow, abrasions on both forearms, haemorrhages on the right side of the chest, an abrasion in the lumbar region, and haematomas on the right shoulder and the left buttock. The medical expert was unable to confirm the previously diagnosed bruise on the top of the left foot due to the absence of a specific description of it in the medical file. The medical expert further concluded that the haematomas on the elbow, shoulder and buttock could have been inflicted five to seven days before the applicant's examination on 25 February 2011, but was unable to establish when the other injuries had been inflicted due to the absence of a detailed description of them in the medical file. All the injuries had been inflicted by hard blunt objects in no less than seven traumatic impacts. The medical expert further stated that it was unlikely that the applicant had sustained those injuries by falling down on the ground and hitting himself against it, but that it would be possible to inflict the injuries on the face, buttock,

forearms and chest oneself. The diagnosed injuries had caused no damage to the applicant's health. The medical expert also indicated that the applicant had no injuries characteristic of electric shocks and that it was necessary to conduct an investigative experiment to verify if the applicant could have sustained his injuries during his arrest.

89. On 8 July 2013 the investigating officer ordered another forensic medical expert examination. In expert report no. 224 of 22 July 2013, the medical experts made similar conclusions to the ones in expert report no. 3243 of 5 July 2013. They also noted that it was likely that the abrasions on the forearms had been caused by handcuffs, that the haematomas on the left buttock, right shoulder, and in the pit of the left elbow had been inflicted seven to ten days before the applicant's examination on 25 February 2011, and that the applicant's injuries could have been caused by falling accidentally from five metres or one metre seventy centimetres and hitting himself against objects.

90. On 6 August 2013 the investigating officer ordered an additional forensic medical expert examination. According to expert report no. 207-*у* of 30 October 2013, the medical experts confirmed the findings of the previous expert examinations concerning the nature of the applicant's injuries and when they had been inflicted, but excluded the diagnosed haematoma on the left buttock as there was no record of that injury in the medical records of 25 February 2011.

91. On 10 November 2013 the investigating officer discontinued the criminal proceedings for the absence of any evidence of a crime. The decision relied, *inter alia*, on the testimony provided by the three police officers who had stated that the applicant had put up active resistance and attempted to escape during the arrest and, therefore, they had had to use handcuffs and wrestling techniques, namely twisting his arms behind his back, and pushing and holding him down on the snow. According to the police officers, they had taken the applicant to the operative-search division and subsequently, when he had agreed to sign a confession statement, had escorted him to police station no. 4. The decision also referred to the testimony of the police driver who attested to having seen abrasions on the applicant's face after his arrest on 22 February 2011. The investigating officer concluded in his decision that the applicant had sustained his injuries during the arrest on 22 February 2011, and that the police officers had acted within their powers and in accordance with the law.

92. The decision of 10 November 2013 also cited the testimony provided by Mr Petrov's mother who had attested to having seen the applicant at the police station on 23 February 2011 with injuries on his face and limping and moving around in a bent position; by the applicant's wife who had seen him on 23 February 2011 at about 1 a.m. with abrasions and bruises on his face; and by the applicant's acquaintance, K., who had stated that on 22 February 2011 she had seen no injuries on the visible parts of the applicant's body,

while on 24 February 2011 she had noticed bruises and abrasions on his face.

C. The applicant's trial

93. On 11 July 2011 the Leninskiy District Court of Saratov convicted the applicant of multiple counts of robbery. The district court relied, *inter alia*, on the applicant's self-incriminating statements in the record of his interview as a suspect of 23 February 2011 and in the record of the on-site verification of his statements of 24 February 2011. The district court held that the applicant had been questioned in the presence of his lawyer, which ruled out any duress, and dismissed his allegations of ill-treatment, relying on the refusals to institute criminal proceedings. The district court also noted that the police officers had been examined during the trial and had denied having used any physical force against the applicant during his arrest or the investigative actions. The district court concluded that the applicant's injuries had not been inflicted by the police officers and had been sustained by him in other circumstances.

94. On 1 December 2011 the Saratov Regional Court upheld the applicant's conviction in cassation. The regional court relied in its decision on the findings of the trial court.

D. Other relevant information

95. On 16 February 2021 the Court delivered its judgment in *Mansurov and Others* (cited above). In that judgment the Court held that on 22 February 2011 the applicant's co-defendant, Mr Petrov (application no. 15362/12), had been ill-treated by the same police officers, who had applied electric shocks to him, at the same place and in connection with the same criminal case as in the applicant's account of events (ibid., §§ 108-22 and 188-89). The Court found in that case that there had been a violation of Article 3 of the Convention both under its substantive and procedural limbs in respect of Mr Petrov (ibid., § 190).

V. MASALGIN v. RUSSIA, APPLICATION No. 30722/12

A. The events of 21 August 2008

96. On 21 August 2008 at about 1.10 a.m., the applicant was arrested by police officers in the street in Moscow near his house. According to the applicant, during his arrest the police officers pushed him to the ground and started kicking and punching him on the head and body, then they handcuffed him, pulled his arms up behind his back, dragged him by the handcuffs to a police car and continued to beat him inside the car. The applicant was escorted to "Khamovniki" police department (*ОВД*

«Хамовники») in Moscow. According to his account of events, while being escorted to the police department he had been unconscious and had woken up when the police officers pulled him up by the handcuffs and punched him in the groin.

97. On the same date from 1.30 to 3.10 a.m., the five police officers who had carried out the applicant's arrest drew up reports in which they stated that the applicant had assaulted one of them and they had used physical force in order to apprehend him. The reports did not contain any specific description of the physical force used against the applicant.

98. On the same date at 12.55 p.m., the applicant was taken to City Clinical Hospital no. 67 (*Городская клиническая больница № 67*). According to an extract from the applicant's medical file no. 6825/08 of 21 August 2008, the applicant was diagnosed with a closed craniocerebral injury, brain concussion, bruises and abrasions of the soft tissues of the head, face, chest, upper limbs, and a contused and lacerated injury of the left buccal mucosa. The applicant was discharged from the hospital at 3 p.m. on the same date.

99. According to the photos provided by the applicant, at the material time he had bruises and abrasions on his face, head, elbows and wrists, a periorbital haematoma on the right side, and a haematoma on the left inner thigh.

B. The applicant's further medical examinations and treatment

100. On 9 September 2008 the applicant was examined by a doctor at Polyclinic no. 117 (*Поликлиника № 117*) who diagnosed him as suffering from a condition resulting from a closed craniocerebral injury and brain concussion sustained on 21 August 2008, multiple bruises on the body and head, and abrasions on both wrists.

101. According to the applicant's medical file no. 4948/08 at Polyclinic no. 117, on 11 September 2008 he was examined by a panel of doctors who diagnosed him with bilateral entrapment polyneuropathy of the hands, possibly of a post-traumatic nature, and a condition resulting from a closed craniocerebral injury and brain concussion sustained on 21 August 2008. On the same date the applicant was also examined by a doctor from the Clinic of Nervous Diseases (*Клиника нервных болезней им. А. Я. Кожевникова*) who confirmed that diagnosis.

102. From 30 May to 6 June 2009, the applicant underwent inpatient treatment in the neurological unit of City Clinical Hospital no. 71 (*Городская клиническая больница № 71*), having been diagnosed with after-effects of the repetitive craniocerebral injuries sustained in 2007 and 2008.

C. Official inquiry into the alleged ill-treatment

103. On 21 August 2008 the applicant's neighbour, V., complained to the investigating authorities about the ill-treatment of her husband and the applicant by the police officers.

104. On 27 August 2008 the applicant's mother, who had been present during his arrest, lodged a similar complaint with the investigating authorities.

105. On 11 and 22 September and 9 November 2008 the investigating authorities refused to institute criminal proceedings into the applicant's alleged ill-treatment.

106. On 12 November 2008 the applicant also lodged a complaint about his ill-treatment by the police officers.

107. On 27 November 2008 the applicant lodged a complaint under Article 125 of the CCrP with the Khamovnicheskiy District Court of Moscow.

108. On 8 December 2008 the refusal of 9 November 2008 was quashed.

109. On 18 December 2008 the investigating authorities issued another refusal, which was subsequently quashed on 11 January 2009.

110. On 14 January 2009 the Khamovnicheskiy District Court of Moscow dismissed the applicant's complaint as the inquiry was still on-going.

111. On 21 January 2009 the investigating authorities issued another refusal to institute criminal proceedings. The applicant was only notified of this decision on 4 March 2009.

112. On 6 March 2009 the applicant challenged the refusal of 21 January 2009 under Article 125 of the CCrP.

113. On 4 May 2009 the investigating officer in charge of the inquiry ordered a forensic medical expert examination. According to expert report no. 1238-*AM* of 7 May 2009, the applicant had the following injuries at the material time: contusions in the frontotemporal and periocular regions on the right side, on the left side of the face and on the chin, abrasions on the left side of the forehead, on the right side of the chest, on the right shoulder joint, on both elbow joints and on the left shin, and an injury to the left buccal mucosa. The expert was not able to confirm the diagnosed brain concussion as the applicant had been examined by a neurologist on one occasion and had had no follow-up supervision. The expert concluded that the contusions and abrasions had been inflicted by hard blunt objects but was unable to establish when and how they had been inflicted owing to the absence of a detailed description of them in the medical file. The expert held that the described injuries had not caused any damage to the applicant's health.

114. On 19 June 2009 the Khamovnicheskiy District Court of Moscow examined and dismissed the applicant's complaint of 6 March 2009. On 29 July 2009 the Moscow City Court upheld that decision in cassation.

115. On 13 August 2010 the refusal of 21 January 2009 was quashed.

116. On 16 December 2010 the investigating officer issued the most recent refusal to institute criminal proceedings. In her decision the investigating officer relied, *inter alia*, on the testimony and reports of the police officers who had stated that the applicant had put up active resistance during the arrest, had assaulted Police Officer N. and torn his uniform, and that they had had to have recourse to physical force and handcuff him. The police officers who had been the last to arrive on the scene had also stated that they had witnessed the applicant kicking and screaming at the police officers. One of them had testified that the applicant had been knocking his head against the ground. Neither of the police officers had specified in their testimony what physical force had been used against the applicant. The refusal also cited the testimony of several eyewitnesses who had seen a fight between the applicant and the police officers but did not specify what kind of physical force had been used against the applicant. The testimony of the applicant's mother cited in the refusal supported the applicant's version of events. The refusal also referred to the decision of the Khamovnicheskiy District Court of Moscow of 30 April 2010 and concluded that the police officers had acted lawfully when using physical force against the applicant.

117. The applicant challenged the refusal of 16 December 2010 under Article 125 of the CCrP. On 23 August 2011 the Khamovnicheskiy District Court of Moscow dismissed his complaint. On 31 October 2011 the Moscow City Court upheld that decision in cassation. The domestic courts held that the investigating authorities had conducted a thorough inquiry into the applicant's allegations of ill-treatment and that the refusal of 16 December 2010 was in accordance with the domestic law.

D. The applicant's trial

118. On 29 August 2008 the investigating authorities instituted a criminal case against the applicant for having assaulted Police Officer N. during his arrest on 21 August 2008.

119. On 11 November 2008 the investigating authorities conducted a face-to-face confrontation (*очная ставка*) between the applicant and Police Officer N. The latter stated that the applicant had put up active resistance when the police officers had attempted to handcuff him after his assault on N., and that they had given the applicant "relaxing blows" (*расслабляющие удары*) on the body and in the pelvic area.

120. On 30 April 2010 the Khamovnicheskiy District Court of Moscow examined the applicant's criminal case and established that on 21 August 2008 at 1.10 a.m. the applicant, after refusing to obey the orders of Police

Officer N., had offended him by using obscene language, had punched him once on the head, and had torn a shoulder badge and chest pockets off his uniform. The district court relied on the findings of the inquiry into the applicant's allegations of ill-treatment and concluded that his injuries had resulted from the lawful use of physical force by the police officers during the arrest. The district court also noted that the injuries recorded in his medical documents could have resulted from his own actions during his arrest. The district court held that the applicant was to be exempted from criminal liability due to his mental illness which prevented him from realising the nature and public danger of his actions and ordered his compulsory medical treatment.

121. On 16 August 2010 the Moscow City Court upheld the first-instance decision in cassation.

VI. VOROTNIKOV v. RUSSIA, APPLICATION No. 68536/12

A. The events of 20 April 2011

122. On 20 April 2011 at about 4.30 p.m., the applicant, who was a minor at the time, was arrested together with his friend, K., in a street in Moscow by two police officers patrolling the area. According to the applicant, when he refused to get into the police car, the police officers started to push and pull him inside, punched him in the abdomen and on the face and kicked him on the right ankle. According to the applicant, when he fell to the ground, the police officers continued to beat him, then handcuffed him and threw him into the car.

123. The applicant and K. were escorted to the police department in the Shchukino District in Moscow (*ОВД по району Щукино г. Москвы*). At 4.56 p.m. a police officer for juvenile affairs called an ambulance for the applicant. The applicant was examined by an ambulance doctor who diagnosed him with a blunt-trauma abdominal injury, closed craniocerebral injury, brain concussion, soft-tissue bruises on the head and a closed fracture of the right ankle.

124. At about 5.40 p.m. the applicant was taken to City Clinical Hospital no. 1 (*ГКБ № 1 им. Н.И. Пирогова*). According to medical file no. 12140 of 20 April 2011, the applicant underwent an X-ray examination and was examined by a neurologist, a traumatologist and a surgeon. At 10.30 p.m. he was admitted to the surgery unit of the hospital for inpatient treatment. On 21 April 2011 the applicant underwent an MRI which showed blood in both maxillary sinuses. On 26 April 2011 he was transferred to the traumatology unit for further treatment. According to the discharge report of 10 May 2011, on that date the applicant was discharged from the hospital with the following final diagnosis: closed craniocerebral injury, brain concussion,

bilateral hemosinus, rupture of the talofibular ligament of the right ankle and multiple soft-tissue bruises on the head and front abdomen.

125. On 20 April 2011 one of the police officers drew up a report about the circumstances of the applicant's arrest. In it he stated, in particular, that the applicant had been refusing to obey their orders and get into the police car, and they had had to use physical force against him. The report did not contain any description of the physical force used against the applicant.

B. Official inquiry into the alleged ill-treatment

126. On 20 April 2011 the applicant's mother and the hospital reported the incident to the police.

127. On 21 April 2011 the investigating authorities launched an inquiry into the applicant's alleged ill-treatment by the police officers.

128. On 25 April 2011 the investigating officer in charge of the inquiry ordered a forensic medical expert examination of the applicant. According to expert report no. 1186/6519 of 26 April 2011, in view of his mother's refusal, the applicant was not examined by a medical expert and, therefore, the latter was not able to make any conclusions about his injuries.

129. On 15 May 2011 the investigating officer ordered another forensic medical expert examination.

130. On 21 May 2011 the investigating officer refused to institute criminal proceedings. On 23 May 2011 that refusal was quashed.

131. According to expert report no. 7420*м*/8448 of 30 May 2011, the applicant's closed craniocerebral injury, soft-tissue contusions to the face and back of the head, abrasions on the chin and brain concussion could have been inflicted by hard blunt objects at the time of his arrest and qualified as damage of mild severity to his health. The abrasions on the applicant's limbs and body and the contusion on his right hand could also have been inflicted by hard blunt objects and did not qualify as damage to the applicant's health. The medical expert refused to draw any conclusions as to the abrasion and contusion on the applicant's right ankle and the rupture of the talofibular ligament due to the lack of an additional MRI and ultrasound examinations. The diagnosed bruise on the right side of the applicant's chest and multiple bruises on the abdominal wall were not subject to expert examination due to the absence of a detailed description of them in the medical documents; the same went for the diagnosed hemosinus which had not been confirmed by an X-ray examination.

132. On 23 June 2011 the investigating officer issued another refusal to institute criminal proceedings. On 24 June 2011 that refusal was quashed.

133. On 24 June 2011 the investigating officer ordered an additional forensic medical expert examination. According to expert report no. 9691*м*/10611 of 30 June 2011, the medical expert came to the same conclusions as in the report of 30 May 2011.

134. On 25 July 2011 the investigating officer issued the most recent refusal to institute criminal proceedings. The refusal was based, *inter alia*, on the testimony of the police officers who had carried out the applicant's arrest. The police officers stated that they had bent the applicant's head and forced him into the car as he had been refusing to obey their orders, and denied having used any other physical force against him. The refusal also relied on the testimony of a bystander, M., who had witnessed the applicant pushing the police officers away during his arrest. M. stated that the three of them had eventually fallen to the ground, after which the police officers had kept the applicant lying there for some time, and then they had all got into the police car. That testimony was confirmed by two other eyewitnesses. The refusal also cited the testimony given by K., who confirmed the applicant's version of events. The investigating officer concluded that the physical force used by the police officers, namely forcing the applicant into the police car, had been lawful and necessary to overcome his resistance. The investigating officer also noted, relying on the testimony of the police officers and the video-footage from the police department, that after his arrival at the police department the applicant had been moving around on his own and that, therefore, he could have injured his ankle after being escorted there.

135. On 15 August 2011 the applicant challenged the refusal of 25 July 2011 under Article 125 of the CCrP. On 13 March 2012 the Khoroshevskiy District Court of Moscow dismissed his complaint. On 18 April 2012 the Moscow City Court upheld the first-instance decision in cassation. The domestic courts held that the investigating authorities had conducted a comprehensive inquiry into the applicant's complaint, had collected and examined all relevant pieces of evidence, and that the conclusions made in the refusal of 25 July 2011 were lawful and well founded.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

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

THE LAW

I. JOINDER OF THE APPLICATIONS

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

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

138. The applicants complained under Article 3 of the Convention that they had been subjected to ill-treatment by State officials and that the State had failed to conduct an effective investigation into their allegations of ill-treatment. They also complained under Article 13 of the Convention about the lack of an effective remedy in respect of their complaints under Article 3 of the Convention. The relevant parts of those 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 ..."

A. Admissibility

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

B. Merits

1. The parties' submissions

140. The Government contested the applicants' allegations, maintaining the conclusions of the domestic inquiries.

141. In the case of Mr Yanchenko, the Government also suggested that the applicant had been injured before his arrest.

142. In the case of Mr Piskunov, the Government also submitted that the applicant had failed to substantiate his complaint, as he had not provided the Court with a copy of the medical examination act of 29 June 2009.

143. The applicants maintained their complaints.

2. The Court's assessment

(a) Credibility of the applicants' allegations of ill-treatment by State officials

144. The Court observes that the applicants were arrested by the police on suspicion of having committed either criminal or administrative offences.

145. In Mr Piskunov's case, the Court observes, and it is not disputed by the parties, that on 29 June 2009 the applicant was examined by medical

experts who diagnosed him with certain injuries and recorded them in a medical examination act (see paragraph 49 above). The Court further notes that the applicant attempted on multiple occasions to obtain a copy of that medical examination act but neither his requests nor his inquiries proved to be successful (see paragraphs 51 and 57-61 above). The Court further notes that in its notification letter of 13 July 2017, it requested the Government to submit, *inter alia*, copies of the medical evidence in the applicant's case. The Government, however, failed to produce the medical examination act of 29 June 2009 or any other medical evidence without stating any reasons therefor. In these circumstances, the Court considers that it can draw inferences from the Government's conduct in this respect and finds it established that the applicant did sustain the injuries described in his application to the Court (see paragraph 46 above) after spending time in custody and that those injuries were recorded in the medical examination act of 29 June 2009 (see, *mutatis mutandis*, *Pishchalnikov v. Russia*, no. 7025/04, § 75, 24 September 2009).

146. The Court further observes that, after spending various periods of time in custody, the rest of the applicants were also found to have sustained injuries of various degrees, as recorded by forensic medical experts (see paragraphs 14, 37, 88-90, 113, 131 and 133 above), detention facilities (see paragraphs 11-12, 33, 35 and 77 above), or medical institutions (see paragraphs 6, 10, 32, 34, 98, 100-101 and 123-124 above).

147. Having examined the material in the case files and the 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 their ill-treatment in police custody were credible.

(b) Effectiveness of the domestic investigation into the alleged ill-treatment

148. The Court observes that the applicants' credible allegations of their injuries being the result of police or investigating officers' violence were dismissed by the investigating authorities as unfounded based mainly on the statements of the police or investigating officers denying their involvement in the applicants' ill-treatment (see paragraphs 18, 41, 53, 83, 116 and 134 above).

149. In all cases, except for Mr Piskunov's, the decisions of the investigating authorities refusing to open criminal proceedings (at least six decisions in Mr Koval's and Mr Yanchenko's cases, at least three decisions in Mr Tyugulev's case, at least five decisions in Mr Masalgin's case, and at least two decisions in Mr Vorotnikov's case) were quashed each time by a superior investigating authority for having been based on an incomplete inquiry, and a fresh inquiry was ordered. In Mr Koval's, Mr Masalgin's and

Mr Vorotnikov's cases, the most recent refusals to institute criminal proceedings issued by the investigating authorities were upheld by the domestic courts (see paragraphs 19, 117 and 135 above). In Mr Piskunov's case, the domestic courts refused to examine his complaint against the refusal as he had already been convicted by the trial court (see paragraph 54 above). In Mr Tyugulev's case, a criminal case was finally opened more than two years after the applicant's first complaint, but the criminal proceedings were subsequently discontinued for the absence of any evidence of a crime (see paragraphs 87 and 91 above).

150. As regards the forensic medical expert examinations, 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 this regard the Court notes that in some cases the forensic examinations were conducted with a significant delay after the events (three months in Mr Koval's and Mr Yanchenko's cases, almost two and a half years in Mr Tyugulev's case, and more than eight months in Mr Masalgin's case). In Mr Piskunov's case, the applicant was examined by medical experts three days after his arrest, however, the relevant medical examination act was not taken into account by the investigating authorities when examining his allegations of ill-treatment (see paragraph 53 above).

151. It also appears that in the case of Mr Koval, the investigating officer did not request the medical expert to establish when the applicant's injuries had been inflicted (see paragraph 14 above). In the cases of Mr Koval, Mr Yanchenko, Mr Tyugulev, Mr Masalgin and Mr Vorotnikov, it also seems that the medical experts were provided with insufficient information to give a proper assessment of their injuries (see paragraphs 14, 37, 88-90, 113, 131 and 133 above).

152. In this connection the Court considers that significant delays such as in these cases, as well as the lack of information provided to forensic experts, made it impracticable for the experts to provide adequate answers to the questions raised by the requesting authority (see *Mogilat v. Russia*, no. 8461/03, § 64, 13 March 2012).

153. The Court reiterates its findings that the mere carrying out of a pre-investigation inquiry under Article 144 of the Code of Criminal Procedure of the Russian Federation ("the CCrP") 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).

154. The Court has no reason to hold otherwise in the present cases, which involve 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 by State officials.

(c) The Government's submissions

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

156. At the outset the Court notes that in the cases of Mr Koval, Mr Yanchenko, Mr Piskunov and Mr Tyugulev, it was not provided with any evidence supporting the investigating authorities' conclusions, such as, for example, reports made by the police officers to their superiors in relation to the use of force or handcuffs during the applicants' arrests. In these cases, 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 6, 10-12, 14, 32-35, 37, 46, 77 and 88-90 above). In the cases of Mr Masalgin and Mr Vorotnikov, the Government submitted copies of the police officers' reports describing the circumstances of their arrests (see paragraphs 97 and 125 above).

157. In Mr Masalgin's case, the Court notes that neither the reports of the police officers, nor any other document, except for the testimony of Police Officer N. (see paragraph 119 above), explain what kind of physical force was used against the applicant. The Court further notes that although the version put forward by the domestic authorities could explain some of the injuries sustained by the applicant on the date of his arrest, it nevertheless fails to provide any plausible explanation for his medical conditions such as the closed craniocerebral injury and post-traumatic bilateral entrapment polyneuropathy of the hands.

158. In Mr Vorotnikov's case, the Court notes that the injuries sustained by the applicant on the date of his arrest do not correspond to the physical force described by the police officers. The Court also notes that the version put forward by the domestic authorities provides some explanation for only one of the applicant's injuries (see paragraph 134 above) and ignores the rest of them, including the closed craniocerebral injury.

159. The Court therefore considers that the Government's explanations lack an assessment of the actions of the police officers in using force and the actions on the part of the applicants which 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).

160. Given that the Government's explanations were based on the superficial domestic inquiries falling 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 produce evidence capable of casting doubt on the account of events of the applicants, 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).

(d) Legal classification of the treatment

161. The applicants alleged that they had been subjected to torture and inhuman and degrading treatment.

162. Having regard to the injuries sustained by Mr Yanchenko, Mr Piskunov, Mr Masalgin and Mr Vorotnikov and confirmed by the medical evidence, the Court finds that the law-enforcement authorities subjected them to inhuman and degrading treatment.

163. The Court observes that Mr Koval and Mr Tyugulev alleged that they had been subjected to ill-treatment using, *inter alia*, electric shocks (see paragraphs 5, 8 and 73 above).

164. In the case of Mr Koval, the Court notes that the applicant was examined by medical practitioners on the same day of each episode of ill-treatment, and that no evidence of electric shocks was recorded in his medical documents (see paragraphs 6 and 10-11 above). In these circumstances, the Court is unable to conclude that the applicant was subjected to ill-treatment using electric shocks. Therefore, the Court finds that the police officers subjected the applicant to inhuman and degrading treatment.

165. In the case of Mr Tyugulev, the Court observes that the applicant was examined by a doctor three days after the alleged use of electric shocks (see paragraph 77 above). The Court further notes that the applicant was diagnosed with multiple abrasions on his face and forearms, and bruises on various parts of his body (see paragraphs 77 and 88-90 above). The Court also notes that it has already found that Mr Tyugulev's co-defendant, Mr Petrov, was subjected to torture in a similar manner as that described by the applicant by the same police officers on the same date and at the same police station (see *Mansurov and Others v. Russia* [Committee], nos. 4346/06 and 7 others, §§ 108-11 and 188-90, 16 February 2021 – see paragraph 95 above). The Court thus finds that the existence of the applicant's physical pain and suffering is attested to by the medical reports and the applicant's statements regarding his ill-treatment at the police station, in particular with electric shocks, which were not refuted by the Government. The sequence of events also demonstrates that the pain and suffering was inflicted on him intentionally, namely with a view to extracting confessions to having committed crimes (see *Samoylov v. Russia*, no. 64398/01, § 53, 2 October 2008, and *Lolayev v. Russia*, no. 58040/08, § 79, 15 January 2015). In such circumstances, the Court concludes that,

taken as a whole and having regard to its purpose and severity, the ill-treatment of Mr Tyugulev amounted to torture within the meaning of Article 3 of the Convention.

(e) Conclusion

166. There has accordingly been a violation of Article 3 of the Convention under its substantive and procedural limbs in respect of all of the applicants. In the light of this finding, the Court considers that it is not necessary to examine whether there has also been a violation of Article 13 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

167. Four of the applicants, Mr Koval, Mr Yanchenko, Mr Piskunov and Mr Tyugulev, complained under Article 6 § 1 of the Convention that the criminal proceedings against them had been unfair as the domestic courts had used their self-incriminating statements obtained under duress in their conviction. The relevant part of Article 6 § 1 reads as follows:

> "In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

A. Admissibility

168. The Court notes that this part of the application 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 parties' submissions

169. The Government contested the applicants' allegations, maintaining that the applicants had not been subjected to ill-treatment and had given their self-incriminating statements voluntarily.

170. The applicants maintained their complaints.

2. The Court's assessment

171. The Court has on several occasions found that the admission of confession statements obtained in violation of Article 3 of the Convention renders the criminal proceedings as a whole automatically unfair, irrespective of the probative value of those statements and irrespective of whether their use was decisive in securing the defendant's conviction (see

Turbylev v. Russia, no. 4722/09, § 90, 6 October 2015, and *Golubyatnikov and Zhuchkov v. Russia*, nos. 44822/06 and 49869/06, §§ 113-16, 9 October 2018).

172. The Court notes that the self-incriminating statements made by the applicants following their apprehension and during their time in police custody formed part of the evidence produced against them in the criminal proceedings. The trial and appeal courts did not find those statements inadmissible and referred to them when finding the applicants guilty and convicting them (see paragraphs 23, 25, 43-44, 55-56 and 93-94 above).

173. The Court further notes that it has already established that the applicants were subjected to ill-treatment at the hands of State officials (see paragraphs 162 and 164-165 above), which took place immediately before the applicants confessed to having committed the crimes with which they were subsequently charged (see paragraphs 8-9, 31, 46 and 74 above).

174. In such circumstances, the Court is not convinced by the Government's argument that the applicants' confession statements should be regarded as having been given voluntarily. It concludes that, regardless of the impact the applicants' statements obtained under duress had on the outcome of the criminal proceedings against them, such evidence rendered the criminal proceedings unfair (see *El Haski v. Belgium*, no. 649/08, § 85, 25 September 2012, and *Tangiyev*, no. 27610/05, § 74, 11 December 2012).

175. There has, accordingly, been a violation of Article 6 § 1 of the Convention in respect of Mr Koval, Mr Yanchenko, Mr Piskunov and Mr Tyugulev.

IV. ALLEGED VIOLATION OF ARTICLE 5 §§ 1 AND 5 OF THE CONVENTION

176. Mr Koval also complained under Article 5 §§ 1 and 5 of the Convention about his unrecorded detention between 6.10 p.m. on 14 May 2009 and 11.20 a.m. on 15 May 2009 after his *de facto* apprehension, and the impossibility of claiming compensation despite the acknowledgement by the trial court of the unlawfulness of his detention during that period of time. The relevant provisions read as follows:

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

A. Admissibility

1. The parties' submissions

177. The Government agreed in their observations that there had been a delay in drawing up the applicant's record of arrest. At the same time, they noted that the period of the applicant's unrecorded detention had been included in his prison term, and that the applicant had failed to challenge the lawfulness of the law-enforcement authorities' actions under Articles 123 to 125 of the CCrP.

178. The applicant maintained his complaints.

2. The Court's assessment

(a) Victim status

179. The Government can be understood to be claiming that the applicant is no longer a victim of the alleged violation of Article 5 § 1 of the Convention, as the Engels District Court of the Saratov Region acknowledged the mistake and corrected it by deducting the period of the unrecorded detention from the applicant's sentence.

180. The Court observes that it has already addressed the same argument by the Russian Government in other cases (see *Lebedev v. Russia*, no. 4493/04, §§ 43-48, 25 October 2007, and *Arefyev v. Russia*, no. 29464/03, §§ 70-72, 4 November 2010). In those cases the Court noted that the inclusion of the time spent in custody in the overall time to be served by the applicants was not in any way connected to the alleged violation of Article 5 § 1 of the Convention; rather, it followed from Article 72 of the Russian Criminal Code, which provided for the automatic deduction of time spent in custody from the final sentence, irrespective of whether or not it was irregular.

181. The Court sees no reason to depart from that finding in the present case. Therefore, the applicant cannot be said to have lost his victim status within the meaning of Article 34 of the Convention. The Government's objection should therefore be dismissed.

(b) Non-exhaustion of domestic remedies

182. The Government can be understood to also be raising an objection of non-exhaustion of domestic remedies, as the applicant did not lodge a complaint under Articles 123 to 125 of the CCrP to challenge the lawfulness of the law-enforcement authorities' actions.

183. The Court has previously stated that an applicant must have made normal use of domestic remedies which are likely to be effective and sufficient and that, when a remedy has been pursued, use of another remedy which has essentially the same objective is not required (see *Lagutin and Others v. Russia*, nos. 6228/09 and 4 others, § 75, 24 April 2014).

184. In the present case the applicant complained about his unrecorded detention before the trial court, which acknowledged in a separate decision the failure of the investigating authorities to draw up a record of the applicant's arrest within the time-limit set by the domestic law, and explicitly stated in that decision that it had led to the violation of the applicant's right to liberty (see paragraph 24 above). The applicant also lodged a civil claim for compensation for non-pecuniary damage in that respect, which was examined and dismissed by the domestic courts at two levels of jurisdiction. The Court therefore considers that the applicant has complied with the exhaustion requirement.

185. Accordingly, the Court dismisses the Government's objection on this point.

(c) Conclusion as to admissibility

186. The Court notes that the applicant's complaints under Article 5 of the Convention are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

1. The parties' submissions

187. The Government submitted that there had been no violation of the applicant's rights under Article 5 of the Convention. They further argued that the applicant had an enforceable right to compensation for the alleged unrecorded detention, but his civil claim had been dismissed due to his own failure to substantiate it.

188. The applicant maintained his complaints.

2. The Court's assessment

(a) Article 5 § 1 of the Convention

189. The Government acknowledged in their observations that the applicant had been arrested on 14 May 2009 and that there had been a delay in drawing up the record of his arrest, but disagreed that there had been a violation of Article 5 § 1 of the Convention.

190. The Court has already held on many occasions that unrecorded detention of an individual is a complete negation of the fundamentally important guarantees contained in Article 5 of the Convention, that it discloses a most grave violation of that provision, and must be seen as incompatible with the requirement of lawfulness and with the very purpose of Article 5 of the Convention (see *Fortalnov and Others v. Russia*, nos. 7077/06 and 12 others, § 76, 26 June 2018, with further references). Moreover, the lack of any acknowledgment or record of a person's

detention as a suspect makes him or her potentially vulnerable not only to arbitrary interference with the right to liberty but also to ill-treatment (see *Fartushin v. Russia*, no. 38887/09, § 53, 8 October 2015, and *Leonid Petrov v. Russia*, no. 52783/08, § 54, 11 October 2016).

191. The Court observes that the applicant was apprehended on 14 May 2009 no later than 6.10 p.m., which is not disputed by the Government and is confirmed by the material in the case file in the applicant's criminal proceedings. The record of the applicant's arrest was drawn up on 15 May 2009 at 11.20 a.m., that is more than seventeen hours after his *de facto* apprehension. During that time the applicant was subjected to inhuman and degrading treatment (see paragraph 164 above), and signed a confession statement (see paragraph 8 above). The Court further observes that the delay in recording the applicant's arrest was found by the trial court to have violated the domestic law provisions and, in consequence, the applicant's right to liberty (see paragraph 24 above).

192. The Court also notes that the applicant appears to have been subjected to administrative detention to ensure his availability as a criminal suspect without, however, the requisite safeguards for his procedural rights as a suspect (see paragraph 7 above). The Court reiterates its position that such conduct on the part of investigating authorities is incompatible with the principle of legal certainty and protection from arbitrary detention under Article 5 of the Convention (see *Fortalnov and Others*, cited above, § 83, with further references).

193. Based on the above, the Court concludes that there has been a violation of Article 5 § 1 of the Convention on account of Mr Koval's unrecorded detention.

(b) Article 5 § 5 of the Convention

194. The Government submitted that the applicant had had an enforceable right to compensation and had used the procedure provided for that purpose in the domestic law.

195. The Court reiterates that compensation for detention imposed in breach of the provisions of Article 5 must be not only theoretically available but also accessible in practice to the individual concerned (see *Abashev v. Russia*, no. 9096/09, § 39, 27 June 2013, with further references).

196. In the present case the domestic courts dismissed the applicant's civil claim for compensation for non-pecuniary damage for his unrecorded detention by referring to the applicant's criminal conviction and the deduction of the period of unrecorded detention from his prison term. The domestic courts concluded that the applicant's right had thus been restored, and held that the applicant had failed to demonstrate the unlawfulness of the domestic authorities' actions as was required by Articles 1069 and 1070 of the Russian Civil Code.

197. The Court has already assessed in other cases the manner in which Articles 1069 and 1070 of the Russian Civil Code were applied by the Russian courts, precluding the applicants in those cases from obtaining compensation for the detention that was imposed in breach of Article 5 § 1 of the Convention (see, *inter alia*, *Makhmudov v. Russia*, no. 35082/04, § 104, 26 July 2007, and *Abashev*, cited above, § 42). The Court also observes that Russian law does not provide for State liability for detention which was unrecorded or unacknowledged in any procedural form (see *Ivan Kuzmin v. Russia*, no. 30271/03, § 79, 25 November 2010).

198. Therefore, the applicant did not have an enforceable right to compensation as is required under Article 5 § 5 of the Convention. There has accordingly been a violation of this provision in respect of Mr Koval.

V. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

199. Mr Piskunov also raised other complaints under Articles 3, 8 and 13 of the Convention.

A. Alleged violations of Articles 3 and 13 of the Convention on account of systematic handcuffing in a secure environment

200. Mr Piskunov complained that his systematic handcuffing during his detention in IZ-2 Irkutsk Region from 16 March to 24 May 2017 amounted to a violation of Article 3 of the Convention. He also complained under Article 13 of the Convention about the lack of effective remedies in respect of his complaint under Article 3 of the Convention. The relevant parts of those 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 ..."

201. The Government submitted that the applicant had not been handcuffed at all during his detention in IZ-2 Irkutsk Region, and that therefore his complaint under Article 3 of the Convention was manifestly ill-founded. They also submitted that, in consequence, his complaint under Article 13 of the Convention was to be dismissed as incompatible *ratione materiae* with the provisions of the Convention.

202. The Court observes, and it is not disputed by the parties, that the Bratsk Town Court of the Irkutsk Region found in its decision of 19 January 2018 that the applicant's routine handcuffing during his detention in IZ-2

Irkutsk Region had been lawful and based on his life prisoner status and the decision of the head of that remand prison (see paragraph 65 above). Therefore, the Court finds it established that the applicant was systematically handcuffed during his detention in IZ-2 Irkutsk Region.

203. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other ground. Accordingly, it must be declared admissible.

204. The Court further notes that the applicant was placed under surveillance only on 27 March 2017, but he was handcuffed from 16 March 2017 when he arrived at IK-2 Irkutsk Region (see paragraphs 62-63 above). Therefore, it can be assumed that for at least eleven days the handcuffing was not based on any individual security concerns, but on his status as a life prisoner. The decision to place the applicant under surveillance was taken once and there was no reassessment of the applicant's conduct during the period complained of. The Court also notes that there is no evidence in the case file of any actual risk assessment conducted by either the remand prison authorities or the town court which would justify the routine use of handcuffs on the applicant for an extended period of time.

205. The Court has already held in a similar case that systematic handcuffing of prisoners in a secure environment without sufficient justification could be regarded as degrading treatment (see *Shlykov and Others v. Russia*, nos. 78638/11 and 3 others, § 93, 19 January 2021).

206. The Court sees no reason to depart from that finding in the present case, and concludes that there has been a violation of Article 3 of the Convention on account of Mr Piskunov's systematic handcuffing without sufficient justification during his detention in IZ-2 Irkutsk Region from 16 March to 24 May 2017. 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.

B. Alleged violations of Articles 3 and 13 of the Convention on account of handcuffing during transportation

207. Mr Piskunov also complained that his handcuffing during transportation between IZ-1 Yamalo-Nenetskiy Region and the Labytnangi Town Court of the Yamalo-Nenetskiy Region on multiple occasions from 21 May to 2 July 2019 amounted to a violation under Article 3 of the Convention. He also complained under Article 13 of the Convention about the lack of effective remedies in respect of his complaint under Article 3 of the Convention.

208. The Government submitted that the applicant's handcuffing during transportation between the remand prison and the town court had been lawful, based on the decision of the administrative commission of the

remand prison, and warranted by security considerations. They also submitted that, in consequence, his complaint under Article 13 of the Convention in that respect was to be dismissed as incompatible *ratione materiae* with the provisions of the Convention.

209. The Court observes, and it is not disputed by the parties, that during his detention in IZ-1 Yamalo-Nenetskiy Region the applicant was handcuffed only on the dates of the hearings at the town court and that the period of handcuffing on each occasion was limited to the time it took to transport the applicant between the remand prison and the town court.

210. The Court has previously found that the use of handcuffs could be warranted on specific occasions, such as transfers outside prison, and that such handcuffing *per se*, in the absence of any adverse effects on the applicant's health, use of force, or public exposure, exceeding what could be reasonably considered necessary in the circumstances, does not attain the minimum level of severity required by Article 3 of the Convention (see as a recent example *Rudakov v. Russia* (dec.) [Committee], no. 70711/12, §§ 18-20, 30 March 2021, with further references).

211. The Court sees no reason to depart from that finding in the present case and concludes that this part of the application discloses no appearance of a violation of Article 3 of the Convention. It follows that this part must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

212. Accordingly, as the applicant did not have an "arguable claim" of a violation of a substantive Convention provision, Article 13 of the Convention is inapplicable to this part of the application. It follows that the complaint under Article 13 of the Convention must also be rejected pursuant to Article 34 §§ 3 (a) and 4 of the Convention.

C. Alleged violations of Articles 3 and 13 of the Convention on account of being held in a metal cage during the court hearings

213. Mr Piskunov also complained that he had been held in a metal cage in the courtroom during the hearings held at the Labytnangi Town Court of the Yamalo-Nenetskiy Region on multiple occasions from 21 May to 2 July 2019, and alleged that such confinement amounted to degrading treatment prohibited by Article 3 of the Convention. He also complained under Article 13 of the Convention about the lack of effective remedies in respect of his complaint under Article 3 of the Convention.

214. The Government submitted that the Court should examine this part of the application in accordance with its established case-law.

215. The Court observes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other ground. Accordingly, it must be declared admissible.

216. In the leading cases of *Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/08 and 43441/08, ECHR 2014 (extracts), and *Vorontsov and Others v. Russia*, no. 59655/14 and 2 others, 31 January 2017, the Court already dealt with the issue of the use of metal cages in courtrooms and found that such a practice constituted in itself an affront to human dignity and amounted to degrading treatment prohibited by Article 3 of the Convention.

217. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion in the present case. There has accordingly been a violation of Article 3 of the Convention on account of the applicants' confinement in a metal cage before the Labytnangi Town Court of the Yamalo-Nenetskiy Region on multiple occasions from 21 May to 2 July 2019.

218. The Court further considers that in view of its reasoning and findings under Article 3 of the Convention, there is no need to deal separately with the applicant's complaint under Article 13 of the Convention.

D. Alleged violation of Article 8 of the Convention on account of permanent video surveillance

219. Mr Piskunov also complained that the permanent CCTV camera surveillance of his cells during his detention in IZ-1 Yamalo-Nenetskiy Region, carried out mostly by female guards, had breached his right to respect for his private life as guaranteed by Article 8 of the Convention, which reads as follows:

> "1. Everyone has the right to respect for his private ... life ...
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

220. The Government informed the Court that it did not wish to submit any observations in respect of this complaint.

221. The Court observes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other ground. Accordingly, it must be declared admissible.

222. The Court has already established, in an earlier case against Russia, that the national legal framework governing the placement of detainees under permanent video surveillance in penal institutions falls short of the standards set out in Article 8 of the Convention and does not afford appropriate protection against arbitrary interference by the authorities with

the detainees' right to respect for their private life (see *Gorlov and Others v. Russia*, nos. 27057/06 and 2 others, §§ 97-98, 2 July 2019).

223. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion in the present case. It considers, regard being had to the case-law cited above, that in the instant case the placement of the applicant under permanent video surveillance when confined to his cells in IZ-1 Yamalo-Nenetskiy Region was not "in accordance with law".

224. This complaint, therefore, discloses a breach of Article 8 of the Convention.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

225. 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. Damage

226. The applicants alleged that they had sustained very serious non-pecuniary damage and claimed compensation in the amounts indicated in the appended table.

227. Mr Piskunov also claimed 340,000 euros (EUR) and EUR 15,500 in respect of pecuniary damage. These amounts represented the applicant's estimate of the income he had lost as a result of his criminal conviction and imprisonment, and of his living expenses incurred during his detention.

228. Mr Vorotnikov also claimed 20,000 Russian roubles (RUB) and RUB 100,000 in respect of pecuniary damage. These amounts represented the cost of his clothes which were allegedly damaged during his apprehension by the police officers, and of his medical expenses allegedly incurred for treatment of his injuries sustained on 20 April 2011. The applicant did not submit any documents or receipts in support of his claim in respect of pecuniary damage.

229. In respect of Mr Koval's, Mr Piskunov's, Mr Tyugulev's, Mr Masalgin's and Mr Vorotnikov's claims, the Government submitted that the Court should apply Article 41 of the Convention in accordance with its established case-law. In respect of Mr Yanchenko's claim, the Government submitted that the finding of a violation would constitute in itself sufficient just satisfaction for any non-pecuniary damage suffered by the applicant.

230. In respect of Mr Piskunov's claim for pecuniary damage, the Government submitted that it was excessive and not supported by any documents.

231. Having regard to the circumstances of the present case and the nature of the violations found, the Court considers it reasonable to award the applicants the amounts indicated in the appended table in respect of non-pecuniary damage, plus any tax that may be chargeable on those amounts.

232. As for Mr Piskunov's claim in respect of pecuniary damage, the Court does not discern any causal link between the violations found and the pecuniary damage alleged. It therefore rejects this part of Mr Piskunov's claim.

233. As for Mr Vorotnikov's claim in respect of pecuniary damage, the Court observes that the applicant did not submit any evidence in support of his claim. The Court therefore dismisses this part of Mr Vorotnikov's claim as unsubstantiated.

B. Costs and expenses

234. Mr Koval, Mr Yanchenko and Mr Vorotnikov claimed compensation in respect of their costs and expenses incurred in the proceedings before the Court. Mr Koval, Mr Yanchenko, Mr Piskunov and Mr Vorotnikov also claimed compensation in respect of their costs and expenses incurred in the domestic proceedings. The respective amounts are indicated in the appended table.

235. The Court granted legal aid to Mr Koval and Mr Yanchenko amounting to EUR 850 each in respect of their costs and expenses. They did not provide any receipts or legal aid agreements in support of the remaining part of their claims in respect of costs and expenses incurred in the proceedings before the Court. Mr Koval and Mr Yanchenko also claimed EUR 200 each in respect of their costs and expenses incurred in the domestic proceedings, for which they submitted copies of the respective domestic court's decisions.

236. Mr Piskunov claimed EUR 1,500 in respect of his costs and expenses incurred in the domestic proceedings, for which he submitted copies of the respective domestic court's decisions.

237. Mr Vorotnikov claimed EUR 50,000 in respect of his costs and expenses incurred both in the domestic proceedings and in the proceedings before the Court. He submitted copies of three legal aid agreements for a total sum of RUB 2,000,000 (approximately EUR 48,870).

238. As for Mr Koval's, Mr Yanchenko's and Mr Piskunov's claims in respect of costs and expenses, the Government submitted that they were excessive and not supported by any documents. In Mr Vorotnikov's case the Government suggested that the Court should apply Article 41 of the Convention in accordance with its established case-law.

239. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown

that these were actually and necessarily incurred and are reasonable as to quantum (see *McCann and Others v. the United Kingdom*, 27 September 1995, § 220, Series A no. 324). In the present case, regard being had to the documents in its possession, the Court considers it reasonable to award Mr Koval, Mr Yanchenko, Mr Piskunov and Mr Vorotnikov the amounts indicated in the appended table, plus any tax that may be chargeable to the applicants.

C. Default interest

240. 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. *Declares* the complaints of Mr Piskunov about his handcuffing during transportation and the lack of effective remedies in that respect under Articles 3 and 13 of the Convention inadmissible;

3. *Dismisses* the Government's preliminary objections in the case of Mr Koval;

4. *Declares* the remainder of the applications admissible;

5. *Holds* that there has been a violation of Article 3 of the Convention under its substantive limb in that Mr Tyugulev was subjected to torture in police custody and that Mr Koval, Mr Yanchenko, Mr Piskunov, Mr Masalgin and Mr Vorotnikov were subjected to inhuman and degrading treatment, and a violation of Article 3 of the Convention under its procedural limb in respect of all the applicants in that no effective investigation was carried out by the domestic authorities into their complaints;

6. *Holds* that there has been a violation of Article 6 § 1 of the Convention in respect of Mr Koval, Mr Yanchenko, Mr Piskunov and Mr Tyugulev;

7. *Holds* that there has been a violation of Article 5 §§ 1 and 5 of the Convention in respect of Mr Koval;

8. *Holds* that there has been a violation of Article 3 of the Convention in respect of Mr Piskunov on account of his routine handcuffing in a secure environment;

9. *Holds* that there has been a violation of Article 3 of the Convention in respect of Mr Piskunov on account of his confinement in a metal cage during his court hearings;

10. *Holds* that there has been a violation of Article 8 of the Convention in respect of Mr Piskunov on account of the permanent video surveillance of his cells at the remand prison;

11. *Holds* that there is no need to examine the applicants' complaints under Article 13 of the Convention;

12. *Holds*
    (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, plus any tax that may be chargeable to the applicants, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
    (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above 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;

13. *Dismisses* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 5 October 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova
Deputy Registrar

Peeter Roosma
President

APPENDIX

<table>
<tr><th>No.</th><th>Case name
Application no.

Lodged on</th><th>Applicant
Year of birth
Place of residence
Nationality</th><th>Represented by</th><th>Non-pecuniary damage</th><th>Costs and expenses</th></tr>
<tr><td rowspan="4">1</td><td rowspan="4">Koval v. Russia
29627/10

07/04/2010</td><td rowspan="4">Mikhail Nikolayevich KOVAL
1974
Engels,
Saratov Region
Uzbekistani</td><td rowspan="4">Olga Vladimirovna DRUZHKOVA</td><td colspan="2">Sought by the applicant</td></tr>
<tr><td>EUR 400,000</td><td>EUR 200 (incurred in the domestic proceedings) and EUR 4,050 (incurred in the proceedings before the Court)</td></tr>
<tr><td colspan="2">Awarded by the Court</td></tr>
<tr><td>EUR 26,000
(twenty-six thousand euros)</td><td>EUR 200
(two hundred euros)</td></tr>
<tr><td rowspan="4">2</td><td rowspan="4">Yanchenko v. Russia
31414/10

23/04/2010</td><td rowspan="4">Boris Nikolayevich YANCHENKO
1976
Engels,
Saratov Region
Russian</td><td rowspan="4">Yekaterina Viktorovna YEFREMOVA</td><td colspan="2">Sought by the applicant</td></tr>
<tr><td>EUR 145,000</td><td>EUR 200 (incurred in the domestic proceedings) and EUR 3,600 (incurred in the proceedings before the Court)</td></tr>
<tr><td colspan="2">Awarded by the Court</td></tr>
<tr><td>26,000
(twenty-six thousand euros)</td><td>EUR 200
(two hundred euros)</td></tr>
</table>

No.	Case name Application no. Lodged on	Applicant Year of birth Place of residence Nationality	Represented by	Non-pecuniary damage	Costs and expenses
3	*Piskunov v. Russia* 59280/10 03/09/2010	**Sergey Aleksandrovich PISKUNOV** 1981 Labytnangi, Yamalo-Nenetskiy Region Russian	-	Sought by the applicant	
				EUR 84,500	EUR 1,500 (incurred in the domestic proceedings)
				Awarded by the Court	
				EUR 26,000 (twenty-six thousand euros)	EUR 1,500 (one thousand five hundred euros)
4	*Piskunov v. Russia* 80441/17 27/10/2017				
5	*Piskunov v. Russia* 43566/19 21/05/2020				
6	*Piskunov v. Russia* 60840/19 02/10/2019				

No.	Case name Application no. Lodged on	Applicant Year of birth Place of residence Nationality	Represented by	Non-pecuniary damage	Costs and expenses
7	*Tyugulev v. Russia* 25694/12 05/03/2012	**Konstantin Dmitriyevich TYUGULEV** 1979 Salavat-6, Bashkortostan Republic Russian	Svetlana Anatolyevna TOREYEVA	Sought by the applicant	
				EUR 45,000	Not claimed
				Awarded by the Court	
				EUR 45,000 (forty-five thousand euros)	-
8	*Masalgin v. Russia* 30722/12 28/04/2012	**Mikhail Nikolayevich MASALGIN** 1968 Moscow Russian	Olga Sergeyevna SHEPELEVA Ernest Aleksandrovich MEZAK Darya Sergeyevna PIGOLEVA	Sought by the applicant	
				EUR 25,000	Not claimed
				Awarded by the Court	
				EUR 25,000 (twenty-five thousand euros)	-
9	*Vorotnikov v. Russia* 68536/12 17/10/2012	**Sergey Sergeyevich VOROTNIKOV** 1993 Moscow Russian	Igor Leonidovich TRUNOV	Sought by the applicant	
				EUR 200,000	EUR 50,000
				Awarded by the Court	

No.	Case name Application no. Lodged on	Applicant Year of birth Place of residence Nationality	Represented by	Non-pecuniary damage	Costs and expenses
				EUR 26,000 (twenty-six thousand euros)	EUR 3,000 (three thousand euros)