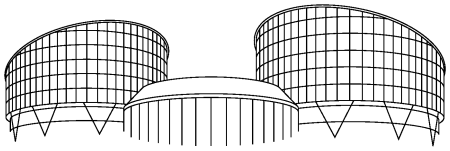

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF TAGAYEVA AND OTHERS v. RUSSIA

(Application no. 26562/07 and 6 other applications – see list appended)

JUDGMENT

STRASBOURG

13 April 2017

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

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In the case of Tagayeva and Others v. Russia,

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

Linos-Alexandre Sicilianos, *President*
Mirjana Lazarova Trajkovska,
Khanlar Hajiyev,
Julia Laffranque,
Paulo Pinto de Albuquerque,
Erik Møse,
Dmitry Dedov, *judges,*
and Abel Campos, *Section Registrar,*

Having deliberated in private on 14 October 2014, 9 January 2017 and on 15 March 2017,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in seven applications (see Appendix for details) lodged between 25 June 2007 and 28 May 2011 against the Russian Federation with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by 447 Russian nationals. One group of applicants ("the first group of applicants", applications nos. 26562/07, 49380/08, 21294/11 and 37096/11) were represented by Mr Kirill Koroteyev, a lawyer of EHRAC/Memorial Human Rights Centre, an NGO with offices in Moscow and London, assisted by Ms Jessica Gavron, advisor; and the remaining applicants ("the second group of applicants", applications nos. 14755/08, 49339/08 and 51313/08) by Mr Sergey Knyazkin and Mr Mikhail Trepashkin, lawyers practising in Moscow. A complete and updated list of 409 applicants and their representatives is set out in the Appendix.

2. The Russian Government ("the Government") were represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

3. By a decision of 9 June 2015, following a hearing on admissibility and the merits (Rule 54 § 3), the Court declared the applications partly admissible. On the same date the Court decided that the applications should be joined pursuant to Rule 42 § 1 of the Rules of Court.

4. The parties replied in writing to each other's observations on the merits.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. General information

5. The applicants raised various issues related to the terrorist attack, siege and storming of school no. 1 in Beslan, North Ossetia, Russia, on 1 to 3 September 2004. Some applicants were held hostage and/or injured, while others had family members among those taken hostage, killed or injured. Information in respect of each applicant is summarised in the Appendix.

6. While most events are relevant for all applicants, their position in the domestic proceedings somewhat differed. However, given the number of applicants, the extent of the domestic procedures and difficulties associated with establishing each applicant's procedural role, the present judgment refers to them collectively as "the applicants". This is based on the assumption that their position in the domestic proceedings was relatively similar, whether or not each of them participated in a given procedural step, either directly or through their representatives (see *Abuyeva and Others v. Russia*, no. 27065/05, § 181, 2 December 2010).

7. The anti-terrorist operation mounted on 1-4 September 2004 involved a number of State agencies. The documents in the case file refer to the police, Internal Troops of the Ministry of the Interior, army servicemen of the Ministry of the Defence and officers of the Federal Security Service (*Федеральная Служба Безопасности (ФСБ)* – hereinafter "the FSB"). Unless otherwise specified, the terms "security personnel" or "security forces" used in the present judgment would apply to any of those State agents. Equally, the terms "anti-terrorist" or "security operation" are used to describe the operation of 1-4 September 2004.

8. The voluminous material in the case files lodged by the applicants and submitted by the Government include documents from four criminal investigations, three criminal trials, two sets of civil proceedings for compensation, two reports by parliamentary groups and one dissenting opinion thereon, books and articles written in the aftermath, copies of forensic and expert reports in respect of each applicant and/or their relatives, the applicants' own statements to the Court and independent expert reports. The statement of facts below is a succinct summary of the documents mentioned above and other publicly available information.

B. The events of 1 to 4 September 2004

1. Situation prior to the hostage-taking on 1 September 2004

(a) Terrorist attacks in 2004

9. The year 2004 saw a surge of terrorist acts in Russia involving numerous civilian victims. Mr Shamil Basayev, the underground leader of the Chechen separatist movement, either claimed responsibility or was held responsible for these acts.

10. On 6 February 2004 a suicide bomber killed over forty people and wounded over 250 on an underground train in Moscow.

11. In February and March 2004 several explosions in the Moscow Region damaged gas pipelines, a heating station and electricity pylons.

12. On 9 May the President of Chechnya, Mr Akhmat Kadyrov, and several senior officials were killed by a bomb in a stadium in Grozny.

13. On 21 and 22 June a large group of armed rebel fighters attacked Nazran, Ingushetia's largest town. They primarily targeted police stations and other security offices; over ninety people were killed and an ammunition warehouse was looted.

14. On 24 August two civilian aeroplanes which had departed from Moscow Domodedovo Airport simultaneously exploded in mid-air; ninety people lost their lives.

15. On 31 August a suicide bomber blew himself up at the entrance to an underground station in Moscow, killing ten and wounding about fifty others.

(b) Evaluation of the terrorist threat in North Ossetia

16. On 18 August 2004 the North Ossetian Ministry of the Interior issued the following telex (no. 1751) to all local departments of the interior:

> "[The North Ossetian Ministry of the Interior] has received information indicating the movement of participants of [illegal armed groups] from the plains of [Ingushetia] and [Chechnya] to the mountainous and forested area along the border of [Ingushetia] and [North Ossetia]. A meeting of the fighters is presumably planned for mid-August of this year, following which they are intending to commit a terrorist act in [North Ossetia] similar to that in Budennovsk. According to the available information, the fighters plan to capture a civilian object with hostages in the territory of [North Ossetia], and then submit demands to the country's leadership for the withdrawal of troops from [Chechnya]. A large sum of money in [a foreign] currency has apparently been transferred from Turkey. [This information is being] transmitted in order for preventive measures to be taken."

17. On 27 August 2004 the North Ossetian Ministry of the Interior issued Decree no. 500 "About the protection of public order and security during the Day of Knowledge in the educational facilities of North Ossetia", which was sent to all district police stations. The plan provided for heightened security awareness and an increase in the number of mobile posts and police officers near public gatherings, and contained a series of

measures aimed at the prevention of terrorist acts and hostage-taking during public gatherings on the Day of Knowledge in the settlements situated along the administrative border with Ingushetia. The plan further stipulated that each head of the district departments of the Interior should inform the administrations of educational facilities accordingly, put in place working plans for every such gathering and personally inform police staff of their functions, carry out hourly updates of the situation at public gatherings, give immediate feedback to the North Ossetian Ministry of the Interior and provide contingency staff in each police department.

18. On 25, 27 and 28 August 2004 the North Ossetian Ministry of the Interior issued three other telexes to the local departments concerning security measures to be taken during the Day of Knowledge, heightened terrorist threats in the region and the prevention of possible attacks. The personnel of the Ministry of the Interior were put on high alert (*усиленный режим несения службы*).

(c) Preparations for the hostage-taking in Beslan

19. As revealed by subsequent investigations, towards the end of August 2004 a sizeable group of terrorists (no fewer than thirty people) were camping and training between the villages of Psedakh and Sagopshi in the Malgobek District of Ingushetia. In the early hours of 1 September 2004 the group crossed the administrative border between Ingushetia and North Ossetia, driving a GAZ-66 utility truck.

20. At 7.30 a.m. on 1 September 2004 Major S.G. from the North Ossetian Ministry of the Interior stopped the vehicle for an inspection at the administrative border with Khurikau. The terrorists disarmed him, placed him in the back seat of his own white VAZ-2107 and drove to Beslan. Major S.G. escaped and later testified about these events.

2. Hostage-taking

21. At 9 a.m. on 1 September 2004 school no. 1 in Beslan, North Ossetia, held a traditional Day of Knowledge ceremony to mark the opening of the academic year. Over 1,200 people gathered in the courtyard of the E-shaped two-storey building located on Kominterna Street in the centre of the town, whose population was approximately 35,000. The school was situated next door to the district police station of Pravoberezhny (*Правобережный районный отдел внутренних дел (РОВД)* – hereinafter "the Pravoberezhny ROVD"). The gathering included 859 schoolchildren, sixty teachers and staff of the school and members of their families. Dozens of children below the age of six were in the crowd with their parents, since several kindergartens in Beslan were closed on that day for various reasons. One unarmed police officer, Ms Fatima D., was at the ceremony.

22. According to some sources, on the morning of 1 September 2004 the Beslan traffic police were called to secure the passage of Mr Dzasokhov, the North Ossetian President, through the town. The applicants referred to the

testimony of the traffic policemen and servicemen of the Pravoberezhny ROVD, saying that they had been instructed to take various positions along the route of Mr Dzasokhov's convoy, and thus leave the school unprotected.

23. During the first few minutes of the ceremony, at about 9.05 a.m., a group of at least thirty-two people (the number of terrorists is disputed – see below) armed with various weapons, including machine guns, explosives and handguns, surrounded the people in the school courtyard and, shooting in the air, ordered them to enter the school through the main door and through smashed windows on the ground floor. A GAZ-66 vehicle entered the yard through the main gates and a group of terrorists jumped out. According to some witnesses, some other terrorists came from behind the school and another group was already in the building.

24. The terrorists in the main courtyard fired into the air and there was an exchange of fire with local residents and the police. At least two local residents were killed (Mr R. Gappoyev and Mr F. Frayev) and some were wounded during the shooting. It also appears that two terrorists were wounded. About one hundred people, mostly adults and senior students, managed to escape. Another fifteen people hid in the boiler building, from where they were rescued later in the day.

25. Despite the initial chaos, the terrorists managed to round up the majority of those in the courtyard – 1,128 people (the exact figure is disputed by some sources), including about 800 children aged between several months and eighteen years. Several groups of hostages initially tried to hide inside the school or escape through fire exits, but the terrorists were in firm control of the building and escorted everyone to the gymnasium.

26. The hostages were assembled in a gymnasium located on the ground floor in the central part of the building and measuring about 250 square metres. The terrorists informed them that it was a terrorist act and that they had to obey their orders. The hostages' personal belongings, mobile telephones and cameras were confiscated, and they were ordered to sit on the floor.

27. The attackers then proceeded to arrange a system of improvised explosive devices (IEDs) around the gymnasium, using basketball hoops and gymnasium ladders for support. Male hostages were forced to assist them in this task, which was completed within about two hours. A single chain connected several smaller IEDs hanging above the hostages' heads, two large IEDs attached to basketball hoops on the opposite walls of the gymnasium and several heavier ones placed on the floor. Some IEDs were filled with parts such as metal pellets, screws and bolts. They were connected by wire to pedal detonators ("dead man's switches"), which two of the terrorists took turns to hold. Two women wearing ample black clothes with explosive belts underneath – suicide bombers – remained in the gymnasium among the hostages.

28. The attackers smashed the windows of the gymnasium, to allow air and probably avoid the use of gas as a means of attack. Several rooms around the school building were turned into firing points, with windows

smashed and stocks of food, water and ammunition set out. During the course of the day the terrorists kept shooting out of the school windows in the direction of the security personnel and civilians gathered outside.

29. At 9.25 a.m. the Ministry of the Interior in Vladikavkaz received information about the seizure of the school. It was immediately transmitted to Mr Dzasokhov and the FSB.

3. Events of 1 to 2 September 2004

(a) The hostages' situation

30. The hostages were forced to sit in very cramped conditions on the floor of the gymnasium. During the first few hours of captivity some families remained separated, but they were allowed to reunite later during the day.

31. The hostages were ordered to keep quiet and not to speak in languages other than Russian. Mr Ruslan Betrozov, whose two sons were in the gymnasium, repeated the captors' orders in Ossetian. One of the terrorists walked up to him and executed him in full view of everyone in the gymnasium by shooting him from close range; his body was not removed until several hours later. Mr Betrozov's sons Alan (born in 1988) and Aslan (born in 1990) witnessed the execution; both boys died on 3 September 2004 during the storming. Another father of three, Mr Vadim Bolloyev, was shot in the shoulder during the first few hours of the crisis for apparently refusing to obey the terrorists' orders. By the end of 1 September he had died in the gymnasium. His younger son Sarmat (born in 1998) survived the attack, but his two daughters Zarina (born in 1993) and Madina (born in 1995) died during the storming.

32. During the course of the day on 1 September 2004 the attackers allowed groups of children, under their escort and accompanied by adults, to access the toilets outside the sports hall to drink tap water. They also ordered senior students to bring water into the hall in buckets and distribute it among the hostages in small quantities. The terrorists also took a large television into the gymnasium and on several occasions turned on the radio so that some of the hostages could hear about the events on the news.

33. On 1 September the terrorists allowed the elderly and sick hostages and some mothers with nursing babies to stay in a smaller adjacent weights room, where they could stretch out on the floor. They were later taken into the sports hall.

34. From 2 September the terrorists refused to allow the hostages water and ordered them to use buckets to relieve themselves and to drink their own urine. They announced to the hostages that the tap water had been poisoned and that they would be undergoing a "dry hunger strike" in support of their captors' demands. Some chewed the leaves of interior plants in order to relieve their thirst. Survivors later complained of exasperating thirst and heat on 2 and especially 3 September 2004.

(b) Execution of male hostages

35. From the outset the terrorists separated most men and forced them to perform various tasks in order to fortify the building, or put in place IEDs. They were told that their disobedience would lead to the execution of women and children in the hall.

36. On the morning of 1 September two men were ordered to lift up floorboards from the library floor. Floorboards were also lifted from the corners of the gymnasium. Others were ordered to move furniture and blackboards to the windows of various classrooms and corridors.

37. On the afternoon of 1 September several men were lined up in the corridor of the ground floor. An explosion occurred there at 4.05 p.m., as a result of which several male hostages were killed or injured. One (or two) women suicide bombers and one terrorist of Arab descent were killed by this blast. Several explanations for that explosion were put forward; the criminal investigation accepted that the terrorist in charge of the operation, "*Polkovnik*" (Colonel), had executed the male hostages whom the terrorists had no longer needed and at the same time had activated the suicide bomber's explosive belt because the latter had objected to the treatment of the children. Some of the surviving hostages testified that there had been an attack from the outside, as a result of which the explosive belt had detonated killing the woman bomber, the Arab terrorist and several hostages.

38. Men who survived the explosion in the corridor were finished off with automatic rifles. Karen Mdinaradze survived the explosion and the ensuing execution. When the terrorists discovered that he was still alive, he was allowed to return to the gymnasium, where he fainted. He later testified about these events. At about 4.30 p.m. on 1 September the terrorists forced two men to throw bodies out of a window on the first floor. One of them, Aslan Kudzayev, jumped out the window and was wounded but survived. His wife, one of the applicants, was released on 2 September with their infant daughter; their other daughter remained in the gymnasium and received injuries during the storming.

39. According to the investigation, sixteen men were killed by the terrorists on 1 September. Another sixteen people were wounded on 1 September as a result of shots fired by the terrorists.

40. At about 3 p.m. on 2 September the terrorists fired several rounds from automatic weapons from the windows of the school, although it appears that no one was hurt and there was no return fire.

(c) Negotiation attempts

41. At around 11 a.m. on 1 September the terrorists passed a note to the authorities via one of the hostages. Mrs Larisa Mamitova, an ambulance doctor, walked to the school gates, handed the note to a man who approached her and walked back; in the meantime her young son was being held at gunpoint inside the building. The note contained a mobile telephone number and the names of the people with whom the terrorists wanted to

negotiate: the North Ossetian President Mr Dzasokhov, the Ingushetian President Mr Zyazikov and a paediatrician, Dr Roshal. The note also stated that the school building had been mined and would be blown up in the event of an attempt to storm it, and that the terrorists would shoot fifty hostages for any one of them killed. However, it appears that the mobile telephone number had either been wrongly noted or was switched off, as no telephone contact could be established at that time.

42. At 1 p.m. on 1 September the Russian State television programme "*Vesti*" announced that the attackers had transmitted a videotape to the authorities, containing their demands and images filmed inside the school. One hour later it was announced that the videotape was empty. Later, the very existence of this videotape remained disputed.

43. Around 4 p.m. on 1 September Mrs Mamitova took out a second note, containing a corrected mobile telephone number and the name of another possible negotiator, Mr Aslakhanov, an aide to the Russian President. She also told the person who collected the note that there were over 1,000 hostages inside the building.

44. The authorities contacted the terrorists through a professional negotiator, the FSB officer Mr Z. His attempts to discuss proposals aimed at alleviating the hostages' conditions and the possibility of exiting or surrendering or removing bodies from the school courtyard remained futile.

45. Dr Roshal arrived in Beslan on the afternoon of 1 September 2004. When he called the hostage takers, on 1 and 2 September, they were hostile and told him that they would only enter into negotiations if all four people requested by them came to the school. They told him that if he attempted to enter alone, he would be killed. They also refused to accept food, water or medicine, and forbade him from entering the building to examine the sick and wounded.

46. On 2 September the former President of Ingushetia, Mr Ruslan Aushev, arrived in Beslan on the invitation of the operative headquarters ("the OH"). It appears that at about 3 p.m. he, for the first time, telephoned Mr Akhmed Zakayev, the head of the self-proclaimed Chechen separatist government who was living in London. He told Mr Zakayev about the siege and said that the number of hostages exceeded 1,000.

47. Following telephone contact with the terrorists, at 3.30 p.m. on 2 September Mr Aushev was allowed to enter the school. He was the only person whom the terrorists agreed to let inside during the siege. Mr Aushev was led to the gymnasium and had a meeting with the leader of the terrorists, Mr Khuchbarov ("*Polkovnik*").

48. Following negotiations, Mr Aushev was permitted to leave with twenty-six (other sources indicate twenty-four) people – nursing mothers and their babies. All the women had older children in the school and were forced to leave them behind.

49. Mr Aushev took out a message from Mr Shamil Basayev addressed to the Russian President, Mr Vladimir Putin. It demanded that troops be pulled out of Chechnya and official recognition of Chechnya as an

independent State. In return, it promised that terrorist activities in Russia would end "for the next ten or fifteen years". It made no mention of the school siege. It appears that the terrorists also gave Mr Aushev a videotape depicting part of his visit, the gymnasium with the hostages, explosive devices and one terrorist holding his foot on a "dead man's switch". It also contained a statement by Mr Khuchbarov that the negotiations should involve Mr Aslan Maskhadov, the President of the self-proclaimed independent Chechen State, who had been in hiding at the time.

50. On 2 September and on the morning of 3 September the attackers tried to contact the North Ossetian authorities of North Ossetia with the assistance of the school director, Mrs Tsaliyeva. Two hostages – children of the North Ossetian Parliament, Mr Mamsurov – were allowed to call their father on his mobile telephone and tell him that they were suffering without water and food. It appears that family members of other possible contacts among officials and public figures (district prosecutor, a well-known sportsman) were singled out by the terrorists but no contact was established.

51. In parallel to the negotiations carried out through Mr Z., on 2 September direct contact with the terrorists was established through Mr Gutseriyev, an influential businessman of Ingush origin. He supplied Mr Aushev with the requisite telephone numbers, participated in conversations with Mr Akhmed Zakayev and eventually tried to liaise with Mr Maskhadov.

52. As can be seen from various information sources, at around 5 p.m. on 2 September Mr Aushev, Mr Dzasokhov and Mr Zakayev had a telephone conversation during which Mr Zakayev promised to involve Mr Maskhadov in the negotiations (see paragraphs 129, 321, 331, 339 below). Some sources indicate that these talks apparently resulted in Mr Maskhadov agreeing to go to Beslan.

(d) Coordination of the authorities' actions and the involvement of army and other security detachments

53. At about 10.30 a.m. on 1 September 2004 the crisis OH started to function on the premises of the Beslan town administration. The exact composition, leadership and powers of this structure remain disputed. According to most sources, it was initially headed by Mr Dzasokhov, the North Ossetian President, and as of 2 September by General V. Andreyev, the head of the North Ossetian FSB. It was later established that the OH included the deputy head of the counter-terrorism commission of North Ossetia Mr Tsyban, the Minister of the North Ossetian Ministry of Emergency Situations (Emercom) Mr Dzgoyev, the North Ossetian Minister of Education Mrs Levitskaya, deputy head of the information programmes department of the State television company, *Rossiya*, Mr Vasilyev and the commander-in-chief of the 58th Army of the Ministry of Defence General Sobolev (see paragraphs 130, 158, 183, 312-333 below).

54. The detachments of the 58th Army started to arrive in Beslan during the afternoon of 1 September. On 2 September 2004 eight armoured

personnel vehicles (APCs) and several tanks of the 58th Army arrived. They were placed under the command of the FSB special purpose units and positioned around the school out of the terrorists' sight.

55. In the early morning of 3 September the FSB special purpose units went to Vladikavkaz for joint training with the Ministry of the Interior and the Ministry of Defence to prepare for a possible storming.

(e) Situation with the hostages' relatives outside the school

56. Thousands of people in Beslan were directly affected by the crisis.

57. Despite the attempts of the authorities to clear the area, local residents and ethnic Ossetians from outside Beslan, some of whom were armed, remained around the school building throughout the siege.

58. On the afternoon of 1 September the hostages' relatives were invited to the town's Cultural Centre. Until the end of the siege the Cultural Centre remained a hub for communicating with relatives and providing medical and psychological assistance to them.

59. At 7 p.m. on 1 September the North Ossetian President Mr Dzasokhov, the deputy speaker of the North Ossetian Parliament Mr Kesayev and the North Ossetian Deputy Minister of the Interior Mr Sikoyev met with relatives in the Cultural Centre. During the meeting Mr Sikoyev informed them that the terrorists had not put forward any demands and had refused to accept food, water or medicine for the hostages.

60. At about 9.30 p.m. on 1 September Dr Roshal participated in the meeting at the Cultural Centre. He assured those present that the conditions in the school were "acceptable" and that the hostages could survive for several days without food or water. He also stated that the terrorists had not put forward any demands to the authorities.

61. On 2 September a psychological aid unit was set up at the Cultural Centre.

62. Late in the evening of 2 September Mr Dzasokhov held another meeting with the relatives at the Cultural Centre.

63. At 11.15 a.m. on 3 September he announced to the relatives that there would be no storming and that "new personalities" had appeared in the negotiation process.

64. Some of the applicants were among the relatives who had gathered outside the school building or stayed at the Cultural Centre, and submitted written statements describing the events.

(f) Information about the crisis

65. From the outset the information about the hostage-taking was strictly controlled by the authorities. Mr Vasilyev, a member of the OH and a senior employee of *Rossiya*, was put in charge of contacting the journalists.

66. On the afternoon of 1 September the media announced, referring to official sources, that about 250 people had been taken hostage. Later that day the media reported a "corrected" number of hostages: 354 people.

According to some hostages, this news outraged the terrorists and prompted them to execute or throw the bodies of the executed men out of the window. It also transpires from the hostages' statements that after the announcements the terrorists refused to allow them to drink or go to the toilet, saying that "there should be no more than 350 of you left anyway" (see paragraph 285 below).

67. On the evening of 2 September Dr Roshal held a press conference. He announced that he had talked on the telephone to a terrorist nicknamed "*Gorets*" (highlander), who had put forward no demands.

68. At 1 p.m. on 3 September State television showed some of the terrorists' relatives of Ingush origin asking them to release the hostages. One woman, the wife of a presumed hostage taker, said that she and her children were being held somewhere "against their will" and asked her husband to do everything "to avoid harming the children".

4. Storming and rescue operation

(a) Morning of 3 September 2004

69. The hostages in the gymnasium were extremely exhausted and suffered from thirst and hunger. They had gone two days without sleep in cramped conditions and the physical state of many had worsened: people started to lose consciousness and some children were hallucinating, having seizures and vomiting.

70. In the early morning the terrorists lifted the IEDs in the gymnasium from the floor, hanging them along the walls.

71. At 11.10 a.m. the terrorists agreed to a request by Mr Aushev and Mr Gutseriyev to allow Emercom to collect the bodies from the school courtyard.

72. At about noon Mr Dzasokhov informed the OH that he had reached some sort of agreement with Mr Zakayev (see paragraph 331 below). According to some sources, that agreement could have extended to the possibility of Mr Maskhadov arriving in Beslan.

73. At 12.55 p.m. an Emercom truck and four officers entered the school courtyard. The men had Mr Gutseriyev's mobile telephone to communicate with the terrorists. One of the terrorists came out and supervised their work. The explosions inside the gymnasium at 1.03 p.m. came unexpectedly to the group. The ensuing exchange of gunfire resulted in two officers being killed.

(b) The first three explosions in the gymnasium

74. At 1.03 p.m. a powerful explosion occurred in the upper east part of the gymnasium. Part of the roof was destroyed, the insulation caught fire and fragments of the burning ceiling and roof fell into the gymnasium, killing and injuring those seated underneath. Many of the surviving hostages described the first explosion as a "fireball" or "column of fire", followed by

silvery white powder falling from the ceiling. It appears that the explosion caused a fire in the roof space of the gymnasium (see paragraph 288 below). Twenty seconds later another explosion ripped through the lower part of the wall under the first window on the north-east side. The nature and origins of these explosions are disputed (see documents referred to below).

75. The two explosions killed both terrorists who had been holding the detonators, though most of the IEDs remained intact (see paragraph 307 below). Dozens of people were killed, others were wounded or received burns of varying degrees, and almost everyone was shell-shocked. Many applicants submitted witness statements about these events.

76. Those who could move and were able to reach the opening in the wall on the north side started to climb through it and run outside. The terrorists fired at them from the upper floor, prompting an exchange of gunfire between the terrorists and the security forces.

77. At this point General Andreyev issued an order to storm the building and proceed with the rescue operation and neutralisation of the terrorists.

78. Several terrorists were killed or wounded during the first two explosions but the majority of them survived, including "*Polkovnik*". They rounded up the survivors in the gymnasium (about 300 people) and forced them to walk to other parts of the main building, mostly in the south wing: the canteen, the kitchen, a meeting room and craft classrooms. Some hostages remained in the rooms adjacent to the gymnasium, namely the weights room and changing rooms.

79. The dead, injured and shell-shocked remained in the gymnasium, where fire continued to spread in the roof space.

80. At about 1.30 p.m. a third powerful explosion occurred in the south part of the gymnasium, which appears to have been caused by one of the large IEDs catching fire. Soon afterwards flames spread around the gymnasium, taking to the floor and walls. Some hostages continued to escape through the openings in the walls.

81. Between 1.30 and 2.50 p.m. servicemen of the security services and local residents broke the west wall of the gymnasium and entered the hall. They helped to evacuate survivors. Their movements were covered by an APC which went close to the school. No terrorists were found there, but the gymnasium was under fire, probably from terrorist snipers on the first floor.

82. At about 1.40 p.m. part of the burning roof collapsed.

83. Hundreds of wounded hostages and servicemen were taken to the Beslan Hospital in private cars and ambulances. A field hospital had been set up by Emercom in the hospital courtyard in order to sort out the wounded and cope with the influx of casualties. Many of the injured were taken to hospitals in Vladikavkaz. The hostages' relatives were not allowed to enter the hospital. Over 750 civilians and over fifty servicemen received medical help on 3 September 2004 (see paragraphs 242 below et seq.).

(c) Hostages in the south wing

84. Over 300 hostages who had survived the explosions and fire in the gymnasium were taken by the terrorists to the canteen and kitchen situated on the ground floor in the south wing. Other hostages were taken to the main meeting room situated above the canteen on the first floor. There they found stocks of water and food and could relieve their thirst for the first time in two and a half days.

85. The women and children in the canteen and meeting room were forced by the terrorists at gunpoint to stand in the windows as human shields and wave their clothes; some were killed or wounded by gunfire and explosions.

(d) Ensuing fighting

86. As shown by many of the witness statements, but not corroborated by the results of the criminal investigation, after 2 p.m. a tank with hull number 320 entered the schoolyard and fired several rounds at the canteen. It appears that another tank with hull number 325 or 328 also fired at the school from a distance of about 20 to 30 metres. Some of the rounds were fired with solid shots, while others were probably done with ammunition (see paragraphs 293, 294, 298, 303, 411 below).

87. Two APCs entered the schoolyard and took part in the fighting with their large-calibre machine guns.

88. The army and the FSB assault troops were positioned on the roofs of 37, 39 and 41 Shkolny Lane, five-storey apartment blocks located on the east side of the school. These servicemen fired at the school with portable grenade launchers and flame-throwers, although the exact timing of the attacks is disputed (see paragraphs 142, 293, 300, 408, 410 below). Two MI-24 helicopters circled above the school. According to some sources, although not corroborated by the official investigation, at least one rocket was launched from a helicopter on the school roof (see paragraph 410 below).

89. At 3.10 p.m. the OH ordered fire brigades with water cannons to intervene, by which time the gymnasium was ablaze and other parts of the building were on fire (see paragraphs 150, 199, 304 below). At the same time the head of the OH ordered the servicemen of the FSB special forces units *Alfa* and *Vympel* to enter the building.

90. At about 3.30 p.m. the entire roof of the gymnasium collapsed. After 4.30 p.m. the fire was contained; the servicemen of the special forces and firefighters entered the gymnasium, but found no survivors.

91. It appears that the servicemen of the special forces entered the canteen at about 4 p.m. through the openings in the walls and through the windows whose metal bars had fallen off as a result of the explosions or having been pulled out with an APC. Amid fierce fighting they evacuated the surviving hostages.

92. Numerous bodies of terrorists and hostages were found in the canteen, meeting room and rooms and corridors of the south wing.

93. At about 5 p.m. a strict security perimeter was established around the school. All civilians, Emercom staff, firefighters and servicemen of the army were ordered to leave, leaving only the FSB special forces inside. At about 5.25 p.m. the servicemen of the FSB special units held a minute's silence in the corridor of the south wing in order to honour the memory of their comrades: ten members of the elite *Vympel* and *Alfa* units, including three group commanders, had lost their lives and about thirty were wounded – the biggest losses ever sustained by the units in a single operation.

94. After 6 p.m. several shots were fired at the south wing of the building from anti-tank missiles and flame-throwers.

95. At about 9 p.m. two tanks fired at the school. Several powerful explosions followed, which completely destroyed the walls and roof of the craft classrooms in the south wing.

96. The gunfire and explosions at the school continued until past midnight.

97. One terrorist, Nurpashi Kulayev, was captured alive. The rest, it appears, were killed during the storming. Consistent rumours circulated that some terrorists had escaped or had been captured secretly.

5. Events of 4 September 2004, identification of bodies and burials

98. On the night of 4 September President Putin arrived in Beslan and stayed for several hours. He visited the town hospital and administration.

99. The school building had remained surrounded by soldiers throughout the day.

100. At 7 a.m. Emercom staff started to collect the bodies and clear the debris. Between 112 and 116 charred bodies were found in the gymnasium, and about eighty bodies in the adjacent changing rooms and weights room. It appears that between 106 and 110 bodies were found in the south wing of the school and on other premises, although no exact information was recorded in this respect (see paragraphs 119-122 below). The bodies of eighteen men were collected from the courtyard. About 330 bodies (including those of over 180 children) were placed in the schoolyard and taken to the Vladikavkaz morgue.

101. Later during the day on 4 September bulldozers and trucks arrived at the school. The remaining debris was loaded onto trucks and taken to the town rubbish dump. The victims alleged that they and other locals had later found a number of important items of evidence among this rubbish, including the terrorists' personal belongings such as backpacks and razor blades, human remains, hostages' clothes and parts of IEDs.

102. At 6 p.m. on 4 September the security cordons in Beslan were lifted. After 8 p.m. the units of the 58th Army withdrew from the town.

103. On 5 September 2004 the first funerals took place. Over the days that followed collective burials of over 100 people took place. The local

cemetery was too small and had to be extended. A special memorial was later erected there (see paragraph 422 below).

104. Many of the bodies were charred beyond recognition. On 17 September seventy-three bodies were taken to a forensic laboratory in Rostov-on-Don for identification through DNA testing. The identification and burials continued throughout December 2004 (see paragraphs 340, 341 below).

105. After declaring 5 and 6 September 2004 days of national mourning, on 6 September 2004 President Putin delivered a televised address to the nation, announcing future measures to improve agency cooperation in counter-terrorism measures. He called the attack a "direct intervention of international terrorism against Russia".

6. Assuming responsibility for the terrorist act

106. On 5 September 2004 the website Chechenpress.org published a message signed by "the President of Ichkeria" Mr Aslan Maskhadov, condemning the hostage-taking and terrorist attacks against civilians, but blaming the Russian authorities for the radicalisation of Chechens.

107. On 17 September 2004 the website Kavkazcenter.com circulated an email, allegedly from Mr Shamil Basayev, a leader of the radical wing of the Chechen separatist movement who used the titles "*Amir of Riyad-us Saliheen* Brigade of Martyrs" and "the chief of the high military *madjlisul shura o*f the united Caucasus *mujahidin*". Mr Basayev, who at the time lived secretly in the Russian North Caucasus, claimed that his "battalion of martyrs" had carried out the attack in Beslan, as well as the explosions in Moscow and the aeroplane crashes in August 2004.

108. The email alleged that the special forces had started the storming and that the IEDs set up by the attackers in the gymnasium had not exploded. Mr Basayev also claimed that the following demands had been put to the authorities: that military action in Chechnya be stopped, that troops be pulled out and that President Putin step down from his post. The note stated that all the hostages, including children, had declared a "dry hunger strike" until these demands were granted. The letter contained details of the number and types of IEDs used, indicated the ethnic origin of thirty-three "*mujahedin*" who had taken part in "Operation Nord-West" (as they had named the attack at the school) and alleged that the group had gathered and trained for the last ten days under Mr Basayev's personal leadership near the village of Batako-Yurt [near Psedakh in Ingushetia]. The letter also mentioned the message to President Putin, which had been transmitted through Mr Aushev, and contained its full text. Mr Basayev alleged that the only surviving terrorist, Mr Nurpashi Kulayev, had been taken into the group the night preceding the operation. The document further stated that the leader of the operation, "*Polkovnik*", had called him after the storming had started to say that they had counterattacked, and that the last call from him had been received at 2 a.m. [on 4 September]. Lastly,

the letter cited the alleged costs of the terrorist attacks of August and September 2004: 8,000 euros (EUR) for "Operation Nord-West", 7,000 US dollars (USD) for the explosions in Moscow and USD 4,000 for the aeroplanes.

109. In August 2005 the same website published another message signed by Mr Shamil Basayev containing passages suggesting that a member of the group which had seized the school, Mr Vladimir Khodov, had been a double agent of the FSB and Mr Basayev and had ensured the group's "coverage" during the preparation for the attack and their unhindered passage to North Ossetia.

110. On 10 July 2006 Mr Basayev was killed by an explosion in Ingushetia. It was announced that his death had been a result of a special operation by the Russian security services. It was also reported that the blast had resulted from the mishandling of explosives.

C. Criminal investigations

1. Criminal investigation no. 20/849

111. On 1 September 2004 the North Ossetian Prosecutor opened criminal investigation no. 20/849 concerning a terrorist attack at the school by an armed group and the murder of twelve male hostages.

112. On 2 September 2004 Mr Fridinskiy, Deputy Prosecutor General, ordered the transfer of the investigation concerning the hostage-taking of over 600 people to the Prosecutor General's Office in the North Caucasus. On the same day Mr Fridinskiy appointed a group of over sixty investigators from the prosecutors' offices of the Southern Federal Circuit to take over the investigation, under the command of a special investigator of the Prosecutor General's Office in the North Caucasus.

113. The investigation was extended on several occasions and is still pending (adjourned).

114. Many important investigative steps aimed at establishing the exact circumstances of the preparations for and carrying out of the terrorist act, as well as the explosions in the gymnasium and the ensuing storming, were taken in the course of these proceedings. The applicants claimed that in the course of the proceedings they had not been allowed full access to the documents of the file and challenged this aspect of the proceedings. At the Court's request, the Government submitted the list of documents in the criminal case. According to this list, by 2012 the case file contained 235 volumes, each ranging on average between 200 and 350 pages. The available information may be summarised as follows.

(a) Reconstruction of the events preceding the hostage-taking and identification of the organisers of the crime

115. The investigation found out that the group which had committed the terrorist act had been organised by Mr Aslan Maskhadov, Mr Shamil

Basayev, "a mercenary of Arab descent" called Taufik-al-Jedani (Abu-Dzeyt), and their entourage. The aim of the group had been "to disturb the public peace and scare the population to put pressure on the State authorities in order to achieve the withdrawal of troops from Chechnya". In July and August 2004 the men had put together a plan to take hostage a large number of pupils and parents of school no. 1 in Beslan and murder civilians, police officers and military servicemen.

116. In the second half of August 2004 the men had put together an organised criminal group (gang) comprising over thirty people. Its members had included residents of Chechnya, Ingushetia, other regions of Russia and foreign mercenaries. The organisers of the terrorist act had entrusted the command of the operation to an active member of the gang, Mr Khuchbarov from Ingushetia, who had used the nickname "*Rasul*" and the radio call-name "*Polkovnik*" (colonel). Twenty-four terrorists were identified by name, while at least six remained unidentified.

117. On 31 August 2004 the gang had gathered in the vicinity of Psedakh in the Malgobek District of Ingushetia. They had had the following arms and ammunition (partly originating from the attacks in Ingushetia on 21 and 22 June 2004): no fewer than twenty Kalashnikov assault rifles, four Kalashnikov machine guns (RPK-74 and PKM), one tank machine gun (PKT), two portable anti-tank missile launchers (RPG-7V), four hand pistols and corresponding ammunition, including cartridges of different calibres and grenades of various modifications. In addition, the group had had two identical IEDs comprised of plastic explosives and hexogen and filled with metal pellets and electro detonators (with an impact radius of no less than 200 metres), six IEDs made of OZM-72 anti-personnel circular fragmentation mines and so-called "suicide bomber belts" – IEDs containing plastic explosives and projectiles made of cut metal wires and metal sheets. The gang had also used mobile telephones and portable radio transmitters. The members had been supplied with camouflage clothes, balaclavas and gas masks. They used a GAZ-66 truck.

118. On 31 August 2004 Mr Khuchbarov had informed the members of the gang about the forthcoming attack and distributed roles amongst them. In the early morning of 1 September 2004 they had travelled towards Beslan. As they had passed through the village of Khurikau they had captured a local policeman, S.G., seizing his handgun and vehicle.

(b) Examination of the crime scene

119. Between 7 a.m. and 6.25 p.m. on 4 September 2004 a group of investigators and experts, in the presence of twelve attesting witnesses, compiled a report of the school building and courtyard. The examination of the site was conducted while the clearing of the debris and rescue operation were taking place. It ran to forty-three pages and was accompanied by video and photographic material (over 150 pages).

120. The report mostly concentrated on descriptions of the items found in the school, including personal belongings and documents of the hostages, the terrorists' equipment and ammunition, damage to the structure of the building and the terrorists' bodies. Very little information was given about the location and state of the hostages' bodies. Most notably, page 24 of the report contained the following passage: "[in the gymnasium] from the floor up to 40 to 50 centimetres high there are hundreds of burnt bodies of women, children and men, occupying about half of the gymnasium floor space". Only three individual descriptions of hostages' bodies were made. On page 13, the body of a twelve to fourteen year old boy was found next to the corpse of a terrorist in a classroom located on the ground floor and on page 25, the bodies of an elderly man and woman were found in a storage room adjacent to the gymnasium. The report noted that the bodies had been carried out by Emercom staff into the courtyard. Among relevant items noted as "found among the rubble in the gymnasium" and taken by the sappers and Emercom staff into the courtyard were parts of explosive charges from grenade launchers, launching tubes of grenade launchers, a security cap from an RPO-A *Shmel* flame-thrower, parts of hand grenades, anti-personnel mines, automatic firearms, pistols, cartridges and ammunition and parts of IEDs. Other similar items were listed simply as "collected at the site", without specifying in which part of the school they had been found.

121. The description of the canteen on page 15 failed to mention the state of its two windows facing the railway line or to give any details about the nature and extent of damage to its walls other than "signs of damage from firearms ... [resulting in] whitewash falling off". Page 21 described the damage to the main meeting hall, including a partially destroyed external brick wall and two openings measuring 15 by 20 centimetres in the wall facing the railway line. The adjacent corridor bore signs of numerous impact traces and was scattered with parts of a destroyed wall and furniture.

122. The description of the south wing on page 23 was limited to the following: "the wing is almost destroyed and the Emercom servicemen are clearing the debris, as a result of which no examination of this wing is being carried out".

123. Subsequent expert reports cited additional examinations of the site. Several reports cited examinations which had taken place on 2 February 2005, 14 September 2005 and 21 February 2007. The reports of these examinations contained much more detailed descriptions of the structure, findings and traces of impact. They were accompanied by a collection of samples, such as scrapes and swabs, in order for chemical examinations to be carried out. The documents indicated that most of the samples had been unable to yield any relevant results.

(c) Expert report no. 1

124. Following requests by the investigation in October and November 2004, on 23 December 2005 "comprehensive forensic expert examination no. 1" (*комплексная судебная экспертиза* – hereinafter "expert report no. 1") was produced. The request was to evaluate the conduct of the OH and various military and security agencies on 1 to 3 September 2004. The experts visited the sites in Beslan and examined numerous items of evidence, including the testimony of servicemen and other witnesses, photographs, graphs and tapes of telephone and radio conversations. The report ran to over seventy pages. It concluded that the actions of the officials had been lawful and reasonable in the circumstances. In particular, it found that the members of the OH and servicemen of the Ministry of the Interior, the Internal Troops, the FSB and Emercom "had not committed any offences which could bear a causal relationship with the negative consequences resulting from the terrorist act of 1 to 3 September 2004".

125. This document was extensively cited and relied upon in the subsequent proceedings, although it was later declared invalid (see paragraph 156 below).

126. The report focused on several questions.

(i) Actions of the Operative Headquarters (OH)

127. Firstly, the report found that the actions of the OH had been focused on negotiations with the terrorists in order to obtain the release of and ensure safety for a maximum number of people. The terrorists' demands transmitted through Mr Aushev could not have served as the subject matter of the negotiations, since they had threatened the basis of the Constitutional order and Russia's territorial integrity.

128. The involvement of Mr Aushev and Mr Gutseriyev as negotiators, as suggested to the OH by the FSB, and the success of Mr Aushev's mission when he had taken out twenty-six people, had served as an antidote to the escalation of the ethnic Ossetian-Ingush conflict.

129. With respect to Mr Maskhadov's involvement in the negotiations, the report found that Mr Dzasokhov and Mr Aushev had talked to Mr Zakayev on the morning of 3 September. He had told them that his connection with Mr Maskhadov had remained on a one-way level. They had suggested to Mr Zakayev that he contact Mr Shamil Basayev, but he had refused in view of their past differences.

130. The report also covered the question of Mr Dzasokhov's involvement in the OH. It stated that on the morning of 1 September 2004 Mr Dzasokhov had taken an active part in the work of the OH. Under his command the officials had ensured a security perimeter around the school, informed the public about the measures taken, supplied the local population with the necessary provisions in the Cultural Centre, and set up a field hospital. Information to the inhabitants had been provided hourly through Mr Dzugayev, the North Ossetian President's press secretary.

Mr Dzasokhov had taken care of the immediate needs of the first day of the siege, coordinating various agencies involved and increasing the security of other vital objects in the Republic. When the terrorists had named him as a negotiator, Mr Dzasokhov had been prepared to go ahead, but the OH had formally forbidden him from doing so.

131. Having scrutinised the taped conversations between the hostage takers and the OH and between the terrorists inside the building and their collaborators outside (namely several conversations with someone using the call-name "*Magas*" recorded after the start of the storming), the experts found that the terrorists had unconditionally refused to discuss any measures aimed at alleviating the hostages' situation or any other arrangements except for political demands relating to the situation in Chechnya, and had insisted that the hostages had voluntarily joined them in declaring a "dry hunger strike". The telephone conversations had often been ended by them in an aggressive manner and without apparent reason. Furthermore, they had anticipated and planned their own deaths, as well as numerous deaths among the hostages, as attested by the cheers and support received by them from "*Magas*" once the storming had started. These later conversations had contained references to "meeting in heaven", "fulfilling the duty" and becoming martyrs (*shahid*), and had welcomed the killing of infidels and referred to the storming as "going normally".

(ii) Prevention of the terrorist act

132. The report relied on numerous telexes, orders and decrees issued by the Ministry of the Interior and the FSB in July and August 2004 indicating a heightened terrorist threat in the North Caucasus and ordering various measures to be taken by the local police and security forces. As of 22 August all forces of the Ministry of the Interior in the Southern Federal Circuit had been put on alert (*усиленный вариант несения службы*). On 24 and 31 August the local police stations had been requested to take special measures to prevent terrorist acts from taking place during the Day of Knowledge on 1 September.

133. With respect to the Pravoberezhny ROVD of Beslan (situated next to the school building), the report concluded that the commanding officers had failed to take certain preventive steps. In particular, the personnel of the ROVD had not been told what action to take in case of an emergency, and no plan had been put in place to ensure additional security during ceremonies in the schools. The only police officer at school no. 1 had been unarmed, namely Mrs Fatima D. The two other police officers who had been scheduled to guard the school during the ceremony had been absent. Two patrol officers of the transport police had been transferred elsewhere to secure the passage of Mr Dzasokhov's convoy along the "Kavkaz" federal highway. As a result, the terrorists had had unhindered access to the school and had been able to force a large number of hostages inside. No reaction

from the local law-enforcement bodies had been forthcoming during the first fifteen minutes of the attack.

134. The servicemen of the Pravoberezhny ROVD, having received no instructions beforehand and having no preliminary plan of action in the event of a terrorist act, had received arms and ammunition at the ROVD and by 10 a.m. had set up a security cordon around the school. Information about the school siege had been immediately transmitted to the North Ossetian Ministry of the Interior. The report found that the actions of the senior staff of the Pravoberezhny ROVD had amounted to professional negligence.

135. With respect to the situation in the Malgobek District of Ingushetia, the report concluded that the local police had failed to prevent the members of the gang from assembling and training there at the end of August. Reference was made to the pending criminal case against the senior officers of the Malgobek ROVD (see paragraph 363 below).

(iii) Actions of the Internal Troops of the Ministry of the Interior

136. The report concluded that the servicemen of the Internal Troops had been deployed only in the outer security perimeter around the school, the first being ensured by the FSB special forces. They had taken no part in the fighting, and their actions and equipment had been in full compliance with the relevant legal acts and pertinent to their tasks.

(iv) Actions of the special units of the FSB

137. Servicemen of the FSB special forces had taken part in the operation. They had been armed with customary weapons and special equipment such as RPG-26 portable grenade launchers and RPO-A *Shmel* portable flame-throwers.

138. Turning to the events of 3 September 2004, the report gave the following chronology. By 1 p.m. no plan had been in place to start the storming. Two special forces groups had been out of Beslan training, snipers and intelligence groups had kept monitoring the object from their positions, an emergency group of thirty-two people had been positioned behind the housing blocks and the remaining servicemen had stayed at the assembly point.

139. The explosions which had occurred at 1.05 p.m. had been caused by two IEDs. No shots had been fired at that time, as Emercom staff had been working in the front yard of the school. In any event, the place of the explosion had been invisible from the snipers' positions.

140. No flames could be seen in the gymnasium after the two explosions. The hostages had started to run out through the openings in the walls. The terrorists had opened fire on the escaping people using automatic rifles and machine guns. On the instruction of the head of the OH, the servicemen of the special forces had been ordered to save the hostages. The terrorists had been aimed at by the fire-support group and three APC-80s.

141. A group of servicemen had entered the weights room and evacuated from it several women with small children. This group had then entered the gymnasium and started to take out the hostages. The terrorists had opened fire at them. Two servicemen had taken position on the floor and returned fire, while the rest had continued to lead the hostages out. Between 1.40 and 1.50 p.m. the terrorists had fired several shots from portable grenade launchers (RPG-18 *Mukha*) at the gymnasium, killing and injuring several hostages, wounding two officers of the special forces and starting a fire in the gymnasium.

142. The rescue operation had lasted until 2.40 p.m., at which time all available FSB forces had been regrouped pursuant to a previously adopted plan. At 3 p.m., upon an order from the commander, they had stormed the building. Their movements inside the building had been slowed down by low visibility from smoke and whitewash powder and the presence of hostages whom the terrorists had been using as human shields. The terrorists had used automatic weapons, hand grenades and portable grenade launchers, while the FSB forces had been constrained to fire single shots, to avoid excessive harm to the hostages. By 6 p.m. no hostages had remained in the building. Only once this had been ensured had the forces of the FSB used heavy weapons against the terrorists who had refused to surrender. Hand grenades, RPG-20 portable grenade launchers and *Shmel* flame-throwers had been used for the first time after 6 p.m. At 9 p.m. a T-72 tank had been used to make openings in the walls and suppress enemy firing points, since further movement in the building had been impossible because of mines laid by the terrorists. The records of the site examinations and video material showed that no bodies of hostages had been found in places where the terrorists had been killed by heavy arms and indiscriminate weapons.

143. Ten servicemen of the special forces had been killed during the operation, and eleven had received injuries. The fatalities had included two lieutenant-colonels [group commanders], one of whom had died during the first few minutes of the storming as he had rushed to the school shielding the escaping hostages; the second had died in the main meeting room while trying to release the hostages detained there.

144. The report also analysed the circumstances of the deaths and injuries of each serviceman of the special forces which occurred between 1.20 p.m. and 3 p.m. on 3 September and concluded that their actions had been lawful and adequate and had demonstrated high professionalism, courage and self-sacrifice.

(v) Actions of the army

145. The commander of the 58th Army of the Ministry of Defence, General Sobolev, had been informed of the hostage-taking at 9.38 a.m. on 1 September. By 1.30 p.m. the third ring of the security perimeter had been set up around the school by the 58th Army servicemen. The servicemen had

been armed with various automatic weapons and portable grenade and mine launchers, but they had not used any of them since their task had been limited to maintaining the security cordon.

146. As to the use of military vehicles, the report found, on the basis of various descriptions, plans, logbooks and servicemen's testimony, that on 2 September three T-72 tanks with hull numbers 320, 325 and 328 had been transferred under the command of the FSB officers. Tanks with hull numbers 320 and 328 had manoeuvred around the school following the commands of the FSB officers but had not opened fire. A tank with hull number 325 had fired seven high-fragmentation shots (125 millimetre calibre) at the canteen situated in the right wing of the school, following the instructions of the FSB officer in charge. The shots had been fired between 9 and 9.30 p.m. on 3 September 2004. The report concluded that the tank had been used after the end of the rescue operation at 6 p.m., when no harm could have been caused to the hostages and it had been guided by the need to suppress enemy fire in the most efficient way.

147. Several other military vehicles had been used during the operation, also under the command of the FSB officers. Eight APC-80s had been stationed at various points around the school from 1 or 2 September 2004 onwards. Two of them, with hull numbers 823 and 824, had taken part in the storming operation. APC number 823 had used a heavy machine gun (calibre 7.62 millimetres) between 2 and 2.20 p.m. to suppress the terrorists' firing positions on the school roof. At the same time an APC with hull number 824 had fired several rounds from a heavy machine gun at the windows of the first floor, covering the *Alpha* servicemen who had entered the building. The remaining military vehicles had taken no active part in the fighting. The experts concluded that the use of machine guns had been fully appropriate in the circumstances and could not have resulted in injuries or deaths among the hostages.

(vi) Actions of Emercom

148. From 9.35 a.m. on 1 September, various services of Emercom from North Ossetia and neighbouring regions had begun to arrive at school no. 1. They had included brigades specialising in extinguishing major fires and fire engines with water tanks or cisterns. Rescue workers had arrived with special equipment and search dogs. At 5 p.m. on 1 September 2004 fourteen psychologists had started working with the relatives, and by 4 September 2004 fifty-one psychologists had been working in Beslan. The hub of psychological assistance had been in the Cultural Centre, to which ambulance doctors had been called when necessary. In total, between 1 and 4 September 2004 254 people and seventy Emercom vehicles had been deployed in Beslan.

149. At 12.40 p.m. on 3 September four servicemen of the Emercom rescue team had been instructed to retrieve bodies from the school courtyard. They had received safety guarantees and a mobile telephone to

communicate with the terrorists in the school. Following the explosions in the gymnasium, chaotic firing from the upper floor and roof by the terrorists had left two servicemen dead and two injured.

150. The report then focused on the actions of the fire brigades on 3 September. At 2.51 p.m. a fire alert had been given to the fire service. At around 3.20 to 3.25 p.m. fire brigades had arrived at the scene. The delay in them arriving had been caused by the order of General Andreyev, who had considered that the firemen and their engines could have been attacked by the terrorists, rendering the rescue operation more complex. At 3.26 p.m. two brigades had rolled out fire hoses and proceeded to extinguish the fire. Each cistern had been full and had contained about 2,000 litres of water, which had been used within three to five minutes. The fire hydrant in the school could not be used as it had been located in the military engagement area. At 3.35 p.m. two other fire units had arrived and had been stationed on the north and east sides of the gymnasium. The North Ossetian Deputy Minister of Emercom Colonel Romanov had assumed the role of incident commander. Five fire hoses had been deployed. A supply of water from a water hydrant situated within 200 metres had been ensured, and the firemen had also used water from newly arrived tanks.

151. The fire had been contained and extinguished by 9.09 p.m. The operation had been protracted since on two occasions the firemen had been removed from the school at the request of the special forces.

152. In the meantime, Emercom rescue workers had evacuated hostages from the school building. By 4 p.m. they had taken out over 300 people, including 100 children. After the fire had been extinguished, rescue teams had started to search the debris in the gymnasium. They had had to stop at 10.25 p.m. when unexploded IEDs had been discovered and sappers had been called in.

153. Immediately after midnight on 4 September a fire had started in the south wing of the school building where the canteen, craft classrooms, library and meeting room had been situated. Four fire brigades had arrived on the spot and the fire had been extinguished by 3.10 a.m.

154. At 7 a.m. on 4 September Emercom rescue workers and military servicemen had started to clear the debris and search for the bodies. In total, 323 dead bodies had been collected and sent to the forensic unit in Vladikavkaz. By 7 p.m. the search and rescue operation in the school had been over.

155. The report concluded, with reference to the evidence contained in the case file, that the deaths of 112 people whose bodies had been found in the gymnasium had been caused by the explosions of the IEDs. The bodies found there had had been 70 to 100% carbonised; the carbonisation had occurred *post mortem*. The firefighters had had to act in extreme and life-threatening conditions. The organisation and equipment supplied had been sufficient to ensure the carrying out of their tasks.

(vii) Challenge to the report's conclusions

156. On 9 November 2006 the Leninskiy District Court of Vladikavkaz, following an application by the applicants, declared expert report no. 1 invalid owing to a number of serious breaches of the procedural legislation governing the appointment of experts and the carrying out of expert evaluations.

(d) Chronology of the OH's actions

157. The investigation established the following time-frame concerning the action taken by the OH (as set out in expert report no. 1 and other documents):

(i) 1 September 2004

158. At about 10.30 a.m. the OH was set up, in accordance with the plan of action in the event of a terrorist threat issued on 30 July 2004. Initially it was headed by the President of North Ossetia Mr Dzasokhov, the head of the North Ossetian FSB General Andreyev and the North Ossetian Minister of the Interior Mr Dzantiyev. Prior to his appointment on 2 September 2004 as head of the OH, General Andreyev had been in charge of coordinating the actions of various law-enforcement and military structures, including the FSB units arriving in Beslan. Two deputy heads of the FSB, Mr Pronichev and Mr Anisimov, who had arrived in Beslan on 2 September, acted as consultants and did not interfere with the command of the operation.

159. Between 11 a.m. and 2 p.m. the operative headquarters ensured the evacuation of residents from adjacent premises and cordoned off the school. The police and security forces searched basements and attics of the nearby buildings, cleared the adjacent streets of parked vehicles and closed them to traffic, closed the local railway line and took other necessary measures. In order to avoid harm to the hostages and other civilians, they were also ordered not to respond to the random shots fired by the terrorists. Scanning of radio frequencies in the vicinity of the school had been put in place by the Ministry of the Interior, the FSB and the army.

160. At 11.05 a.m. the terrorists sent out the first note, containing a telephone number and naming possible negotiators. However, the telephone number had been noted down incorrectly and no contact could be established.

161. Between 11.30 a.m. and 1.30 p.m. two safety perimeters were put in place around the school, composed of police and army servicemen using seventeen APCs. At noon the APCs were moved out of the terrorists' view, in order to avoid provocation.

162. At 11.40 a.m. the OH started compiling a list of the hostages.

163. At 12.35 p.m. the OH invited the North Ossetian mufti to take part in the talks, but the terrorists opened fire on him when he tried to approach the seized building.

164. At 1.55 p.m. all reserve forces of the North Ossetian police were placed on high alert, including local policemen in towns and villages along the administrative border with Ingushetia and police academy students.

165. At 4.05 p.m. hostage Mrs Mamitova took out a second note with the correct telephone number.

166. Between 4.05 and 5 p.m. a series of gunshots and explosions were heard inside the school. The OH instructed Mr Z., a professional negotiator from the North Ossetian FSB, to contact the terrorists by telephone. The hostage taker presented himself as "*Shahid*" and said that he had executed ten people and blown up twenty others because the authorities had been slow in contacting them. He then insisted that the men indicated in their note (Mr Zyazikov, Mr Dzasokhov, Mr Aslakhanov and Dr Roshal) should come to the school together. Mr Z. pleaded for some time to bring the four men to Beslan. The terrorist said that the gymnasium had been mined and would be blown up in the event of a storming.

167. At 4.30 p.m. Mr Kudzayev escaped from the school by jumping out of a first floor window. He identified a photograph of one terrorist from Ingushetia; on the same day his relatives were brought from Ingushetia by the FSB. However it transpired that the identification was incorrect. This man was later killed in Ingushetia while actively resisting the authorities.

168. During the day the OH collected information about possible hostage takers and their relatives, so as to involve the latter in the negotiations.

169. At 5 p.m. the terrorists fired several random shots from automatic weapons and portable grenade launchers. About a dozen bodies were thrown out of the window. The OH took steps to prepare for the evacuation of the injured to the local health establishments, and psychological support had been called in for the hostages' relatives.

170. At 5.45 p.m., in order to prevent the dissemination of incorrect information, it was decided that all contact with the media should be carried out by General Andreyev, Mr Dzantiyev and Mr Dzugayev. Mr Peskov from the Russian President's administration was given the task of liaising with journalists.

171. At 6 p.m. the North Ossetian Ministry of Health designated hospitals to be on stand-by, and twenty-eight ambulance vehicles were deployed.

172. At 6.30 p.m. special forces of the FSB (*подразделения центра Специального назначения (ЦСН) ФСБ России*) arrived in Beslan and set up their headquarters. They started contemplating various ways of liberating the hostages and neutralising the attackers.

173. At 7.20 p.m. hundreds of bottles of water, juice and food rations were stocked by the headquarters for the hostages' eventual needs.

174. At 9.30 p.m. Dr Roshal arrived in Beslan. The terrorists refused to accept water or food from him. They continued to insist that all four men indicated by them should come to the school. Dr Roshal was permitted to

talk on the telephone with the school director, who described the situation inside.

175. At 9.36 p.m. the OH continued talks with the attackers. They tried to involve journalists of an Arab television company in the negotiation process, but this was rejected by the terrorists. At the same time, they contacted the former President of Ingushetia Mr Aushev and an influential businessman, Mr Gutseriyev.

176. At 10.20 p.m. the OH tried to arrange the release of hostages in exchange for money and unhindered passage to Chechnya or Ingushetia. Twenty buses were requested in the event that the terrorists agreed.

177. By the end of the day, six hostages who had escaped from the school had been questioned in order to obtain information about the number and location of the terrorists and hostages inside the school, as well as to draw a plan of the IEDs.

(ii) 2 September 2004

178. At 9.30 a.m. some hostages were allowed to call their relatives in order to put pressure on the authorities.

179. At 10 a.m. the OH authorised Mr Gutseriyev's participation in the negotiations. His offers of money and guarantees of unhindered passage were rejected by the hostage takers.

180. At 1 p.m. General Andreyev spoke to the hostages' relatives and assured them that no storming would take place. This was done in view of rumours circulating among the local population and the idea by civilians of forming a "life ring" around the school.

181. At 1.50 p.m. religious Muslim leaders of Chechnya, Ingushetia and North Ossetia delivered a televised address calling for peace and the end of further ethnic clashes.

182. At 2.40 p.m. Mr Aslakhanov spoke to the attackers on the telephone; he assured them that their demands would be passed on personally to the Russian President. The terrorists insisted that he come to Beslan with Mr Aushev.

183. At 2.45 p.m. the FSB of Russia appointed the head of the OH General Andreyev and its members by coded message. Report no. 1 listed thirteen members, including two deputy heads of the OH: General Tikhonov, the commander of the FSB Special Services Centre, and Mr Dzantiyev, the North Ossetian Minister of the Interior. It also listed the following members: the North Ossetian President Mr Dzasokhov, the head of the Ingushetian FSB General Koryakov, the commander of the 58th Army General Sobolev, the deputy commander of the Internal Troops of the Ministry of the Interior General Vnukov, the head of the operational management group at the North Ossetian Ministry of the Interior Lieutenant-Colonel Tsyban, the North Ossetian Minister of Health Mr Soplevenko, the North Ossetian Minister of Education Mrs Levitskaya, the North Ossetian Minister of Emercom Mr Dzgoyev, the director of the

All-Russia Centre of Disaster Medicine at the Ministry of Public Health ("the *Zashchita* Centre") Mr Goncharov and the deputy head of the information programmes department of *Rossiya*. All members of the OH were informed of their positions.

184. At 3.23 p.m. Mr Aushev was permitted to enter the school. Between 4 and 4.30 p.m. he negotiated with the terrorists; as a result of his mission twenty-six people were released: babies aged under two and their mothers. Mr Aushev also took out a letter signed by Mr Shamil Basayev with a demand for troops to be withdrawn from Chechnya.

185. At 5.30 p.m. an additional debriefing of former hostages took place in order to obtain more information about the positions of the hostages and terrorists and the location of the IEDs.

186. At 5.40 p.m. the OH ordered measures aimed at identifying and neutralising possible accomplices of the terrorists outside the school.

187. At 6.05 p.m. Mr Aushev proposed to the terrorists that the bodies be collected. They agreed to consider this proposal.

188. At 7.20 p.m. the attackers told Dr Roshal, Mr Gutseriyev and Mr Z. that the hostages had refused to accept food, water or medicine.

189. At 8 p.m. the terrorists fired random shots from automatic rifles and portable grenade launchers out of the school windows. The OH ordered that the surrounding territory be cleared of parked vehicles.

(iii) 3 September 2004

190. In the morning an agreement was reached through Mr Aushev and Mr Gutseriyev to clear the bodies from the schoolyard.

191. At 12 noon Emercom officers were appointed and transport was arranged. They received instructions and means of communication. At 12.40 p.m. the officers started to collect the bodies. One terrorist went down to the courtyard to supervise their work.

192. At 1.05 p.m. two powerful explosions occurred in the gymnasium. Part of the wall collapsed and the hostages started to panic and exit through the opening. The terrorists opened fire on them from automatic rifles and RPG-18 portable grenade launchers from the windows of the first floor. Twenty-nine people were killed as a result of gunshot wounds.

193. At 1.10 p.m. the head of the OH, General Andreyev, gave written orders to the units of the FSB special forces to commence the operation aimed at saving the hostages and neutralising the terrorists.

194. At 1.15 p.m. the first hostages were taken to hospitals in Beslan and Vladikavkaz.

195. At 1.20 p.m. one terrorist, Mr Kulayev, was detained and handed over to the investigators.

196. As a result of the explosions and the ensuing fire at least 250 hostages died; the rest were forced by the terrorists to move to the meeting room and other premises of the school.

197. At 2.50 p.m. a fire broke out in the gymnasium. The expert report on fire and explosions established that the source of the fire had been located in the roof of the gymnasium, above the exit.

198. Mr Andreev ordered the firemen not to intervene immediately, in view of the continuing fighting, the risk to the firemen's lives and the danger of delaying the rescue operation, which would result in more victims.

199. The OH ordered the firefighters to intervene at 3.10 p.m. They arrived at 3.20 p.m. and proceeded to extinguish the fire.

200. At 6 p.m. the rescue operation was over. The OH ordered the deployment of heavy weaponry to neutralise the terrorists.

201. At 12.30 a.m. on 4 September the sweeping of the school building was over and a security cordon was set up. At 1 a.m. the demining started.

(e) Information about FSB actions and questioning of senior FSB officers

202. Two deputy heads of the FSB, Mr Pronichev and Mr Anisimov, were in Beslan during the crisis.

203. A number of high-ranking FSB servicemen were questioned in the course of the investigation, including General Andreyev (on 29 September 2004), General Koryakov (on 30 September 2004) and Generals Anisimov and Pronichev (October 2005). The documents of the criminal investigation submitted by the Government do not contain the record of questioning of General Tikhonov, the commander of the FSB Special Services Centre, who was in charge of the storming operation. His name is not listed among the witnesses/members of the OH in volume 124 of file no. 20/849. The list of documents examined by the experts who had produced expert report no. 1 does not mention his testimony either.

204. In July 2007 the applicants wrote to the head of the FSB and referred to the meeting they had had with the Deputy Prosecutor General in charge of the case, who had told them that the relevant video and audio material could not be found. In December 2006 State television aired a film entitled "The Final Assignment" containing video and audio material made by the special forces in Beslan on 1 to 3 September 2004. They sought to ensure that the footage would be given to the Prosecutor General's Office. They also asked that the members of the special forces be questioned during the investigation. In September 2007 the FSB informed the applicants that any such action would be done in response to the relevant requests by the prosecutor's service and in line with the legislation.

(f) Information about the arms and ammunition used, explosives, fire and ballistics expert reports

205. The investigation file contains a number of documents concerning the use of arms and ammunition by various State bodies; some are cited in other documents (see below). Dozens of various individual experts' reports were ordered by the investigation on firearms (hand pistols, guns and

automatic weapons), ammunition and IEDs supposedly used by the terrorists, as well as weapons and ammunition used by the security forces. Some of the cartridges were marked by experts as suitable for identification of the weapons (for example, expert report no. 263 of 4 October 2004 marked fifty spent cartridges from a Kalashnikov automatic rifle as suitable for weapon identification). These reports were submitted to the Court by the Government, and the most relevant ones are summarised below. The victims challenged certain procedural steps related to the commissioning of some of the reports, complaining that they had not been allowed to take copies of them but had been able to view them in the prosecutor's office for a limited amount of time.

206. According to a document dated 9 September 2004 (act no. 3), one military unit of the 58th Army of the Ministry of Defence deployed in Beslan used about 6,500 cartridges for automatic weapons and machine guns (5.45 and 7.62 mm calibre), 340 tracer bullets (5.45 mm T), 450 armour-piercing incendiary cartridges for large-calibre machine guns (14.5 mm BZT and B-32) and ten hand grenades (RGD-5).

207. Dozens of witness statements were collected by the investigation between September 2004 and August 2007 from the military and police servicemen, officers of Emercom, firefighters and members of the OH. These statements, consistently and in detail, denied the use of grenade launchers, flame-throwers and a tank cannon prior to 6 p.m. on 3 September 2004.

(i) Expert reports of explosive and thermobaric weapons

208. The investigation ordered individual expert reports on parts of explosive charges and launch tubes of explosive, thermobaric and armour-piercing weapons found at the school and in the nearby areas. These included launch tubes of twelve RPO-A *Shmel* flame-throwers with batch and individual serial numbers, parts of artillery shells, hand grenades, smoke grenades, spent cartridges of different calibres, tubes and charges for grenade launchers. The reports contain the following relevant descriptions of the weapons used.

(α) Flame-throwers

209. Two reports examined launch tubes of five RPO-A *Shmel* tubes with different batch and serial numbers (expert report SI-76 of 10 September 2005: batch 3-02, nos. 115, 171; batch 7-95, no. 896; batch 1-3, nos. 51 and 52) and seven RPO-A *Shmel* tubes (expert report SI-132 of 11 October 2005: batch 3-02, nos. 109-13 and 116; batch 1-03, no. 13). The reports describe the RPO-A *Shmel* as follows:

> "[A] portable anti-personnel flame-thrower RPO-A *Shmel* is designed to impact fortified firing points of the enemy ... destroy light armoured vehicles and other vehicles, sheltered and exposed manpower...
>
> Technical characteristics:

- range of direct fire 200 m;
- effective range 600 m;
- maximum range 1,000 m;
- temperature of burning of the combustible mixture 1,800˚C;
- destruction caused in a closed structure 80 m²;
- destruction of manpower 50 m²"

The fire experts' report of 22 December 2005 mentioned an additional expert report, SI–92 of 20 September 2004, which had examined several parts of RPO-A spent charges.

210. In addition to the above-mentioned twelve tubes of RPO-A with identified batch and serial numbers, the file contained a document dated 25 September 2004 and signed by Lieutenant-Colonel Vasilyev from the 58th Army. This document stated that the FSB units had received seven RPO-A flame-throwers (batch 4-96, nos. 945-48, 486-88) from military storage. After the operation two flame-throwers with the indicated numbers, plus one with a different batch and number (batch 1-0, no. 12), had been returned to storage. It does not appear that the remaining five RPO-A devices from batch 4-96 were spotted and examined by experts.

211. Three expert reports concerned over forty used capsules with readable serial numbers, which the experts were first unable to identify or describe otherwise than "special purposes ammunition", for which no descriptions or technical characteristics were available to the experts of the Ministry of the Interior (expert reports SI-83 of 15 September 2004, SI-85 of 16 September 2004, SI-90 of 17 September 2004). In April 2007 these spent capsules were identified as charges for a light infantry flame-thrower LPO-97 (expert report nos. 750/17, 757/17 of 25 April 2007). This latest report also contained detailed information about the thermobaric charge for an LPO-97. Upon an explosion, impact is created by a "sphere of fire" with temperatures ranging from about 2,300˚C in the centre to about 630˚C at 1 metre and 80˚C at 3 metres distance, and secondary effects. Due to very short "time span of the sphere of fire" (less than 4 ms), the explosion cannot lead to the combustion of wooden structures. People located within 1 metre of the explosion can receive thermal burns on exposed body parts and within 1.6 metres various injuries, including a perforated eardrum.

212. On 31 January 2005 Colonel B. from a unit of the 58th Army issued a note stating: "[the] use of rocket propelled infantry flame-throwers RPO-A and light infantry flame-throwers LPO-97 is not prohibited by international conventions. They have been widely used during combat operations in Afghanistan and Chechnya."

213. On 4 February 2005 a military unit located in Vladikavkaz forwarded detailed technical characteristics of RPO-A and LPO-97 flame-throwers to the military prosecutor's office. The functionality of an RPO-A was described as: "[the] destruction of manpower in fortified firing points, buildings, vehicles, [and] the creation of islands of fire in the

above-mentioned objects and on the ground." The functionality of an LPO-97 (introduced into service in 2002) was described as "[the] destruction of manpower inside buildings by means of high-temperature field and a field of extensive pressure ..."

(β) Grenade launchers

214. Expert report no. SI-75 of 10 September 2004 examined five launch tubes from RPG-26 *Aglen* disposable anti-tank grenade launchers, bearing identifiable batch and serial numbers.

215. Expert report no. SI-81 of 17 September 2004 examined the following items that were found in the gymnasium: one grenade type VOG-17M for an AGS-17 automatic mounted grenade launcher with an identifiable batch number; one grenade type VOG-25 for an under-barrel grenade launcher GP-25 with a batch number; an RGD-5 hand grenade; an F1 hand grenade; an RGN hand grenade; an RDG-2B smoke grenade; a shell of a GSZ-F stun grenade, and one security cap from an RPO-A *Shmel*.

216. Expert report no. SI-98 of 8 October 2004 examined one used anti-tank grenade type PG-7L with an identifiable batch and serial number, used by reloadable portable grenade launcher type RPG-7 and its modifications; four spent parts from RPG-26 disposable anti-tank rocket launchers, with identifiable batch numbers; and one spent part of an anti-tank grenade (RPG-27 disposable grenade launcher), with a batch number.

217. On 10 November 2004 the military unit in Vladikavkaz responded to a question from the military prosecutor's office and submitted a table containing the technical characteristics of four types of grenade launchers: the reloadable RPG-7 and GP-25, and the disposable RPG-18 and RPG-22.

(ii) Fire expert's report of 22 December 2005

218. On 22 December 2005 the Russian Federal forensic expert centre produced fire expert's report (*заключение пожаро-технической судебной экспертизы*) no. 2576/17, 320-328/18-17. The voluminous report consisted of 217 pages, accompanied by about sixty pages of tables and photographs. The report started by reviewing a number of relevant pieces of evidence, including extracts from witness statements, expert reports, information about the arms and ammunition used, an examination of the building materials and a review of available photo and video material.

219. In particular, the report cited a "joint act" dated 10 September 2004 of the arms and ammunition used by the military servicemen, which included about 7,000 cartridges for automatic weapons and machine guns (5.45 mm PS, 7.62 mm LPS), 2,160 tracer bullets (5.45 mm T), ten disposable anti-tank rocket launchers (RPG-26 *Aglen*), 18 armour-piercing charges for reloadable anti-tank grenade launchers (PG-7VL), eight high-fragmentation warheads for a 125 millimetre calibre tank gun (125 mm OF) and ninety smoke grenades (81 mm ZD6) (page 128 of the report). The same report contained references to expert examinations of a number of

parts of used RPO-A *Shmel* flame-throwers (report SI- 92 of 20 September 2004) and a list of six empty tubes from an RPO-A *Shmel* collected by the members of the parliamentary commission citing their serial numbers (batch 3-02, nos. 109-13 and 116) (see paragraph 409 below). It also mentioned a document dated 25 September 2004 and signed by Lieutenant-Colonel Vasilyev from the 58th Army about the use of five RPO-A flame-throwers with batch number 4-96 (see paragraph 210 above). On 25 September 2004 Lieutenant-Colonel Vasilyev from the 58th Army was questioned and stated that he had received back two flame-throwers from batch 4-96, plus one from another batch, which had not been issued from that storage (batch 1–03, no. 12); Major Ts. from the FSB *Vympel* unit explained that the others had been used (pages 129-30 of the report).

220. The report further mentioned witness statement of Colonel K., who explained that he had led a group of officers who had taken part in the storming of the school building. The group had used RPG-26 grenade launchers and RPO-A flame-throwers, but not at the premises where the hostages had been present (page 131 of the report). One witness, M.K., a member of a storming group, stated on 23 November 2004 that he had used RPG-26 grenade launchers and RPO-A flame-throwers upon "enemy firing points which had been designated in advance and identified during the storming". The firing points identified in advance had been located in the window of the attic area and the third window on the first floor of the main building. No hostages had been there at the time. For the second time the flame-thrower had been used at night, at about midnight, upon a group of terrorists in the craft classes on the ground floor. At that time the rest of the building had been in the firm control of the security forces and Emercom staff had been finishing carrying the bodies out of the gymnasium (page 183 of the report). The report listed the main characteristics of an RPO-A *Shmel*: a thermobaric charge of over 2 kilograms upon explosion creates a powerful combustion zone (a sphere of fire 5 to 7 metres in diameter) burning at temperature of about 1,800ºC; accompanied by an extremely powerful shock wave caused by a complete burning of oxygen in the detonation zone. An expert described the effects of this charge upon people, which would include severe fractures caused by the shock wave and lung collapse; and upon buildings as a "blowing out" of the external walls and collapse of the structure. The report referred to the records of two experiments carried out on 13 October 2005 wherein disused buildings had been fired at with RPO-A flame-throwers, as a result of which the buildings had been demolished but no fire had started (page 183 of the report). Relying on the testimonies of security personnel, the pattern of destruction of the roof in the main part of the building, parts of RPO-A charge found in the attic of the "left wing" of the school and the absence of any such parts in the gymnasium, the conclusion was that there had been no explosions of a thermobaric charge from an RPO-A there. The report concluded as follows on the use of flame-throwers (pages 185 and 217 of the report):

"RPO-A *Shmel* were used during the special operation aiming to free the hostages. Criminal case file no 20/849 contains no material to conclude that RPO-A *Shmel* flame-throwers had been used on the roof and the structure of the gymnasium of school no 1. The use of an RPO-A *Shmel* flame-thrower on the roof of the gymnasium could not have led to a fire in its wooden parts."

221. In so far as the first explosions were concerned, the report concluded that the explosions in the gymnasium which had occurred within several seconds at about 1.05 p.m. on 3 September 2004 had resulted from the IEDs attached to a basketball hoop near the west wall (equivalent to about 1.2 to 1.3 kilograms of TNT) and located on a chair placed about 0.5 metres away from the north wall under the window (and equivalent to 5.2 kilograms of TNT). Both IEDs had been filled with numerous small metal objects. The third explosion had resulted from the IED placed under a basketball hoop at the north wall catching fire, its metal filling falling on the floor and the explosion of a small amount of explosives (equivalent to about 100 grams of TNT), as a result of exposure to heat (pages 170-73 of the report).

222. The experts considered and accepted as "probable" the hypotheses that the fire in the gymnasium had started as a result of use of armour-piercing and incendiary charges, which could have been used by the terrorists (page 185 of the report). As to the place where the fire had started, having analysed the extent and degree of damage to various constructions of the gymnasium, the experts concluded that it had most probably been located in the attic area located more or less above the basketball hoop in the north part of the room; the fire on the floor had started only after the burning parts of the ceiling and roof had fallen down. The extent of damage caused by the fire and explosions prevented any detailed analysis of the number of places where the fire had started and its exact cause and spreading in the building (pages 215-17 of the report).

(iii) Expert report no. 4-106

223. On 30 December 2005 the FSB's Institute of Forensic Studies (*Институт Криминалистики ФСБ РФ*) produced expert report no. 4/106. The report focused on the examination of the IEDs used by the terrorists in the gymnasium. It concluded that the terrorists had placed no fewer than sixteen IEDs in the gymnasium, joined into a single chain by electric cables and detonators. On 3 September no fewer than three IEDs had exploded in the north-west part of the gymnasium: one at the basketball hoop on the west wall (made of an OZM-72 anti-personnel mine, equivalent to about 0,66 kilograms of TNT), the second on the right-hand side of the door leading into the gymnasium on the west wall (a sphere-shaped IED equivalent to no less than 0.5 kilograms of TNT) and the third on the windowpane of the first window on the north-west wall (an IED in a plastic bottle equivalent to no less than 1 kilogram of TNT). The total force of the explosions had been equivalent to no less than two kilograms of TNT, however it was impossible to confirm their exact timing and sequence. The

most likely cause of the explosions was intentional or non-intentional impact upon the detonator pedal; the reasons why the whole chain had failed to react were unclear, but it could be that the first explosions had damaged the electric cables connecting the rest of the IEDs (pages 18-29 of the report).

(iv) Expert report no. 16/1

224. On 25 October 2006 a comprehensive forensic report on the explosions (*комплексная криминалистическая экспертиза математического моделирования взрывов*) was ordered from experts of the State-owned scientific and production company Bazalt (*ФГУП ГНПП "Базальт*") and the Central Research and Testing Institute, named after Karbyshev of the Ministry of Defence (*Центральный Научно-исследовательский испытательный институт им. Карбышева Министерства Обороны РФ*). The applicants submitted that the document in its entirety had been unavailable to them prior to the exchange of the parties' observations in 2012.

225. In January 2007 Mrs Tagayeva applied to the prosecutor's office to have the experts of Bazalt dismissed, as they had been administratively dependent on the Ministry of Defence. Her application was rejected on 30 January 2007 because no subjective bias of the experts could be discerned and, objectively, the Ministry of Defence had not been a party to the criminal proceedings.

226. Expert report no. 16/1 was produced on 14 September 2007 and ran to over 300 pages, accompanied by detailed charts and photographs. It appeared to dismiss the doubts expressed, notably, by a member of the State Duma investigative committee and a renowned expert in the field of explosions, Mr Savelyev, about the external origins of the first two explosions in the gymnasium (see paragraphs 406, 408, 410 below). The conclusions of report no. 16/1 are found on pages 264 to 273. They can be summarised as follows: the first explosion was the result of the detonation of a large IED, equivalent to between three and six kilograms of TNT. The origin of this explosion was not linked to the electric wires and detonator, but resulted, most probably, from mishandling of the device by the terrorists guarding it. This IED exploded in the north-east part of the gymnasium, at a spot about a metre away from the north wall and 5 metres away from the east wall. The second explosion occurred about twenty seconds later and consisted of the simultaneous detonation of several (between five and ten) smaller IEDs in the north-west part of the hall; this explosion most probably resulted from one of the terrorists intentionally or unintentionally using the detonator pedal. It could not have been caused by a cumulative charge launched from the outside. The report also concluded that out of all the recorded damage to the gymnasium walls, only two marks could have been caused by either a thermobaric charge or a cumulative charge projected from outside. These projectiles could not have been launched from the roofs

of houses at 37, 39 or 41 Shkolny Lane (as alleged by some experts). The damage caused to the south wing of the school could have been caused by the use of various weapons and explosives, including a tank cannon, flame-throwers and grenade launchers, however the extent of the destruction excluded the possibility of any detailed reconstruction of the events. The report dismissed as improbable the launching of a thermobaric charge from a helicopter, pointing out that it could lead to the destruction of the helicopter and death of the crew. Lastly, the report listed the following types of weapons used by the members of the counter-terrorist operation, reconstructed on the basis of video material and the documents contained in criminal case file no. 20/849:

> "- portable grenade launchers RPG-7V and their modifications with anti-tank charges PG-7VL, PG-7VM, PG-7VS, fragmentary warhead OG-7V;
>
> - disposable anti-tank rocket launchers RPG-26, RPG-27;
>
> - propelled attack grenades RShG-1 with a thermobaric warhead;
>
> - flame-throwers RPO-A *Shmel* with a thermobaric warhead;
>
> - light infantry flame-throwers LPO-97 with a thermobaric charge (probably);
>
> - firearms and portable grenade launchers."

Based on the same sources, the report concluded that the terrorists had used an RPG-7V portable grenade launcher with anti-tank charges type PG-7VL; RPG-26 disposable anti-tank rocket launchers, possibly a grenade launcher with a thermobaric charge; no fewer than ten "bottle" type IEDs, no fewer than two IEDs made out of MON-90 anti-personnel mines and no fewer than four IEDs made out of OZM-72 anti-personnel mines; and firearms and portable grenade launchers (pages 263-73 of the report).

227. As a follow up to that report, on 14 October 2007 the North Ossetian Ministry of the Interior's expert laboratory examined the explosion marks on the south walls of the gymnasium and confirmed the above conclusions about the possible trajectory of the charges having been fired from the first floor of the south wing of the school and that these shots could not have been fired from houses at 37, 39, 41 Shkolny Lane or the garage roof (report no. SI-63, page 12).

(v) Expert report no. 16/2

228. Expert report no. 16/2 was ordered by the investigation in April 2007 in order to dispel Mr Savelyev's allegations about the origins of the second explosion in the gymnasium which had resulted in the destruction of a section of the wall under the window on the north side. It was completed on 11 December 2009 (see paragraph 406 below). Like report 16/1, it was carried out by experts of Bazalt. The experts tested all the possibilities suggested by Mr Savelyev, including the use of various types of grenade launchers and flame-throwers upon a similar construction and concluded that their impact had been incompatible with the damage in the gymnasium. The report ran to over 130 pages and concluded that the "the

origin of the hole in the north-west wall of the gymnasium ... was the detonation of an IED with the equivalent of about six kilograms of TNT, placed at a height of about 500 millimetres from the floor, near the radiator... The power of this explosion's impact upon the wall was exacerbated by an almost simultaneous explosion of several other IEDs located in the north-west part of the gymnasium, further away from the first explosion" (pages 99-100 of the report).

(g) Decision not to charge servicemen with crimes

229. On 3 December 2004 the Vladikavkaz deputy military prosecutor issued an order not to prosecute unnamed military servicemen of the 58th Army of the Ministry of Defence and Internal Troops of the Ministry of the Interior. The document stated that the investigation had established that the personnel of the army and Ministry of the Interior had used automatic weapons, RPG-25 grenade launchers, RPO-A *Shmel* flame-throwers and T-72 tanks. The document then proceeded to describe the events of the siege and storming, in line with witness statements of General Sobolev of the 58th Army. In particular, the document stated that on 1 September 2004, during the first meeting of the OH, it had been decided that Mr Dzasokhov's involvement in the negotiations was "devoid of purpose" (*нецелесообразно*) since there was a threat of his being taken hostage as well. It further stated that although the decision to clear the area around the school of civilians and armed "volunteers" had been taken at about 12 noon on 1 September, it had not been implemented until 3 September. Furthermore, on 2 September the terrorists had demanded that Mr Dzasokhov, Mr Zyazikov, Mr Aslakhanov and Dr Roshal arrive for negotiations, but the OH had decided that such talks were also "devoid of purpose". After the first explosions at 1.10 p.m. the terrorists had opened fire at the hostages running out of the gymnasium, following which the servicemen of the second security perimeter had returned fire. At 2 p.m. a group of sappers under the command of Colonel Nabiyev had started to demine the gymnasium; at the same time he had called for firemen to extinguish the fire. The first fire vehicle had arrived at 2.45 p.m. and contained 2,000 litres of water; the second vehicle had arrived at 3.45 p.m. and proceeded to extinguish the fire. By 9 p.m. the storming of the building had been over, while the search for and elimination of terrorists had continued until 12.30 a.m. on 4 September 2004.

230. The document then summarised the witness statement of Lieutenant-Colonel Tsyban, who explained that the OH had officially been created on 2 September 2004 at about 12 noon under the command of General Andreyev. The OH had decided that Mr Dzasokhov's involvement in the negotiations could not be authorised in view of the threat of his being taken hostage.

231. The document then related the witness statements of about a dozen servicemen from the 58th Army – sappers, tank and APC commanders.

They stated that the tanks had fired seven shots in the evening of 3 September 2004 and that none of them had fired at the school during the daytime.

232. The document referred to several hundred names of military servicemen who had been deployed within the security perimeter. Their statements were summarised in the following manner:

> "... while securing the area no instances of any loss or stealing of arms or ammunition were noted, and there were no attempts by the terrorists to break through or to get away. Since the commanders had issued an order not to open fire unless there was an open breakthrough of the terrorists, no fire was opened and the use of firearms was regulated by section 11 of the [Army Field Manual]. There were no noted instances of breaches of order or unauthorised use of firearms. No ammunition was used."

233. The document concluded that the servicemen of the Ministry of the Interior and Ministry of Defence had used "personal, authorised, small-arms weapons, engineering hardware and chemical weapons, destined to cause harm to manpower, but this ammunition was used in line with the [applicable] legislative acts and owing to the inability to prevent the terrorists' actions by any other means; the use of the above weapons resulted in the terrorists' elimination or detention". The document further stated that the investigation had obtained no evidence that the use of the above-listed weapons had resulted in harm to any of the hostages. Accordingly, there was no evidence of an offence having been committed.

234. The decision of 3 December 2004 was quashed on 12 September 2005 due to certain technical deficiencies. It is unclear what happened next in this respect.

(h) Results of internal inquiries and decisions not to charge officials with crimes

(i) Emercom staff

235. On 29 October 2004 a commission from the North Ossetian Emercom carried out an internal investigation into the actions of the Emercom staff during the crisis. According to its findings, the firefighters were aware in advance of the locations of the fire hydrants in the vicinity of the school, but could not use them since they could have been shot at by the terrorists. Hence, they first used mobile cisterns. The responsible staff had drawn up a plan of access for the fire engines to the school, but it was not within the firefighters' powers to ensure that these routes were accessible – that should have been coordinated by the OH on the basis of that plan. Failure to intervene during the initial stage had been based on the instructions of the OH. Lastly, the use of more powerful hydraulic cannons was deemed impractical by the commission, in view of the limited choice of locations where they could be placed, the distance to the source of the fire of about 60 metres, narrow access to the fire and the danger to those who could still be alive in the burning building from the "hot vapour". The

commission concluded that the actions of the Emercom staff had been correct and justified.

236. On 10 December 2004 an investigator from the Prosecutor General's Office in the North Caucasus decided not to charge the North Ossetian Minister of Emercom Mr Dzgoyev and his deputy and head of the fire service, Colonel Romanov, with crimes under Article 293 of the Criminal Code – criminal negligence. The decision referred to witness statements made by Colonel Romanov, Mr Dzgoyev and a number of other firefighters and officials of the service. They confirmed that the information about the fire had first come in after the first explosions, soon after 1 p.m., but that the OH had only allowed the firefighters to intervene after 3.20 p.m. They said that seven fire engines had been ready to take part in the operation, but that the access routes to the school had remained busy with cars and people. The two closest fire hydrants had not been accessible; at first the engines had used cisterns to extinguish the fire from two water cannons; later a line to the next hydrant had been made. The decision discussed the question whether the firefighters could have used a more powerful hydraulic water cannon, but the firefighters argued that it could only have produced the desired effects if the distance to the source of fire had been less than 30 metres – that could not have been ensured in view of the ongoing fighting. The decision concluded that at the time of the firefighters' intervention, the general management of the operation had been taken by the OH headed by the FSB, without whose permission no action could have been taken. The FSB had not allowed the firefighters to intervene for about two hours, in view of a lack of special equipment for them, and thus their members could have been injured or died. In such circumstances, the actions of the Emercom officials contained no elements which could lead to the conclusion that a crime had been committed. It is unclear when the applicants were informed of this decision and whether they had appealed against it.

237. In March 2006 the victims lodged an application to have the competent officials, including Mr Dzasokhov, General Andreyev, Mr Popov and Colonel Romanov, charged with criminal negligence and withholding information entailing danger to people's lives and health, with serious consequences (Articles 293 § 2 and 237 § 2 of the Criminal Code). In particular, they argued that no necessary preventive measures had been taken prior to the terrorist act; that the OH had remained passive and failed to ensure meaningful negotiations with the hostage takers; that as a result of the inaction of the OH the hostages' conditions on 1 to 3 September 2004 had deteriorated thus rendering them weak by the time of the storming; that the failure of Mr Dzasokhov, Mr Zyazikov and Mr Aslakhanov to appear for negotiations had excluded the possibility of a dialogue; that the security perimeter around the school had not been properly ensured; and that the storming operation had not been thoroughly prepared. The victims also alleged that the military and security forces had acted without a plan and used excessive and indiscriminate weapons after 1 p.m. on 3 September.

With respect to this last assertion they referred to several dozen witness statements collected during the trial of Mr Nurpashi Kulayev attesting to the use of flame-throwers, grenade launchers, tanks and APCs. They further alleged that the delay between the start of the fire in the gymnasium and the commencement of the extinguishing operation had taken one and a half hours, and that the firefighters had been unprepared since they had lacked water. As a result, dozens of hostages including children in the gymnasium had been burnt alive, since they were injured, shell-shocked, disoriented or too weak to leave on their own.

238. On 14 March 2006 the Deputy Prosecutor General rejected this application, finding that the decisions of the investigating officers had been lawful and that the actions sought by the victims were not necessary as the relevant facts had been established through other steps. On 26 June 2007 the Promyshlenny District Court of Vladikavkaz allowed an appeal by the victims against the decision and ordered the Deputy Prosecutor General to examine the victims' applications in detail and provide them with reasoned answers to each of their arguments. On 15 August 2007 the North Ossetia Supreme Court quashed and remitted the District Court's decision. On 24 August 2007 the District Court confirmed the validity of the decision of 14 March 2006. It was then approved by the North Ossetia Supreme Court on 3 October 2007. Subsequent requests by the victims for a supervisory review proved futile.

239. In the meantime, and in parallel to the above-mentioned proceedings, on 20 April 2006 the head of the investigation team, an investigator of the Prosecutor General's Office in the Southern Federal Circuit, decided not to open a criminal investigation, under the same provisions of the Criminal Code, in respect of the head and members of the OH. The investigator found that there were no constituent elements of an offence in the officials' actions. He relied heavily on the conclusions of expert report no. 1, saying that the actions of the OH had been in conformity with the relevant rules and regulations. The victims appealed, and on 3 April 2007 a judge of the Leninskiy District Court of Vladikavkaz quashed the investigator's decision, since expert report no. 1 had been found to be unlawful. On 2 May 2007 the North Ossetia Supreme Court quashed and remitted the District Court's decision, finding that it was not based on all the material available. On 6 June 2007, in a new set of proceedings, the Leninskiy District Court rejected all the applications and found that even though expert report no. 1 had been invalidated, the evidence on which it had relied remained valid and supported similar conclusions. On 15 August 2007 the North Ossetia Supreme Court upheld this decision.

240. In a separate decision, also dated 20 April 2006, the same investigator decided not to open criminal proceedings against the North Ossetian Deputy Minister of Emercom and head of the fire service Colonel Romanov and the head of the fire service of the Pravoberezhny District Mr Kharkov. The decision referred to Article 293 § 2 of the Criminal Code, which concerned criminal negligence. The decision referred to witness

statements confirming that the first information about the explosions and fire in the gymnasium has been received soon after 1 p.m. on 3 September, as well as to the fact that Colonel Romanov had, on several occasions between 1.20 and 3.20 p.m., ordered the firefighters to intervene and then cancelled his orders due to a lack of authorisation by the head of the OH. At 3.25 p.m. two fire engines had arrived at the school with a full load of water, which could last for about 3 to 5 minutes. Once it had been used, two other fire engines had been called in; later water had been obtained from a fire hydrant, because the closest hydrants could not be used. The decision referred to expert report no. 1 and to the fire expert's report no. 2576/17, 320-328/18-17 (see paragraphs 218 et seq.).

(ii) Ministry of Health officials

241. On 30 September 2005 the Russian Ministry of Health informed the Prosecutor General's Office of the results of its internal inquiry into the actions of its staff on 1 to 3 September. The Ministry conceded that the scale and circumstances of the events had been unprecedented even for its most experienced staff, and that the situation had been "exacerbated by a lack of verifiable information about the number of hostages, the unpredictability of the events and the difficulty in predicting the types of injuries". The report noted that the situation at the site of the paediatric field hospital set up in Beslan on 2 September 2004 had been made difficult by the presence of a large number of local residents, who had "sometimes turned into a mob displaying signs of emotional/psychological instability". The work of a mobile group of psychologists had aided to dispel the pressure and create the conditions necessary to carry out medical aid. The overall input of the *Zashchita* Centre was described as vital.

242. The Government, in their submissions made in September 2013, summarised the documents contained in file 20/849 relating to the work of the medical staff as follows.

243. On 1 September 2004 the Ministry of Health set up a coordination cell, joining the forces of the local and federal ministries of health, Emercom, the *Zashchita* Centre and the Ossetia State forensic bureau (*Бюро Судебно-медицинской экспертизы (БСМЭ)* – "the forensic bureau"). As of the evening of 1 September, special psychological aid units were put in place for the relatives. A number of other urgent steps were taken, such as putting medical personnel in a number of local hospitals on standby, preparing supplies of necessary equipment and material, including blood for transfusion, ensuring the preparedness of the intensive care and surgery units.

244. On 2 September an emergency paediatric field hospital was set up in Beslan. The "federal and local headquarters" worked out access to the school and evacuation routes and instructed the drivers and medical and paramedical personnel involved.

245. On 3 September an additional hospital was set up in Beslan, equipped to perform urgent surgical operations and other types of emergency care. Measures were taken in order to assist a large number of the injured. A total of 1,300 places were reserved at various hospitals in the region. Both before and after the storming medical teams were brought in from other regions, including highly qualified doctors from Moscow.

246. By the time of the first explosions, over 200 doctors, 307 medical staff and seventy ambulances were in Beslan. This made ninety-four mobile medical teams, including fourteen reserve ones.

247. Between 1.15 and 6.30 p.m. on 3 September 2004, 556 injured people, of them 311 children, were transferred to the local hospitals. By 7 p.m. all patients had been placed in hospitals in Beslan and Vladikavkaz and forty-seven urgent operations had been performed.

248. Over 1,000 people were provided with psychological aid.

249. As of 4 September 2004 special medical teams visited families, assisting those hostages and their family members who had gone home. Between 5 and 15 September over 200 patients (including 137 children) were transferred for treatment to Moscow by special flights.

250. Between 3 September and 16 December 2004 about 800 patients received medical aid. A total of 305 died at the school, while twenty-six people died in hospital. By 16 December 2004 twenty-six patients (of them seven children) continued to receive medical aid in hospitals; others had been checked out. North Ossetia received twenty-six tonnes of medical equipment and supplies in relation to the crisis.

(iii) Other officials and members of the OH

251. In May 2007 the applicants applied to the Prosecutor General's Office in the Southern Federal Circuit to have Mr Dzantiyev, the North Ossetian Minister of the Interior, charged with criminal negligence. On 1 June 2007 that application was dismissed. Following an appeal by the victims, on 18 February and 27 March 2008 the Promyshlenny District Court of Vladikavkaz and the North Ossetia Supreme Court upheld that decision.

252. In July 2007 the applicants requested that the prosecutor's office "evaluates" the actions of the North Ossetian senior officials who had failed to prevent the terrorist act and inform the population of the imminent threat or ensure a proper security perimeter around the school. They also asked it to verify the lawfulness of the actions of the members of the OH who had authorised the use of indiscriminate weapons and had failed to ensure that the fire was promptly extinguished. They referred to the information contained in the Federal Assembly report (see paragraphs 398 et seq.), also seeking to have the officials concerned and the victims questioned. On 2 August 2007 this application was partly dismissed by the investigator, who found that the questions raised by the victims were the subject of the pending criminal investigation.

(i) Establishing the causes of death and injuries

253. On the basis of the medical documents and forensic reports, the causes of death were established for 215 people; the exact cause of death of 116 people could not be established owing to extensive *post mortem* burns. As to the injured, seventy-nine people received gunshot wounds, ninety-one shrapnel wounds, 302 people suffered from the consequences of the explosions, ten people received concussion, eighty-three people suffered from fractured bones and contusions, thirty-six people received thermal injuries and 109 people suffered psychological and neurological problems.

254. The investigation concluded that the deaths and injuries of the victims were not connected with any actions or omissions on the part of State agents, including the use of firearms.

255. The applicants in their numerous complaints stressed that the forensic expert reports had been carried out without the extraction of bullets, shrapnel and other objects from the bodies. They also stressed that the forensic reports for many people had failed to establish the cause of death all together, owing to extensive burns.

(j) The victims' applications and complaints

256. In the course of the domestic proceedings the victims lodged several hundred applications with the prosecutor's office requesting various procedural steps to be taken. They appealed against the results of most of these decisions in the district courts. Copies of most of the applications and complaints, as well as the authorities' reactions, were submitted to the Court or described by the applicants in their submissions.

257. In July 2006 the victims asked the investigator in charge of the case to find out who had decided against presenting the four men sought by the terrorists for negotiations; to hold confrontations between civilian and police witnesses on the one hand and army servicemen on the other, to find out about the use of tanks and flame-throwers in the afternoon on 3 September 2004. On 24 July 2006 the investigator rejected the application, stating that the decision to use the appropriate weapons had been taken by the OH and that witness confrontations were not considered useful by the investigation.

258. In January 2007 the applicants asked the investigator to find out who had decided that the four men requested by the terrorists should not participate in the talks and who had authorised the use of tanks and flame-throwers during the storming. On 30 January 2007 the investigator in charge granted the application and informed the applicants that they would be kept up to date with the investigation results.

259. In August 2007 the applicants asked the investigation to find out the number of hostages that had been communicated by the OH to the FSB, the Ministry of the Interior and the Russian President on each day of the crisis and to question the relevant officials. On 14 August 2007 this application was granted.

260. In November 2007, referring to the results of the forensic reports and witness statements obtained during the trial of Nurpashi Kulayev (see paragraphs 269 et seq.), the victims argued that the bodies of 116 people had been severely burned, rendering it impossible in most cases for the cause of death to be established. However several forensic reports indicated extensive burns as the cause of death. The victims sought to find out who had ordered the delay in the firefighters' intervention in the gymnasium and whether they had been properly equipped upon arrival. On 16 November 2007 the investigator dismissed the application to bring charges against several officials, referring to the pending investigation.

261. At the victims' request, on 23 November 2007 the investigator appended to the file the records of the trials of the officers of the Pravoberezhny and Malgobek ROVDs.

262. In December 2007 the investigator granted the victims' applications, based on information obtained during the trial of Mr Kulayev, to have a number of senior officials questioned about the steps taken in August 2004 with the aim of preventing the terrorist act, in order to clarify the extent of the local police's involvement in securing Mr Dzasokhov's passage on the morning of 1 September and to find out how the OH had come up with the figure of 354 hostages that was aired during the crisis. The investigator also granted the victims' application to have the commander of the FSB Special Services Centre (*ЦСН ФСБ России*) General Tikhonov questioned, in order to find out the details of the use of indiscriminate weapons on the school.

263. On 10 May 2007 the Promyshlenny District Court of Vladikavkaz reviewed, at the applicants' request, about 120 applications lodged by them with the investigator between December 2005 and March 2007, the results of which they found unsatisfactory. The complaints mostly concerned the following points: the applicants' attempts to obtain additional evidence about the exact cause of their relatives' deaths and injuries, information about the reasons for the first three explosions in the gymnasium, the details of the involvement of various military and security units in the storming, information about the types and results of examinations of the weapons found in the school, evidence related to the actions of the OH, information about the actions of firefighters immediately after the first explosions, the extent of the officials' responsibility for the outcome of the crisis and the victims' demands to acquaint themselves with various documents in the file. The applicants' complaint was dismissed in full, the District Court finding that the investigators had acted lawfully and within the limits of their professional discretion. The court also noted that the proceedings were still pending. The applicants appealed, but on 13 June 2007 the North Ossetia Supreme Court upheld the decision.

264. On 23 October 2007 the Promyshlenny District Court of Vladikavkaz rejected a complaint by the victims about the investigators' decisions in response to seven applications they had lodged to ascertain the reasons for the first explosions and the origins of the firearms which had

caused the hostages' deaths and injuries, to find out more about the communications with the terrorists, to identify the person who ordered the deployment of tanks, APCs, flame-throwers and grenade launchers, and to establish the reason for the carbonisation of 116 bodies. The court also rejected the victims' complaint of inefficiency and delays on the part of the prosecutor's office. On 8 February 2008 the North Ossetia Supreme Court upheld this decision.

265. On 10 January 2008 the Promyshlenny District Court rejected another complaint in relation to five complaints lodged by the victims with the investigator. They concerned the victims' access to the expert report on the explosions, ballistics reports and documents relating to the existence of a real threat of a terrorist act prior to 1 September. The court, referring to Article 161 § 3 of the Code of Criminal Procedure, concluded that the limitations on the victims' access to the documents had been justified. The remaining actions of the investigation were also found to be lawful. This decision was upheld on appeal on 27 February 2008.

266. According to the decision of the Promyshlenny District Court of 13 March 2008, sixty-two victims and their representatives complained to the Prosecutor General's Office and then to the court about the investigators' decisions to reject twelve complaints lodged between December 2007 and January 2008. They included the following demands: to find out the exact reasons for the victims' deaths where the conclusions of the post-mortem reports had been incomplete; to ascertain whether the carbonisation of the bodies had been caused prior to or after death; to seek an explanation for six victims as to why the conclusions about the reasons for their relatives' deaths had been based on external inspection without autopsy reports; to establish the causal relationships between the use of flame-throwers, grenade launchers, tanks and APCs during the storming and the hostages' deaths; to obtain additional questioning of the servicemen of the Malgobek ROVD and of a military unit stationed in the Malgobek District about the prevention of the terrorist act; to clarify the reasons for the appointment of General Andreyev as the head of the OH on 2 September 2004; and to obtain full access to the material of the case file and copies of the complex expert report (including mathematical computations of the explosions, ballistics and explosion examinations). The victims also alleged that they had received no timely responses to their applications and requests, that the investigation had been protracted and lacked objectivity and, in particular, that they had not had access to the most important case documents. The Promyshlenny District Court dismissed all the appeals, finding that the victims' demands had been satisfied by the investigation wherever possible, or had not been based on the pertinent legislation. On 23 April 2008 the North Ossetia Supreme Court upheld that decision on appeal.

267. On 10 December 2008 the Promyshlenny District Court dismissed another complaint lodged by a group of victims against the decisions taken in response to their complaints to the investigators. Eleven complaints,

lodged between February and September 2008, concerned the victims' access to the ballistics reports and the records of negotiations with the terrorists, obtaining copies of certain documents in the case file and the decisions ordering expert reports. The victims also alleged that the investigation had been unnecessarily protracted, with important steps being delayed, which in turn could lead to a loss of evidence and make the judicial examination of the matters less effective. They asked for the actions of the investigators to be declared unlawful in so far as they had not conducted an effective investigation, had refused to allow victims access to the case file and had failed to establish the extent of the officials' responsibility. The court found that some documents requested by the victims were confidential, while access to others was regulated by Article 161 § 3 of the Code of Criminal Procedure. On 11 February 2009 the North Ossetia Supreme Court upheld the District Court's decision.

268. The victims' subsequent attempts to seek a supervisory review of these decisions proved futile. In September 2015 a group of applicants sought the latest information about the developments in the investigation from the head of the investigation team. They reiterated that they had received no information about the state of proceedings since 2013, particularly in respect of the actions concerning the military and the OH.

2. Criminal investigation in respect of Mr Nurpashi Kulayev

269. The applicants submitted voluminous documents related to the criminal investigation and trial concerning Mr Nurpashi Kulayev, the only terrorist captured alive. In particular, they submitted four volumes of trial records (about 2,000 pages), copies of the trial court judgment (319 pages) and cassation court decision and their appeals to the cassation and supervising courts. The most relevant documents and the applicants' submissions can be summarised as follows.

(a) Investigation and trial before the North Ossetia Supreme Court

270. On 19 January 2005 the criminal investigation in respect of the only surviving terrorist, Mr Kulayev, was separated from criminal case no. 20/849 and assigned number 20/870.

271. On 17 May 2005 the North Ossetia Supreme Court opened the trial of Mr Kulayev. He was charged with aggravated murder, terrorism, hostage-taking, membership of a criminal gang, illegal firearms handling and attempts on the life of law-enforcement personnel (Articles 105, 205, 206, 209, 222 and 317 of the Criminal Code). Between May 2005 and February 2006 the trial court held sixty-one hearings.

(b) Statements by Mr Nurpashi Kulayev

272. In court Mr Kulayev stated that he had joined the group on 31 August 2004. His brother, Mr Khanpash Kulayev, had been a clandestine fighter since the early 1990s, but had lost an arm and had lately been living

in Psedakh, their home village. On 31 August 2004 a group of armed men had arrived in a VAZ-2110 and accused his brother of working for the FSB. Both brothers and two of their friends had gone with the armed men to a camp situated about 300 metres away from the road. Late in the night on 31 August 2004 the man in charge of the camp, "*Polkovnik*", had told all those present to get into a GAZ-66 truck. There had been thirty-two people, including two women wearing masks. Explosives and arms in backpacks had been placed under the benches and the men had taken seats on the floor of the truck. Responding to the victims' questions, Mr Kulayev stated that he had not seen any wooden boxes for cartridges (which had later been found in the school canteen).

273. They had spent the night in the valley and in the early hours of the morning had continued their journey. The body of the truck had been covered with canvas and they could not see out. At one point the vehicle had stopped and Mr Kulayev had heard someone asking for the driver's documents. They had then been told that a policeman had been captured and they had travelled further. The policeman had later been released because he had been a relative of one of the fighters. The ride had lasted around two and a half hours. During the capturing of the school one fighter had been fatally injured and "*Polkovnik*" had ordered the killing of twenty male hostages. In the school Mr Kulayev had been assigned to the canteen. On 1 September there had been a dispute among the fighters and "*Polkovnik*" had detonated the explosive device on a woman suicide bomber. This explosion had fatally wounded the other woman and another fighter of Arab origin. According to Mr Kulayev, many members of the group, including himself and his brother, had been unaware of the nature of their mission, but "*Polkovnik*" had referred to Basayev's orders and executed anyone attempting to object. The terrorists had talked between themselves in Ingush and "*Polkovnik*" had called someone to receive instructions in Russian.

274. Referring to the conversations among the terrorists, Mr Kulayev said that "*Polkovnik*" had told Mr Aushev that if the four men indicated by them came to the school, they would release 150 hostages for each of them. He also understood that some hostages and fighters would have been able to move in buses to Chechnya, if the Russian troops had pulled out of the mountainous districts.

275. Speaking about the first explosions in the gymnasium, Mr Kulayev testified that "*Polkovnik*" had said that a sniper had "killed the man [holding the switch]"and had then cried to someone over the telephone "What have you done!" before breaking it; after that he had encouraged the terrorists to fight until the bitter end. Mr Kulayev had jumped out of the canteen window and shouted to the soldiers that they should not shoot there because there were women and children. He denied that he had used his machine gun and had walked into the gymnasium while the hostages were detained there.

276. Two people convicted earlier for terrorist activities testified that they had known Mr Khanpash Kulayev, the accused's brother, as an active

member of the terrorist underground and that in 2003 both brothers and several other members of the armed group, together with their families, had lived in a rented house in Ingushetia (Ganiyev R., volume 4 page 1562 of the trial records, Muzhakhoyeva Z., v. 4 p. 1611).

(c) Reconstruction of the events preceding the hostage-taking and identification of the leaders

277. Some local residents stated in court that they had seen unknown men and suspicious boxes at the school prior to 1 September 2004 (Tomayev V. v. 1 pp. 360-63; Gutnova L. v. 1 p. 458; Levina Z. v. 1 p. 474; Kokova R. v. 3 p. 1243; Rubayev K. v. 3 p. 1305). During August 2004 the school building had been partially renovated, but the teachers and director denied that anyone except the school staff and their families had been involved (Guriyeva N., v. 2 p. 542; Ganiyeva Ye. v. 3 p. 1157; Digurova Z. v. 3 p. 1238). Some teachers testified that they had inspected the school in the early morning of 1 September and there had been no one there (Tsagolov A. v. 1 p. 265; Avdonina Ye. v. 2, p. 871; Komayeva-Gadzhinova R. v. 2, p. 874; Shcherbinina O. v. 2 p. 931).

278. The police officer who had been captured by the terrorists on the administrative border on the morning of 1 September 2004 testified that he had stopped the GA-66 vehicle between 7 a.m. and 8 a.m. The armed men had taken his service pistol, VAZ vehicle and police cap and had driven to Beslan. He had escaped as soon as the shooting started. He denied having known any of the terrorists and confirmed that the terrorists had spoken Ingush between themselves and to him (G.S., v. 4 p. 1546).

279. As to the prevention of the terrorist act, a senior police officer of the Pravoberezhny ROVD testified in court in November 2005 that at about 8 a.m. on 1 September the school had been inspected, possibly with a service dog. He admitted that, unlike in previous years, no patrol police had been deployed to the school (Khachirov Ch. v. 3 p. 1215). Mr M. Aydarov, the former head of the Pravoberezhny ROVD, had been aware that the school had been inspected with service dogs on the morning of 1 September, but no appropriate records had been provided (v. 3 p. 1410).

280. The trial court noted that criminal proceedings in respect of the organisers of the terrorist act were the subject of a separate criminal investigation (no. 20/849, see above). The court cited statements and documents from investigation file no. 20/849. It identified nineteen terrorists (including Mr Kulayev) and referred to thirteen unidentified individuals (including "*Abu-Radiy*" and "*Abu-Farukh*").

(d) Questioning of the hostages and granting of victim status

281. It transpires that between October and December 2004 numerous hostages and the victims' relatives were questioned and accorded victim status. By the opening of the trial several hundred people had been granted

victim status in the proceedings. Over 230 victims were questioned during the trial; statements by others given to the investigation were read out.

282. The victims questioned in court mostly denied having seen Mr Kulayev in the gymnasium, although several hostages had seen him in the gymnasium, in the corridor on 1 to 3 September and in the canteen during the final stage of the assault. Most of the hostages had not seen Mr Kulayev's brother Khanpash, who had lost his right arm. Several of them also referred to one particular terrorist: a shaven man with a large scar on his neck, who had been particularly cruel to the hostages and whom they had not identified after the siege was over (witness Mitdziyeva I. v. 2 p. 520). Most hostages had seen two women suicide bombers, although some hostages referred to seeing another woman of Slavic appearance on the first floor of the school on 2 September and possibly a fourth one also on 2 September (Mitdziyeva I. v. 2 p. 518; Misikov K. v. 2 p. 571; Scherbinina O. v. 2 p. 935). One woman told the court that on 2 September terrorist "*Abdulla*" had asked her if she was Ingush and suggested that they would let her family members go free if she agreed to act as a suicide bomber, since "their two girls had been killed by an ammunition round" fired from the outside (Kudziyeva L. v. 2 p. 525). The hostages estimated the number of terrorists at between thirty and seventy.

283. With respect to the taking of the school, many hostages testified that as soon as the fighters had surrounded the gathering in the courtyard and started to shoot in the air, another group of fighters had fired from the top of the building. Some witnesses stated that when the shooting had started some children had tried to escape through Shkolny Lane, but there had been fighters there who had forced them to return. Many had seen fighters running to the school from the railway line (Kusayeva R. v. 1 p.147; Misikov Yu. v. 1 p. 471; Daurova M. v. 2 p.574). Others said that when they had entered the school there had already been armed fighters guarding the stairs to the first floor. One boy aged nine at the time testified that on 2 September he and about ten elder boys had been forced to take boxes with grenades and mines from an opening under the stage in the meeting hall (Khudalov S. v. 2 p. 866), but no one else from this group could be identified. One witness testified that when the fighters had broken the floors in the gymnasium on 1 September they had taken out a long tube which she supposed had been a grenade launcher (Tsakhilova A. v. 2 p. 896).

284. Police officer Fatima D. gave detailed submissions about the hostage-taking and subsequent events. According to her, a second police officer had failed to arrive at the school. At about 8.50 a.m. one mother told her that a strange truck had been parked nearby. When she went out to check, she heard a suspicious noise. She ran to the staffroom on the first floor to alert the police but as soon as she took the telephone, she was surrounded by several fighters wearing camouflage uniforms. They told her that "everything would be serious this time" and led her to the gymnasium. She estimated that there were about seventy fighters (v. 1 p. 365).

285. On 1 September the teachers, on the terrorists' orders, drew up lists of the children aged below seven, although they were never used (Levina Z. v. 1 p. 475; Shcherbinina O. v. 2 p. 937). Numerous hostages told the court that the terrorists had been extremely annoyed by the information about the number of people being held in the school and that their attitude had become harsher after the figure of 354 people had been announced. They testified that the terrorists had refused to allow them to drink or go to the toilet since "nobody needed them anyway and there would only be 350 of them left" (Kokayeva I. v. 1 p. 413; Kaloyeva F. v. 1 p. 448; Pukhayeva Z. v. 1 p. 461; Daurova Z. v. 1 p. 481). The hostages complained of mocking, insults and ill-treatment and explained how the terrorists had hit the elderly and children, subjected them to false executions, held parents and grandparents at gunpoint in the children's view, and had fired into the air in order to keep them quiet.

286. The hostages saw the terrorists' attitude deteriorating further on 2 September after Mr Aushev had left the school. Several of them said that on 2 and 3 September the terrorists had attempted in vain to liaise with the authorities through those who had had relatives among officials or public figures.

287. The school director Mrs Tsaliyeva was a hostage, together with members of her family. She stated that she had inspected the school on the morning of 1 September, denying allegations that anyone except staff and their relatives had been involved in the renovation. She had been called by the fighters to negotiate and testified that they had been annoyed by the absence of contact with the authorities. On 3 September she had attempted to involve the children of Mr Taymuraz Mamsurov and a prosecutor's mother in the negotiations, but to no avail (Tsaliyeva L., v. 1 p. 432).

288. Many hostages testified about the explosions in the gymnasium. They said that prior to the explosions the fighters had been behaving in a relaxed manner and preparing lunch. Others mentioned some agitation probably caused by electricity failure in the gymnasium. Some hostages testified that they had seen an IED fixed to a basketball hoop explode (Dzarasov K. v. 1 p. 213; Archinov B. v. 1 p.274). Others insisted that when they had been leaving the gymnasium they could still see large IEDs intact on the basketball hoops (Sidakova Z. v. 1 p. 315) or that only the third explosion had come from that IED (Bekuzariva I. v. 2 p. 962). Some described the first blast as a "fireball" (Dzestelova A. v. 2 p. 538). Many testified about the fire and heat emanating from the explosions, enflaming their clothes and hair and causing burns (Agayeva Z. v. 2 p. 600; Dzheriyeva S. v. 2 p. 614; Kochiyeva F. v. 2 p. 631; Tsgoyev A. v. 2 p. 748; Bugulova F. v. 2 p. 764; Makiyev V., v. 2 p. 826; Khanikayev Sh. v. 2 p. 831; Kokova T., v. 2 p. 884). Many testified that the fire could have killed, injured and shell-shocked people who had been unable to leave the gymnasium on their own (Tomayeva L. v. 1 p. 357; Gagiyeva I. v. 1 p. 444; Kudziyeva L. v. 2 p. 526; Fidarova S., v. 2 p. 584; Skayeva T. v. 3 p. 1001; Mitdziyeva Z., v. 3 p. 1043; Alikova F. v. 4 p. 1577). Some hostages

described how they had been saved by local civilians from the gymnasium and adjacent premises after the explosions (Gagiyeva I. v. 1 p. 444). Numerous witnesses also gave evidence that when the hostages had started to run from the gymnasium through the opening in the wall they had been shot at from the first floor of the school, and many had been wounded.

289. Those hostages who had been taken by the fighters to the canteen and the meeting room testified about the fierce fighting which had taken place there. They stated that the fighters had tried to force the hostages – women and children – to stand in the windows and wave their clothes, and some had been killed by shots fired from outside and by powerful explosions (Kusayeva R., v. 1 p. 152; Sidakova Z., v. 1 p. 313; Urmanov S. v. 1 p. 426; Daurova Z., v. 1 p. 483; Badoyeva N. v. 2 p. 823; Makiyev V. v. 2 p. 826; Svetlova T. v. 2 p. 956; Katuyeva V. v. 2 p. 971).

290. Many also stated that they had not been satisfied with the results of the criminal investigation and that they did not intend to seek damages from the accused, since they considered that the State officials had to bear responsibility for the deaths and injuries.

(e) Testimony of the Pravoberezhny ROVD police officers

291. Mr M. Aydarov, former head of the Pravoberezhny ROVD, was questioned in court (v. 3 pp. 1394-14) while under investigation in criminal case no. 20/852 for criminal negligence (see paragraph 355 below). He explained that he had only been appointed in mid-August 2004. The administrative border with Ingushetia in the district was 57 kilometres long and had been mostly unguarded. Many small roads through the fields had been closed off and rendered impassable in view of the heightened terrorist threat; however, this had not suited the locals, who very often had removed the barriers. In August 2004 information had been received about a gathering of armed groups near Psedakh in Ingushetia and a number of steps had been taken on both sides of the administrative border, but at the time the measures had produced no known results.

292. He also explained that out of the fifty-three officers of the ROVD who had been present on 1 September, over forty had been women. It had been difficult to maintain the staff on alert for a long time. As soon as shooting could be heard from the school, at about 9.15 a.m. on 1 September, he had ordered his staff to maintain security around the building. Two servicemen of the ROVD had witnessed the hostage-taking and exchanged fire with the terrorists.

293. Mr T. Murtazov, deputy head of the Pravoberezhny ROVD, was also under investigation for criminal negligence at the time of questioning. He gave detailed submissions about the use of *Shmel* flame-throwers on the school from three snipers positioned on the roofs of a technical building on Lermontova Street, a five-storey housing block on the corner of Shkolny and Batagova Streets and the caretaker's house (v. 3 p. 1418). He did not know where the snipers had come from. Between 2 and 4 p.m. he had

witnessed a tank shooting at the school and the use of grenade launchers by the military. The officer remarked that not a single bullet had been extracted from the bodies of the deceased hostages which could have led to the identification of the servicemen of the Ministry of the Interior (v. 3 p. 1424).

294. Mr Dryayev, another senior ROVD officer, testified that immediately after the first explosions on 3 September he had seen soldiers (of the army or Internal Troops) firing automatic weapons on the school in response to enemy fire. Soon after 3 p.m. he had seen a tank stationed on Kominterna Street firing about ten shots at the corner of the school from a distance of about 30 metres. These rounds, possibly non-explosive, had damaged the wall and the roof (v. 3 p. 1428).

295. Police officers of the Pravoberezhny ROVD testified that by the evening of 1 September they had carried out a house-to-house inspection in the district and compiled a list of 900 hostages' names, which they had submitted to the officer on duty (Khachirov Ch. v. 3 p. 1212; Friyev S. v. 3 p. 1217).

296. The policemen also explained that two men had been assaulted by the crowd on 2 September and detained at the ROVD on suspicion of aiding the terrorists. They turned out to be civilians from a nearby town; both men had been identified and testified in court about this incident.

(f) Statements by civilians and police officers who participated in the rescue operation

297. The court questioned several civilians who had helped to evacuate hostages from the gymnasium. Mr Dudiyev testified that he had entered the gymnasium after the first explosions, together with the special forces units, to search for his wife and three children. He had taken out his wounded wife and the body of his daughter, while his brother had evacuated his injured son; his eldest child had also been killed (Dudiyev A. v. 1 p. 251). Other witnesses, both civilian and police, told the court that they had entered the burning gymnasium several times, taking out injured women and children before the roof had collapsed (Adayev E., v. 2 p. 659, Totoonti I., v. 4 p. 1595). One policeman witnessed the fire spreading very quickly on the roof of the school, saying that the firemen had failed to intervene (Badoyev R. v. 3 p. 1295).

298. Some witnesses saw tanks shooting at the school soon after the explosions (Khosonov Z. v. 3 p. 1110); one man was injured by an explosion while taking a child out of the gymnasium (Gasiyev T. v. 2 p. 676). One witness, E. Tetov, explained that he had served in the army as a tank crew member and was well acquainted with tanks and the ammunition used by them. Shortly after 1 p.m. on 3 September he had counted between nine and eleven non-explosive rounds fired from a tank gun. He was also of the opinion that the first explosions and the fire had been started from the outside, by either a flame-thrower or a tracer bullet (v. 2 pp. 729-30). One civilian witness stated that he had served in the army as a grenade launcher operator and had identified at least two shots fired from grenade launchers

or flame-throwers between the second and third major explosions in the gymnasium (Totoonti I., v. 4 p. 1603).

299. Several police officers testified that the storming of the building had started unexpectedly and that this explained the casualties. Some of them had had no time to put on protective gear and rushed to the school as soon as they had heard the shooting. Some servicemen described the situation after the first explosions as "chaotic", when various forces had been shooting at the school building using automatic weapons and other arms (Khosonov Z., v. 3 p. 1109). They referred to the terrorists' high level of training and preparedness, which had allowed them to mount resistance in the face of the elite Russian units (Akulov O., v. 1 p. 492).

300. An officer of the Pravoberezhny ROVD testified that at about 9 a.m. on 3 September, while he had been ensuring the security cordon around the school, he had seen two full carloads of portable grenade launchers (RPG) and flame-throwers (RPO-A *Shmel*) being delivered by servicemen of the Ministry of the Interior driving a white Gazel vehicle. He estimated that at least twenty flame-throwers had been unloaded and taken to the snipers' positions, located about 200 metres from the school. The snipers and the forces of the Ministry of the Interior had used these flame-throwers soon after the explosions at the school, responding to enemy fire from grenade launchers and machine guns (Khachirov Ch. v. 3 p. 1212). Another policeman counted up to ten shots from flame-throwers in the direction of the gymnasium roof at around 2 p.m. (R. Bidzheov, v. 3 p. 1222). Other policemen testified that between 3 and 5 p.m. they had seen a tank firing at the school (Friyev S. v. 3 p. 1218; Khadikov A. v. 3 p. 1224; Khayev A. v. 3 p. 1227; Karayev A. v. 3 p. 1231;) and that shots had been fired from grenade launchers (Karayev A. v. 3 p. 1231; Aydarov M. v. 3 p. 1400).

(g) Statements by local residents

301. The hostage-taking and subsequent events were witnessed by numerous local residents; some of them were questioned in court. Several passengers of vehicles who had found themselves on the street in front of the school on the morning of 1 September had seen a GAZ-66 truck arriving in the schoolyard. Some said that they had seen three or four women jumping out of the vehicle. Mr K. Torchinov had been a teacher at school no. 1 and a former investigator of the prosecutor's office; he lived in the house opposite the school and had watched the ceremony from his window, from a distance of about 200 metres. He gave detailed explanations about the hostage-taking. In particular, he had counted the men who jumped out of the GAZ-66 vehicle and said that there had been twenty-seven. He had also seen two other fighters in the schoolyard and between seven and eight who had run from the railway lines; at the same time there had been shots fired from the roof and the first floor of the school; he thus estimated the number of fighters at no fewer than forty or forty-five. Mr Torchinov also stated that

on 1 to 3 September there had been no soldiers or police lined up along the backyard of the school and that it had been possible to walk there to and from his house (v. 2 pp. 847-59).

302. Numerous local residents whose relatives were held in the school stated that they had been appalled by the announcement of the number of hostages. They said that the school had had about 900 students – lists could have been obtained from the local department of education – and that numerous parents and relatives had also been captured. Officials from the local department of education testified that on the morning of 1 September the number of students (830) had been transmitted to the administration with an indication that many relatives could be present at the ceremony (Dzukayeva B. v. 3 p. 1334; Burgalova Z. v. 3 p. 1349). Moreover, on 1 September volunteers and police had drawn up lists of over 1,000 hostages. In view of this, they could not explain how the officials had arrived at a figure of 350 (Khosonov Z. v. 3 p. 1107).

303. Many local residents testified that they had seen or heard a tank shooting at the school after the explosions (Duarov O. v. 3 p. 1083; Pliyev V. v. 3 p. 1085; Dzutsev Yu. v. 3 p. 1121; Gagiyev E. v. 3 p. 1300; Malikiyev A. v. 3 p. 1308; Savkuyev T. v. 3 p. 135; Ilyin B. v. 1 p. 1453). Mrs E. Kesayeva had remained outside the school, where four members of her family were being held hostage. She testified that a tank positioned on Kominterna Street had fired several rounds between 1 p.m. and 4 p.m. (v. 1 p. 325). One local resident saw a tank enter a courtyard on Pervomayskaya Street and heard it shooting at the school before 3 p.m. on 3 September. The witness was about 50 metres away from the tank (Khabayeva A. v. 3 p. 1289). All those witnesses described the tank cannon shots as being particularly strong and clearly identifiable despite the overwhelming noise of fierce fighting.

304. Several residents testified about the firemen's actions. They alleged, in particular, that the firemen had lost time before intervening in the gymnasium and that once the fire engines had arrived, they had been of little use since the water in the cisterns had been quickly exhausted. Moreover, the pressure in the water hoses had been weak and they could not reach the gymnasium from where the machines were stationed. Some witnesses deplored the lack of preparedness by the firemen who had failed to find out beforehand where to find water locally around the school rather than bringing it in cisterns (Tetov E. v. 2 p. 729; Katsanov M. v. 2 p. 802). Other witnesses told the court that they had seen a fire engine stuck in the courtyard and trying to find water for the cistern (Pliyev V. v. 3 p. 1086).

(h) Statements by the servicemen of the Internal Troops, army and FSB

305. Colonel Bocharov, brigade commander of the Internal Troops deployed in Beslan on 1 to 4 September, testified in November 2005 that servicemen under his command had ensured the security cordon. Their task had been to prevent the terrorists from breaking through. Four APCs from

his brigade had been transferred to the FSB forces on 2 September (v. 3 p. 1209).

306. Officers of the 58th Army testified that their task had been to ensure the "third ring" of security around the school. One officer explained that General Sobolev, the commander of the 58th Army, had instructed him to follow the orders of the FSB officers. Each army vehicle deployed in Beslan had been reinforced by an officer of the FSB who had given orders and coordinated the crews' actions (Isakov A. v. 3 p. 1260; Zhogin V. v. 3. p. 1265). They denied having heard or seen grenade launchers, flame-throwers or tanks being used prior to late on the evening of 3 September. The tank unit commander stated that between 8.56 p.m. and 9.30 p.m. one tank had fired seven high-fragmentation shells at the school (although the seventh had failed to explode), following orders of the FSB officer in charge. No shots had been fired from the tank guns before or after that (Kindeyev V. v. 3 p. 1277).

307. One officer, a sapper, testified that he had entered the gymnasium at around 2.40 p.m. on 3 September and had deactivated an IED attached to a basketball hoop. Most IEDs had not exploded and had been deactivated the following day. The officer testified that he had entered the gymnasium with a group of seven servicemen and fifteen or twenty civilians who had evacuated the hostages for about one hour. Initially there had been no fire there, but the premises had been under attack from the north wing of the school. Soon afterwards he had noticed a fire starting in the roof, above the entrance to the gymnasium from the side of the weights room (Gagloyev A. v. 4 pp. 1715 and 1733).

308. Mr Z., a professional negotiator from the North Ossetian FSB, was called to Beslan at 9.30 a.m. on 1 September. He had a meeting with General Andreyev and then informed him of the talks and received instructions from him. He was placed in a separate room, with a psychologist, and maintained telephone contact with the terrorists every 30 to 35 minutes. His efforts to establish psychological contact with his interlocutor (who called himself "*Shahid*") were unsuccessful and he failed to obtain any concessions aimed at alleviating the hostages' situation. The conversations were conducted in a rude manner; the gangsters insulted him and Dr Roshal. The terrorists repeatedly said that they would talk to the four men named by them and did not present any other demands. They did not specify the number of hostages they were holding, saying only that they had "enough". They spoke of about twenty people shot dead on the first day and said that they had three days to wait for the authorities to bring the four men together. When asked if Mr Dzasokhov could come alone, the terrorists refused. The first telephone conversation took place at about 4 p.m. on 1 September, the last one after 1 p.m. on 3 September immediately following the first explosion. The witness remembered saying "What have you done?!" and "*Shahid*" responding "We have fulfilled our duty". Responding to the victims' questions, Mr Z. admitted that the negotiations involving Mr Aushev and Mr Gutseriyev had been carried out without him

and that he had only been informed of these developments after they had occurred (v. 4 pp. 1819-43).

309. The head of the FSB in Beslan at the relevant time stated in court in January 2006 that he had not been aware of the information and telexes sent by the Ministry of the Interior in August 2004 about the heightened terrorist threat during the Day of Knowledge. The FSB had not been involved in the protection of the administrative border, but their services had cooperated with the Ministry of the Interior in examining the area around the border (Gaydenko O. v. 4 pp. 1847-54). He did not have any information about the possible escape of terrorists after the storming.

310. The former head of the FSB department in Ingushetia, General Koryakov, confirmed that there had been sufficiently precise information about the activities of terrorist groups in Ingushetia in the summer of 2004 as a number of successful special operations had been carried out, but there had been no information about the armed group in the Malgobek District. He testified that he had arrived in Beslan on the morning of 1 September and had remained there for three days, working in close cooperation with General Andreyev. He was not certain if he had been a member of the OH, but he had been fully aware of its work. On the morning of 1 September General Koryakov had called the Ingushetian President Mr Zyazikov and informed him of the terrorist act; at that time no demand to involve Mr Zyazikov in the negotiations had been made. He could not reach Mr Zyazikov later since his mobile telephone had been switched off. By questioning the escaped hostages, they had tried to identify terrorists from Ingushetia and involve their relatives in the negotiations. They had therefore brought in the wife and children of a presumed terrorist, but her appeal had had no effect. The witness had not been aware of the note taken out by Mr Aushev (v. 4 pp. 1841-90).

311. Most of the army and Internal Troops servicemen failed to testify in court, and their witness statements collected during the investigation of criminal case no. 20/849 were read out (see paragraph 207 above).

(i) Statements by members of the OH and other senior officials

(i) Lieutenant-Colonel Tsyban

312. On 15 November 2005 the court questioned Lieutenant-Colonel Tsyban (v. 3 pp. 1192-203), who at the relevant time headed the operational management group at the North Ossetian Ministry of the Interior (*начальник группы оперативного управления по РСО при МВД РФ*). The group was created on 11 August 2004 by an order of the Minister of the Interior with the mission of preventing terrorist acts, planning and carrying out special operations and controlling and managing resources allocated for counter-terrorism activities. When asked about the meetings, functions and actions of the commission prior to 1 September 2004, he could not recall any details.

313. Lieutenant-Colonel Tsyban learnt of the hostage-taking at 9.30 a.m. on 1 September and went to Beslan. By late morning, he had organised the security perimeter around the school. As of noon on 1 September he reported to the deputy commander of the Internal Troops of the Ministry of the Interior, General Vnukov. Although he was a member of the OH, he stated that his participation had been limited to ensuring the second security perimeter. He had not been aware of the number of hostages, the nature of the terrorists' demands or the negotiation attempts. He had not taken part in any meetings or discussions of the OH. As to the rescue operation, he stated that the servicemen of the Internal Troops had not used weapons, approached the school or taken part in the rescue operation. He had not been at the school on 3 September. He refused to answer when asked whether any terrorists could have passed through the security perimeter.

(ii) General Sobolev

314. General Sobolev, the commander of the 58th Army of the Ministry of Defence, was questioned in November 2005 (v. 3 pp. 1316-30). He was the most senior officer from the Ministry of Defence in the OH. He described the OH's principal strategy of negotiation with the hostage takers, but said that the attempts had been futile because the terrorists had only been prepared to talk if the four people named by them came. Dr Roshal had attempted to contact the terrorists, but they had refused to talk to him; Mr Dzasokhov had been prevented by the OH from going to the school, and no contact had been established with Mr Zyazikov. The danger to the lives of the four men had been too high in the absence of any goodwill shown by the terrorists. In General Sobolev's view, no negotiations were possible in the circumstances; the storming of the school should have taken place immediately, before the IEDs had been assembled. He believed that the terrorists had been supported and funded by foreign services, including the Central Intelligence Agency (of the United States). His task had been mostly limited to ensuring the security perimeter around the school and providing the necessary equipment; he was not aware of the number of hostages, negotiation strategies or the rest of the plan drawn up by the OH.

315. He named the forces and equipment brought in by the army. Eight APCs and three tanks had been transferred under the command of the FSB to be used as cover in the event of a storming. A group of sappers had demined the gymnasium on the afternoon of 3 September; they had found four mines and ten smaller IEDs connected by a "double chain" which had allowed them to be activated all at once or one by one. Three IEDs had exploded prior to demining; in one of them only the detonator had exploded but not the main charge.

316. Turning to the storming, General Sobolev explained that it had started unexpectedly. Officers of the FSB's *Alpha* unit had been training in Vladikavkaz and had to be brought in urgently; many of them had had no time to prepare. This had led to an extremely high number of casualties: a

third of the elite troops who had stormed the building had been injured or killed. He had not been aware that flame-throwers or grenade launchers had been used. The tank cannon had fired seven shots after 9 p.m. He was of the opinion that the army had successfully concluded its mission.

(iii) Mr Dzantiyev

317. Mr Dzantiyev testified in November 2005 that at the relevant time he had been the North Ossetian Minister of the Interior. He had arrived in Beslan at about 10 a.m. on 1 September and followed Mr Dzasokhov's orders. As of 3 p.m. on 1 September General Andreyev, the head of the North Ossetian FSB, had taken over the command of the operation. Mr Dzantiyev's tasks had been to ensure security around the school and evacuate civilians from the area. The victims referred to the decree of the Russian Prime-Minister of 2 September 2004 by which Mr Dzantiyev had been appointed deputy head of the OH; however, the witness insisted that he had not been informed of this, had not assumed such responsibilities and had been excluded from the OH meetings. Mr Dzantiyev had received orders from the Russian Minister of the Interior and his deputy Mr Pankov, who had arrived in Beslan, and on two occasions the deputy head of the FSB Mr Anisimov had asked him to check the situation in two villages. Mr Dzantiyev had been aware by the evening of 1 September, from the lists drawn up by the local police, that the number of hostages had been no fewer than 700. He did not know where the figure of 354 had come from. He had no information about the use of heavy weapons during the storming but knew that later a number of empty tubes from *Shmel* flame-throwers had been found on the nearby roofs (v. 3 pp. 1371-94).

(iv) Mr Dzugayev

318. In November 2005 the court questioned Mr Dzugayev (v. 3 pp. 1430-45). At the relevant time Mr Dzugayev was the head of the information and analytical department of the North Ossetian President's administration. He testified that he had arrived in Beslan on 1 September 2004 at about 10 a.m. He had been instructed by Mr Dzasokhov and General Andreyev to liaise with the press, but had not been aware of the OH's work, composition and strategy. He was asked a number of questions about the figure of 354 hostages which he had consistently announced to the press on 1 to 3 September. He explained that he had been told the figure by General Andreyev, who had referred to the absence of any exact lists. He had always stressed the preliminary nature of this information.

(v) General Andreyev

319. General Andreyev, who at the relevant time was the head of the North Ossetian FSB and head of the OH, was questioned in court in December 2005 (v. 3-4, pp. 1487-523). He gave a detailed account of his actions and the work of the OH during the crisis. According to him, no

formal leadership over the operation had been assumed prior to 2 p.m. on 2 September, but informally all the people with responsibility – members of the operational management group – had carried out their tasks under his and Mr Dzasokhov's guidance. According to General Andreyev, as of 2 September the OH included seven officials: himself as the head, Lieutenant-Colonel Tsyban as his deputy, Mr Sobolev, Mr Dzgoyev, Mr Goncharov, the North Ossetian Minister of Education Mrs Levitskaya, and Mr Vasilyev from the State television company.

320. Mr Pronichev, deputy head of the FSB, had assisted the OH in a personal capacity but had assumed no formal role. General Andreyev referred to the Suppression of Terrorism Act, which stipulated the plan of action in the event that the hostage takers had put forward political demands. The same law excluded political questions from the possible subjects of negotiations. He believed that the terrorists' primary aim had been to achieve a resumption of the Ossetian-Ingush ethnic conflict, of which there was a real threat. From the first hours of the crisis, work had been carried out in close cooperation with the head of the FSB in Ingushetia.

321. General Andreyev detailed the authorities' unsuccessful attempts to negotiate with the terrorists: their mobile telephone had initially been switched off, and the school telephone had been disconnected. The terrorists had often interrupted the contact, saying that they would call back. The OH had involved a professional negotiator, who was a staff member of the FSB. The terrorists had behaved in an aggressive and hostile manner and refused to discuss any proposals unless the four men indicated by them came to Beslan. General Andreyev insisted that Mr Zyazikov, the Ingushetian President, could not be found, while the three other men had been in contact with the OH (Mr Aslakhanov had talked to the terrorists over the telephone and had arrived in Beslan on the afternoon of 3 September). The OH had invited two influential men of Ingush origin, Mr Aushev and Mr Gutseriyev, to take part in the negotiations. The terrorists had been inflexible and refused to consider any proposals aimed at aiding the hostages or the possibilities of a ransom and exit. No written demands had been issued and a number of political demands had been made verbally through Mr Aushev. Responding to the questions about the number of hostages, General Andreyev insisted that there had been no exact lists beyond the 354 names and the OH had not wanted to release unreliable information. Responding to the victims' questions, he reiterated that in the course of the negotiations the terrorists had not referred to the number of hostages and that in his opinion they had not been particularly interested in the figure announced. He testified that on the evening of 2 September Mr Gutseriyev had talked to Mr Zakayev in London and the latter had promised to establish contact with Mr Maskhadov. However, no direct line of communication with Mr Maskhadov had been established.

322. The OH's strategy had been to negotiate, and no plan consisting of resolving the situation by force had been considered. General Andreyev

explained that the involvement of the special forces had only been foreseen in the event of a mass killing of the hostages.

323. Turning to the special forces of the FSB, General Andreyev clarified that the FSB Special Services Centre, under the command of General Tikhonov, had their own temporary headquarters located on the third floor of the Beslan administration building, at the local department of the FSB. Questions concerning the types and use of special weapons, such as flame-throwers, lay within the competence of that Centre. General Andreyev had issued an order to start the operation aimed at liberating the hostages and at neutralising the terrorists as soon as the latter had started to shoot at escaping hostages. He conceded that at the beginning of the operation there had been shots fired by other servicemen, and the FSB forces had been in danger of friendly fire. He insisted that the tanks and flame-throwers had been used only after 9 p.m. on 3 September, when there had been no hostages still alive in the school. General Andreyev stated that two terrorists had been captured alive, but one of them had been lynched by the locals.

324. During questioning, the victims openly accused General Andreyev of incompetence, concealing the truth and being responsible for the fatalities. They were reprimanded by the presiding judge.

(vi) Mr Dzgoyev

325. The court heard a statement by the North Ossetian Minister of Emercom Mr Dzgoyev (v. 4 pp. 1523-44). He explained that he had been informed that he was a member of the OH on the evening of 2 September; however, both before and after that time he had functioned semi-autonomously. He had estimated the number of hostages at around 800 and on 2 September Mr Aushev had informed him personally that there were over 1,000; this information had been sufficient to provide for the rescue operation.

326. Mr Dzgoyev answered numerous questions about the extinguishing of the fire in the gymnasium. He stated that the information about a fire at the school (but not in the gymnasium) had been noted by their service at 1.05 p.m. on 3 September. The message that the roof of the gymnasium was starting to collapse had been noted at 2.40 p.m. General Tikhonov, the commander of the Special Services Centre, had authorised the firemen to move in at 3.10 p.m. and at 3.20 p.m. they had arrived at the scene. Mr Dzgoyev was told that by that time there had been no hostages still alive in the gymnasium; this information had later been confirmed by the forensic reports. Five fire brigades had been involved. By 4 p.m. the fire had been contained. Later the fire brigades had been ordered by the FSB to leave the gymnasium. They had then entered again and left the building at 6 p.m.

327. The witness explained that another fire vehicle had been brought in by a relative of a hostage from a nearby factory; it had been seen by many witnesses but had not been an Emercom car. He also insisted that the

vehicles and cisterns had been fully prepared, that hoses had been laid from the nearest water hydrants and that the fire equipment had been sufficient.

328. At 7 a.m. on 4 September Emercom teams had started the clearance operation. They had worked in parallel with the staff of the FSB, army sappers and the prosecutor's office. They had collected the remains of 323 hostages, of which 112 had been found in the gymnasium and adjacent premises. The bodies of thirty-one terrorists had also been found. During the day the Emercom staff had cleared the debris with the use of cranes, bulldozers and excavators; the debris had first been shifted manually to collect human remains and other relevant items. Only after sifting had the rubble been loaded onto the trucks supplied by the local administration. Mr Dzgoyev had personally inspected the destroyed wing of the school, where two floors had collapsed onto the cellar. He had seen the terrorists' bodies but no hostages' remains. Emercom had finished the clearance work by 7 p.m. on 4 September, after which the building had been handed over to the local administration.

(vii) Mr Dzasokhov

329. Mr Dzasokhov was questioned on 27 December 2005 (v. 4 pp. 1562-690). Then the North Ossetian President, he stated that at about noon on 1 September General Andreyev had received a verbal instruction from the FSB, with reference to the Russian Government, to head the OH. Mr Dzasokhov had not been a member of the OH, which he considered had been a mistake. However he had done whatever he had thought was right and within his powers. He had been prepared to go and negotiate with the terrorists, but he had been told that he would be placed under arrest if he did so. Nor had he talked to the terrorists over the telephone, since this had been done by a professional negotiator. He had participated in the meeting with the relatives at the Cultural Centre on 1 and 2 September. He had also had several talks with General Tikhonov, the commander of the FSB Special Services Centre, who had shared his concerns about the use of force.

330. Mr Dzasokhov believed that too much operative information of low quality had been sent around prior to the terrorist act, which had made it difficult to react. In particular, there had been insufficient clarity about the terrorists' plans in the summer of 2004, although the heightened security threat had been evident.

331. Turning to the negotiations, Mr Dzasokhov testified that he had seen the handwritten note allegedly signed by Mr Basayev which Mr Aushev had taken out of the school. He also explained that on 2 September he had talked to Mr Zakayev in London. At 12 noon on 3 September Mr Zakayev had confirmed that the request to take part in the negotiations had been transmitted to Mr Maskhadov. Mr Dzasokhov had informed the OH accordingly.

(viii) Other officials

332. Mr Ogoyev, a former member of the counter-terrorism commission of North Ossetia and secretary of its security council testified that the OH appointed on 2 September had excluded all other people from its meetings. He had had no access to the OH, and Mr Dzasokhov and Mr Mamsurov had only been invited to its meetings on two occasions (Ogoyev U. v. 3 p. 1362). He could not recall the work of the North Ossetian counter–terrorism commission created on 23 August 2004, of which he had been a member.

333. Mrs Levitskaya was the North Ossetian Minister of Education at the relevant time. She testified that she had gone to Beslan on 1, 2 and 3 September. She had been at the town administration and had had a number of discussions with Mr Dzasokhov and several other Ossetian officials. She had not participated in any OH sessions or other meetings. She had learnt that she had been a member of the OH on 10 September 2004 during a meeting of the North Ossetian Parliament (v. 4 p. 1696). She had been informed on 1 September by the local department of education about the number of pupils at the school; she had also been told that this information had already been transferred to the district authorities.

334. The North Ossetian Deputy Minister of the Interior admitted that their resources had been insufficient to monitor the border crossing points with Ingushetia. He had also been aware of the attempts to block small roads in the Pravoberezhny District and the problems that had been encountered in August 2004 – a lack of staff, sabotage by the locals and the absence of funds to pay for the works (Popov V., v. 4 p. 1807).

(j) Questioning of doctors

335. The director of the *Zashchita* Centre Mr Goncharov (v. 3 pp. 1166-78) testified that on 2 September he had been told that about 300 people were being held hostage and that the medical assistance had been planned accordingly. Only after he had met with Mr Aushev on 2 September had he realised that the number of hostages had actually been much higher. That evening he had set up emergency paediatric teams, called in ambulances from the region, carried out training and prepared for the arrival of patients. They had mostly expected victims of injuries; the probability of gas poisoning had been considered low. He testified that although he had been a member of the OH as an official of the Ministry of Public Health, he had not taken part in any meetings or discussions. He had not received any information from the OH, as, in his view, the number of hostages had been the only relevant factor and that had been communicated to him personally by Mr Aushev. His own experience and available resources had been sufficient. Being highly experienced in providing emergency treatment to a large number of victims, his work had been relatively independent from the rest of the OH. Besides, his previous

experience had shown that the "security structures" would not share their plans with the medics, out of a need to keep such considerations secret.

336. Turning to the organisation of medical assistance, Mr Goncharov explained that by the morning of 3 September they had had about 500 people on standby in Beslan, including 183 doctors, over seventy ambulances, one field paediatrician hospital and several intensive care units. "Carriers" with stretchers had been grouped about 700 metres from the school, with ambulances and medical vehicles placed in several spots around the building. The idea had been to take the injured to Beslan Hospital where the sorting would take place, urgent operations and life–saving measures would be carried out in the paediatric field hospital and, for adults, in Beslan Hospital and then those who could be transported to Vladikavkaz would be taken there (about 20 kilometres away).

337. Immediately after the explosions at 1 p.m. on 3 September he had received a call from the OH to bring in the medical rescue team. For four hours on 1 September the sorting centre at Beslan Hospital had treated 546 patients and carried out seventy-six urgent operations. Five people had been taken to the hospital in agony and had died within a few hours; fourteen other patients had died within twenty-four hours. In total, 199 adults had been evacuated to other hospitals after urgent medical assistance; fifty-five children had been in a life-threatening condition and had had to be treated on the spot, seven children had had emergency surgery. On the night of 3 September six children in a critical condition had been taken to Moscow in a specially-equipped aeroplane. There had been difficulties in maintaining the necessary security around the school, and later around the hospital, to avoid disruption of services by the relatives.

338. Mr Soplevenko, then North Ossetian Minister of Public Health, was questioned in court on 15 November 2005 (v. 3 pp. 1179-91). He also testified that on 1 to 3 September he had not received any particular instructions, but rather general indications by Mr Dzasokhov that "adequate medical aid" should be provided. He had not been part of the OH or any other body during the crisis. He had learnt from the nursing mothers who had walked out with Mr Aushev on 2 September that more than 1,000 people were being held in the school. In cooperation with Mr Goncharov he had alerted the hospitals in Vladikavkaz that they would have to admit patients: beds had been freed at five hospitals, surgery and intensive care teams had been put on standby, and stocks of medical and dressing material had been set aside.

339. Dr Roshal, director of the Moscow Institute of Emergency Paediatric Surgery, was questioned in February 2006. He stated that he had been informed by journalists on 1 September about the hostage–taking and had immediately gone to Beslan. He had been taken to the town administration where the OH and other officials had been stationed. He had been taken to a room with Mr Z. where he had received brief instructions from him. On several occasions he had called the terrorists; each time they had reacted in a hostile manner and refused to discuss anything unless all

four men requested by them came. His attempts to convince them to accept water, food, medicine or to allow him to examine and treat the wounded and sick had been flatly rejected; moreover, the terrorists had said that all the hostages had declared a "dry hunger strike" in support of their demands. On 2 September at about 11 a.m. the terrorists had called him and let him talk to the school director, who had pleaded with him to intervene since their situation was dire. On 2 September Dr Roshal had personally telephoned Mr Zakayev in London and let Mr Dzasokhov talk to him (v. 4 pp. 1900-25).

(k) Information about forensic reports

340. In December 2005 the court, following an application by the victims, questioned a senior expert of the forensic laboratory in Rostov-on-Don, who on 13 September 2004 had been appointed the chief of the team in charge of identifying the remains by DNA testing. The expert explained that their laboratory was the best equipped in Russia and that the delay in genetic testing was between three days and five weeks, depending on the quality of the material under examination. All work in the Beslan cases had been completed within a month and a half. Mr Korniyenko stated that the results obtained through genetic pairing had been final and could not be challenged on grounds of possible misidentification. He admitted that many relatives had refused to believe that their loved ones had died and that on some occasions they had carried out second rounds of tests with other relatives' DNA, primarily out of respect. The expert cited difficulties in identifying the remains which had been burnt "to ashes" and in identifying body fragments, a process which had lasted until summer 2005. The same expert group had worked with the terrorists' remains: twenty-three had been identified, while eight remained unidentified (v. 3 p. 1469).

341. Hundreds of forensic reports on the victims were examined by the court. They included examinations of bodies, results of the identification of remains through DNA testing, conclusions of experts regarding damage to the health of the surviving hostages and other documents. Over 110 forensic reports concluded that the cause of death could not be established in view of many of the remains being extensively charred and burned and the absence of other injuries. Other reports named extensive burns, gunshot wounds, traumatic amputation of the extremities and injuries to the head and body as the causes of death. Injuries from gunshots and explosions, burns and psychological trauma were recorded for the surviving hostages.

(l) Additional requests and applications lodged by the victims

342. In the course of the proceedings the victims lodged several hundred applications. Some of them were lodged with the district courts in Vladikavkaz, where the investigation was being conducted, while others were lodged directly with the North Ossetia Supreme Court. Some of them

were submitted to the Court, while others were mentioned in the statement of facts or in the trial records.

343. On 29 September 2005 the victims sought the withdrawal of the head of the investigation team, Deputy Prosecutor General Mr Shepel. They argued that the investigation had been incomplete and failed to take into account all the relevant information about the crime. They indicated that copies of many expert reports had been unavailable to them, that the prosecutor's office had ignored numerous facts and statements which had differed from the facts "selected" to form the basis of Mr Kulayev's indictment, and that the role of various officials in the hostages' deaths had not been clarified. This complaint was dismissed.

344. In January 2006 the victims applied for the withdrawal of the prosecution and the judge presiding in the case, referring to the incomplete nature of the investigation and the repeated dismissal of their complaints by the judge. They also questioned the logic behind separating the investigation concerning the terrorist act and its consequences into several sets of criminal proceedings. These complaints were also dismissed (v. 4 p. 1801).

345. In November to December 2005 and in January 2006 the victims applied to the trial court for permission to have a number of additional witnesses called and questioned: members of the OH, senior civilian and FSB officers who had been present in Beslan during the operation, members of the North Ossetian Parliament's investigative commission on Beslan, people who had negotiated with the terrorists, including Mr Gutseriyev, Dr Roshal, Mr Z. and Mr Aslakhanov. The court agreed to question several Ossetian officials who were members of the OH, but refused to call other officials, negotiators and members of the North Ossetian Parliament. It also refused to include the results of the investigation of the North Ossetian parliamentary commission in the case file (v. 3 pp. 1311-312, v. 4 pp. 1570, 1589, 1651, 1778-783, 1796, 1929). In January 2006 the court granted the victims' application to question Mr Z., Dr Roshal and some senior FSB officials.

346. In February 2006 the victims again sought the withdrawal of the prosecutor in the trial. They argued, with reference to the European Convention on Human Rights, that the investigation had been ineffective and incomplete in ascertaining the most important elements of the crime. They sought to have independent experts appointed in order to clarify key questions concerning the preparation of the terrorist act, the composition and powers of the OH, the reasons for the first explosions, the use of flame-throwers, grenade launchers and tank guns, and the belated arrival of the firefighters. The request was dismissed (v. 4 p. 1936).

347. In July 2006 the victims sought to acquaint themselves with the entire set of documents in the criminal case and to be allowed to take copies. Similar requests were lodged in March and July 2007, but apparently to no avail.

(m) The judgment of 16 May 2006

348. In his final submissions of February 2006 the prosecutor asked the court to apply the death penalty to the accused. The victims argued that the investigation and the trial had failed to elucidate many key elements of the events and that the officials responsible should be prosecuted for their actions which had led to the tragedy.

349. On 16 May 2006 the North Ossetia Supreme Court found Mr Nurpashi Kulayev guilty of a number of crimes, including membership of a criminal gang, unlawful arms and explosives handling, aggravated hostage-taking, murder, and attempts on the life of law–enforcement personnel. The 319–page judgment summarised witness and victim statements and referred to forensic reports, death certificates, expert reports and other evidence. The court found that 317 hostages, one Beslan civilian and two Emercom workers had been killed; 728 hostages had received injuries of varying degrees (151 received serious injuries, 530 received moderately serious injuries and 102 received minor injuries). Ten servicemen of the FSB had been killed and fifty-five servicemen of the army and law-enforcement bodies wounded. The actions of the criminal group had caused significant damage to the school and private properties in Beslan. Mr Kulayev was sentenced to life imprisonment.

(n) Cassation at the Supreme Court

350. The victims appealed against the court's decision. In detailed complaints of 30 August and 8 September 2006 they claimed that the court had failed to undertake a thorough and effective investigation and that its conclusions had not been corroborated by the facts. They argued that the court had failed to investigate the authorities' failure to prevent the terrorist attack, apportion responsibility for the decisions taken by the OH, establish the exact places and circumstances of the first explosions in the gymnasium and assess the lawfulness of the use of indiscriminate weapons by the security forces. They also complained that the court had not allowed them full access to the case material. Their complaints were supplemented by reference to relevant statements and documents.

351. On 26 December 2006 the Supreme Court held a cassation review. Four victims, the defendant's lawyer and the prosecutor made oral submissions. The Supreme Court slightly amended the characterisation of one offence imputed to Mr Kulayev, while the remaining parts of the parties' complaints were dismissed. In particular, the Supreme Court found that the questions raised by the victims had no bearing on the characterisation of Mr Kulayev's actions and that the victims had been allowed full access to the case documents after the completion of the investigation.

352. On the same day the Supreme Court issued a separate ruling (*частное определение*) in respect of Deputy Prosecutor General Mr Shepel, who had acted as the State prosecutor in the trial. The court

noted that his request to the trial court to apply the death penalty to Mr Kulayev had been contrary to the applicable legislation and as such incited the court to adopt a manifestly unlawful decision.

(o) The applicants' view of the investigation

353. The applicants in application no. 26562/07 submitted that during the trial they had heard testimony and examined other evidence. It had allowed them to draw conclusions about the actions of the OH and other officials, most of which could not be elucidated within the course of the trial. Referring to the case material and other evidence, the applicants made the following inferences:

(i) on 1 to 3 September the hostages had been detained in inhuman conditions and subjected to intense physical and emotional stress including deprivation of food and water, humiliation, witnessing the suffering and death of family members, and a feeling of helplessness in the absence of any meaningful negotiation attempts from the outside world;

(ii) the conclusion that the IEDs had caused the first explosions was not supported by the hostages' statements and the state of the gymnasium;

(iii) after the first explosions the servicemen of the army and FSB had used heavy indiscriminate weapons including a tank gun, APC machine guns, flame-throwers and grenade launchers;

(iv) the OH had not made the saving of hostages its primary aim and had authorised the use of heavy weapons during the storming;

(v) the firefighters' intervention had been significantly delayed, resulting in additional victims in the gymnasium.

3. Criminal proceedings against police officers

354. In parallel to the proceedings in criminal case no. 20/849 and that concerning the actions of Mr Kulayev, two additional criminal investigations were conducted against police officers on charges of professional negligence.

(a) Criminal proceedings against the servicemen of the Pravoberezhny ROVD

355. On 20 September 2004 the Deputy Prosecutor General Mr Kolesnikov ordered the opening of a separate criminal investigation for negligence on the part of the head of the Pravoberezhny ROVD, Mr Aydarov, his deputy on issues of public safety, Mr Murtazov, and the ROVD's chief of staff, Mr Dryayev. This criminal case was assigned the number 20/852.

356. The police officers were charged with negligence entailing serious consequences and the death of two or more people under Article 293 §§ 2 and 3 of the Criminal Code. They were accused of failing to properly organise an anti-terrorist defence and to prevent terrorist attacks in August 2004, despite the heightened terrorist threat and the relevant telexes and orders of the North Ossetian Ministry of the Interior.

357. Over 180 people were granted victim status in the proceedings. Although no procedural documents were submitted, it appears from the cassation appeal by the victims that only those whose relatives had died were granted victim status in the proceedings, while other hostages were refused this status.

358. On 20 March 2006 the Pravoberezhny District Court of North Ossetia started hearing the case. The applicants submitted four volumes of trial records, comprising about 1,500 pages and covering sixty-nine court hearings.

359. On 29 May 2007 the court terminated the criminal proceedings against the three officials, applying to them the provisions of the Amnesty Act of 22 September 2006. They agreed to the application of that Act, which absolved them from criminal responsibility for the acts committed during the period covered by it (see paragraph 464 below). The prosecutor's office supported the application of the amnesty, while the victims objected. Outraged by the verdict, the victims present in the courtroom ransacked the premises.

360. On 5 to 8 June 2007 seventy-five victims appealed against this decision. They challenged the applicability of the Amnesty Act to the circumstances of the case, arguing in particular that the counter-terrorism operation in Beslan had started after the crime in question had been committed. They also complained that the court had refused to consider civil claims at the same time, that many other hostages and relatives of the injured had been refused victim status in the proceedings, that one volume of the criminal investigation file (no. 43) had been declared confidential by the trial court and thus the victims had been denied access to it, that a number of key witnesses had not been called, and that the trial court had refused to take into account additional evidence such as the report of the North Ossetian Parliament about the investigation into the terrorist act.

361. On 2 August 2007 the Supreme Court of North Ossetia at last instance upheld the judgment of 29 May 2007. It found the victims' allegations about procedural deficiencies to be irrelevant to the conclusion and confirmed the applicability of the Amnesty Act.

362. The victims applied for a supervisory review of the above decisions, but to no avail.

(b) Criminal proceedings against the servicemen of the Malgobek ROVD

363. On 7 October 2004 a separate criminal investigation was opened in respect of the head of the Malgobek ROVD, Mr Yevloyev, and his deputy, Mr Kotiyev, for negligence entailing serious consequences (Article 293 §§ 2 and 3 of the Criminal Code). It appears that no fewer than a hundred former hostages or their relatives were granted victim status in these proceedings.

364. The applicants submitted various documents related to this trial, including about 200 pages of trial court records, corrections by the victims of these records, copies of their complaints and other documents. As shown

by these documents, the officials of the Malgobek ROVD had been charged with failing to spot the terrorists who had gathered and trained in the district and had travelled on 1 September 2004 to North Ossetia. The investigation obtained a number of documents which contained sufficiently clear and precise information about the possible terrorist threat and the actions to be taken to counter it. In particular, on 22 August 2004 the Ingushetia Ministry of the Interior had issued Order no. 611 concerning a terrorist threat to public security, putting all staff of the Ministry on heightened alert until further notice. This document instructed all heads of district departments of the interior to contact the local municipalities, hunters and forest workers, in order to keep track of the movements of any suspicious looking men, and to check all trucks and other vehicles capable of transporting illicit cargo, if necessary using service dogs. On 23 August 2004 Mr Yevloyev issued a corresponding order on measures to be taken in the Malgobek District.

365. On 25 August 2004 the Ingushetia Ministry of the Interior issued Order no. 617 about security measures in schools and educational facilities. By this order the police were called to take special measures aimed at protecting educational facilities against possible terrorist acts. On 28 August 2008 Mr Yevloyev issued a corresponding document for the Malgobek District.

366. On 31 August 2004 the Ingushetia Ministry of the Interior sent a directive to all district departments, citing operative information about a possible terrorist act in educational facilities on the opening of the academic year. Again, a number of urgent steps involving local government and school principals were recommended.

367. The trial was conducted by the Supreme Court of Ingushetia in closed sessions in Nalchik, Kabardino-Balkaria. The defendants opted for a trial by jury. On 5 October 2007 the jury found the defendants not guilty. On the same date the Supreme Court of Ingushetia fully acquitted the defendants and rejected the civil actions lodged by the victims within the same proceedings.

368. The victims appealed, and on 6 March 2008 the Supreme Court confirmed the validity of the judgment. The victims' subsequent applications for a supervisory review were futile.

D. Civil proceedings brought by the victims

1. First group of claimants

369. In November 2007 a group of victims lodged a civil claim against the Ministry of the Interior, seeking compensation for the damage caused by the terrorist act. The victims referred to the judgment of the Pravoberezhny District Court of 29 May 2007 in respect of the officers of the Pravoberezhny ROVD of Beslan. They argued that the application of the Amnesty Act did not exclude the possibility of claiming damages in civil proceedings. Arguing that the Ministry of the Interior had failed to take

steps to prevent the terrorist act, they sought financial compensation in respect of each family member who had died or had been a hostage.

370. On several occasions the Pravoberezhny District Court requested the applicants to supplement their claims. On 22 May 2008 the court ordered the case to be transferred to the Leninskiy District Court of Vladikavkaz near to the North Ossetian Ministry of the Interior. On 26 September 2008 the Leninskiy District Court ordered the case to be transferred to the Zamoskvoretskiy District Court of Moscow near to the Ministry of the Interior of Russia. On 21 October 2008 the North Ossetia Supreme Court, following an appeal by the applicants, quashed a ruling made by the Zamoskvoretskiy District Court and remitted the case to the Leninskiy District Court.

371. On 10 December 2008 the Leninskiy District Court of Vladikavkaz dismissed the applicants' civil action against the Ministry of the Interior. It explained that the Suppression of Terrorism Act, which had been relied on by the claimants, did not provide for compensation for non-pecuniary damage by a State body which had participated in a counter-terrorism operation. As to the applicants' attempt to link the compensation claim to the decision not to prosecute the officers of the Pravoberezhny ROVD, the court dismissed it as it concerned another defendant.

372. On 24 February 2009 the North Ossetia Supreme Court rejected an appeal by the applicants against the above decision. Their subsequent attempts to obtain a supervisory review of these decisions proved futile.

2. Second group of claimants

373. In separate proceedings another group of victims attempted to sue both the Russian and North Ossetian Ministry of the Interior for non-pecuniary damage caused to them by the terrorist act. On 9 December 2009 the Leninskiy District Court of Vladikavkaz dismissed the claim, giving similar reasoning. On 17 March 2009 the North Ossetia Supreme Court upheld this decision at last instance.

E. Parliamentary inquiries

1. Report prepared by the North Ossetian Parliament

374. On 10 September 2004 the North Ossetian Parliament put together a commission to examine and analyse the events in Beslan on 1 to 3 September 2004. In its work the commission relied on the material available, including official documents, photographs, video footage and audio material, press articles, witness statements and their own information sources. The commission's report was published on 29 November 2005. The report was forty-two pages long and contained chapters on the chronology of the terrorist act, facts and an analysis of the events preceding the hostage-taking, the actions of the OH and the various State agencies involved, an examination of the first explosions in the gymnasium, detailed

information about the fighters and various statistical information relating to the act. The report ended with recommendations to the authorities.

(a) Prevention of terrorist act

375. The commission strongly criticised the local police and the Ingushetian and North Ossetian branches of the FSB. It expressed particular dismay at the fact that despite a "heightened security threat" the terrorist group had been able to gather and train unnoticed in the vicinity of a village and a major local road, as well as to pass unhindered to the school in the centre of a town across the administrative border, which was supposed to have been under special protection. The commission argued that the police's attention had been diverted to the presidential elections in Chechnya which had taken place on 29 August 2004, following which no real attention had been paid to other security threats.

(b) The work and composition of the OH

376. Turning to the work of the OH, the report was highly critical of its composition and functioning. It concluded that the "first, so-called 'republican' OH" had been created on 1 September 2004 at 10.30 a.m., in line with the Suppression of Terrorism Act and the pre-existing plan dated 30 July 2004. It had comprised eleven people under Mr Dzasokhov's command and had included the heads of the North Ossetian FSB, Ministry of the Interior and other officials. In the presence of the OH members, Dr Roshal and a number of other public figures, Mr Dzasokhov had announced that he was prepared to go to the school; however, the deputy Minister of the Interior of Russia, Mr Pankov, had responded that in that case he would be authorised to arrest him. Mr Dzasokhov himself had confirmed that he had been informed by senior officials in Moscow that he should not take "any steps which could lead to further complications in the operation aimed at liberating the hostages". This "republican" OH had continued to consider possible strategies aimed at liberating the hostages throughout the crisis. It had also considered the possibility of inviting Mr Maskhadov to negotiate.

377. In the meantime, on the afternoon of 1 September 2004 the President of Russia, in accordance with a secret order issued by the Russian Government (no. 1146-rs), had determined the composition of the OH under the command of General V. Andreyev, the head of the North Ossetian FSB. The OH had included seven people: the deputy head of the counter-terrorism commission of North Ossetia Lieutenant-Colonel Tsyban, the commander of the 58th Army of the Ministry of Defence General-Lieutenant V. Sobolev, the North Ossetian Minister of Emercom Mr Dzgoyev, the North Ossetian Minister of Education Mrs Levitskaya, the director of the *Zashchita* Centre Mr Goncharov, and the deputy head of the information programmes department of *Rossiya*, Mr Vasilyev. The report criticised the composition of the OH, which had excluded not only

Mr Dzasokhov – the North Ossetian President – but also a number of other senior officials from the republic. It also noted that two deputy heads of the FSB who had arrived in Beslan, Mr Anisimov and Mr Pronichev, had not been officially designated to take on any tasks in the OH. This had led to a situation of a multitude of "leaderships".

378. The report described the situation as follows:

> "The striking disunity of the headquarters is further proved by their locations. The Beslan administration building saw the following distribution of bodies and officials.
>
> In the left wing of the ground floor – [the] FSB (Generals V. Andreyev and T. Kaloyev). In the office next to them – Mr Pronichev and Mr Anisimov. On the third floor in the left wing were the Republic's President, Mr Dzasokhov, Parliament's speaker Mr Mamsurov, Plenipotentiary Representative of the Russian President in the Southern Federal Circuit Mr V. Yakovlev, and a group of Duma deputies headed by Mr D. Rogozin. In the right wing of the third floor worked the commanders of the *Alfa* and *Vympel* special forces units under the leadership of General Tikhonov.
>
> However, the most closed and mysterious structure was situated in the south wing of the ground floor of the [administration building], keeping its work secret from all members of the above-listed headquarters. In it worked people who did not belong to any official headquarters structure: Mr Anisimov and Mr Pronichev, Mr Pankov, Mr Kaloyev and others.
>
> Another secretive structure was located on the second floor of the building, in the centre. This was a sort of 'ideological headquarters' where all information going public was verified and edited prior to publication. Most probably, the announcement of the figure of 354 hostages had been decided there ...
>
> In addition, the commander of the 58th Army, Mr Sobolev, had set up his headquarters outside the administration building. Mr Dzgoyev, who, according to his own statement, had been "in reserve", was also stationed outside the building, as was the North Ossetian Minister of the Interior ...
>
> The formal nature of [General] Andreyev's appointment as OH commander is supported by well-known facts. The head of the North Ossetian FSB had left the headquarters on dozens of occasions and thus lost control over the situation: he talked to the Beslan citizens outside the OH, met with journalists [and] accompanied Mr Aushev to the school on 2 September and the Emercom group on 3 September. How could the General, on whose decisions the lives of hundreds of people depended, behave in this way? This is either excluded or, to the contrary, quite possible, if actual decisions for [General] Andreyev had been taken by his immediate superiors – Mr Pronichev, Mr Anisimov and, probably, the head of the North Caucasus department of the FSB, Mr Kaloyev.
>
> There is reason to believe that [General] Andreyev's orders and directives were not formally recorded, that no meetings of the OH took place, and that everything was decided verbally in the course of working discussions with various agencies ...
>
> One gets the impression that the OH under [General] Andreyev's command oscillated between two extremes: on the one hand, without making public the terrorists' demands it was searching (or pretending to search) for negotiators who would be able to participate in such talks; on the other hand, it constantly announced the impossibility of a forced solution, while at the same time being obliged not simply to consider this option but to take steps in order to implement it ...
>
> By the end of the second day, not a single federal official who could at least partially discuss the terrorists' demands had contacted them with the aim of

negotiating. Becoming more and more convinced that their demands were not being considered and that the topic of negotiations remained the hostages' supply with food and water, the liberation of the infants and elderly, an 'escape corridor' to Chechnya and the like, the terrorists hardened the hostages' conditions. As to the terrorists' agreement to allow the removal of two dozen bodies from the school courtyard, it was probably caused by the fighters' wish to scare the population and make the OH more flexible, since one could easily predict the impression on the relatives of an Emercom truck loaded with corpses.

Incomplete information about the development and content of the negotiations, and the lack of clarity about the videotape transmitted to the headquarters, leave many questions unanswered ...

Without questioning the principle of non-compliance with the terrorists' demands, although the Suppression of Terrorism Act speaks about minimal concessions to the terrorists, it appears that it would have been much more reasonable if the federal authorities, to whom the terrorists' demands had been directed, had undertaken to implement it rather than delegate this problem to the regional authorities or even a paediatrician. It is obvious that any promises by the regional authorities not supported by appropriate guarantees by the highest officials could not have inspired the fighters' confidence, and they could not have taken the so-called 'security corridor' seriously."

(c) The first explosions

379. The report argued that the first two explosions could not have come from the IEDs. The first explosion, according to the hostages' testimony, had occurred in the north part of the gymnasium roof space, destroying part of the roof and creating a mushroom-shaped smoke cloud above the explosion. The report argued that this could not have been the result of an IED explosion for a number of reasons: the terrorists had not mined the roof or the roof space of the gymnasium, so not a single electric cable had led there; a mine in the gymnasium could not have destroyed the ceiling and roof 6 metres above; there would have been several simultaneous explosions because they had been connected in a single chain; the mushroom-shaped cloud could not have risen within seconds to about 13 to 15 metres above the roof from an IED explosion inside the gymnasium; the damage to the basketball hoop and the brick wall of the gymnasium bore evidence of the passage of a device fired from outside. The second explosion, which had created a half-metre-wide opening in the brick wall under the window, had not been the result of an IED either, since the floorboards immediately near the hole had not been damaged, unlike the floorboards under the basketball hoop where the IED had later detonated.

380. The report stated that the video–recording of the events had captured not only the smoke cloud from the first explosion, but also the sounds of both explosions, leading to the conclusion that the shots had been fired from a grenade launcher or a flame-thrower. The report considered that the nature of the destruction was consistent with this version. The choice of targets inside the gymnasium had been determined by the presence there of the pedal-holding fighters; since a sniper could not have reached them, a grenade had resolved this situation.

381. The report found that the third explosion had most probably resulted from an IED being affected by spreading fire, following which the fire had spread from the ceiling to the floor of the gymnasium.

382. The document concluded by saying that the exploration of the first explosions should have been carried out properly within the framework of the criminal investigation. The report deplored the hasty clearing of the site, which had been opened to the public on 5 September 2004. It referred to "hundreds of people who had found objects which should have been of interest to the investigation". A number of items had apparently been collected from the town rubbish dump where the debris had been taken on 4 September in trucks.

383. In a separate conclusion, the report stated that the active involvement of civilian volunteers immediately after the explosions had saved many hostages' lives. The evacuation had been carried out by people who had taken on "the functions of the police, firemen and emergency workers".

(d) The actions of rescue and security forces

384. The report evaluated the number of army personnel and police officers (excluding the FSB) deployed within the security perimeter around the school at about 1,750 people. Three security cordons were judged to have been of little effect and had basically fallen apart once the operation had started. Hundreds of civilians and dozens of private cars had passed unhindered through the cordons, while filtration groups formed in advance from servicemen of the police special forces (*Отдел милиции особого назначения (ОМОН)*) and the Pravoberezhny ROVD had not stopped for an identity check any of the volunteers who had helped to evacuate the hostages. The report remarked that a number of men had arrived from elsewhere in Ossetia and spent two days around the school; they had often been unshaven, dirtied with blood and soot, and could not be distinguished from the terrorists.

385. The report then addressed the problem of the ambulance and fire services accessing the school, commenting that it had been made difficult by vehicles parked in the adjacent streets which had not been towed away. The first fire engine, which had arrived at the school at about 2 p.m., had not been carrying a full load of water in its cistern. Other fire brigades which had arrived even later had allowed civilian volunteers to operate the water hoses.

386. The report found it established that between 2 p.m. and 2.30 p.m. on 3 September a tank with hull number 328 stationed behind the railway line had fired several non-explosive rounds at the canteen and kitchen, while at around 4.30 p.m. a tank with hull number 325 stationed on Kominterna Street had fired at the canteen from a close distance, towards the area immediately above the entrance to the cellar. The commission's members could not agree that the use of the tank to fire at the canteen before 5 p.m.

had been justified in view of the probable presence of the last group of hostages with the terrorists. The commission had entered the cellar and found it entirely intact and bearing no traces of the terrorists' alleged stay there. No complete information could be obtained about the use of tanks, helicopters, flame-throwers or other heavy weapons.

387. The document separately noted the multitude of lines of responsibility within the various agencies involved. According to the commission's information, the commander of the 58th Army had regularly reported to the Chief of Staff of the Ministry of Defence in Moscow and had obtained instructions from him in return. The Ministry of the Interior had commanded the largest contingent in Beslan and had initially followed the orders of its own headquarters based in the administration building; it later followed the instructions issued by the FSB.

388. Turning to the role of the FSB, the report stated the following:

> "The Russian FSB has remained the most closed structure in terms of the Commission's efforts to obtain information in order to find out about its actions on 1 to 3 September 2004. Therefore, it is very difficult to accept, without further verification, the statement that, according to the operative groups of the Special Services Centre, by 6 p.m. there remained no living hostages with the terrorists (in the classrooms, cellar and roof space)."

(e) The fighters' identities

389. The report devoted some attention to the number of fighters and their identities. It noted discrepancies in the names and number of identified and non-identified terrorists in the documents issued by the prosecutor's office in relation to the investigation in criminal case no. 20/849. Relying on the information provided by the Prosecutor General's Office, the report listed thirty-eight names or aliases; of them twenty-two people (including Mr N. Kulayev) were identified by their full name, date of birth, ethnic origin and place of residence, and fourteen people were identified provisionally. In the list of thirty-eight people, at least nine had previously been detained by the law-enforcement authorities, some of them had been released for unknown reasons. According to the report, Mr Iliyev had been detained in 2003 in Ingushetia on charges of illegal arms and ammunition handling, but the case had been closed two months later; Khanpash Kulayev had been sentenced to nine years in prison in 2001; Mr Shebikhanov had been charged with attacking a military convoy in August 2003 and released by jury in July 2004; Mr Tarshkhoyev had been convicted at least three times and given suspended sentences for illegal arms handling and theft, most recently in March 2001; Mr Khochubarov ("*Polkovnik*") had been on trial for illegal arms handling; and Mr Khodov had been wanted for a number of serious crimes including terrorist acts and had been detained in 2002 but released. Most of the other identified terrorists were known to the law-enforcement authorities, who had retained their fingerprints, on the basis of which their bodies were identified. Many were on wanted lists for various crimes.

390. Some of those initially announced by the Prosecutor General's Office as identified bodies in Beslan had later been killed in other places. Mr Gorchkhanov's death had first been announced in Beslan, but in October 2005 his name had again been announced by the Deputy Prosecutor General Mr Shepel as one of the organisers of the attack at Nalchik, Kabardino-Balkaria, who had been killed. Mr Kodzoyev had first been identified as one of the terrorists in Beslan and had apparently had a telephone conversation with his wife, whom the authorities had brought to the school on 2 September. His death had then been announced in an anti-terrorist operation in Ingushetia in April 2005. The report deplored the lack of clarity in such an important aspect of the investigation and asked the prosecutor's office to issue clear and exhaustive information in this regard.

(f) Statistical information

391. The report contained a table compiled on the basis of information provided by the Prosecutor General's Office including various figures related to the total number of hostages and the number of people, killed, injured and liberated as a result of the anti-terrorist operation. The commission noted that the causes of death for 331 people had been as follows: twenty had died in hospital; fifty-one (including twenty-one men killed on 1 September) had died of gunshot wounds; 150 had died of shell wounds; ten had died of fire injuries and four had been killed by blunt force trauma injuries. In 116 cases the cause of death could not be established owing to extensive fire damage. Eighty-three bodies had been identified through DNA matching and six cases had called for exhumation and DNA testing, procedures which had lasted until April 2005. The report concluded that the real reasons for many victims' deaths and injuries had not been established: bullets and shell fragments had not been extracted from the bodies, and no ballistics reports had been made to analyse the bullets and cartridges found at the scene.

(g) The report's publication, reactions and further information

392. The commission's report was made public in December 2005. Mr Torshin stated that it posed more questions than it gave answers, and its findings and conclusions were not mentioned in the report prepared by the Federal Assembly (see below).

393. In 2007 the report was published as a separate book. By that time the authors had prepared additional statistical data. It included a complete list of the hostages, with indications as to their injuries and dates of death, and other important findings. Many of the figures arrived at by the authors of the report differed from those used by the prosecutor's office.

394. In particular, the authors stated that 1,116 people (not 1,127 as indicated by the Prosecutor General's Office) had been taken hostage; three people had escaped on 1 September; seventeen (not twenty-one) men had been shot dead on 1 September and twenty-four (not twenty-six) people had

been led out by Mr Aushev on 2 September. By 1 p.m. on 1 September 1,072 hostages had remained alive in the school; 284 had been killed during the storming; ten had died in hospital within two months and three more had died by 2006. Ten special forces servicemen, two servicemen of Emercom and seven civilians had been killed: three civilians had been killed on 1 September by the assailants and four more had died during the storming while evacuating the hostages. Thirty-five civilians had been wounded, the majority of them while evacuating the hostages from the school.

395. The publication gave a list of the servicemen of the FSB, Ministry of the Interior and Emercom who had been killed (twelve) and injured (fifty-two) during the terrorist act.

396. Turning to the causes of death, the publication stated that the commission had examined over 300 orders for forensic expert reports issued by the prosecutor's office on 3 and 4 September 2004 and the forensic reports issued by the forensic bureau. The document highlighted that the investigation's orders had suggested that the experts should conduct external examinations of the bodies, and carry out a full autopsy only "where necessary". Only a few cases had thus necessitated a full examination; one third of the expert reports had concluded that "the cause of death could not be established". In total, the document stated that 159 bodies out of 333 had displayed burns, although for most cases the experts had noted that the carbonisation had most probably occurred *post mortem*. They also noted that a disproportionately high number of victims had died of gunshot wounds – forty-four civilians, including eleven women and nine children –while only seven servicemen out of eleven had died of gunshot wounds.

397. Lastly, the report noted that nine exhumations (and not six as indicated in the official documents) had been carried out for an additional verification of the remains. The report listed these cases.

2. The Federal Assembly report

(a) Report prepared by the commission

398. On 20 and 22 September 2004 both chambers of the Federal Assembly (the Russian Parliament) – the State Duma and Federation Council – decided to create a joint commission in order to investigate the reasons for and circumstances of the terrorist act in Beslan. About twenty members of both chambers were appointed to the commission, which was chaired by Mr Aleksandr Torshin, deputy speaker of the Federation Council. The commission undertook a number of investigative measures, including visits to Beslan, Ingushetia, Chechnya and Rostov-on-Don.

399. The commission questioned forty-five senior officials, including the Prime Minister, several federal ministers, Mr Aslakhanov, an aide to the Russian President; Mr Patrushev, Mr Pronichev and Mr Anisimov, the head of the FSB and his two deputies; General Tikhonov, commander of the FSB Special Services Centre; several senior officials from the Prosecutor

General's Office, including four deputies to the Prosecutor General; North Ossetian and Ingushetian officials, including Mr Dzasokhov and Mr Zyazikov; and people who had negotiated with the terrorists: Mr Aushev, Mr Gutseriyev and Dr Roshal. The commission received several hundred telephone calls to a special line and letters.

400. On 22 December 2006 the commission's report was presented to the Federal Assembly. It ran to 240 pages and included a chronology of the terrorist act, chapters on the actions of the State authorities, a historical and political analysis of terrorism in the North Caucasus and a number of legislative recommendations. Two commission members refused to sign it. One of them, Mr Savelyev, prepared an alternative report (see below).

401. The report's main conclusions were principally in line with the conclusions of the criminal investigations. In particular, it found that:

(i) prior to the terrorist act, a number of security measures had not been taken by the local administration and police forces in North Ossetia and Ingushetia. The conduct of the police in the Malgobek District was described as professional negligence and the actions of police in Ingushetia in general as "keeping aloof" from following the orders from the Ministry of the Interior (pages 107-08 of the report). The North Ossetian police had failed to comply with certain precautionary measures and this had facilitated the terrorists' attack at the school;

(ii) the actions of the federal authorities had been adequate and correct;

(iii) the OH had been correct in its actions aimed at negotiations with the terrorists, however there had been a number of weak points in its composition and the way it had conducted its work and informed the population of the developments (pages 84 and 94 of the report);

(iv) the first explosions in the gymnasium had been caused by two IEDs (page 87); and

(v) the use of flame-throwers and the tank gun against the school had been authorised by the commander of the FSB Special Services Centre after 6 p.m. on 3 September and they had not caused any harm to the hostages, who by that time had been evacuated (page 89).

(b) Separate report by Mr Yuriy Savelyev

(i) The report

402. Mr Yuriy Savelyev, a deputy of the State Duma elected in 2003 from the *Rodina* party, was a member of the commission headed by Mr Torshin. He was a rocket scientist by profession, had a doctorate in technical sciences, was the director of the St Petersburg Military Mechanics Institute and had written numerous scientific works and training manuals on rocket construction, ballistics, thermodynamics and pertinent fields.

403. In the summer of 2006 Mr Savelyev announced that he strongly disagreed with the report drafted by the commission. Later that year he published a separate report, based on the material to which he had access as

a commission member. The report, entitled "Beslan: The Hostages' Truth" ("*Беслан: Правда Заложников*"), was in seven parts:

(i) 'The first explosions in the gymnasium', 259 pages with fifty-eight photographs ("Part 1");

(ii) 'The origin and development of the fire in the gymnasium', 133 pages with forty-three photographs ("Part 2");

(iii) 'The use of portable flame-throwers and grenade launchers', ninety-seven pages with forty-nine photographs ("Part 3");

(iv) 'The use of T-72 tanks and APC-80 military vehicles', 140 pages with fifty-two photographs ("Part 4");

(v) 'Women in the terrorist group', sixty-nine pages with twelve photographs ("Part 5");

(vi) 'Losses among the hostages sustained outside the gymnasium', 145 pages with fifty-four photographs ("Part 6"); and

(vii) 'The circumstances of the seizure of hostages', 296 pages with twenty-one photographs ("Part 7").

404. This report was submitted to the Court, and its entire content was published on the Internet site www.pravdabeslana.ru.

405. Although based on the same factual material, the report also relied on the author's own technical expertise and the way it was presented and its conclusions differed drastically from the document signed by the majority of the parliamentary commission and thus from the conclusions reached by that time by the criminal investigation.

406. To sum up the most important distinctions, in Part 1 Mr Savelyev concluded that the first explosion had resulted from the detonation in the attics over the north-east part of the gymnasium of a thermobaric grenade launched by a portable grenade launcher from the roof of a house at 37 Shkolny Lane. The terrorist holding the "dead man's switch" right under the detonation had been killed instantly. The explosion had created a zone of powerful smouldering combustion in the wood and attic insulation material, which had later caught fire. The second explosion had occurred twenty-two seconds later under the first window of the north side of the gymnasium, destroying the brick wall and throwing the bricks outside, while the windowpane situated immediately above the opening had remained intact. Mr Savelyev concluded that the nature and extent of destruction in this particular area ruled out the idea that it had come from an IED inside the gymnasium. He argued that the explosion had probably been caused by a portable anti-tank missile fired from the roof of a house at 41 Shkolny Lane. The projectile had entered the gymnasium from the opposite window and created the opening in the wall below the windowpane.

407. Mr Savelyev also argued in Part 2 that the fire which had been triggered by the first explosion in the attics had continued to spread unabated until 3.20 p.m. The broken windows of the gymnasium and the opening torn in the roof by the explosion had created a powerful draught, feeding the smouldering insulation with oxygen. The fire had raged in the

attics with sufficient force to destroy the wooden beams holding the roof slates, which had finally collapsed by 3.20 p.m., burying the hostages unable to leave under the burning fragments. The firemen had intervened after 3.20 p.m., by which time the fire from the collapsed roof had spread to the floor and walls of the gymnasium.

408. Part 3 of the report included detailed information and an analysis of the type and number of arms and ammunition used between 1 and 4 September 2004. This information was made available to the commission, whilst the victims had no direct access to it. According to the report, volume 1 of the criminal investigation file no. 20/849 contained a "joint record of the use of arms and ammunition during the military operation" (*сводный акт об израсходовании боеприпасов при выполнении соответствующей боевой задачи*), no. 27 of 10 September 2004. According to this record, various military units had used over 9,000 cartridges for automatic weapons (5.45 mm PS, 7.62 mm LPS, 5.45 mm T), ten disposable anti-tank rocket launchers (RPG-26), 18 propelled anti-tank grenades (PG-7VL), eight high-fragmentation warheads for a 125 millimetre calibre tank gun (125 mm OF) and ninety smoke grenades (81 mm ZD6) (see paragraphs 219 and 220 above).

409. The report also noted that on 20 September 2004 members of the parliamentary commission had discovered in the attic of 39 Shkolny Lane six empty tubes from RPO-A flame-throwers and three empty tubes of disposable RPG-26 anti-tank rocket launchers, the serial numbers of which had been noted by the commission members in an appropriate record on 22 September 2004. These tubes had been transmitted to the prosecutor's team carrying out the criminal investigation. According to the report, volume 2 of criminal case file no. 20/849 contained a document dated 25 September 2004 and signed by Lieutenant-Colonel Vasilyev from military unit no. 77078 of the 58th Army. This document stated that the FSB units had received seven RPO-A flame-throwers from military storage and listed their serial numbers. After the operation two flame-throwers with the indicated numbers, plus one with a different serial number, had been returned to storage (see paragraph 219 above). At the same time, Mr Savelyev noted that the serial numbers of flame-throwers mentioned in the commission's record of 22 September 2004 and in the document issued by Lieutenant-Colonel Vasilyev on 25 September 2004 differed. He referred to other contradictory evidence given by military servicemen and statements by the Deputy Prosecutor General concerning the use of flame-throwers, concluding that no fewer than nine disposable RPO-A flame-throwers had been used by the special forces. Mr Savelyev also referred to the witness statements of one serviceman of the FSB given to the investigation (volume 5 p. 38 of file no. 20/849), according to whom RPG-26 grenade launchers and RPO-A flame-throwers had been used during the storming, in daytime (see paragraph 220 above) and the statement General Tikhonov of the FSB made to the commission on 28 October 2004 saying that the RPG grenade launchers and RPO-A flame-throwers had been used at 3 p.m.

410. Mr Savelyev listed detailed characteristics of each type of the projectiles. According to his conclusions, after the first two explosions at 1.03 p.m., the school building was subjected to the following assault: between 1.30 p.m. and 2 p.m. the windows of the first floor of the south wing were fired at with portable grenade launchers, probably types RPG-26 and RShG-2; between 2.50 p.m. and 3.05 p.m. flame-throwers (RPO-A) were used upon the roof of the main building, RPG-26 and RShG-2 grenade launchers were fired at the south-facing windows of the first floor of the south wing and a RPO-A flame-thrower upon the roof of the south wing at the point where it joined the main building. He also argued that at least one thermobaric grenade had been launched from a MI-24 helicopter at a target in the central area of roof of the main building above the Ossetian language classroom, at a terrorist sniper who could not have been suppressed by any other means.

411. Part 4 concentrated on the use of tanks and APCs during the storming. Having analysed numerous witness statements and material evidence, the report drew the following conclusions: three tanks with hull numbers 320, 325 and 328 had taken positions around the school. Tanks with hull numbers 325 and 328 had been positioned near a house at 101 Kominterna Street. These two tanks had repeatedly fired at the school building at 2.25 p.m. and then between 3 p.m and 4 p.m. on 3 September. Seven additional shots had been fired from a tank with hull number 325 at the canteen windows and the wall and stairwell of the south wing.

412. Part 5 of the report was devoted to an analysis of the witness statements and other evidence about the women in the terrorist group. Mr Savelyev concluded that the group had included five women: four suicide bombers who had changed places with each other so that there had always been two of them in the gymnasium at any one time, while the fifth woman had probably been a sniper and had remained on the top floor of the school.

413. Part 6 of the report examined the situation of the hostages whom the terrorists had forced to move from the gymnasium to the south wing after the first explosions. From photographs and video footage of the events and witness accounts, Mr Savelyev construed that between 1.05 p.m. and 2.20 p.m. the terrorists had evacuated about 300 people to the south wing. The hostages had been divided in more or less equal numbers between the canteen and kitchen on the ground floor and the main meeting room on the first floor. The south wing had become an area of fierce fighting between the terrorists and the assault troops; eight out of ten FSB elite officers had died there. The presence of hostages in that wing had not been taken into account by the assaulting troops, who had used indiscriminate weapons. Mr Savelyev noted the absence of any detailed description of the location of the hostages' bodies, even though this could have allowed the circumstances of the hostages' deaths in the south wing to be established. He argued that the bodies in the gymnasium had been exposed to fire, while the number of people who had been found dead adjacent to the gymnasium had been

known. He thus estimated the number of hostages who had lost their lives during the fighting in the south wing at about 110.

414. Appended to Part 6 was a "study case" – a document prepared by several authors, including the head of the forensic bureau, summarising their experiences in the Beslan terrorist act. The document listed various problems related to the collection, transportation and storage of remains, the organisation of the identification process and the compiling of forensic reports. In view of the large number of remains, many with extensive injuries and difficult to identify, together with the presence of numerous aggrieved relatives, on 4 September the prosecutor's office had taken the decision first to permit the relatives to identify the remains by and then to carry out forensic examinations. As a result, there had been a number of incorrect identifications which later had to be corrected. Furthermore, in view of these constraints most bodies had been subjected to an external examination only. The exact cause of death had been established in 213 cases: of those, gunshot wounds in 51 cases (15.5 %), shell wounds in 148 cases (45%), burns in 10 cases (3%), and blunt force trauma injuries in 4 cases (1.2%). The cause of death had not been established in 116 cases (35.6%) due to extensive charring. The document concluded by giving a number of recommendations for the future, including the establishment of a single information centre and careful compliance with various procedural stages, with people responsible for each stage.

415. Part 7 of the report covered the first moments of the school seizure on 1 September. On the basis of witness accounts, Mr Savelyev construed that a small group of terrorists – between five and seven – had been in the crowd by 9 a.m. Following a signal by one of them, who had started to shoot into the air, another group of ten to twelve people had entered the school building from Shkolny Lane and other sides. Some of them had run to the first floor while others had broken windows and doors on the ground floor so that the hostages could enter the building. At this point the GAZ-66 vehicle stationed on Kominterna Street near the school fence had approached the main school entrance and up to fifteen people had descended from it. This vehicle had left after the fighters had descended. Lastly, a second GAZ-66 vehicle with a different registration plate had entered from Lermontovskaya Street to Kominterna at high speed, raising a large column of dust mentioned by many witnesses. Over twenty fighters, including four women, had descended from it and run towards the school; the vehicle had then broken down the school gates and stopped in the courtyard. The overall number of terrorists in the school had been between fifty-six and seventy-eight.

(ii) Official and public reaction

416. In response to Mr Savelyev's allegations about the origins of the first explosions and the use of indiscriminate weapons upon the gymnasium, the Prosecutor's Office ordered expert reports. In 2007 and 2008 experts of

Bazalt and the Ministry of Defence Central Research and Testing Institute named after Karbyshev produced two expert reports on the explosions (see paragraphs 224 and 228 above). Its results were not published, but were cited by several sources and by Mr Savelyev. The reports ruled out the idea that the first explosions had come from devices fired from outside, such as thermobaric grenades or projectiles.

417. In March 2008 Mr Savelyev published an extensive article in the *Novaya Gazeta* containing diagrams that indicated four different places and origins of the first explosions in the gymnasium: three from the expert reports ordered by the investigation and his own. He argued that the results of the three experts' reports differed to such an extent that it was impossible to reconcile them. He further argued that the conclusions about the reasons and yield of the explosions contained in the most recent expert report were inconsistent with the witness statements and material evidence. Lastly, he drew attention to the fact that the remaining parts of his report concerning issues other than the first explosions had not been addressed by the investigation.

F. Other relevant developments

1. Humanitarian relief

418. In accordance with Russian Government Order no. 1338-r of 11 September 2004, the victims of the terrorist act were awarded the following compensation: 100,000 Russian roubles (RUB) (approximately 2,700 euros (EUR) at that time) for each person who had been killed, RUB 50,000 for each person who had received serious and medium gravity injuries and RUB 25,000 for each person with minor injuries. People who had been among the hostages but escaped unharmed received RUB 15,000 each. In addition, the families received RUB 18,000 for each deceased person in order to cover funeral expenses.

419. On 6 and 15 September 2004 the North Ossetian President ordered (Order nos. 58-rpa and 62-rp) the payment of RUB 25,000 in funeral costs for each person who had died, RUB 100,000 for each deceased, RUB 50,000 to each person who had suffered serious and medium injuries and RUB 25,000 to each of the other hostages.

420. The terrorist act in Beslan triggered a major humanitarian response, resulting in collections of significant sums of money.

421. In accordance with North Ossetian Government Decree no. 240 of 17 November 2004, the North Ossetian Ministry of Labour and Social Development distributed the funds paid into their account devoted to humanitarian relief to the victims in the following manner: RUB 1,000,000 for each person who had died (approximately EUR 27,000 at that time); RUB 700,000 for each person who had received serious injuries; RUB 500,000 for each person with medium gravity injuries and RUB 350,000 for people who had suffered minor injuries or had been

among the hostages. In addition, each child who had lost their parents received RUB 350,000 and other people who had been briefly detained but had not been among the hostages received RUB 75,000 each. Similar sums were allocated to injured servicemen of the FSB and Emercom and the families of those who had been killed.

422. In 2005 the memorial complex "City of Angels" was opened at the Beslan town cemetery. It comprised a single monument to the victims, individual graves of over 220 people and a monument to the FSB servicemen who had died on 3 September 2004.

423. In 2004 to 2008 there followed a number of other measures by the Russian and North Ossetian Governments, aimed at covering additional medical and social costs for the victims and financing other projects in Beslan. In November 2004 the Russian Government issued Decree No. 1507-r providing for the construction of two new kindergartens and schools in Beslan, a multi-functional medical centre, a social support centre for children and families and a number of housing projects aimed specifically at helping the victims' families. Most of these projects, financed from the federal budget, were completed by 2010.

424. One sports boarding school opened in Beslan was constructed with the participation of Greece and was named after Mr Ivan Kanidi (also spelled Yannis Kannidis), a sports teacher from school no. 1. Mr Kanidi, a Greek and Russian national, was 74 years old at the time and refused to leave the school when asked to do so by the terrorists. After the explosions in the gymnasium on 3 September he got into a struggle with an armed fighter while trying to rescue children and was killed. In December 2004 he was posthumously awarded a Golden Palm Order by the Greek Prime Minister.

2. Other important public and media reactions

425. In September 2004 the entire North Ossetian Government were dismissed by Mr Dzasokhov.

426. On 13 September 2004 the President signed a decree aimed at setting up a more efficient system of anti-terrorist measures in the North Caucasus region. On the same day, at a joint meeting of the Government of Russia and the heads of Russia's regions, he announced the following measures aimed at achieving greater national unity and better representation of the population's concerns: cancellation of direct elections of the regional heads of the executive, who would be elected by the regional parliaments upon nomination by the Russian President; the setting up of a purely proportional system of parliamentary elections; establishment of a consultative body comprised of representatives of non-governmental organisations – a Civic Chamber (*Общественная Палата*); reinstatement of a special federal ministry charged with inter-ethnic relations; implementation of a plan for social and economic development of the North

Caucasus region, and other steps. By the end of 2004 these administrative and legal measures had largely been implemented.

427. During and after the Beslan terrorist act, numerous journalists from all over the world covered the events.

428. In January 2005 the US network CBS aired a film about the hostage-taking in their programme *48 Hours*. Shown in it, for the first time, was an extract filmed by the terrorists. The network alleged that the tape had been found by locals among rubble on the site and then obtained by their journalist. The tape had been made on 2 September 2004 inside the school and showed the fighters' leader, "*Polkovnik*", and about a dozen other terrorists in full military gear. It also showed the talks with Mr Aushev and the mothers with nursing babies being led out by him. In the final moments a baby girl (the youngest hostage aged six months) was handed to Mr Aushev by her mother who could not force herself to part with her two elder children (aged three and ten, only the three-year-old boy survived). The extract ended with the school door being closed and locked by the terrorists filming from inside. The extract had been tagged by the operator "Fun Time-2/09/2004".

429. Several long reports were produced by the journalists who had been in Beslan during the siege and by those who had investigated the tragedy afterwards. Notably, over the years the Moscow-based *Novaya Gazeta* and *Moskovskiy Komsomolets* ran a series of reports dedicated to the hostage-taking and the investigation. *Der Spiegel* published a large report in its December 2004 issue and *Esquire* published a story entitled "The School" in March 2007.

430. A significant number of other television programmes, documentary films and books have covered the subject. The applicants in the present cases, in particular, have referred to the relevant chapter from Mr Rogozin's book, "Public Enemy". An Internet site http://pravdabeslana.ru was dedicated to the tragedy and subsequent proceedings.

3. Victims' organisations

431. The relatives and victims of the terrorist act have joined efforts, striving primarily to obtain a comprehensive investigation into the events of 1 to 3 September 2004 and determine the level of the officials' responsibility.

432. In February 2005 the victims set up a non-governmental organisation, Beslan Mothers (*Materi Beslana*). The organisation had about 200 members – former hostages and relatives of the victims. It was headed by Mrs Dudiyeva.

433. In November 2005 several hundred victims set up another organisation, The Voice of Beslan (*Golos Beslana*), chaired by Mrs Ella Kesayeva. In November 2005 the NGO issued a public statement labelling the criminal investigation inefficient and fraudulent. It called anyone who could assist them with obtaining or gathering factual information about the

events to do so. On 15 October 2009 the Pravoberezhny District Court of Vladikavkaz found that it had contained statements defined as "extremist" under the Suppression of Extremism Act (Federal Law no. 114-FZ of 25 July 2002) and put it on the federal list of extremist material, making it an offence to disseminate it by any means.

434. These organisations have played an important role in collecting and publishing material about the terrorist act in Beslan, advocating the rights of victims of terrorist acts in general, supporting victims in similar situations, and organising public gatherings and events. On two occasions – in September 2005 and in June 2011 – their representatives met with the Russian Presidents; they also regularly meet with local and federal officials and high-ranking international visitors.

G. Expert reports submitted by the applicants after the admissibility decision

435. Following the admissibility decision of 9 June 2015, the applicants submitted two additional documents – independent expert reports ordered by them on the counter-terrorist and forensic aspects of the case.

1. Expert report on counter-terrorism

436. In September 2014 two UK anti-terrorist experts produced a report following a request from EHRAC, the applicants' representatives. The experts were Mr Ralph Roche, a solicitor admitted in Northern Ireland, England and Wales, a Council of Europe and OSCE consultant on policing and human rights issues, co-author of the Council of Europe publication *The European Convention on Human Rights and Policing* (2013); and Mr George McCauley, former Detective Chief Superintendent and former head of the Special Operations Branch within the Police Service of Northern Ireland. The authors relied on open sources, including the communication report in the present case, and analysed the applicability of the relevant standards under Article 2 of the Convention to different aspects of the operation. Their main conclusions may be summarised as follows.

(a) On the existence of real and immediate threat known to the authorities

437. Looking at the previous attacks and the information available to the authorities immediately before it, the experts argued that "there was an extremely high level of threat of terrorist attack in the Southern Federal [Circuit] of Russia in late August to early September 2004, in particular in the border areas of the [North Ossetia] and Ingushetia. This threat could be classified as real, as it had been verified by various orders, telexes and other documents issued by the Federal [Ministry of the Interior]. It can be also classified as immediate, as the information disseminated by the authorities pointed to an attack taking place on a specific day, 1 September". The experts also pointed out that, in addition to the date, the information had

referred to a specific area – near the border between North Ossetia and Ingushetia – and the potential target, as the attack had been planned to coincide with the Day of Knowledge. As Beslan was the largest town in Ossetia within 20 kilometres of the border with the Malgobek District, where terrorists had apparently been gathering, they concluded that "Beslan, and other towns in the vicinity, were clearly under a real and immediate threat of an attack on a school on 1 September". Such a large-scale attack against a civilian target would have the potential for significant loss of life. The experts concluded that the level of detail available even from the relatively "sanitised versions" in the telexes and other communications indicated that there might have been a "covert human intelligence source" in the terrorist group, as well as technical coverage, such as the interception of communications. The event had therefore had "high degree of foreseeability".

438. As to the scale of the threat presented by the "well-organised, ruthless and determined terrorists who had ... actively targeted civilians", the report reiterated the importance of the Day of Knowledge to Russian society and argued that an attack upon a school on that day was an act "bound to strike at the very heart of the nation" – something the terrorists had obviously strived to achieve.

(b) On the feasible preventive measures

439. The experts thus concluded that in view of the high foreseeability and magnitude of the threat, the feasible operational measures "must have been seen to take precedence over all other threats". They divided the possible responses into three broad categories: (i) target denial, (ii) intervention and (iii) security. An example of target denial would involve postponing the opening of the school year in a defined area. Although unprecedented, this would have denied the terrorists the high-profile target sought. As to intervention, in the absence of any additional information, any comment would be necessarily speculative. It could be that the authorities did not conduct any preventive strike on the basis that to do so would have compromised the sources; or for other reasons – for example in view of the serious risk to the lives of the members of the security forces. Nevertheless, it was clear that "the risk would be likely to be greater in the event that the group succeeded in carrying out their intentions" and that the need to protect sources could not be used as a valid reason to put human life at serious risk. Lastly, as to security, the experts were of the opinion that the "essentially passive approach" adopted had been "seriously inadequate" in view of the circumstances. They noted that there had been no effective ownership or containment of the threat and that the staff of the local police had clearly been incapable of dealing with the security situation:

> "Given the degree of foreseeability, the recognised high threat by the [North Ossetian Ministry of the Interior] and the level of specificity in terms of the terrorists' location, asserted target and likely area, there should have been a significant scaling up of resources in the identified areas. The purpose of this would have been to prevent

> or disrupt the terrorists' plans and deny the target. Such actions would include large, highly visible deployments of forces to search and locate the terrorist group, to undertake Vehicle Check Points both along the main arterial routes and in depth at likely target towns. Similar specific deployments should have been implemented at schools to deny the target."

The experts concluded that while no security measures could serve as a guarantee against the attackers' success, the presence of security personnel on the roads and at potential targets would have acted as a deterrent and could have impeded the attackers. They considered that the fact that a group of over thirty armed terrorists had been able to travel along the local roads to Beslan, having encountered only one police roadblock manned by a single officer "show[ed] the extent of failure of the authorities to act upon the information available to them".

440. By means of comparison, the experts outlined the steps that would have been taken in the United Kingdom in the event of a known comparable threat. They considered that a command centre would have been established, with a clear and accountable chain of command, depending on role requirements. The centre would have comprised senior police officers coordinating with the relevant units of the British Army, specialist counter-terrorism units and the security services, as well as other public sector bodies such as fire and rescue and ambulance services. A dedicated crisis response committee would have been set up within the Government of the UK, in order to co-ordinate the actions of various bodies to ensure adequate resources and a media strategy. The potential targets would have been "hardened" by high-profile visible deployments of armed security personnel.

(c) On the use of lethal force and planning and control of the operation

441. According to the report, once the terrorists had reached the school and taken large number of hostages, the authorities faced an extremely difficult scenario – one where significant loss of life, including that of children, was inevitable. The experts noted the group members' intention to die which had been apparent from the beginning, and to cause large-scale loss of life in the event of a storming. In such circumstances, the role of the authorities should be to seek to minimise the loss of life to the greatest extent possible.

442. The experts started by reiterating that the presence of only one unarmed police officer at the school at the time of the hostage-taking had delayed the response to the attack and permitted the terrorists to capture a large number of children and adults at the ceremony, as well as secure the building and deploy the IEDs with very little resistance. Without predicting the exact results of a heavier security presence at the ceremony, the experts argued for the possibility that "an adequately-assured police response would have repelled the terrorists for long enough to allow significant number" of potential hostages to escape.

443. They then reflected on the formation, structure, record-keeping and auditing of the OH. The experts stressed that the pressure under which the members of the OH had worked could not be underestimated. In their words, "[a]ny amount of training and experience could not prepare someone fully for [a] crisis such as Beslan" which represented "one of the most difficult situations that any administration could face". Furthermore, there could be no detailed or prescribed international standard for the control and planning of an operation of this sort; it seemed inevitable that the responses would be prepared quickly and with minimal formalities, in order to reflect the dynamics and seriousness of the situation. Relying on the witness statements, official documents and other data cited in the Court's decision on admissibility, the report noted the following shortcomings of the OH functioning: failure to keep proper records of the OH's composition, meetings and the main decisions taken; a lack of any apparent formal structure for information-sharing and decision-making, resulting in uncoordinated decisions being taken; a clear lack of structure of command and control for both strategic and important tactical decisions, such as the types and use of special weapons; and an overall failure of command and control. They stressed, in addition to the above, that the absence of any plan to start a rescue operation as late as 1 p.m. on 3 September, in view of the hostages' intolerable conditions and the terrorists' unpredictability – meaning that intervention could be required any moment – had amounted to a failure to plan properly for a rescue operation.

(d) The rescue operation

444. According to the experts, the situation faced by the Russian authorities, once the terrorists had reached their target, was a terrible one. The possibility of a peaceful outcome of the hostage-taking appeared minimal. The authorities were therefore required to make extraordinarily difficult and agonising decisions in a highly fluid situation and "there is no training or manual which can provide solutions to these dilemmas". Furthermore, they acknowledged significant gaps in the information relating to the preparation of the rescue operation and many aspects in the way it was carried out, for example those relating to the origins of the first explosions. Having said that, the experts were of the opinion that since the situation had developed for over two full days before the rescue operation had started, it could not be characterised as entirely spontaneous, since the authorities had had time and resources to plan and practice it.

445. In view of the above, they highlighted a number of points that were, in their opinion, important in the evaluation of the rescue operation. Some of these points were relevant to the level of control exercised by the authorities over these developments: for example whether the operation was at all times under the control of the senior officers, or whether, in view of the hostages' knowingly intolerable conditions, they had prepared their response to their possible attempt to leave the building at any moment.

Other points focused more on the commanders' tactical decisions directly relevant to the rescue operation that had taken place.

446. If the first explosions had been triggered by the detonation of an IED placed by the terrorists, and they had started to shoot at the fleeing hostages, the authorities had no option but to launch a rescue operation, which was in fact done. It ended with massive loss of life, and the accounts differ as to the use of flame-throwers and tank cannon fire. The experts stressed that these were military weapons destined to neutralise buildings with enemy combatants within. In their view, if these weapons had indeed been used at a time when hostages had been still within the building, it would have been unjustifiable. It could be justifiable if they had been used in the belief that there had been no civilians in the building and no military alternative to their use; however, in the absence of a definitive assessment of the facts such judgment had to be reserved. They noted, nevertheless, that the fact that by 5 p.m., or soon afterwards, the school building had seemed to be sufficiently under control for the security forces to hold a memorial service for the fallen officers made it unlikely that the terrorists had still been in the building at that time.

447. The report then commented that the fact that both the *Alpha* and *Vympel* special forces units had been deployed at a training exercise at the time when the rescue operation had commenced, had left the authorities without or with insufficient specialist intervention contingencies. The high number of losses sustained by the FSB special forces was testament to the officers' bravery, since they had probably realised that they had been likely to lose their lives by entering the school. Nevertheless, the experts were of the opinion that the same failures to plan and conduct the rescue operation had had a bearing on their fate as well as on the fate of the hostages.

448. Turning to the firefighters, the experts pointed out that in view of the known potential for fires to start from explosions, the fire brigades should have been deployed earlier. In their view, "the fact that very few fire engines were deployed and that they were without adequate supplies of water is a failing of foresight and planning ... The general requirement ... that rescue operations must be planned and controlled in such a manner as to minimise the risk to life, required a much greater deployment of fire brigade resources including multiple pumps and specialist fire vehicles..." Equally, the experts noted that although the medical evacuation and subsequent services had been well organised, as relatively few wounded had died in hospital, the medical staff had not been informed in any detail of the relevant information in order to plan an appropriate response. They commented that "it appears that the relative success of the medical evacuation is a result of the professionalism of the medical staff, and that they were not included in the OH or even kept informed of relevant information (such as the number of hostages) so that they could deploy adequate resources".

(e) Other elements of the authorities' response

449. The experts also examined three aspects of the operation challenged by the applicants: (i) dissemination of incorrect information regarding the number of hostages during the crisis, (ii) coordination between various authorities about the rescue plans and (iii) the negotiation strategy.

450. As to the number of hostages, the authors of the report were of the opinion that this aspect of communication could not have had any foreseeable negative impact on the terrorists' behaviour or any other foreseeable consequences. Speaking of the authorities' co-ordination, the authors pointed out that effective coordination was a key element of command and control of counter-terrorist operations. They noted the obvious lack of coordination with the medics and the failure to preserve the scene, despite the presence of several cordons manned by different security agencies. Nevertheless, once the explosions and outbreak of shooting had occurred, the authorities had had no other option but to order the rescue operation; at this stage the pre-planned contingencies should have been implemented.

451. Lastly, concerning the negotiations, the experts were of the opinion that the terrorists "were not interested in negotiation and came to Beslan to inflict as much terror and death on the most vulnerable element of the civilian population as possible". Their demands had been unrealistic and inflexible and they did not seem to have had any negotiation strategy; in addition, they seemed to have been prepared to die from the very beginning. Such a mental state "was not of rational people and so unpredictable as to render negotiations particularly difficult, if not impossible". The authorities had ascertained the terrorists' demands, made efforts to engage with them and put them in contact with the people they had demanded. The authorities' approach to negotiation could not be criticised.

2. Expert report on medical (forensic) aspects of the operation

452. In October 2015 a forensic pathologist from Glasgow produced an expert report in response to a request from EHRAC to consider matters related to the recovery of bodies, post-mortem examinations and conclusions drawn as to the causes of death. Dr John Clark had worked in England and Scotland as a forensic pathologist for about thirty years. He was also involved in international work, having been the Chief Pathologist for the International Criminal Court for Former Yugoslavia (1999-2001) and having worked in Africa for the International Criminal Court, in Palestine/Jordan for the United Nations, and in other regions of the world. He also had the relevant academic and teaching background (having previously held a post at the University of Glasgow and being an examiner for national pathology qualifications and secretary of the professional association for UK forensic pathologists). In addition to the Statement of Facts (admissibility decision) in the present case, Dr Clark was provided

with the transcripts of the representatives' oral submissions before the Court, English translations of expert report no.1 (of 23 December 2005), five autopsy reports of the victims and transcripts of the testimonies given by the pathologists in the domestic proceedings. His conclusions may be summarised as follows.

453. On the overall organisation of the forensic service, Dr Clark noted that the task faced by the authorities had been extremely difficult. The mortuary in Vladikavkaz could not have possibly coped with the influx of over 300 bodies – as, in fact, no mortuary in the world could have. Alternative solutions should therefore have been considered, such as establishing a temporary mortuary elsewhere (a storage warehouse or cool facility – he recalled the use of an ice-rink in the Lockerby events) and bringing in refrigerator trucks or distribution to other mortuaries. In view of the potentially high number of expected casualties from the siege, some sort of system should have been planned in advance, with a suitable location, equipment and personnel identified and available at short notice. He noted that "the matter of body storage and preservation would have been uppermost in the minds of the pathologists, particularly with the warm weather". A more orderly fashion of dealing with the bodies could have not only helped to avoid wrong identifications, but also alleviated the pressure on the forensic team. It would have permitted them to carry out a more in-depth examination of the bodies, where necessary, in order to establish the causes of death and identify and extract the objects that could be helpful to the investigation, such as bullets, fragments of IEDs and so forth. A clear explanation to the relatives as regards time expectations and the need for examination would have helped both them and those dealing with the bodies.

454. As to the recovery of the bodies from the school, the expert noted that the location and position of each person should have been recorded and the body numbered and preferably photographed. The description of the scene and the record of body recovery as reflected in the available documents appeared "totally inadequate for such an important incident and provides no basis for independent analysis, as any proper forensic report should allow".

455. That most bodies had been subjected to external examinations only, as opposed to a full autopsy, would have been understandable if the principal purpose of the examination had been identification. Such an approach was justifiable, for example, in cases of major disaster casualties, or even at mass crime scenes where the evident injuries from gunfire or gross damage from an explosive device made the cause of death obvious. However, such an approach "would not reveal other unexpected findings, nor permit retrieval of bullets or shrapnel from inside the body", although the evidential value of much of this type of material, for example for matching with a particular rifle, would have been questionable in the case of high-velocity ammunition. A lighter option could have included the use of imaging facilities, such as portable X-ray machines usually available at

hospitals. This could have assisted in deciding whether a more in-depth examination had been required. In some cases, the expert noted, the conclusions about the cause of death had been inconsistent with the number of examination carried out, and should have been "couched in far more cautious terms". With respect to those cases where the cause of death had not been established, mostly in view of extensive burns, Dr Clark was of the opinion that this could have been established relatively easily. "Questions of where and when they died, and whether it was from gunshot, explosion, fire, other trauma, or any combination, could and should have been established..."

456. The expert also commented on the people who had been burnt to an extent that the cause of death could not be established, and whether these burns could have been received *ante* or *post mortem*. He stressed that *post mortem* burns often masked those received while the person had been alive; that most people died in fires from smoke inhalation rather than from burns; but that smoke inhalation could only be proved by an internal examination including a carboxyhaemoglobin blood test and dissection of the body in order to examine to what extent the air passages were lined with soot. The expert stressed that "[i]nternal examination of a body to establish smoke inhalation can be done on even very charred and partly destroyed remains (which generally are remarkably well preserved inside), certainly on the type seen in the photographs and described in the post-mortem reports above. Thus, to say that no cause of death could be established because the body was burned is nonsense and dishonest".

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Regulation of anti-terrorist operations and the use of force

1. Suppression of Terrorism Act and Criminal Code

457. The Suppression of Terrorism Act of the Russian Federation of 1998 (Law no. 130-FZ – hereinafter "the Suppression of Terrorism Act"), in force until 1 January 2007, established basic principles in the area of the fight against terrorism, including those concerning coordination of the efforts of various law-enforcement and other State agencies. Section 2 of the Act provided, *inter alia*, that:

(a) priority should be given to the interests of people endangered by a terrorist act;

(b) the State should make minimal concessions to terrorists;

(c) the State should keep secret, to the maximum extent possible, the technical methods of anti-terrorist operations and not disclose the identity of those involved in them.

Section 3 of the Act defined terrorism as follows:

> "... violence or the threat of its use against physical persons or organisations, and also destruction of (or damage to) or the threat of destruction of (or damage to)

property and other material objects which creates danger to people's lives, causes significant loss of property or entails other socially dangerous consequences, perpetrated with the aim of violating public safety, intimidating the population or exerting pressure on State bodies to take decisions favourable to the terrorists or to satisfy their unlawful pecuniary and/or other interests; an attempt on the life of a State or public figure, committed with the aim of halting his or her State or other political activity or in revenge for such activity; or an attack on a representative of a foreign State or an official of an international organisation who is under international protection, or on the official premises or means of transport of persons under international protection, if this act is committed with the aim of provoking war or of straining international relations."

458. Sections 10 and 11 of the Act governed the work of the operative headquarters (OH), the inter-agency body responsible for a given anti-terrorist operation. The OH was created by a decision of the federal Government, and was headed by the head of the regional department of the FSB or the Ministry of the Interior, depending on the circumstances. The head of the OH could be replaced if the nature of the operation so required. The work of the OH was based on model regulations issued by the federal anti-terrorist commission. The OH could use the resources of other branches of the federal government in the anti-terrorist operation, including "weapons and [other] special-purpose hardware and means" (*oruzhiye* and *spetsialniye sredstva*). Section 13 of the Act defined the legal regime in the zone of an anti-terrorist operation (including identity checks and the right of security forces to enter premises and search people).

459. Section 14 permitted negotiation with terrorists if it could save lives. However, it was prohibited to examine any demands concerning the handing over to terrorists of any people, weapons or other dangerous objects, or any political demands.

460. Section 17 provided that damage caused by a terrorist act should be compensated by the authorities of the region where the attack had taken place. Section 21 provided that servicemen, experts and other people engaged in the suppression of terrorism were exempted from liability for damage caused to the life, health and property of terrorists, as well as to other legally protected interests, in the course of conducting an anti-terrorist operation, in accordance with and within the limits established by the legislation.

461. Article 205 of the Criminal Code of the Russian Federation of 1996 (as in force at the relevant time) imposed liability for terrorism, which was defined as "carrying out an explosion, arson or another act terrorising the population and creating risk to human life ... aimed at influencing decisions taken by the [public] authorities ...". Article 206 established liability for hostage-taking, which was defined as "capturing or retaining a person as a hostage, committed with a view to compelling the State ... to act [in a particular manner] ..."

2. Field Manuals

462. The Army Field Manual valid at the relevant time *(Боевой устав Сухопутных войск*, enacted by the Commander-in-Chief of the Soviet Union on 9 April 1989) was published by the Ministry of Defence of the USSR in 1990. Page 9 of Volume II (battalion, company) provided that "the commanding officer's resolve to defeat the enemy should be firm and accomplished without hesitation. Shame on the commander who, fearing responsibility, fails to act and does not involve all forces, measures and possibilities for achieving victory in battle". Volume III (platoon, squad, tank) described combat in special (urban) conditions in the following terms:

> "117. ... Prior to the attack, APCs, tanks, guns and anti-tank guns by direct fire destroy the enemy in the building under attack and in the neighbouring buildings. At the same time servicemen of the platoon (squad) and flame-thrower operators fire at the windows, doors and firing slots and, using gaps in the walls, underground communications ... move towards the object.
>
> ... As the platoon (squad) approaches the object under attack, fire power from the tanks, guns and other fire power is directed at the upper stores and the attics. Acting baldly and bravely, the squad, under cover of all types of fire, aerosols (smoke), rush into the building and, moving from the bottom up, level after level through stairs and gaps in the floors, destroy the enemy by close-range fire from automatic weapons and grenades ...
>
> 118. To capture buildings that have been fortified or strongholds ... the squad can act as a part of an assault group. The assault group can include ... tanks, self-propelled guns, mine launchers, anti-tank guns, grenade launchers, flame-throwers and other fire power..."

463. A new Army Field Manual was enacted on 24 February 2005. Volume III (platoon, squad, tank) point 24 states:

> "Every military serviceman should be aware of and comply with the norms of International Humanitarian Law:
>
> - in attaining the aim to use arms only against the enemy and its military objects;
> - not to attack persons and objects protected by [IHL], if these persons do not commit hostile acts, and the objects are not used ... for military purposes;
> - not to cause any excessive suffering [or] damage more than necessary to attain the military aim;
> - if the situation permits, to pick up the wounded, sick and shipwrecked, who refrain from hostile acts, and to assist them;
> - to treat the civilians humanely, to respect their property;
> - to prevent subordinates and comrades from breaching the norms of [IHL], to inform superiors about any instances of its violations.
>
> ... Breach of those rules does not only disgrace your Fatherland, but can lead to personal criminal responsibility in the instances provided for by law. In attaining the goals set, each commander within the limits of his responsibility must take into account the norms of [IHL] in decision-making and to ensure that his subordinates comply with them."

B. Amnesty Act

464. The Amnesty Act of 22 September 2006 was passed by the State Duma in respect of perpetrators of criminal offences committed during counter-terrorism operations within the territory of the Southern Federal Circuit. It applied to military servicemen, officers of the Ministry of the Interior, the penal system and other law-enforcement authorities, and covered the period 15 December 1999 to 23 September 2006. It extended to criminal proceedings, whether completed or pending.

III. RELEVANT INTERNATIONAL LAW AND PRACTICE

A. Use of force by law-enforcement officials

465. The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana, Cuba, 27 August to 7 September 1990), provide, *inter alia*, that "law-enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against people by law-enforcement officials".

466. The Basic Principles also encourage law-enforcement agencies to develop "a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing people death or injury". Whenever the lawful use of force and firearms is unavoidable, law-enforcement officials must, in particular, exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved, minimise damage and injury, and respect and preserve human life. They must also ensure that arbitrary or abusive use of force and firearms by law–enforcement officials is punished as a criminal offence under their law. The Basic Principles also stipulate that "exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles". Rule 11 states:

> "11. Rules and regulations on the use of firearms by law enforcement officials should include guidelines that:
>
> (a) Specify the circumstances under which law enforcement officials are authorized to carry firearms and prescribe the types of firearms and ammunition permitted;
>
> (b) Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm;
>
> (c) Prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk;

(d) Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;

(e) Provide for warnings to be given, if appropriate, when firearms are to be discharged;

(f) Provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty."

467. On 11 July 2002 the Committee of Ministers of the Council of Europe adopted Guidelines on human rights and the fight against terrorism. They contain the following relevant provisions:

"The Committee of Ministers, ...

[b] Unequivocally condemning all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed;

[c] Recalling that a terrorist act can never be excused or justified by citing motives such as human rights and that the abuse of rights is never protected;

[d] Recalling that it is not only possible, but also absolutely necessary, to fight terrorism while respecting human rights, the rule of law and, where applicable, international humanitarian law; ...

adopts the following guidelines and invites member States to ensure that they are widely disseminated among all authorities responsible for the fight against terrorism.

I. States' obligation to protect everyone against terrorism

States are under the obligation to take the measures needed to protect the fundamental rights of everyone within their jurisdiction against terrorist acts, especially the right to life. This positive obligation fully justifies States' fight against terrorism in accordance with the present guidelines.

II. Prohibition of arbitrariness

All measures taken by States to fight terrorism must respect human rights and the principle of the rule of law, while excluding any form of arbitrariness, as well as any discriminatory or racist treatment, and must be subject to appropriate supervision.

III. Lawfulness of anti-terrorist measures

1. All measures taken by States to combat terrorism must be lawful.

2. When a measure restricts human rights, restrictions must be defined as precisely as possible and be necessary and proportionate to the aim pursued.

...

VI. Measures which interfere with privacy

...

2. Measures taken to fight terrorism must be planned and controlled by the authorities so as to minimise, to the greatest extent possible, recourse to lethal force and, within this framework, the use of arms by the security forces must be strictly proportionate to the aim of protecting persons against unlawful violence or to the necessity of carrying out a lawful arrest."

B. International humanitarian law

468. The Protocol Additional to the Geneva Conventions of 12 August 1949, relating to the Protection of Victims of International Armed Conflicts, concluded on 8 June 1977, 1125 UNTS 3 (Geneva Convention Protocol I) reads:

"Article 51- Protection of the civilian population

1. The civilian population and individual civilians shall enjoy general protection against dangers arising from military operations. To give effect to this protection, the following rules, which are additional to other applicable rules of international law, shall be observed in all circumstances.

...

4. Indiscriminate attacks are prohibited. Indiscriminate attacks are:

(a) those which are not directed at a specific military objective;

(b) those which employ a method or means of combat which cannot be directed at a specific military objective; or

(c) those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.

5. Among others, the following types of attacks are to be considered as indiscriminate:

...

(b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated. ..."

469. The Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons, concluded on 10 October 1980, 1342 UNTS 171 (Protocol III to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (CCW)) reads:

Article 1- Definitions

"For the purpose of this Protocol:

1. 'Incendiary weapon' means any weapon or munition which is primarily designed to set fire to objects or to cause burn injury to persons through the action of flame, heat, or combination thereof, produced by a chemical reaction of a substance delivered on the target.

(a) Incendiary weapons can take the form of, for example, flame throwers, fougasses, shells, rockets, grenades, mines, bombs and other containers of incendiary substances.

(b) Incendiary weapons do not include:

(i) Munitions which may have incidental incendiary effects, such as illuminants, tracers, smoke or signalling systems;

(ii) Munitions designed to combine penetration, blast or fragmentation effects with an additional incendiary effect, such as armour-piercing projectiles, fragmentation shells, explosive bombs and similar combined-effects munitions in which the incendiary effect is not specifically designed to cause burn injury to persons, but to be used against military objectives, such as armoured vehicles, aircraft and installations or facilities.

2. 'Concentration of civilians' means any concentration of civilians, be it permanent or temporary, such as in inhabited parts of cities, or inhabited towns or villages, or as in camps or columns of refugees or evacuees, or groups of nomads.

3. 'Military objective' means, so far as objects are concerned, any object which by its nature, location, purpose or use makes an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

4. 'Civilian objects' are all objects which are not military objectives as defined in paragraph 3.

5. 'Feasible precautions' are those precautions which are practicable or practically possible taking into account all circumstances ruling at the time, including humanitarian and military considerations."

Article 2 - Protection of civilians and civilian objects

"1. It is prohibited in all circumstances to make the civilian population as such, individual civilians or civilian objects the object of attack by incendiary weapons.

2. It is prohibited in all circumstances to make any military objective located within a concentration of civilians the object of attack by air-delivered incendiary weapons.

3. It is further prohibited to make any military objective located within a concentration of civilians the object of attack by means of incendiary weapons other than air-delivered incendiary weapons, except when such military objective is clearly separated from the concentration of civilians and all feasible precautions are taken with a view to limiting the incendiary effects to the military objective and to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects. ..."

470. The Russian Federation ratified Protocol I to the Geneva Convention and Protocol III to the CCW (cited above).

471. Volume I of the updated version of the International Committee of the Red Cross (ICRC) "Study on Customary International Humanitarian Law" (2005) contains Rule 11, which says "Indiscriminate attacks are prohibited". Rule 12, which is entitled "Definition of Indiscriminate Attacks", reproduces the definition contained in Article 51 § 4 of Protocol I to the Geneva Convention (cited above). Rule 84, which is entitled "The Protection of Civilians and Civilian Objects from the Effects of Incendiary Weapons", reads: "If incendiary weapons are used, particular care must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects." The ICRC comment summary to each of those Rules indicates that "State practice establishes this rule as a norm of customary international law applicable in both international and non-international armed conflicts".

472. In May 2016 an independent organisation, Armament Research Services (ARES), published a report that had been ordered by the ICRC, as part of its work to foster a better understanding of the effects of explosive weapons when used in populated areas. The purpose of the report was to provide background information on the technical characteristics of explosive weapons and other factors relevant to their effects. It was meant to be a general reference document. The relevant part of the report reads:

1.1.4 Thermobaric and Fuel-Air Explosive Munitions

"It is important to understand the difference between incendiary, fuel-air explosive (FAE), and thermobaric (also referred to as volumetric or enhanced blast) munitions, as well as the differences between these munition types and conventional high explosive munitions. The wide range of terminology applied to these weapon types, and the inaccurate ways such munitions are defined, has led to some confusion and hyperbole in reporting on the use of incendiary, thermobaric, and FAE weapons. Incendiary weapons, devices or bombs are designed to start fires or destroy sensitive equipment, using materials such as napalm, thermite, chlorine trifluoride, or white phosphorus. Whilst incendiary weapons are not explosives, and thus fall outside of the scope of this report, it is important to distinguish between incendiary munitions as opposed to thermobaric and FAE munitions. The former deflagrate, whilst the latter detonate. Incendiary weapons are primarily intended to provide sufficient heat and fuel to ignite, and possibly sustain, a fire at the target. The intention of a thermobaric or fuel-air-explosive weapon is to create a gross overpressure, combined with very high temperatures, such that the target suffers severe physical damage almost instantaneously.

... The 'usual' effects of an explosion, i.e. a blast wave, overpressure, negative pressure are of the same nature as those expected from a conventional high explosive, except that the duration of each effect is likely to be greater ..."

THE LAW

I. PRELIMINARY ISSUES

473. Several applicants informed the Court of changes or corrections to their names or situation as reflected in the list of applicants (see Appendix).

474. Two applicants asked for their deceased relatives who had been among the hostages to be included in the list of applicants. Larisa Kudziyeva's (applicant no. 110) son Zaurbek Kudziyev (born in 1997) had died in 2011, and Roman Bziyev's (applicant no. 349) father Sergey Bziyev (born in 1963) had died in 2005. Since no complaints were lodged by these people while they were alive, and in line with the admissibility decision in the present case which addressed the questions of standing, the Court rejects these requests (see *Tagayeva and Others v. Russia* (dec.), no. 26562/07, §§ 470-84, 9 June 2015).

475. Alikhan Dzusov (applicant no. 351) informed the Court that, contrary to the information indicated in the admissibility decision, he had

not been among the hostages at the school. In view of this new information, the complaint lodged by Mr Alikhan Dzusov is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

476. The heirs of several applicants informed the Court of those applicants' deaths and, as their close relatives, expressed the intention to continue in their stead. The Government did not object to this. Having regard to the close family ties with the heirs and their legitimate interest in pursuing the application concerning fundamental human rights, the Court accepts that the deceased applicants' heirs may pursue the applications in their stead. It will therefore continue to deal with the deceased applicants' complaints, at the heirs' request (see Appendix).

II. ALLEGED VIOLATIONS OF ARTICLE 2 OF THE CONVENTION (ALL APPLICANTS)

477. All applicants alleged a breach of Article 2 of the Convention on account of two issues: the positive obligations to protect life and to investigate. Article 2 reads:

> "1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
>
> 2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:
>
> (a) in defence of any person from unlawful violence;
>
> (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
>
> (c) in action lawfully taken for the purpose of quelling a riot or insurrection."

A. Article 2 - positive obligation to prevent threat to life

1. The parties' submissions

478. The applicants argued that the Russian authorities had had knowledge of a real and immediate threat to life but had failed to take the reasonable preventive measures available. They essentially reiterated the arguments outlined in the expert report on counter-terrorism (see paragraphs 436 et seq. above). In particular, the applicants argued that whilst the individuals targeted had not been named, they nonetheless comprised a sufficiently identifiable class of individuals: schoolchildren and their families and teachers, in reasonably identifiable schools. Educational facilities in Beslan, particularly school no. 1, as the largest in the town, should have been considered among the primary potential targets for the terrorists. In view of the particular vulnerability of the potential target

group, the known danger presented by the hardened terrorists and their intent to cause harm to civilians, reasonable measures should have been taken in order to disrupt, deter or minimise the attack. However, no reasonable preventive measures had been taken. In particular, no prior counter-terrorist operation had been set up in advance, and there had been no apparent plans for contingencies to adequately address either the threat or immediate aftermath of a successful attack. It appeared that no other measures except providing the regional and local authorities with detailed information about the intended attack had been taken. None of the various preventive measures called for appeared to have been implemented, nor was there any evidence that there had been any oversight of the provision of such instructions. No official had been held accountable for those failures. In sum, the applicants argued that the measures had fallen deplorably short of an appropriate and adequate response to a threat of such magnitude and foreseeability, and had been insufficient to discharge the Government's obligation to protect life under Article 2.

479. As a result of this lack of cooperative action, a large group of terrorists had been able to spend weeks training undisturbed in the Malgobek District and, on the Day of Knowledge, carry out the predicted and devastating terrorist attack, unchallenged. Security failures had permitted over thirty terrorists to travel to Beslan with their weapons in at least one truck, encountering only one checkpoint manned by a single officer. The usual traffic police officer posted in front of the school had been absent, apparently fulfilling other duties, the one police officer at the school had been unarmed and without any means of communication, there had been no reaction from the police during the first few minutes of the attack, and the number of firearms available to the police after the attack appeared to have been insufficient. The applicants pointed to the Government's admission that the actions of the local police had contributed to the successful seizure of the school. They stressed that the acts of subordinate State agents acting in their official capacity were attributable to the States, and therefore amounted to a violation of the obligation to protect life under Article 2 of the Convention.

480. The Government referred to their previous observations summarised in the decision on admissibility (see *Tagayeva and Others* (dec.), cited above, § 513). They essentially relied on the "all-round forensic expert examination no. 1" of 23 December 2005 (see paragraph 124 et seq. above). Although in November 2006 this document had been declared void by a domestic court, it was still relied upon in later proceedings due to its extensive factual scope. As cited by the Government, the report had found that the Ministry of the Interior, as well as other federal authorities, had taken all the necessary and adequate precautions in relation to the expected terrorist attack. At the same time, the actions of the local teams of the Ministry of the Interior in Ingushetia and in Beslan had been deficient, as a result of which the illegal armed group had been able to get together and train in Ingushetia, travel to Beslan across the administrative border with

North Ossetia and then proceed to the hostage-taking without much opposition. These conclusions served as the basis for the criminal prosecution of the local police officers in Ingushetia and in Beslan.

2. The Court's assessment

481. As an introduction to the examination of the complaints brought under Article 2 of the Convention, the Court confirms that it is acutely conscious of the difficulties faced by the modern States in the fight against terrorism and the dangers of hindsight analysis (see *Finogenov and Others v. Russia*, nos. 18299/03 and 27311/03, §§ 212-13, ECHR 2011 (extracts)). The Russian authorities, in particular, have been confronted in the past few decades with the separatist movements in the North Caucasus – a major threat to national security and public safety. As the body tasked with supervision of the human rights obligations under the Convention, the Court would need to differentiate between the political choices made in the course of fighting terrorism, that remain by their nature outside of such supervision, and other, more operational aspects of the authorities' actions that have a direct bearing on the protected rights. The absolute necessity test formulated in Article 2 is bound to be applied with different degrees of scrutiny, depending on whether and to what extent the authorities were in control of the situation and other relevant constraints inherent in operative decision-making in this sensitive sphere (ibid., §§ 214-16).

482. Turning to the question of positive obligation, the Court reiterates that Article 2 of the Convention may imply a positive obligation on the authorities to take preventive operational measures to protect an individual whose life is at risk from the criminal acts of another individual (see *Osman v. the United Kingdom*, 28 October 1998, § 115, *Reports of Judgments and Decisions* 1998-VIII). For the Court to find a violation of the positive obligation to protect life, it must be established that the authorities knew, or ought to have known at the time, of the existence of a real and immediate risk to the life of identified individuals from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk (see *Osman*, cited above, § 116; *Paul and Audrey Edwards v. the United Kingdom*, no. 46477/99, § 55, ECHR 2002‑II; *Medova v. Russia*, no. 25385/04, § 96, 15 January 2009; and *Tsechoyev v. Russia*, no. 39358/05, § 136, 15 March 2011). Such a positive obligation may apply not only to situations concerning the requirement of personal protection of one or more individuals identifiable in advance as the potential target of a lethal act, but also in cases raising the obligation to afford general protection to society (see *Mastromatteo v. Italy* [GC], no. 37703/97, § 69, ECHR 2002-VIII; *Maiorano and Others v. Italy*, no. 28634/06, § 107, 15 December 2009; and *Choreftakis and Choreftaki v. Greece*, no. 46846/08, §§ 48-49, 17 January 2012).

483. In *Finogenov and Others* (cited above, § 173), the Court concluded that there was no evidence that the authorities had had any specific information about the hostage-taking being prepared and declared the complaint inadmissible. In contrast, in the present case, a number of elements suggest that at least some degree of information was available to the authorities beforehand. The Court should therefore first establish whether this information was sufficient for the competent authorities to conclude that there had been a real and immediate risk to the lives of identified individuals – the pupils, staff and visitors of school no. 1 in Beslan on the day in question; and, if so, whether they had taken measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk.

484. With respect to the first question, the Court notes that in July and August 2004 a number of internal directives were issued by the Ministry of Interior and the FSB indicating a heightened terrorist threat in the North Caucasus. Geographically, the risk was located at the border between Ingushetia and North Ossetia, more specifically in the forested area of the Malgobek District in Ingushetia, where the movement and gathering of the illegal armed group had been recorded, and the adjoining areas in North Ossetia, including the Pravoberezhny District. The nature of the threat was described as a terrorist attack involving hostage-taking of a civilian object. Several documents issued after 25 August 2004 linked the attack with the opening of the academic year and the Day of Knowledge – 1 September, when every school holds a celebratory gathering of all pupils and staff and where many parents and visitors are present. The threat was considered imminent enough to put the local security forces on high alert. On the strength of the above warning, the North Ossetian and Ingushetian Ministries of the Interior ordered the local police to undertake preventive measures. These included provisions for tracking and checking suspicious looking people and vehicles, blocking secondary roads to avoid unsupervised passage between the two republics, warning the local authorities and the school administrators, taking special measures to protect educational facilities, establishing clear communication channels and preparing contingency plans in case of emergency (see paragraphs 16-18, 132, 291-292, 364-365, 401 above).

485. By August 2004 the Russian authorities were already familiar with the terrorists' ruthless attacks on the civilian population, including its most vulnerable sectors. In the ten years preceding the events in Beslan, at least three major terrorist acts with a similar pattern were committed by the Chechen separatists. In June 1995 a group of terrorists under the command of Shamil Basayev captured over 1,500 people in a hospital in Budennovsk in the Stavropol Region; in January 1996 a group headed by Salman Raduyev seized, among other targets, a maternity ward with patients and staff in Kizlyar, Dagestan; and in October 2002 a group under leadership of Movsar Barayev took hold of a theatre in Moscow with over 800 people during a popular youth show. Each time the terrorists used the hostages to

amplify their message related to the situation in Chechnya, causing immense suffering to their victims. In each case, the attacks resulted in massive loss of life.

486. Against this background, the information known to the authorities as summarised above can be seen as confirming the existence of a real and immediate risk to life. The Court notes that the experts pointed out that, although the targeted individuals or groups had not been identified with precision, complementary information should have been available to the competent authorities from covert sources and intelligence operations (see paragraph 437 above). In any event, in the face of a threat of such magnitude, predictability and imminence, it could be reasonably expected that some preventive and protective measures would cover all educational facilities in the districts concerned and include a range of other security steps, in order to detect, deter and neutralise the terrorists as soon as possible and with minimal risk to life.

487. The Government's position on this was that the Ministry of the Interior and other federal authorities had taken all the necessary and adequate precautions in relation to the expected terrorist attack. At the same time, the actions of the local teams of the Ministry of the Interior in Ingushetia and in Beslan had been deficient, as a result of which the illegal armed group had been able to get together and train in Ingushetia, travel to Beslan across the administrative border with North Ossetia and then proceed to the hostage-taking without much opposition. These conclusions served as the basis for criminal prosecution of the local police officers in Ingushetia and Beslan for professional negligence (see paragraphs 355, 363 et seq., 480 above).

488. The material made available to the Court does not indicate any attempts to address the threat in Ingushetia, where the terrorist group had gathered and trained for at least some days, with the knowledge of the authorities. In North Ossetia, certain preventive security measures were being taken in advance of the Day of Knowledge. The monitoring of vehicles through security checks had been organised on the roads crossing the administrative border between the two republics, although it was later acknowledged that the local police had insufficient resources to ensure a constant inspection that would be commensurate with the threat (see paragraphs 291, 334, 375 above). As a result of these gaps in security, at a relatively busy time in the morning, over thirty armed terrorists unimpededly covered a distance of at least 35 kilometres from the administrative border in Khurikau to Beslan. They also had no problems entering the district centre with a population of about 35,000 – the largest town in the vicinity – and arriving in the centre where the school no. 1 was located. Along this route, they encountered only one police officer at a checkpoint, whom they were able to disarm and whose vehicle they were able to take over, without raising any alarms (see paragraph 278).

489. As to the security at the school, police officer Fatima D. was the only person ensuring security of the gathering, which was attended by more

than 1,000 people. She was not armed or equipped with any mobile means of communication, and attempted to use a fixed telephone at the school to inform the local police of the emergency. It appears that the security arrangement at the school was not heightened, but was reduced even in comparison to the usual standards (see paragraphs 21, 279, 284). It thus transpires that the local police were not fully apprised of a real and foreseeable threat of a major terrorist attack against an academic establishment within their zone of responsibility and did not take sufficient preventive or preparatory measures to reduce the inherent risks (see also paragraph 133 above). There is no information that any warning was given to the civilian authorities or the school administration. It is obvious that no warning whatsoever was issued to those who had attended the ceremony, and many parents had taken pre-school siblings with them, unaware of any dangers at what they had expected to be a festive family occasion.

490. In view of relatively specific advance information, the authorities had a sufficient degree of control over the situation at least in the days immediately preceding the Day of Knowledge. It could thus be reasonably expected that a coordinating structure would be tasked with centralised handling of the threat, preparing adequate responses, allocating resources and securing constant feedback with the field teams. The Court finds that despite a foreseeable threat to life there was no discernible effort to set up some sort of command centre that could carry out its evaluation and containment. It is unclear, for example, whether the insufficient resources for road security at local level were taken into account at regional level, since there is no information about the involvement in the preventive security measures of the North Ossetia operational management group tasked with counter-terrorist activities (see paragraph 312 above).

491. To conclude, the Court finds it established that at least several days in advance the authorities had sufficiently specific information about a planned terrorist attack in the areas in the vicinity of the Malgobek District in Ingushetia and targeting an educational facility on 1 September. The intelligence information likened the threat to major attacks undertaken in the past by the Chechen separatists, which had resulted in heavy casualties. A threat of this kind clearly indicated a real and immediate risk to the lives of the potential target population, including a vulnerable group of schoolchildren and their entourage who would be at the Day of Knowledge celebrations in the area. The authorities had a sufficient level of control over the situation and could be expected to undertake any measures within their powers that could reasonably be expected to avoid, or at least mitigate this risk. Although some measures were taken, in general the preventive measures in the present case could be characterised as inadequate. The terrorists were able to successfully gather, prepare, travel to and seize their target, without encountering any preventive security arrangements. No single sufficiently high-level structure was responsible for the handling of the situation, evaluating and allocating resources, creating a defence for the

vulnerable target group and ensuring effective containment of the threat and communication with the field teams.

492. The Court reiterates that in the preparation of responses to unlawful and dangerous acts in highly volatile circumstances, competent law-enforcement services such as the police must be afforded a degree of discretion in taking operational decisions. Such decisions are almost always complicated, and the police, who have access to information and intelligence not available to the general public, will usually be in the best position to make them (see *P.F. and E.F. v. the United Kingdom* (dec.), no. 28326/09, § 41, 23 November 2010). This is especially so in respect of counter-terrorist activity, where the authorities often face organised and highly secretive networks, whose members are prepared to inflict maximum damage to civilians, even at the cost of their own lives. In the face of an urgent need to avert serious adverse consequences, whether the authorities choose to use a passive approach of ensuring security of the potential targets or more active intervention to disrupt the menace, is a question of tactical choice. However, such measures should be able, when judged reasonably, to prevent or minimise the known risk. With regard to the above arguments, the Court finds that in the case at issue the Russian authorities failed to take such measures.

493. In such circumstances, the Court finds that there has been a breach of the positive obligations under Article 2 of the Convention in respect of all applicants in the present case.

B. Procedural obligation under Article 2 of the Convention

1. The parties' submissions

494. The applicants reiterated their previous submissions that the investigation in this case had been neither thorough nor independent (see, for more detailed submissions, *Tagayeva and Others* (dec.), cited above, §§ 531-36). As a result, it had been unable to establish accurately the causes and circumstances of the deaths and to hold those responsible to account. They identified three major failures in the investigation. Firstly, the applicants deplored the fact that there had not been autopsies or the causes of death established for 116 of the victims, in breach of the relevant national rules and Convention standards. They relied in this respect on the forensic expert report (see paragraphs 452-456 above). They stressed, in particular, the reliance on external examinations only and the failure to identify fire as a cause of death. Secondly, they criticised the failure to compile a comprehensive site report, prior to the hasty intervention and clearing on 4 September. Thirdly, they considered that the investigation had failed to adequately investigate the use of lethal force, and in particular indiscriminate weapons, by the State agents. Furthermore, they contended that the investigation had not made any serious attempts to investigate the functioning of the OH; the decision not to prosecute State agents had been

flawed in a number of ways; the investigation had failed to consider much of the key testimony, focusing instead on the statements of the officials and security personnel; many of the institutions and experts who had produced expert forensic reports had been connected with or employed by the agencies implicated in the events (the FSB, the Ministry of Interior and the Ministry of Defence). They also deplored the lack of victim access to some aspects of the investigation.

495. The Government referred to their previous observations summarised in the decision on admissibility (see *Tagayeva and Others* (dec.), cited above, §§ 520-30). There they argued that the investigation had been effective and in compliance with the Convention requirements. The investigative authorities had conducted a comprehensive inquiry into the terrorist attack. Testimonials had been collected from virtually every person who had been involved in the events, both private individuals and State officials. A large number of professional experts' reports had been ordered and conducted in order to assess and reconstruct the most important events. The investigation had concluded that the deaths and injuries of the victims were not connected with any actions or omissions of the State agents, including use of firearms. The actions of the members of the OH, other State agents had been examined; it had been determined that no reasons to open criminal investigation into their actions had existed. As to the access of the case-file by the victims, the Government were of the opinion that all those persons who wanted to do so had acquainted themselves with the relevant documents. In their view, "the investigation has been comprehensive and lacked any deficiencies which could have influenced the completeness, clarity and adequacy of the establishment of the facts. In other words, the investigation left little, if any, room for any speculations, picturing an alternative course of events".

2. The Court's assessment

496. The Court has on many occasions stated that Article 2 of the Convention contains a positive obligation of a procedural character: it requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force by the authorities (see *McCann and Others v. the United Kingdom*, 27 September 1995, § 161, Series A no. 324 § 161, and *Kaya v. Turkey*, 19 February 1998, *Reports* 1998-I, § 105). The relevant principles applicable to the effective investigation have been summarised by the Court on many occasions (see, for example, *Finogenov and Others*, cited above, §§ 268-72, and for a more recent authoritative summary, *Armani Da Silva v. the United Kingdom* [GC], no. 5878/08, §§ 229-39, ECHR 2016). In the latest judgment cited, the requirements of an effective investigation into the use of lethal force by the State were summarised as follows: those responsible for carrying out the investigation must be independent from those implicated in the events; the investigation must be "adequate"; its

conclusions must be based on thorough, objective and impartial analysis of all relevant elements; it must be sufficiently accessible to the victim's family and open to public scrutiny; and it must be carried out promptly and with reasonable expedition. In order to be "adequate" the investigation must be capable of leading to a determination of whether the force used was or was not justified in the circumstances and of identifying and – if appropriate – punishing those responsible (ibid., §§ 240, 243).

497. The Court has also fully acknowledged the difficulties faced by the Russian Federation in combating illegal militant groups in the North Caucasus who have recourse to the most audacious terrorist methods. It therefore understands the need to set up an efficient system capable of counteracting them, and maintaining law and order in this much-suffering region. Nevertheless, the confines of a democratic society governed by the rule of law cannot allow this system to operate in conditions of guaranteed impunity for its agents. Within the limits of the obligations imposed by the Convention, it should be possible to ensure accountability of the anti-terrorist and security services without compromising the legitimate need to combat terrorism and maintain the necessary level of confidentiality (see *Aslakhanova and Others v. Russia*, nos. 2944/06, 8300/07, 50184/07, 332/08 and 42509/10, § 231, 18 December 2012).

498. In the present case, the authorities carried out a number of investigations and inquiries in order to reconstruct the events, seek out and bring to justice those responsible and ensure the victims' access to justice. The proceedings included four separate sets of criminal investigations. Three of those, – one against the only surviving terrorist, Mr Kulayev, and two against the district police officers for professional negligence, – were completed. One investigation, no. 20/849, remains pending and concerns other aspects of the events, which are subject of the applications brought before the Court. In addition, a large amount of work aimed at establishing the truth about the tragedy was carried out by the commissions at the North Ossetian Parliament and the Federal Assembly.

499. The Court acknowledges the important work carried out by the investigation. In particular, in the weeks and months following the terrorist act, hundreds of witnesses, victims and other people directly involved in the events were identified and questioned. The investigation certainly made an effort to accord victim status to hundreds of affected people and to collect and systematise the data related to the victims' individual situations. The Court further acknowledges the amount of time and expertise that was devoted to controversial and complex issues such as the origins of the first explosions, the organisation of the fire services, medical work and other disputed aspects of the events. The applicants alleged that despite all the proceedings summarised above, the investigation into the events had not been "effective" in the Convention-compliant meaning as outlined above. The Court will examine several key aspects of the investigations on which the parties disagree.

(a) Forensic evidence related to the cause of the victims' deaths

500. One of the undisputed features of the investigation is the fact that the causes of death of the majority of victims were established on the basis of external examinations only; and that for about a third of the victims the cause of death was not established in view of extensive burns (see paragraphs 253, 341, 391, 396, 414 above). The victims complained about this omission, but their complaints were dismissed by the investigators and the supervising courts. No additional forensic examinations or autopsies were carried out once the identification of the victims had been completed (see paragraphs 255, 260, 263, 264, 266).

501. The Government confirmed, in their previous observations, that the cause of death had been established for 215 people; the exact cause of death of 116 people could not be established owing to extensive *post mortem* burns. The investigation concluded that the deaths and injuries of the victims were not connected with any actions or omissions on the part of State agents, including the use of firearms (see paragraph 254 above).

502. The Court has previously held that the authorities must take the reasonable steps available to them to secure the evidence concerning the incident, including an autopsy which provides a complete and accurate record of injury and an objective analysis of clinical findings, including the cause of death. Any deficiency in the investigation which undermines its ability to establish the cause of death or the person or persons responsible will risk falling foul of this standard (see *Al-Skeini and Others v. the United Kingdom* [GC], no. 55721/07, § 166, ECHR 2011, and *Isayeva v. Russia*, no. 57950/00, § 212, 24 February 2005, and the cases cited therein).

503. In the present case the cause of death of the majority of victims were established on the basis of external examinations of the bodies only. No additional examinations were carried out, for example, to locate, extract and match external objects such as metal fragments, shrapnel and bullets. The decision to limit the examination of the bodies to external only was taken by the investigation in the immediate aftermath of the rescue operation and, in the authorities' opinion, was justified by the constraints on storage of the bodies and the need to identify the victims (see paragraph 414 above).

504. It is clear that at that moment the authorities found themselves under high pressure. After the siege and its violent outcome, thousands of aggrieved relatives were desperate to receive news about their family members, including several hundred children. Naturally, identifying the victims and informing the relatives of their fate was seen at that time as the most pressing need. The Court is fully aware of the practical difficulties that authorities face when organising investigative steps in difficult circumstances involving active conflict situations. The Court has acknowledged the difficulties faced by the Russian Federation in maintaining law and order in the North Caucasus and the restrictions that

may be placed on certain aspects of the investigation (see *Aslakhanova and Others*, cited above, § 231).

505. However, the Court does not lose sight of the fact that the circumstances preceding the storming strongly indicated a likelihood of mass casualties. It is therefore difficult to appreciate the apparent lack of preparation in terms of facilities for storing, examining and identifying the remains that were first laid out in the school courtyard and then taken to the Vladikavkaz town mortuary, which was insufficient in size to store them. This failure appears particularly serious in view of the hot weather that was prevalent in the region at the time of the events and which should have alerted the competent authorities to the need to ensure sufficient facilities, at least for some time, in order to ensure adequate conditions for the forensic work.

506. In any event, even accepting that the decision to limit the examination of the victims' bodies to external inspections only was justified in the circumstances of the events, it is difficult to extend the same logic to the later stages of the criminal investigation. On several occasions the relatives of those who had lost their lives at the school requested that the bodies of the victims be exhumed and that additional enquiries be performed in order to reach more specific conclusions about the causes of their deaths, but no such requests were granted.

507. A third of the victims died of causes that could not be established with certainty, in view of extensive burns. Such a high proportion of unestablished deaths seems striking. The external expert report ordered by the applicants suggested that the difference between *ante mortem* and *post mortem* burns could have been resolved through relatively common tests (see paragraph 456 above). The Court will not dwell on the exact methods of analysis that could lead to more resolute conclusions; nor does it want to speculate whether the cause of death could be established with certainty in every individual case, knowing that many of the remains had been carbonised to the extent that DNA matching tests were necessary. The Court has already acknowledged the difficulties faced by the Russian authorities in this case. Nevertheless, it reiterates that as this was a situation of violent loss of life, once the identifications had been carried out, individual and more conclusive scrutiny about its causes should have been one of the crucial tasks of the investigation. Where the exact causes of deaths were not established with precision, the investigation failed to provide an objective ground for the analysis of the use of lethal force by the State agents. Many applicants continue to suffer from frustration and anguish caused by a lingering uncertainty about the circumstances of the deaths of their relatives, and these feelings are at the heart of this part of the complaint. The failure is all the more striking in respect of those applicants who later sought an examination of their relatives' remains in order to dispel such uncertainty.

508. Furthermore, the Court notes that the location of the hostages' bodies in the school was not marked or recorded with any precision (see the relevant passages of site inspection cited above in paragraphs 120 and 122).

The location of only three of the bodies was noted with some precision, but even these findings were not marked in order to match them later. The absence of such basic information as the place of the victim's death contributed to the ambiguity concerning the circumstances in which it had occurred.

509. To sum up, the Court finds that deficient forensic measures led to a situation where it was impossible to establish, with any degree of certainty, the causes of death of at least a third of all the victims, and the exact circumstances and location of the bodies of many more. An individualised description of their location and a more in-depth examination of the remains should have served as starting points for many of the important conclusions drawn in the course of the investigation. Failure to ensure this basis for subsequent analysis constitutes a major breach of the requirements of an effective investigation.

(b) Securing and collecting the evidence

510. In their observations on the admissibility and merits, the Government stressed that the first investigative actions had taken place immediately after the security operations had ended. On 4 September 2004 a group of investigators, accompanied by experts, examined the site. Their work was recorded in a forty-three page document with more than 150 pages of photographs and video recordings (see paragraphs 119-122 above). This document was used as a basis for a number of subsequent expert examinations. The questioning of the eyewitnesses and officials involved in the operation started immediately in the aftermath of the events, to ensure that their recollections were as detailed as possible.

511. The Court reiterates that, as part of the requirements of an effective investigation, the authorities must take whatever reasonable steps they can to secure evidence concerning the incident, including, *inter alia*, forensic evidence (see case-law cited above). What steps are to be considered reasonable would depend on the circumstances of the case, but in the context of any violent crime examination of the crime scene and preservation of forensic evidence would constitute one of the basic requirements of an effective investigation.

512. In the present case the site of the incident was the entire school building. For over fifty hours a group of over thirty heavily armed terrorists held over 1,000 people captive; they installed IEDs in the building, turned it into improvised stronghold, stayed in various premises and used them for communication, the storage of arms and ammunition and for detaining the hostages. Following explosions, fire and an armed intervention, over 330 people lost their lives and hundreds more were wounded. It thus appears normal that once the security and rescue parts of the operation were over, a thorough and potentially lengthy operation was to be started in order to examine, record, collect and preserve any relevant material traces of the various events that had occurred. Preserving the integrity of the site as much

as possible until the end of this immense forensic operation should have been seen as one of the first and key tasks of the investigation.

513. The investigation into the hostage-taking was opened on 1 September, and over sixty investigators were assigned to it the following day (see paragraphs 111-112). By 3 and 4 September a large group of professionals from the prosecutor's offices in the region were ready to intervene in order to secure, collect and record the relevant evidence. This forward planning permitted the site examination to be carried out, which lasted almost an entire day on 4 September. The value of this document is apparent by its use in the subsequent procedures, along with collected photographic and video material, as one of the basic documents for reconstructing the events and drawing important conclusions. For instance, the site examination figured among evidence relied upon by the experts who had prepared several reports on the explosives and the fire expert's report within criminal investigation no. 20/849, and it also figured in the parliamentary reports.

514. The Court stresses that the examination of the site carried out on 4 September represented the sole opportunity to draw a relatively comprehensive account of the scene before it was irreparably altered, leading to the loss of much important evidence, such as impact traces, parts of IEDs, arms and ammunition, personal belongings of the hostages and terrorists and other relevant items. After the intervention of heavy machinery and the access of third parties once the police and army cordons had been lifted by the end of 4 September, the integrity of the site could no longer be ensured.

515. It therefore appears that the time accorded to the drawing up of the report and carrying out other forensic work was insufficient. The exercise was done in parallel with the removal of the bodies and did not reflect their location or otherwise identify them in any meaningful manner. Some of the descriptions pertinent to the case were so brief that they appeared almost redundant. The description of many important pieces of evidence, such as parts of weapons and ammunition, did not indicate where in the building they had been found (see paragraphs 120-122 above). No samples (swabs or scrapes) were collected in order to find traces of explosives in the impact zones, which later proved to be an impediment to identifying the types of explosives used. The quality of the forensic work at the site is further undermined by the claims made by the victims' relatives that they had found many potentially important pieces of evidence and the hostages' personal belongings at the town rubbish dump; it was also asserted that the unique video tape filmed by the terrorists inside the building during Mr Aushev's visit on 2 September and depicting them and their leader had been found by local residents among the rubble removed from the site (see paragraphs 101-102, 428 above). The same problems were criticised in the North Ossetian parliamentary commission's report (see paragraph 382 above).

516. The Court concludes that the investigation failed to properly secure, collect and record evidence at the school building on 4 September. This

resulted in a report being drawn up that was incomplete in many important respects. The simultaneous intervention of machinery to clear the site and unrestricted access by the end of the same day aggravated the problem, because the integrity of the site could no longer be ensured, undermining the further collection of evidence from the scene. The Court considers that this caused irreparable harm to the investigation's ability to carry out a thorough, objective and impartial analysis of all relevant elements (see paragraph 496 above), since the document, deficient in many respects, served as one of the key pieces of evidence for the conclusions reached thereafter. The failure to ensure that relevant material evidence was adequately secured, collected and recorded constituted a serious breach of the requirements of an effective investigation in the present case.

(c) Investigation into the State agents' use of lethal force

517. The applicants insisted that the investigation had failed to adequately investigate the use of lethal force, particularly indiscriminate weapons, by the State agents.

518. The Government denied this allegation. Unlike the above-cited *Finogenov and Others* case, the Government were of the opinion that the domestic investigation had thoroughly examined the question of whether there was a connection between the use of force by the State agents and the deaths and injuries among the hostages. The conclusion of the investigation was clear in that such a connection was absent: the deaths of the victims had been caused by the terrorist's actions. Again, in contrast to the *Finogenov and Others* case, the Government referred to the specific inquiries into the actions of the armed forces, security servicemen and other State personnel, which had ultimately resulted in the decision not to prosecute anyone. They stressed that the investigation had been independent and that there was no reason to suspect that the investigators, or any of the experts who had prepared the reports, had been subordinate to the bodies involved in the security operation in Beslan. They referred to the conclusions and the composition of the board of experts which had prepared expert report no. 1 of 23 December 2005 (see paragraph 124 et seq.). Overall, in their view, "the investigation [was] comprehensive and lacked any deficiencies which could have influenced the completeness, clarity and adequacy of the establishment of the facts. In other words, the investigation left little, if any, room for any speculation, depicting an alternative course of events".

519. The Court has stated before that where an investigation concerns a criminal act by third parties, such as a terrorist act, and the authorities' response involved the use of lethal force, it should take adequate and necessary steps in order to examine the authorities' own actions from the standpoint of the guarantees of Article 2 of the Convention (see *Finogenov and Others*, cited above, §§ 274 and 280).

520. In the present case, a number of important steps were taken by the investigation in order to elucidate the questions of the State's involvement.

Within the scope of criminal case no. 20/849 opened on 1 September 2004, a number of questions were asked about the actions of the State agents. Arising from this investigation, separate criminal proceedings resulted in charges being brought against police officers from the Malgobek District and the Pravoberezhny District for professional negligence related to the prevention of the terrorist acts. Although criminal investigation no. 20/849 remained unfinished, the decisions not to charge any other officials with crimes were taken within its framework. Acknowledging the amount of work carried out by the investigators in this regard as well, the Court will focus below on several aspects pertaining to the effectiveness of this part of the proceedings.

521. First of all, the investigation established with certainty that the State agents had used an extensive range of lethal weapons, including automatic firearms, explosives and thermobaric weapons. The documents showed that during the operation the army and internal troops personnel had used no fewer than 7,000 cartridges for automatic and machine guns, over 2,000 tracer bullets, ten disposable anti-tank rocket launchers, 18 anti-tank charges for reloadable grenade launchers, eight high-fragmentation warheads for a tank cannon and ninety smoke grenades (see the "joint act" of 10 September 2004 and other relevant evidence quoted in paragraph 219). In addition, an unclear amount of powerful thermobaric flame-throwers (RPO–A *Shmel*) were used (see two separate expert reports that listed twelve RPO–A spent tubes with individual batch and serial numbers, paragraph 209; see also information about the use of five devices with different batch numbers in paragraph 210). Other documents referred, in addition, to 450 armour-piercing incendiary cartridges for large-calibre machine guns and ten hand grenades (see separate act on the use of weapons, paragraph 206 above). The explosions expert report dating from September 2007 added to this already impressive list an unspecified number of other modifications of anti-tank and grenade launchers, as well as propelled attack grenades with a thermobaric warhead (RShG–1) and light infantry flame–throwers with a thermobaric charge (LPO–97), the use of which was marked as "probable", even though over forty spent charges had been found at the site (see paragraphs 211 and 226 above). The parties disagreed whether the investigation had been able to establish the circumstances of use of these weapons and ammunition, particularly weapons that could be characterised as indiscriminate, and to clarify the possible causal link between the use of lethal force and the casualties among the hostages.

522. The Court notes that no single and concerted effort was made by the investigation to make an inventory of the weapons and ammunition used by the State agents, particularly explosive and thermobaric weapons capable of inflicting damage upon anyone within their impact radius. Information about the quantity of the weapons used and the units that had used them is scattered throughout different proceedings and disjointed documents. The "joint act" of 10 September 2004, although cited in several subsequent

documents, such as the fire expert's report of 22 December 2005, does not take into account one of the most powerful weapons used – the *Shmel* flame-throwers. Nor does it appear to tally with another act, of 9 September, which named different types of charges and explosives used. The comprehensive forensic report on explosions completed in September 2007 failed to indicate the quantity of the charges used, and was not certain on the use of light infantry flame-throwers with a thermobaric charge, despite over forty spent capsules specific to that weapon being found. Neither the quantity nor provenance of the *Shmel* flame–throwers used was listed in any single document (see paragraphs 210, 211 and 219 above). The same is true for the use of other explosive and armour–piercing weapons, including various modifications of grenade launchers (reloadable and dispensable), numerous and inconsistent references to which are scattered throughout a multitude of documents. This failure is difficult to explain in view of the availability of extensive information concerning the batch and individual numbers recorded for many such weapons (see paragraphs 209, 214-216 above). The absence of a complete record of the weapons and ammunition used by the State agents effectively precluded the investigation from undertaking a meaningful evaluation of the adequacy and proportionality aspects of the use of force.

523. As to the circumstances of their use, much witness testimony about the use of a tank gun, grenade and rocket launchers and flame–throwers was obtained during separate criminal proceedings brought against the surviving terrorist, Mr Kulayev (see paragraphs 293, 294, 298, 300, 303 above). The Court remarks that, on the one hand, these witnesses provided accounts about the use of powerful indiscriminate weapons soon after the first explosions, while the military and security officials denied their use prior to 6 p.m. when, allegedly, no hostages remained in the building (see paragraphs 207, 220, 306 and 323 above). In order to resolve that controversy, the investigators should have first established with some precision the types and amount of weapons used, as well as the time, targets and people who had used them and then matched this information with the objective data about the casualties and impact traces. As the Court has already noted, the absence of an inventory of the weapons used virtually precluded any progress in this respect. For example, the fire expert report confirmed that indiscriminate *Shmel* flame–throwers had been used upon the building, but not upon the hostages, and their use could not have harmed them (see paragraph 220 above). The investigation accepted these unclear conclusions.

524. To sum up, in respect of the use of indiscriminate weapons capable of putting at risk the lives of anyone within their impact radius, namely grenade and rocket launchers, flame–throwers and the tank gun, the Court finds that there existed a credible body of evidence pointing at their use by the State agents in the first hours of the storming. In the Court's view, this evidence has not been fully assessed by the investigation. The lack of objective and impartial information about the use of such weapons

constituted a major failure by the investigation to clarify this key aspect of the events and to create a ground for drawing conclusions about the authorities' actions in general and individual responsibility. Other failures included the absence of detailed information about the location of the hostages' bodies, failure to establish the causes of death of at least one third of the victims and gaps in collecting and securing other relevant forensic evidence, as described above. In view of these considerations, the Court cannot accept as tenable the investigation's conclusion that no one among the hostages was injured or killed by the lethal force used by the State agents (see, for example, paragraph 233 above).

525. As in any security operation resulting in casualties, strict accountability for the use of lethal force by State agents is imperative. The investigation carried out into the events must be capable of laying down grounds for a thorough, objective and impartial analysis of all relevant elements. It was therefore vital for the investigation to make every effort to reach clear and univocal findings about the use of weapons by the State agents. In the absence of this background data, any conclusions about criminal responsibility are without any objective basis and risk appearing arbitrary.

526. The material of criminal case no. 20/849 contains several decisions issued by the investigation in which it was decided that the State officials had not committed any criminal acts in the course of the hostage crisis in their fields of responsibility. The first decision was adopted by a military prosecutor in Vladikavkaz on 3 December 2004 (see paragraphs 229 et seq. above) and concerned the unnamed personnel of the Ministry of Defence and the Ministry of the Interior. This document preceded most of the crucial investigative steps, including expert report no.1 and the expert reports on fire, ballistics and explosions. It contained hardly any details about the weapons used and their potential or actual impact, and failed to match that with the recorded injuries and causes of death. Even though this document was later set aside, this line of inquiry did not seem to have progressed over the years when the investigation remained pending. Similar conclusions were reached on 20 April 2006 in respect of the head and members of the OH who had led the rescue operation (see paragraph 239 above). The Court finds unconvincing the assumption that the use of a massive amount of indiscriminate lethal force by the servicemen resulted in the terrorists' elimination, but at the same time caused no harm to any of the hostages in the same building, which was retained throughout the investigation without much critical analysis (see paragraph 254 above).

527. For the reasons outlined above, the Court finds that the investigation failed to adequately examine the use of lethal force by the State agents during the operation on 3 September 2004. Amongst other things, the investigators did not establish basic facts about the use of indiscriminate weapons that were crucial for the assessment of the causal link between their use and the casualties, and thus did not fully assess the evidence suggesting the use of indiscriminate weapons at the time when the

terrorists and hostages had been intermingled (see paragraphs 524 above). Coupled with incomplete forensic evidence on the causes of death and injuries, deficiencies in the steps to secure and collect the relevant evidence from the site, any conclusions reached about the criminal responsibility of the State agents in this respect are without objective grounds and are thus inadequate.

(d) Public scrutiny

528. The victims argued that they had been unable to obtain access to many crucial documents in investigation file no. 20/849, and that their complaints to the courts in this respect had been unjustifiably dismissed (see paragraphs 263 et seq.). They referred to their numerous and futile attempts to obtain copies of the decisions to appoint experts and the results of the most important expert conclusions, decisions not to prosecute certain officials, witness statements and other documents.

529. The Government were of the opinion that all those who had wanted to do so had acquainted themselves with the relevant documents. They also stressed that some of the victims had waived their right to access the documents in the case file, of which there were written statements.

530. The Court has previously held that the degree of public scrutiny required may well vary from case to case. In all cases, however, the victim's next-of-kin must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests (see *Ahmet Özkan and Others v. Turkey*, no. 21689/93, §§ 311-14, 6 April 2004; *Isayeva*, cited above, §§ 211-14 and the cases cited therein).

531. The Court notes that one of the repeated demands of the victims in the criminal proceedings in file no. 20/849 was to ensure them access to some of the documents collected by the investigation. On several occasions the victims demanded full access to the expert reports on ballistics, arms and ammunition and expert report no. 16/1 prepared on 14 September 2007 addressing the entirety of the explosions that had occurred in the gymnasium on 3 September 2004. Such requests were rejected by the investigation and the supervising courts. In some cases, the courts referred to the confidentiality of the documents, while in others they referred to the need to preserve the interests of the investigation (see paragraphs 224, 263, 265, 266 above). Similar requests lodged by the victims within the framework of the criminal trial of Mr Kulayev were equally dismissed by the trial courts (see paragraphs 343 et seq. above).

532. The documents to which the applicants were trying to gain access concerned the causes of death and injuries of the hostages and information about the lethal force used by the State agents during the storming, as well the origins and nature of the explosions which had occurred in the gymnasium. These issues went to the very heart of the victims' concerns and their inability to obtain adequate answers in the domestic proceedings drove them to complain before the Court.

533. It must be borne in mind that in addition to "principal" investigation file no. 20/849, there were other sources of information which put into question some of its findings. The Court has already remarked that a number of witness statements obtained during the trial of Mr Kulayev pointed to the use of indiscriminate weapons prior to 6 p.m. on 3 September 2004, contrary to the investigation's assertion. Some of the crucial conclusions of the investigation about the use of indiscriminate weapons, the origins of the first explosions and the deficiencies of the forensic findings were challenged in the reports produced by the North Ossetian parliamentary commission and a member of the Duma commission Mr Savelyev, himself a military expert. The authors of these reports not only examined the documents and evidence collected by the investigation, but had the benefit of first-hand knowledge including site examinations and witness testimony. They also devoted a considerable amount of time and their own expert knowledge to analysing all the sources available.

534. The most important conclusions that contradicted the findings reached within the framework of investigation no. 20/849 may be summarised as follows: the first explosion had not been caused by an IED, but had most probably originated from outside; the security services had used indiscriminate weapons during the first few hours of the rescue operation; the causes of the casualties and fatalities had not been established correctly for a large proportion of the victims (see paragraph 353 above for the applicants' position; see conclusions made by the North Ossetian parliamentary commission and Mr Savelyev in paragraphs 379-382, 386, 391, 396, 406, 408, 410, 411, 413 above). The investigators dealing with file no. 20/849 were aware of the potential importance of at least some of these findings. A complex and extensive report (no. 16/1) was ordered in October 2006 with the specific task of probing some of Mr Savelyev's assertions concerning the origins of the first explosions. It was delivered in January 2007 and contained an all-encompassing overview of the relevant evidence available by that time, completed with analytical and research material that served to disprove his propositions. The experts confirmed the investigation's initial conclusion about the origins of the first explosions lying in the IEDs placed by the terrorists. They also excluded the possibility that the projectiles launched from the locations suggested by Mr Savelyev could have led to the consequences he had implied (see paragraph 226 above). An additional report, produced in October 2007, also examined the available evidence and confirmed the above results (see paragraph 227). As the applicants claimed, these two reports were not available to them until the exchange of observations between the parties in the proceedings before the Court in 2012.

535. As noted above, by the time these reports were written, the decisions answering in the negative the question concerning individual criminal responsibility of the servicemen and OH officials had already been adopted (see paragraphs 229 et seq., and 239 above). The reports did not upset the previously reached conclusions about the terrorists' responsibility

for all the deaths and injuries caused. The value of these two reports, therefore, laid precisely in dispelling public doubts about the circumstances of the deaths and injuries suffered by the hostages on 3 September. These reports should have secured the investigation's conclusions and served to persuade the victims of its effectiveness on this key question. The victims who had lost their family members or received injuries in the disputed circumstances had a legitimate right to be fully acquainted with these important documents and to be able to participate effectively in challenging their results. In such circumstances, it appears unjustifiable that these documents were not made available to the victims in the framework of the criminal investigation. The victims' inability to acquaint themselves with these findings and challenge their results seriously affected their legitimate rights in the criminal proceedings, on a question that was of key importance to them.

536. Furthermore, the Court has previously held in cases concerning Russia, that where decisions to terminate proceedings in situations involving civilian casualties are taken by the military prosecutor's office on the basis of expert reports prepared by army officers, this may raise serious doubts about the independence of the investigation from those implicated in the events at issue (see *Abuyeva and Others v. Russia*, no. 27065/05, § 212, 2 December 2010, with further references). While it is certainly for the competent domestic authorities to determine issues of the guilt and/or innocence of the individuals involved and the applicable provisions of national legislation, the Court has held that the circumstances of extremely serious cases involving numerous casualties sustained in the course of anti-terrorist operations should be assessed by the courts, which are the ultimate guardians of the laws laid down to protect people's lives. In the *Abuyeva and Others* case (cited above), it found the approach of the military prosecutor's office clearly inadequate to fulfil the role of maintaining public confidence in the authorities' adherence to the rule of law and preventing any appearance of collusion in, or tolerance of, unlawful acts (ibid., with further references).

537. In the present case, the investigation likewise relied on a number of reports, some of them prepared by experts working at the army or the FSB structures. Certain conclusions are difficult to reconcile, for example where the reports indicated the different places and yield of the first explosions (see paragraphs 139, 221, 223 and 226 above). This incoherence on one of the most important aspects of the events makes the investigation's unconditional reliance on them questionable. Where allegations are made against security and military servicemen, the element of public scrutiny plays a special role, and if the investigation bases its conclusions on confidential documents prepared by the staff of the same agencies that could be held liable, it risks undermining public confidence in the independence and effectiveness of the investigation and gives the appearance of collusion in, or tolerance of, unlawful acts.

538. In view of the above, the Court concludes that the public scrutiny aspect of the investigation was breached, by the victims' restricted access to the key expert reports, notably those concerning the origin of the first explosions.

(e) Conclusion on the investigation

539. The Court concludes that there has been a breach of Article 2 of the Convention since the investigation was not capable of leading to a determination of whether the force used in the case was or was not justified in the circumstances, and, therefore, not "effective" (see *Hugh Jordan v. the United Kingdom*, no. 24746/94, § 107, 4 May 2001). It also notes the failure to ensure a sufficient degree of public scrutiny by restricting the victims' access to some of the key expert reports. The Court further remarks that other elements of the investigation have been put into question by the applicants: the multitude of co-existing findings relating to the causes of the first explosions, the effectiveness of the investigations into the actions of the OH, rescue and medical services, the issues related to the appointment and independence of the experts and the restricted access to other documents in the case file. However, the Court does not need to examine these aspects of the proceedings separately, in view of the above conclusions.

III. ALLEGED VIOLATIONS OF ARTICLE 2 OF THE CONVENTION (APPLICATIONS Nos. 26562/07, 49380/08, 21294/11, 37096/11 AND 14755/08)

A. Planning and control of the operation

1. The parties' submissions

(a) The applicants

540. The first group of applicants pointed out the following problems with the planning and control of the operation which had involved the use of lethal force. Firstly, they criticised the functioning of the OH, saying that there had been serious delays in its formal establishment, its command and decision-making. They referred to the counter-terrorist expert report which had formulated some very critical conclusions about a lack of structure and unclear key decision-making process (see paragraphs 436 et seq. above). They further highlighted the failure to secure the perimeter of the operation, confirm the number of hostages and communicate it early enough to the relevant services, make senior people available for negotiation, coordinate or plan a rescue operation and ensure some sort of recording of the orders, decisions, appointments and other relevant information for future evaluation. The OH had also failed in the planning of the rescue operation in its assessment of appropriate weapons to be chosen and used. They condemned the fact that, despite the likelihood of a high number of

casualties and the difficulties presented by the weather, no one appeared to have considered a plan for a mortuary, refrigeration or other storage provisions for the fatalities, or for autopsy tables with sufficient specialists. With respect to the provision of fire services, the applicants believed that there appeared to have been no clear lines of command, communication or coordination between the OH, Emercom and the personnel directly responsible for fire services. As specific examples of the failures to plan accordingly, the applicants pointed out the following: that despite having had more than two days to prepare and the high probability of fire resulting from explosions, no fire engines were deployed on standby in the vicinity of the school; that the firefighters had not been provided with protective bulletproof vests, military helmets and other measures which were provided for by the relevant manuals applicable to situations of extinguishing fires in dangerous conditions, and particularly at sites containing explosive materials; that the positioning and availability of water sources had not been determined in advance; that owing to the same lack of coordination the Ministry of the Interior had not undertaken efforts to clear the route to the school, which had remained blocked by cars and people on 3 September, obstructing and delaying the emergency access of fire engines to the site; that there had been a shortage of water and delays in laying down water hoses because of a failure to attach connecting parts; and that the number of fire engines deployed had been seriously inadequate. In any event, the firefighters had been deployed too late to save anyone in the gymnasium.

(b) The Government

541. The Government referred to their previous observations summarised in the decision on admissibility (see *Tagayeva and Others* (dec.), cited above, §§ 538-62). In those submissions, they were of the opinion that the actions of the authorities had been fully consistent with the requirements of Article 2 of the Convention. The special units of the FSB, who had been in charge of the operation potentially involving lethal force, were the most professional teams of that type in the country. Their experience in dealing with terrorists and hostage-taking crises was unparalleled. During the crisis and before the storming, the officers of the *Alpha* and *Vympel* units had conducted training exercises in order to work through all possible scenarios of the takeover of the school building, including practical training at a similar school nearby.

542. The questions put by the Court had been at the centre of the domestic investigation which had fully elucidated them. The appointment and the process of decision-making at the OH had been examined in detail and the conclusions of the investigation as to the absence of criminal liability of the OH's members had been well-founded. All members of the OH had been questioned and in the investigation particular attention had been drawn to the question of whether the actions of the OH members had been lawful.

543. More specifically, the Government explained that the first OH had been set up on 1 September 2004, as soon as the news of the hostage-taking had been communicated to the authorities. In accordance with the North Ossetia anti-terrorist plan of 30 July 2004, this OH had been headed by its President, Mr Dzasokhov. At 2.45 p.m. on 2 September 2004, in accordance with a decree issued by the Russian Government, a new OH had been appointed, under the command of the head of the North Ossetia FSB, General Andreyev. His deputies had been Mr Dzantiyev and General Tikhonov and its members had included Mr Dzasokhov, General Koryakov, Mr Sobolev, General Vnukov and Lieutenant-Colonel Tsyban; Mr Soplevenko, the North Ossetian Minister of Health; Mrs Levitskaya, the North Ossetian Minister of Education; Mr Dzgoyev, the North Ossetian Minister of Emercom; Mr Goncharov, the director of the *Zashchita* Centre; and Mr Vasilyev, deputy head of the information programmes department of *Rossiya*. In view of the speed at which the situation had been evolving, the OH had not held formal meetings or kept notes of its discussions and most of the decisions (see paragraphs 157 et seq.).

544. The Government argued that the ensuing investigations confirmed that the OH actions had been in line with the pertinent legislation, in particular the Suppression of Terrorism Act, as in force at the material time, and the model regulations on the operative headquarters of a counter-terrorist operation, adopted by the federal anti-terrorist commission on 11 June 2003. Among other things, the relevant legislation established the principle that all participants of the anti-terrorist operation were subordinate to the head of the OH, who ensured a single line of command. Interference of other officials, irrespective of their rank, was directly prohibited in the work of the OH.

545. In so far as the applicants' allegation concerned the precautions taken by the authorities to protect people's lives and the negotiation strategy, the Government placed special emphasis on section 14 of the Suppression of Terrorism Act, which provided that negotiations with the terrorists were allowed with the aim of saving human lives and health, protecting property and suppressing the terrorist act without recourse to force. Only those directly authorised by the OH to take part in the negotiations could do so. The provision contained an outright prohibition on considering, in the course of negotiations, the possibility of transferring any other people to the terrorists, handing them weapons or any other dangerous substances or items, as well as on demands of a political nature.

546. In line with these directions, on 1 September the OH had taken a range of urgent steps. These had included cordoning off the area around the school, evacuating people from the secured area, establishing control over the radio frequencies in the vicinity of the school, compiling a list of hostages and establishing means of communicating with the terrorists. The OH had also taken care of accommodating and assigning areas of responsibility to the members of the Ministry of Defence, Ministry of the Interior, Emercom and the health services. Four people had been put in

charge of contact with the media: General Andreyev, Mr Dzugayev, Mr Dzantiyev and Mr Peskov from the Russian President's administration. Later that day the FSB special forces had arrived, and had immediately started preparing for the various scenarios of the rescue operation.

547. On 2 September the OH had continued its attempts to reach an agreement with the terrorists. Through the professional negotiators and public figures they had been offered money and the chance to leave. The terrorists had not been ready to negotiate and had interrupted the contact, rejecting any offers and denying anything which could have alleviated the hostages' situation. Nevertheless, the release of some of the hostages on 2 September had come as a result of the OH's negotiation strategy.

548. On 3 September another compromise had been agreed upon – the terrorists had acceded to the removal of the hostages' bodies from the schoolyard. After the first explosion at 1.10 p.m. the head of the OH had issued a written order to the FSB special units to start the rescue operation and eliminate the threat posed by the terrorists to the hostages. Later, experts had found the servicemen' actions and equipment to be adequate to the situation.

549. In answering whether the storming had been planned and controlled so as to ensure minimal risk to life and the use of firearms and other weapons, the Government submitted that the investigation had devoted special attention to the "alternative" versions of the origins of the first explosions. These versions had suggested that the terrorists who had been holding the pedal detonators had been killed by a sniper, or by a projectile launched from a portable grenade launcher or flame-thrower. They had been thoroughly examined and rejected by the experts and the investigation. The Government referred, in particular, to expert reports no. 1 and no. 16/1 (see paragraphs 124 et seq., 224 et seq.).

550. Accordingly, the explosions in the gymnasium at 1.10 p.m. on 3 September 2004 had triggered the development of events which the OH had not wished to happen and whereby the decision to engage in combat had remained the only way to save the hostages' lives. The threat to the hostages' lives by that time had been clearly established and apparent from the terrorists' statements and actions. This decision, taken under the pressure of time and in difficult circumstances, had been perceived by the OH as the only means of eliminating the threat.

551. Once the operation had started, the servicemen of the special forces had entered the gymnasium to ensure the evacuation of the hostages, while opening fire at the terrorists. During the clash in the gymnasium, the terrorists had fired several shots at the officers from grenade launchers, killing two officers and several hostages, and setting fire to the gymnasium roof. Similar events had been happening in other parts of the building; by 6 p.m. the rescue operation had ended and all living hostages had been evacuated from the building.

552. Only after verifying the absence of any living hostages had the special forces moved out of the building and resorted to heavier weapons

such as grenade launchers and flame-throwers. The participation of the 58th Army personnel and equipment had been limited to the use of tanks and armoured personnel carriers and their crews. Between 9.10 p.m. and 9.20 p.m. on 3 September one tank had fired several shots at the canteen wall. There had been no other tanks involved. Three APCs had been involved in the storming, two of which had been stationed near the school windows to cover the movements of the servicemen and the evacuation of the hostages. The third had used its stationary machine gun to suppress the terrorists' firing point on the second floor of the school prior to 3 p.m.; it had then been used to evacuate one of the wounded members of the special forces.

553. At 3.10 p.m. the OH had ordered the deployment of fire units.

554. By 12.30 a.m. on 4 September 2004 the school building had been secured and at 1 a.m. the sappers had started to deactivate the remaining explosive devices.

555. Turning to the preparation of and communication with the rescue, medical and fire teams, the Government provided a detailed summary of the information contained in criminal case no. 20/849 (see paragraphs 242 et seq.). It informed the Court that on 1 September 2004 the Russian Ministry of Health had set up a coordination cell, joining the forces of the local and federal ministries of health, Emercom, the *Zashchita* Centre and the forensic bureau. As of the evening of 1 September, special units of psychological aid had been in place for the relatives. A number of other urgent steps had been taken, such as putting medical personnel in a number of local hospitals on standby and preparing contingents of necessary equipment and materials, including blood for transfusion, to ensure the preparedness of the intensive care and surgery units.

556. On 2 September an emergency paediatric field hospital had been set up in Beslan. On 3 September an additional hospital had been set up, equipped to perform urgent surgical operations and other types of emergency care. By the time of the first explosions, over 200 doctors, 307 medical staff and seventy ambulances had been ready in Beslan. This had made ninety-four mobile medical teams, including fourteen reserve ones.

557. Between 1.15 and 6.30 p.m. on 3 September 2004, 556 injured people, of them 311 children, had been transferred to the local hospitals. By 7 p.m. all patients had been placed in hospitals in Beslan and Vladikavkaz. Forty-seven urgent operations had been performed. Over 1,000 people had been provided with psychological aid.

558. In total, between 3 September and 16 December 2004 some 800 patients had received medical aid. A total of 305 had died at the school, and twenty-six people had died in hospital.

559. As to the situation with the firefighters, the Government referred to the part of expert report no. 1 concerning the actions of the firefighters and other Emercom staff (see paragraphs 148 et seq.). They also mentioned the decisions not to open criminal investigation in respect of the Emercom staff

(see paragraphs 235-240 above). The decision of 10 December 2004 not to charge the North Ossetian Minister of Emercom Mr Dzgoyev and the Deputy Minister Colonel Romanov with the crimes of professional negligence had concluded that "the leadership of the anti-terrorist operation had been carried out by the FSB OH, and no actions could have been taken without their permission" (ibid.). The decision had then stated that the two-hour delay between the call for the firemen to intervene and the time when they had done so had been the result of an absence of protective gear, which could have put the firemen in a life-threatening situation. In addition, on 20 April 2006 the investigation had decided not to open criminal proceedings in respect of Colonel Romanov and Mr Kharkov, the head of the fire service of the Pravoberezhny District, since in expert report no. 1 and the technical fire expert's report there had been no grounds for concluding that their actions had contained the constituent elements of the offence of professional negligence (see paragraph 240 above). The Government specified that had the firefighters been deployed immediately, their lives and the safety of the equipment would have been put at serious risk. Such a development would have in any event rendered the rescue operation ineffective.

560. There had been 254 Emercom staff at the site and seventy rescue units.

561. The investigation concluded, on the basis of the expert reports, including autopsy reports, that none of the victims had been killed as a result of fire (see paragraphs 253 and 254 above). The burns of the surviving hostages had been received as a result of the explosions of IEDs. Referring to expert report no. 1 and the sources cited therein (such as pictures taken during the evacuation), the Government submitted that the fire in the gymnasium had started after the rescue operation had ended; the hostages evacuated from the gymnasium had recalled only smouldering in the ceiling but not a blazing fire.

2. The Court's assessment

562. In the light of the importance of the protection afforded by Article 2, the Court must subject deprivations of life to the most careful scrutiny, taking into consideration not only the actions of State agents but also all the surrounding circumstances. In particular, it is necessary to examine whether the operation was planned and controlled by the authorities so as to minimise, to the greatest extent possible, recourse to lethal force. The authorities must take appropriate care to ensure that any risk to life is minimised. The Court must also examine whether the authorities were not negligent in their choice of action. The same applies to an attack where the victim survives but which, because of the lethal force used, amounted to an attempt on life (see *Isayeva*, cited above, §§ 169-71, with further references).

563. As the Court explained in *Finogenov and Others* cited above, different degrees of scrutiny can be applied to different aspects of a situation raising issues under Article 2. The degree of scrutiny depends on the extent to which the authorities were in control of the situation and other relevant constraints inherent in the operative decision-making in this difficult and sensitive sphere (see *Finogenov and Others*, cited above, §§ 214-16). Normally, the planning and conduct of the rescue operation can be subjected to a heightened scrutiny. In doing so, the Court has taken into account the following factors: (i) whether the operation was spontaneous or whether the authorities could have reflected on the situation and made specific preparations; (ii) whether the authorities were in a position to rely on some generally prepared emergency plan, not related to that particular crisis; (iii) that the degree of control of the situation is higher outside the building, where most of the rescue efforts take place; and (iv) that the more predictable a hazard, the greater the obligation is to protect against it (ibid., § 243).

564. Under the relevant national law, the OH was responsible for the anti-terrorist operation in Beslan. The extraordinary scope of the crisis and the multitude of factors which had to be taken into account and demanded a constant and centralised response make it impossible to evaluate the planning and control aspect of the operation without focusing on the work of the OH, the body tasked with those responsibilities. Leaving aside the question of the lethal force used, which will be addressed in detail below, the Court identifies the following important issues under this heading: the composition, functioning and accountability of the OH and the distribution of lines of responsibility and communication within the OH and with the outside agencies, such as the rescue, fire and medical services.

565. The Court has already found that there was sufficient information that indicated the possibility of the terrorist act and called for a number of advance measures. However, it has been found above that the absence of a single coordinating structure tasked with centralised handling of the threat, planning, allocating resources and securing feedback with the field teams, contributed to the failure to take reasonable steps that could have averted or minimised the risk before it materialised (see paragraphs 490-491 above). This lack of coordination was repeated during later stages of the authorities' response.

566. Once the news of the terrorist act had reached the North Ossetian Government, an OH was set up. This first structure was headed by the North Ossetian President, Mr Dzasokhov. Relatively little information is available about the composition of this first OH. It included the head of the North Ossetian FSB and the Ministry of the Interior, but the rest of its members were not formally appointed. The leadership and composition of the body that was responsible for handling of this major crisis was officially determined approximately thirty hours after it had started – at 2.45 p.m. on 2 September 2004 when a message about the appointments had arrived from Moscow (see paragraphs 130, 158, 183 above). Such a long delay in setting

up the key structure that was supposed to prepare and coordinate the responses to the hostage-taking was not explained during the domestic investigation, and was not commented on by the Government.

567. But even once this new structure had been set up on 2 September, its configuration was not respected. In fact, it seems impossible to determine its composition with certitude, since various sources indicated different people. The documents in the investigation file no. 20/849 listed thirteen members of the OH (see paragraph 183 above), while other sources indicated seven (see paragraph 377 above). The Government, in their observations submitted in 2013, again gave a list of thirteen officials (see paragraph 543 above). As with other important aspects of the events, the information which is crucial for the evaluation of the planning and control aspect of the operation was scattered throughout various proceedings, and was not readily accessible from the documents contained in file no. 20/849.

568. Some detailed and relevant information about the composition and work of the OH was obtained during the questioning of witnesses at the trial of Mr Kulayev. Within these proceedings the head of the OH, General Andreyev, stated that the body had consisted of seven members (see paragraph 319 above). Five of its members questioned during the same trial – Lieutenant-Colonel Tsyban, General Sobolev, Mr Dzgoyev, Mr Goncharov and Mrs Levitskaya – stated that they had not taken part in the OH meetings, had not known the number of hostages, had not been informed of the terrorists' demands and therefore could not contribute to any discussions concerning the negotiation strategy, and had not discussed, or been informed of, the rescue plans or any possible versions of the storming (see paragraphs 312, 314, 325, 333, 335 above).

569. This absence of formal leadership of the operation resulted in serious flaws in the decision-making process and coordination with other relevant agencies. To give a few examples of this lack of coordination, the North Ossetian Emercom – the agency responsible for evacuations and the fire services – were not informed of the true number of hostages, were not instructed to keep fire engines on standby near the school despite a clear risk of fire arising out of explosions, and did not equip the firemen with protective gear to access the zone of the operation (see paragraphs 235-240, above). The health services were not informed by the OH of the number of hostages, which was three times higher than the officially announced figure. Mr Goncharov obtained this information personally from Mr Aushev on the evening of 2 September and only after that took steps to arrange for sufficient medical resources (see paragraph 335 above). No plan for a rescue operation, however general, was prepared and communicated to the responsible services until two and a half days after the unfolding of the crisis (see, for example, paragraphs 322 and 323 above). No sufficient provisions were made for forensic work, body storage and autopsy equipment, which later contributed to difficulties with identifications and prevented the circumstances of the victims' deaths from being fully established. Lack of responsibility and coordination on the part of the OH

was identified and criticised in the North Ossetian Parliament's report, and, to some extent, in the Duma's report (see paragraphs 376 et seq., and 401 above).

570. In a situation which involves a real and immediate risk to life and demands the planning of a police and rescue operation, one of the primary tasks of the competent authorities should be to set up a clear distribution of lines of responsibility and communication within the OH and with the agencies involved, including the military and security, rescue, fire and medical services. This body should be responsible for collecting and distributing information, choosing negotiation strategies and partners and working out the possible outcomes, including the possibility of a storming and its consequences. It is therefore striking to see that the majority of the members of the body tasked precisely with those questions were effectively excluded from any discussions or decision-making processes. The absence of any records, however concise, of the OH meetings and decisions adopted, highlight the appearance of a void of formal responsibility for the planning and control of the operation, as the situation developed. The subsequent domestic proceedings were unable to fill in this void, and it is still unclear when and how the most important decisions had been taken and communicated with the principal partners, and who had taken them. It is also undisputed that the organisation of the OH had been entirely under the authorities' control, that it should have relied on the pre-existing legislative and operational framework provided for such situations, and that the magnitude of the threat commanded that the maximum available State resources be mobilised.

571. The Court reiterates that in situations such as the one at hand, some measure of disorder is unavoidable. It also formally recognises the need to respect the security concerns and thus keep certain aspects of the operations secret (see *Finogenov and Others*, cited above, § 266). It also does not question the political decisions taken by the authorities, for example, on negotiations with the terrorists, the distribution of responsibility between officials for different aspects of the operation or the general choice of strategy to pursue. It does not lose sight of the courage and efficiency demonstrated by the services involved, including the medical and rescue teams, who ensured a mass and rapid evacuation, sorting and emergency aid to hundreds of victims, despite the difficulties. There is no doubt that their professionalism contributed to limiting the number of victims once the rescue operation had ended (see paragraphs 241, 250 and 557-560 above), unlike the situation described in *Finogenov and Others* (ibid.).

572. In view of this, one cannot avoid the conclusion that this lack of responsibility and coordination contributed, to some extent, to the tragic outcome of the events. While the investigation did not attribute a single death or injury to the actions of the State officials, this conclusion seems untenable in view of the known circumstances of the case.

573. The Court reiterates that its role is not to establish the individual liability of those involved in the planning and coordination of the operation

(see *Giuliani and Gaggio v. Italy* [GC], no. 23458/02, § 182, ECHR 2011 (extracts)). Rather, it is called upon to decide whether the State as a whole complied with its international obligations under the Convention, namely its obligation to "take all feasible precautions in the choice of means and methods of a security operation mounted against an opposing group with a view to avoiding and, in any event, minimising, incidental loss of civilian life" (see *Ergi v. Turkey*, 28 July 1998, *Reports* 1998-IV, § 79).

574. In the light of the above, the Court finds that the Russian authorities failed to take such feasible precautions, in particular because of the inability of the commanding structure of the operation to maintain clear lines of command and accountability, coordinate and communicate the important details relevant to the rescue operation to the key structures involved and plan in advance for the necessary equipment and logistics. This constitutes a breach of Article 2 of the Convention.

B. Use of lethal force

1. The parties' submissions

(a) The applicants

575. The first group of applicants were of the opinion that the use of lethal force by the Russian forces on the 3 September 2004 was undisputed. By the end of the operation, over 330 people had lost their lives, and hundreds had been injured. The applicants submitted that the State had failed in its obligation under Article 2 of the Convention to minimise recourse to lethal force and the loss of life, that there was ample credible evidence to establish that lethal force had been used while hostages had still been in the school building and that it had caused civilian fatalities, and that the use of force had been indiscriminate and disproportionate. They disputed the Government's contention that non-discriminatory weapons such as a tank gun, grenade launchers and flame-throwers had only been used after 6 p.m. They pointed to the ample evidence to the contrary. They also questioned the conclusions about the cause of the first explosions in the gym. They drew attention to the sappers' and hostages' testimony that after 2.30 p.m. the large IED attached to the basketball hoop and most of the smaller IEDs had remained intact.

576. They also pointed to numerous testimonies suggesting the use of tank gun, flame-throwers and grenade launchers during the storming. They then expanded on the non-discriminatory nature of these weapons, referring to their technical characteristics. If they had been targeted at locations where there had been both terrorists and hostages, such as the canteen and south wing of the school, it would not have been possible for those firing them to be sure that there were no hostages in those particular parts of the building. In such circumstances, these weapons could not be considered appropriate for either rescuing the hostages or effecting arrests of the terrorists; they had

therefore not been absolutely necessary, but rather manifestly disproportionate. This was particularly true in respect of the RPO–A flame–throwers.

577. To strengthen their position, this group of applicants relied on a number of international law instruments concerning State responsibility and the International Humanitarian Law (IHL). They argued that the Government's stated aim of rescuing the hostages could not justify the use of disproportionate lethal force. Even the principle of "distress" (Article 24 of the International Law Commission's Articles On State Responsibility For Internationally Wrongful Act) in which the interest concerned is the immediate saving of people's lives, explicitly prohibited a wrongful act that would create a comparable or greater peril to the one sought to be averted. The applicants submitted that the disproportionate force used had created at least a comparable peril, and did not constitute a necessity (Article 25 of the same commentary). They also pointed out that even in situations of armed conflict, governed by the more permissive regime of IHL, directing force against civilians and carrying out indiscriminate attacks was prohibited (Article 51 of Geneva Conventions Protocol I). They further pointed out that under the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III to the CCW), the use of flame-throwers was specifically prohibited in areas with a concentration of civilians.

578. The applicants next argued that the field manuals of the military and security forces involved in the siege had been inadequate for the Convention-compliant evaluation, supervision and regulation of the use of lethal force. They regretted that the training and combat manuals of the FSB were not public documents, and it was impossible to understand how the use of force was regulated for its servicemen. However, the Army Field Manual, as in force in 2004, had stressed that "all forces, means and possibilities available to achieve success in combat" should be used without hesitation in order to achieve victory. They referred to Volume 3, which addressed the actions of platoons and tanks and, in particular, paragraphs 116 to 118, which described methods of combat in urban areas. The applicants argued that the tactics described there – to fire at the building (with tank cannons, grenade launchers and flame-throwers), to break holes in the walls and suppress enemy fire, so that other regiments could enter and take over the building – bore a striking resemblance to those witnessed in this case. The requirement to use all means and methods to destroy the enemy was brazenly explicit in that manual, but there was no mention of the principles of proportionality, necessity or distinction.

(b) The Government

579. The Government referred to their previous observations summarised in the decision on admissibility (see *Tagayeva and Others* (dec.), cited above, §§ 565-70). They essentially disputed the parallel drawn with the case of *Finogenov and Others* (cited above). In their opinion, in the

latter case the (potentially) lethal force had been applied to the hostages – the applicants and their relatives – "intentionally and consciously, either as a means of achieving a distant aim ([for example the] liquidation of a terrorist threat, in the course of which applicants or their relatives were affected by the measure applied) or as an aim in itself (where an applicant himself posed a threat to the others)." The Government stressed that the use of lethal force in the circumstances as described in that case – use of an unknown gas following which over 120 hostages died – had been indeed indiscriminate since the hostages had been affected along with the terrorists. The case at hand, however, concerned a situation where lethal force had been applied "directly and precisely" to the terrorists, aiming to eliminate the threat they had posed to the hostages and others. The Government argued that, given the circumstances, the examination of the applicants' grievances should be limited to the procedural aspect of Article 2 of the Convention.

580. The Government insisted that the investigation had failed to attribute a single death among the hostages to the actions of the security forces. All the deaths had been caused by the terrorists' actions (see paragraph 254 above). They further referred to the conclusions of expert report no. 1 and the investigator's decision of 3 December 2004 not to initiate criminal proceedings against the officials (see paragraphs 124 et seq., 229-233 above). These documents contained an exhaustive chronology of the events, in particular of the first explosions of 3 September 2004 and the ensuing storming. In addition to the above-mentioned documents, they relied on expert report no. 16/1 (see paragraphs 224 et seq.) to argue that the possibility that the first explosions could have been caused by a device fired from outside had been thoroughly examined and dismissed by highly qualified and independent experts. Equally, the allegation that the security services had used indiscriminate weapons, such as grenades, grenade launchers, flame-throwers and a tank cannon prior to 6 p.m. on 3 September 2004, that is to say when the evacuation of the surviving hostages had been completed, had been dismissed as one for which there had been no factual basis (see paragraphs 229-233 above).

581. The Government reiterated that the OH's decision to start the storming of the building and the rescue operation had been taken after the first explosions of the IEDs had killed dozens of people in the gymnasium and, moreover, when the terrorists had started to shoot at the fleeing hostages. The decision had therefore been adopted under tremendous pressure and in a situation where the authorities' control had been minimal, that is, in circumstances where the rigorous standard of "absolutely necessary" could be departed from (the Government referred to *Finogenov and Others*, cited above, § 211). Even if the Court found that the situation at hand did not "lie far beyond the Court's expertise" and that the standard of "absolute necessity" should be applied, the Government reiterated that since there had been no known victims of lethal force used by State agents, the traditional test under Article 2 had been passed.

582. As to the storming itself, it had been performed by the special forces of the FSB – the *Alpha* and *Vympel* units – which had been composed of 329 servicemen. They had been assisted by the forces of the 58th Army. The servicemen had been equipped with ordinary weapons and special weapons, including grenade launchers and flame–throwers.

583. The Government referred to dozens of witness statements collected by the investigation between September 2004 and the summer of 2007 from military and police servicemen, officers of Emercom, firefighters and members of the OH. These statements, consistently and in detail, denied the use of grenade launchers, flame-throwers and a tank cannon prior to 6 p.m. on 3 September 2004 (see paragraph 207 above).

2. The Court's assessment

584. By way of introduction, the Court recalls that it has already concluded that the planning and control of the operation had failed to take all feasible precautions with a view to avoiding and, in any event, minimising, incidental loss of civilian life (see paragraph 573 above). Now it will need to examine the remaining complaint under Article 2 brought by this group of applicants – that of the use of lethal force by the State agents. The use of lethal force during the operation is undisputed, including the use of indiscriminate weapons such as grenade launchers, flame-throwers and a tank gun. The circumstances of its use and the causal link with the deaths and injuries are contested between the parties, as are the adequacy of the legal framework of its application and the compliance of its use with the principle of "absolute necessity".

(a) Whether there was a causal link between the use of lethal force by the State agents and the deaths and injuries complained of

585. Firstly, the Court will examine the facts that are in dispute between the parties. The applicants alleged, principally, that indiscriminate weapons had been used by the State agents before 6 p.m. on 3 September 2004, at a time when they could have affected the hostages. They also suggested that the first explosions in the building could have been caused by the actions of the State agents. The Government, in their turn, found it established that the first explosions had been caused by IEDs, that indiscriminate weapons had been used only after all the living hostages had been evacuated from the building, and that no harm had been inflicted upon the hostages by the weapons of the security forces.

586. A number of principles have been developed by the Court as regards applications in which it is faced with the task of establishing the facts of events on which the parties disagree: the factual findings should be based on the standard of proof "beyond reasonable doubt"; such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact. In this context, the conduct of the parties when evidence is being obtained may also be taken

into account. Moreover, the level of persuasion necessary for reaching a particular conclusion and, in this connection, the distribution of the burden of proof are intrinsically linked to the specificity of the facts, the nature of the allegation made and the Convention right at stake. The Court is also attentive to the seriousness that attaches to a ruling that a Contracting State has violated fundamental rights (see *Giuliani and Gaggio*, cited above, § 181, with further references). The Court further reiterates in this connection that, in all cases where it is unable to establish the exact circumstances of a case for reasons objectively attributable to the State authorities, it is for the respondent Government to explain, in a satisfactory and convincing manner, the sequence of events and to exhibit solid evidence that can refute the applicant's allegations (see *Mansuroğlu v. Turkey*, no. 43443/98, § 80, 26 February 2008, with further references). The Court has also noted the difficulties for applicants to obtain the necessary evidence in support of allegations in cases where the respondent Government are in possession of the relevant documentation and fail to submit it. If the authorities then fail to disclose crucial documents to enable the Court to establish the facts or otherwise provide a satisfactory and convincing explanation, strong inferences may be drawn (see *Varnava and Others v. Turkey* [GC], nos. 16064/90 and 8 others, § 184, ECHR 2009, with further references). The Court's reliance on evidence obtained as a result of the domestic investigation and on the facts established within the domestic proceedings will largely depend on the quality of the domestic investigative process, its thoroughness and consistency (see *Finogenov and Others*, cited above, § 238, with further references).

587. The applicants pointed to the evidence that indiscriminate weapons had been fired at the school building during the first few hours of the storming. Among other things, this followed from a number of witness statements obtained during the trial of Mr Kulayev (see paragraphs 293, 294, 298, 300, 303 above). The North Ossetian Parliament's report found it established that two tanks had fired at the canteen and kitchen premises between 2 p.m. and 4.30 p.m. (see paragraph 386 above). An important part of Mr Savelyev's report was devoted to the use of tanks, grenade launchers and flame-throwers, pointing to their use between 1.30 p.m. and 4 p.m. (see paragraphs 408-411 above). As noted above, the investigation had failed to establish the circumstances of the use of lethal force and to fully assess these allegations (see paragraphs 523, 524 and 527 above).

588. Irrespective of whether the indiscriminate weapons such as a tank cannon, grenade launchers and flame-throwers had been used before or after 6 p.m. on 3 September, it remains unexplained how the agents employing them were able to verify the absence of hostages in the premises under attack. The statement that it could be guaranteed that after that time indiscriminate weapons would be directed exclusively at the terrorists is not supported by sufficient objective evidence, in view of the limited information about the circumstances of the deaths and injuries sustained and the use of those weapons, as noted above (see paragraph 524 above). This

was also the conclusion endorsed by the North Ossetian Parliament's report into the events (see paragraph 388 above).

589. Overall, the Court finds that the evidence establishes a prima facie claim that the State agents used indiscriminate weapons upon the building while the terrorists and hostages were intermingled. Accordingly, it seems impossible that it could be ensured that the risk to the hostages could be avoided or at least minimised.

590. The Court cannot agree that the Government provided a "satisfactory and convincing explanation" about the use of force and the circumstances of the deaths and injuries complained of by the applicants. It accepts that presumptions can be drawn from the co-existence of an unrebutted body of evidence pointing to the use of indiscriminate weapons upon the building where both the terrorists and hostages had been present, and the absence of proper fact-finding into the causes of death and circumstances of the use of arms. Similarly to the planning and control aspect of the operation, the Court is unwilling to speculate about the individual deaths and injuries sustained. Despite this lack of individual certainty, the Court accepts that the known elements of the case allow it to conclude that the use of lethal force by the State agents contributed, to some extent, to the casualties among the hostages.

(b) Justification under Article 2 § 2 of the Convention

591. The Court next needs to examine whether the use of lethal force can be considered justified under Article 2 of the Convention. The Court found in *Finogenov and Others* (cited above, § 226) that:

> "Heavily armed separatists dedicated to their cause had taken hostages and put forward unrealistic demands. The first days of negotiations did not bring any visible success; in addition, the humanitarian situation (the hostages' physical and psychological condition) had been worsening and made the hostages even more vulnerable. The Court concludes that there existed a real, serious and immediate risk of mass human losses and that the authorities had every reason to believe that a forced intervention was the "lesser evil" in the circumstances. Therefore, the authorities' decision to end the negotiations and storm the building did not in the circumstances run counter to Article 2 of the Convention."

In the present case, after the first explosions in the gymnasium and the terrorists had opened fire upon the escaping hostages, the risk of massive human loss became a reality, and the authorities had no choice but to intervene by force. Accordingly, the Court accepts that the decision to resort to the use of force by the State agents was justified in the circumstances, under Article 2 § 2 (a) of the Convention.

(c) Legal framework

592. The Court reiterates, next, that in previous cases it has examined the legal or regulatory framework existing for the use of lethal force (see *McCann and Others*, cited above, § 150, and *Makaratzis v. Greece* [GC], no. 50385/99, §§ 56-59, ECHR 2004-XI). The same approach is reflected in

the UN Basic Principles (cited above in paragraph 465) which indicate that laws and regulations on the use of force should be sufficiently detailed and should prescribe, *inter alia*, the types of arms and ammunition permitted. The Court will thus examine the legal framework of the use of lethal force, which the applicants considered to be inadequate.

593. In the cases reviewed in the context of anti-terrorist operations in the North Caucasus, the Russian Government have essentially relied on the provisions of the Suppression of Terrorism Act as the legal basis of the use of force. The Court has left open the question whether the existing regulations constituted an appropriate legal framework for the use of force and contained clear and sufficient safeguards to prevent arbitrary deprivation of life, focusing its analysis on the practical application of the "absolute necessity" test to the circumstances of the cases (see *Isayeva*, cited above, § 199; *Arzu Akhmadova and Others v. Russia*, no. 13670/03, § 164, 8 January 2009; *Dzhamayeva and Others v. Russia*, no. 43170/04, § 89, 8 January 2009; and *Esmukhambetov and Others v. Russia*, no. 23445/03, § 143, 29 March 2011).

594. In *Finogenov and Others* (cited above) the Court also explained that the lack of clarity in the legislative framework providing for the use of means that were at least potentially lethal (an unknown gas) could not, on its own, lead to a finding of a violation of Article 2 of the Convention. It said that the "general vagueness of the Russian anti-terrorism law does not necessarily mean that in every particular case the authorities failed to respect the applicants' right to life. Even if necessary regulations did exist, they probably would be of limited use in the situation at hand, which was totally unpredictable, exceptional and required a tailor-made response. The unique character and the scale of the Moscow hostage crisis allows the Court to distinguish the present case from other cases where it examined more or less routine police operations and where the laxity of a regulatory framework for the use of lethal weapons was found to violate, as such, the State's positive obligations under Article 2 of the Convention" (ibid. § 230).

595. In view of the practice summarised above, the Court confirms that a difference should be drawn between "routine police operations" and situations of large-scale anti-terrorist operations. In the latter case, often in situations of acute crisis requiring "tailor-made" responses, the States should be able to rely on solutions that would be appropriate to the circumstances. That being said, in a lawful security operation which is aimed, in the first place, at protecting the lives of people who find themselves in danger of unlawful violence from third parties, the use of lethal force remains governed by the strict rules of "absolute necessity" within the meaning of Article 2 of the Convention. It is of primary importance that the domestic regulations be guided by the same principle and contain clear indications to that extent, including the obligations to decrease the risk of unnecessary harm and exclude the use of weapons and ammunition that carry unwarranted consequences.

596. Turning to the legislative framework in the present case, the Court first notes that, unlike the situation described in the *Finogenov and Others* judgment, the weapons used in the present case were "conventional weapons," falling under the general legal framework. Although the applicants suggested that thermobaric weapons were governed by the more restrictive legal regime of incendiary weapons, international military experts classed them as enhanced explosive munitions, and not incendiary (see paragraph 472 above). This was also the view of the Russian military experts (see paragraph 212 above).

597. As to the general legal framework, the Suppression of Terrorism Act allowed the use of "weapons and [other] special-purpose hardware and means" in an anti-terrorist operation, subject to the OH's decisions. The choice of type of weapons, including indiscriminate ones, was not regulated in any detail. Furthermore, the law required that the specific technical methods of anti-terrorist operations be kept secret. At the same time, the Act obliged the OH to be guided by the "the interests of people endangered by a terrorist act" (see paragraphs 457 and 458 above). The applicants referred to the provisions of the Army Field Manual (see paragraph 578 above), as in force at the relevant time (see paragraph 462 above). But the documents reviewed stipulated that during the anti-terrorist operation the operational management of the army servicemen and units, including use of arms, was taken over by the FSB, in line with the Suppression of Terrorism Act.

598. The Court notes that the Suppression of Terrorism Act remained silent not only on the types of weapons and ammunition that could be used, but also on the rules and constraints applicable to this choice. It did not incorporate in any clear manner the principles of using force that should be no more than "absolutely necessary," such as the obligations to decrease the risk of unnecessary harm and exclude the use of weapons and ammunition that carried unwarranted consequences (see the UN Basic Principles and the Council of Europe Guidelines, cited in paragraphs 465-467 above). At the same time, it provided near blanket immunity to the participants of anti-terrorist operations from responsibility for any harm caused by them to "legally protected interests" (see paragraph 460 above). It is not surprising that in the absence of clear rules on conducting anti-terrorist operations, references were made to the Army Field Manual, which applied to combat situations in armed conflicts and appeared inappropriate for the situation (see paragraph 462 above).

599. The Court thus finds that the domestic legal framework failed to set the most important principles and constraints of the use of force in lawful anti-terrorist operations, including the obligation to protect everyone's life by law, as required by the Convention. Coupled with wide-ranging immunity for any harm caused in the course of anti-terrorist operations, this situation resulted in a dangerous gap in regulating situations involving deprivation of life – the most fundamental human right under the Convention. In this case, the Court finds that in view of the inadequate level of legal safeguards, Russia had failed to set up a "framework of a system of

adequate and effective safeguards against arbitrariness and abuse of force" (see *Makaratzis*, cited above, §§ 58 and 71). This weakness of the regulatory framework bears a relevance on the Court's considerations with regard to the proportionality of the force used, as examined below.

(d) Whether the lethal force was absolutely necessary

600. The applicants were of the opinion that the lethal force used had been excessive, that the weapons used had been indiscriminate and their use could not be justified in the circumstances. The Government insisted that the weapons had been used "directly and precisely" against the terrorists and that the hostages had not been affected, thus, even if the "absolute necessity" test had been applied, it would have been satisfied.

601. The Court reiterates that the exceptions contained in Article 2 § 2 of the Convention indicate that this provision extends to, but is not concerned exclusively with, intentional killing. The text of Article 2, read as a whole, demonstrates that paragraph 2 does not primarily define instances where it is permitted intentionally to kill an individual, but describes the situations where it is permitted to "use force" which may result, as an unintended outcome, in the deprivation of life. The use of force, however, must be no more than "absolutely necessary" for the achievement of one of the purposes set out in sub-paragraphs (a), (b) or (c). In this connection, the use of the term "absolutely necessary" in Article 2 § 2 indicates that a stricter and more compelling test of necessity must be employed than that normally applicable when determining whether State action is "necessary in a democratic society" under paragraph 2 of Articles 8 to 11 of the Convention. In particular, the force used must be strictly proportionate to the achievement of the aims set out in sub-paragraphs 2 (a), (b) and (c) (see *McCann and Others*, cited above, § 149).

602. In the present case, the Court has already found that the conclusion reached by the domestic investigation about the absence of casualties or fatalities among the hostages on account of the use of force by the State agents was untenable, and that it must be assumed that such use of force did contribute, to some extent, to the casualties among the hostages (see paragraphs 524 and 590 above). Having found above that the decision to resort to the use of lethal force was justified under Article 2 (a) of the Convention, the Court must now move on to the applicants' remaining argument – that the lethal force had been used indiscriminately against both terrorists and hostages, "which cannot be considered compatible with the standard of care prerequisite to an operation involving use of lethal force by State agents" (see *Isayeva*, § 191, and *Finogenov and Others*, § 231, both cited above). The Court acknowledges the Government's argument that the situation was different from the circumstances described in the *Finogenov and Others* judgment, where it had found that the use of gas could not be qualified as "indiscriminate", as it had left the hostages a high chance of

survival, depending on the efficiency of the subsequent rescue efforts (*Finogenov and Others*, cited above, § 232).

603. The Court has noted the failure to plan and control the operation with the aim of minimising the risk to civilians, and the absence of an adequate regulatory framework that would reflect the applicable international principles. These findings have direct relevance on the analysis below. As to the planning and control of the operation, the Court has concluded that the OH failed to establish lines of responsibility and ensure coordination in the most important aspects of the operation, including planning of rescue and storming operation (see paragraph 574 above). Next, the gaps in the legal framework resulted in the absence of clear guidelines about the principles and constraints for the use of lethal force, including the obligations to decrease the risk of unnecessary harm and exclude use of weapons and ammunition that carry unwarranted consequences. All those factors led to a situation where decisions about the types of weapons used, evaluation of the constraints and conditions, and deciding the practical instructions were left to the commanders in charge of the storming operation.

604. In the present case, several officials testified that this responsibility had laid with the commanders of the FSB special forces who had been called in to play the principal role in the event of any violent confrontation. General Andreyev, the head of the OH appointed on 2 September, explained that the OH had not worked out the possibility of resolving the situation by force, except if the risk to the hostages' lives had materialised. In such cases, questions concerning the types and use of weapons, including special weapons such as flame-throwers, lay within the competence of the FSB Special Services Centre (see paragraph 323 above). The Duma report concluded that the use of flame-throwers and a tank cannon had been authorised by the commander of the Centre after 6 p.m. on 3 September (see paragraph 401 above). According to the North Ossetian Minister of Emercom, the commander of the Centre had authorised the fire services to intervene after 3 p.m. (see paragraph 326 above). This evidence indicates that the key person during the operation was the commander of the Centre, General Tikhonov. Although some sources indicated that he had been a member of the OH (see paragraphs 183 and 543 above above), others did not (see paragraph 377 above). Mr Andreyev, the head of the OH, did not name him among the members of the OH (see paragraph 319 above), nor was he mentioned by any other members of the OH as participating in their work.

605. Despite the commander of the Special Services Centre playing such a key role in the events, it does not seem that he was questioned within the framework of investigation no. 20/849, and the list of documents contained in the related file does not include his testimony (see paragraph 203 above). He testified before the Duma commission, but the testimony was not disclosed. Two sources referred to different contents of this statement: while the majority found it confirmed that the use of indiscriminate weapons had

been authorised by him after 6 p.m., Mr Savelyev cited his deposition of 28 October 2004 to allege that grenade launchers and flame-throwers had been used at around 3 p.m. (see paragraphs 401 and 409 above). The Court reiterates that the evidence establishes a prima facie claim that the State agents used indiscriminate weapons upon the building while the terrorists and hostages were intermingled (see paragraph 589 above). In the absence of first-hand explanations from the person who had been *de facto* in charge of the use of force during the operation, and irreconcilable differences on this key matter in other sources, the Court finds that the Government have not provided a "satisfactory and convincing explanation" that the lethal force used had been no more than absolutely necessary. Therefore, inferences can be drawn against the Government's position in this respect.

606. The Court confirms that the situation that led to the storming of the school was exceptional. Sudden and powerful explosions in the gymnasium left many dead and many more wounded, burned and shell-shocked. In the ensuing confusion, the terrorists fired upon the escaping hostages and at those who were trying to assist them. The terrorists were armed not only with firearms and explosives, but also powerful weapons, such as grenade launchers. It is clear that in this situation operational command should have been able to take rapid and difficult decisions about the means and methods to employ so as to eliminate the threat posed by the terrorists as soon as possible.

607. Having said that, the operation was aimed at saving lives and re-establishing law and order. Therefore, apart from the danger presented by the terrorists, the commanders had to consider the lives of over 1,000 people held by them, including hundreds of children. The hostages, who had been left exhausted by more than fifty hours of detention in stressful conditions, without access to food or water, clearly constituted a vulnerable group. The acute danger of the use of indiscriminate weapons in such circumstances should have been apparent to anyone taking such decisions. All relevant factors should have been weighed up and carefully pondered upon in advance, and the use of such weapons, if unavoidable in the circumstances, should have been subject to strict supervision and control at all stages to ensure that the risks to the hostages were minimised.

608. The Court notes that the security forces used a wide array of weapons, some of them extremely powerful and capable of inflicting heavy damage upon the terrorists and hostages, without distinction. In particular, although the exact quantity of flame-throwers used was not established, it appears that between twelve and seventeen RPO-A *Shmel* were used, about forty charges for a portable flame-thrower LPO-97, no fewer than twenty-eight charges for grenade launchers and eight high-fragmentation shells for a tank cannon. To this must be added 7,000 cartridges for automatic and machine guns, over 2,000 tracer bullets, 450 armour-piercing incendiary cartridges for large-calibre machine guns and ten hand grenades. Furthermore, an unknown quantity of other powerful explosive and

thermobaric weapons is mentioned in the documents contained in the case file (see paragraph 521 above).

609. As in the *Isayeva* case (cited above), the Court finds that "the primary aim of the operation should be to protect lives from unlawful violence. The massive use of indiscriminate weapons stands in flagrant contrast with this aim and cannot be considered compatible with the standard of care prerequisite to an operation of this kind involving the use of lethal force by State agents." It is not for the Court, with detached reflection, to substitute its own opinion of the situation for that of security officers who were required to intervene to save human lives, in an extremely tense situation, facing armed and dangerous individuals. While errors of judgment or mistaken assessments, unfortunate in retrospect, will not in themselves entail responsibility under Article 2, such use of explosive and indiscriminate weapons, with the attendant risk for human life, cannot be regarded as absolutely necessary in the circumstances (see, among other authorities, *Dimov and Others v. Bulgaria*, no. 30086/05, § 78, 6 November 2012).

610. There has been, accordingly, a breach of Article 2 of the Convention by the State agents, on account of the massive use of lethal force.

(e) Conclusion on the use of lethal force

611. To recapitulate, the Court has concluded that although the decision to resort to the use of lethal force was justified in the circumstances, Russia had breached Article 2 of the Convention on the account of the use of lethal force, and, in particular, indiscriminate weapons. The weakness of the legal framework governing the use of force contributed to the above finding. The Court does not find it necessary to examine the applicants' remaining complaint under this heading, notably about who was responsible for the first explosions in the gymnasium.

IV. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION (ALL APPLICANTS)

612. All applicants argued that they had no access to effective remedies against the violations alleged under Article 2 of the Convention. Article 13 provides:

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

A. The parties' submissions

1. The applicants

613. The "first group of applicants" argued in their observations received in February 2013 that the payment of financial compensation and other measures of support to the victims had not replaced the obligation on the State arising under Article 13 of the Convention in conjunction with Articles 2 and 3 to carry out a thorough and effective investigation. Relying on the case of *Khashiyev and Akayeva v. Russia* (nos. 57942/00 and 57945/00, 24 February 2005), the applicants argued that since the criminal investigation in their case had been ineffective, civil proceedings were incapable, without the benefit of the conclusions of a criminal investigation, of making any meaningful findings as to the perpetrators of the fatal assaults, let alone establishing their responsibility. Furthermore, a Contracting State's obligation under Articles 2 and 13 of the Convention to conduct an investigation capable of leading to the identification and punishment of those responsible in cases of fatal assault might be rendered illusory if, in respect of complaints under those Articles, an applicant were required to exhaust an action leading only to an award of damages (ibid., § 122).

614. In their additional observations of October 2013 they further stressed that the domestic proceedings had been ineffective. Their numerous applications to the courts, especially in the course of the criminal proceedings under Article 125 of the Code of Criminal Procedure, had not rendered the investigation effective and had not resolved their grievances under Article 2 of the Convention. They stressed that between December 2005 and September 2008 in criminal investigation no. 20/849 the victims had lodged about 260 complaints with the prosecutor's office. Most of those had been dismissed by the investigators. The applicants had then appealed against the rejections in the district courts of Vladikavkaz in nine separate sets of proceedings and then in the North Ossetia Supreme Court. Their appeals had been dismissed by the courts, without them seeking to examine the criminal case file (see paragraphs 256 et seq.).

615. The "second group of applicants" also stressed that the judicial remedies had turned out to be ineffective in their situation.

2. The Government

616. The Government referred to their previous observations summarised in the decision on admissibility (see *Tagayeva and Others* (dec.), cited above, §§ 585-86). They were of the opinion that the rights of the applicants, as victims or relatives of victims in the criminal proceedings, were fully protected by the domestic legislation and practice. In particular, those who had expressed a wish to do so had been granted victim status in the criminal proceedings. They had thus acquired the procedural rights inherent to such status: to be informed of developments, be familiarised

with the case files, lodge complaints and otherwise participate in the proceedings and lodge civil claims for compensation for the damage caused by the crime. Some of the victims had made use of these rights, while others had waived their rights to do so.

617. The Government also referred to the wide range of measures taken by the State authorities in the aftermath of the crisis independently of the criminal proceedings. They referred to the documents which had detailed the compensation and other measures taken in respect of the hostages and their families and the Beslan community as a whole.

B. The Court's assessment

1. General principles established in the Court's case-law

618. The Court observes that Article 13 of the Convention guarantees the availability at national level of a remedy to enforce the substance of the Convention rights and freedoms in whatever form they might happen to be secured in the domestic legal order. The effect of this Article is thus to require the provision of a domestic remedy allowing the competent national authority both to deal with the substance of the relevant Convention complaint and to grant appropriate relief, although Contracting States are afforded some discretion as to the manner in which they conform to their obligations under this provision. The scope of the obligation under Article 13 varies depending on the nature of the applicant's complaint under the Convention. Nevertheless, the remedy required by Article 13 must be "effective" in practice and in law, in particular in the sense that its exercise must not be unjustifiably hindered by the acts or omissions of the authorities of the respondent State. Where a right of such fundamental importance as the right to life or the prohibition against torture, inhuman and degrading treatment is at stake, Article 13 requires, in addition to the payment of compensation where appropriate, a thorough and effective investigation capable of leading to the identification and punishment of those responsible, including effective access for the complainant to the investigation procedure (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, §§ 148-49, ECHR 2014, with further references).

619. More specifically, where the alleged violations have implied direct responsibility of the State agents, the Court has found that the requirements of Article 13 are broader than a Contracting State's obligation under Articles 2, 3 and 5 to conduct an effective investigation into the death and/or disappearance of a person who has been shown to be under their control and for whose welfare they were accordingly responsible (see *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, § 255, ECHR 2012, with further references). In such circumstances, where a criminal investigation into a lethal attack has been ineffective and the effectiveness of any other remedy that might have existed, including the civil remedies

suggested by the Government, has consequently been undermined, the State would fail in its obligation under Article 13 of the Convention (see *Khashiyev and Akayeva*, § 183, and *Isayeva*, § 229, both cited above).

620. Where the case concerns an alleged failure to protect people from the acts of others, Article 13 may not always require the authorities to assume responsibility for investigating the allegations. There should, however, be available to the victim or the victim's family a mechanism for establishing any liability of State officials or bodies for acts or omissions involving the breach of their rights under the Convention (see *Centre for Legal Resources*, cited above § 149, with further references). In the Court's opinion, the authority referred to in Article 13 may not necessarily in all instances be a judicial authority in the strict sense. Nevertheless, the powers and procedural guarantees an authority possesses are relevant in determining whether the remedy before it is effective. The Court has held that judicial remedies furnish strong guarantees of independence, access for the victim and family, and enforceability of awards in compliance with the requirements of Article 13 of the Convention (ibid.). The Court explained in *Öneryıldız v. Turkey* ([GC], no. 48939/99, §§ 148-49, ECHR 2004-XII):

> "... However, for the Court, and seen from the standpoint of the interests of the deceased's family and their right to an effective remedy, it does not inevitably follow from the above-mentioned case-law that Article 13 will be violated if the criminal investigation or resultant trial in a particular case do not satisfy the State's procedural obligation under Article 2 as summarised in, for example, *Hugh Jordan*, cited above (see paragraph 94). What is important is the impact the State's failure to comply with its procedural obligation under Article 2 had on the deceased's family's access to other available and effective remedies for establishing liability on the part of State officials or bodies for acts or omissions entailing the breach of their rights under Article 2 and, as appropriate, obtaining compensation.
>
> 149. The Court has held that, in relation to fatal accidents arising out of dangerous activities which fall within the responsibility of the State, Article 2 requires the authorities to carry out of their own motion an investigation, satisfying certain minimum conditions, into the cause of the loss of life ... It further observes that, without such an investigation, the individual concerned may not be in a position to use any remedy available to him for obtaining relief, given that the knowledge necessary to elucidate facts such as those in issue in the instant case is often in the sole hands of State officials or authorities.
>
> Having regard to these considerations, the Court's task under Article 13 in the instant case is to determine whether the applicant's exercise of an effective remedy was frustrated on account of the manner in which the authorities discharged their procedural obligation under Article 2 ..."

621. The Court has also held that even if a single remedy does not by itself entirely satisfy the requirements of Article 13 of the Convention, the aggregate of remedies provided for under domestic law may do so (see *Abramiuc v. Romania*, no. 37411/02, § 119, 24 February 2009).

622. Lastly, in many similar cases, the Court decided that it was not necessary to examine separately complaints under Article 13 brought in conjunction with Articles 2 and 3, since the issues were covered by the findings under the procedural limb of those Articles (see *Makaratzis*, § 186;

Varnava and Others, § 211; *Finogenov and Others*, § 284; *Dimov and Others*, § 89; *Armani da Silva*, § 292, all cited above; and *Janowiec and Others v. Russia* (dec.), nos. 55508/07 and 29520/09, § 124, 5 July 2011, where this complaint was declared inadmissible for similar reasons).

2. Application of the above principles in the present case

623. The Court has established that the applicants brought the substance of their grievances under Article 2 of the Convention to the attention of the public authorities. It has also found that the investigation was ineffective, notably since it was not capable of leading to a determination of whether the force used was or was not justified in the circumstances. The complaint is therefore "arguable" for the purposes of Article 13 (see *Boyle and Rice v. the United Kingdom*, 27 April 1988, § 52, Series A no. 131).

624. As noted above, in many cases directed against Russia, where the use of lethal force by the State agents has been alleged, the absence of an effective investigation precluded the victims from accessing other forms of redress, including establishment of the circumstances of the events, identifying perpetrators and accessing compensation for the violations alleged (see the cases cited in paragraph 619 above; see also *Aslakhanova and Others*, cited above, § 156, and *Abakarova v. Russia*, no. 16664/07, § 104, 15 October 2015). In the present case, the applicants alleged a lack of effective remedies for two principal reasons: the absence of any means of obtaining compensation from the alleged perpetrators of the unlawful acts and the lack of access to the information retained by the authorities on the circumstances of the deaths and injuries that could have been caused by the State agents. The Court finds that the case bears some particular features that should be taken into account for the analysis of remedies under Article 13 of the Convention.

625. In so far as the compensation is concerned, the Court notes that all applicants in the present case received State compensation as victims of the terrorist attack (paragraphs 418-419 above). In addition, a humanitarian effort resulted in the local administration collecting and distributing additional compensation to the affected families (see paragraphs 420-421 above). The amounts of compensation varied depending on the individual circumstances, but they were extended to all victims of the terrorist attack of 1 to 3 September 2004. The Court has already noted that it is impossible to speculate on the exact circumstances of the victims' individual deaths and injuries. Given that the situation arose from a terrorist attack and led to numerous casualties, the authorities' choice to allocate compensation on the basis of the degree of damage suffered, regardless of the outcome of the criminal investigation, appears to be victim-based and thus justified. The Court also notes that the victims were granted procedural status in the criminal trial of Mr Kulayev, where civil damages could be sought. The Court acknowledges the different nature of the awards, but considers that any awards to the victims should take into account the overall situation and

the compensation allocated under the no-fault scheme. Unlike many other cases adjudicated under Articles 2 and 13 of the Convention in respect of Russia, the Court is unable to conclude that the lack of progress on some important aspects of criminal investigation no. 20/849, which have resulted in the above findings of a violation of the procedural aspect of Article 2, precluded the applicants from obtaining compensation for the damage suffered by them.

626. Furthermore, the Court notes the efforts to commemorate the grief and help the entire community of Beslan reconstruct itself after the devastating events (see paragraphs 422-424 above). These measures, while not directly relevant to the applicants' claims of an inability to claim damages from the State officials, should be seen as part of general measures aiming to benefit all those who had been affected by the events of 1 to 3 September 2004, without distinction (see, in a similar vein, the Court's view of the importance of general measures in the context of solving disappearances in post-war Bosnia and Herzegovina, for example, in *Zuban and Hamidovic v. Bosnia and Herzegovina* (dec.), nos. 7175/06 and 8710/06, §§ 30-35, 2 September 2014).

627. Next, as is clear from the case-law cited above, in cases involving allegations under Article 2 of the Convention, in addition to compensation, Article 13 requires a thorough and effective investigation capable of leading to the identification and punishment of those responsible, including effective access for the complainant to the investigation procedure. It is true that the violations found above in respect of the Respondent State, such as the failure to minimise the risks of the known danger to life, to plan and control the operation with the aim of minimising accidental harm to civilians and the use of indiscriminate weapons in breach of Article 2, were not properly elucidated within the framework of the criminal proceedings, notably case no. 20/849. At the same time, neither Article 13 nor any other provision of the Convention guarantees an applicant a right to secure the prosecution and conviction of a third party or a right to "private revenge" (see, *mutatis mutandis*, *Perez v. France* ([GC], no. 47287/99, §§ 70-71, ECHR 2004-I). What appears to be of special importance under Article 13, apart from the compensation mechanisms, is access to information and thus the establishment of truth for the victims of the violations alleged, as well as ensuring justice and preventing impunity for the perpetrators. Access to information and the effectiveness of any ensuing remedies are interlinked, as at the heart of a complaint under Article 13 lies the applicant's inability "to use any remedy available to him for obtaining relief, given that the knowledge necessary to elucidate facts ... is often in the sole hands of State officials or authorities" (see *Öneryildiz*, cited above).

628. Turning to the circumstances of the present case, the Court notes that, in addition to the criminal investigation no. 20/849 into the terrorist act, a number of other proceedings took place. The trial of Mr Kulayev resulted in his conviction and life imprisonment, and a significant amount of information was collected and made available within the framework of

those proceedings. That process was not directly concerned with the actions of any State agents, but the accessibility of this information to the victims allowed them and the public in general to draw a more complete picture of the events, including understanding the officials' roles (see paragraph 353 above). This information was, at least partially, incorporated into the proceedings in case no. 20/849. Furthermore, as regards the prevention of the terrorist act, two sets of criminal proceedings against the officers of the police in Ingushetia and in North Ossetia resulted in them being charged and put on trial. Again, the information and evidence collected in the course of those proceedings contributed to the establishment of the facts and the identification of the people responsible for certain aspects of the events (see paragraphs 261, 262, 354-368 above).

629. Lastly, the Court notes the extensive and detailed studies of the events by members of the parliamentary commissions of the North Ossetian Parliament and State Duma, including a separate report prepared by one of the latter's members, Mr Savelyev. These reports played an important role in collecting, organising and analysing the scattered information on the circumstances of the use of lethal force by State agents (see paragraphs 408, 410, 411 above), as well as other important aspects of the events.

630. The Court has previously explained that the work of parliamentary commissions and other bodies tasked with establishing "historical truths" cannot be viewed as procedural acts able to satisfy the requirements of Articles 2 and 3 of the Convention, being incapable of leading to the identification and punishment of those responsible or to an award of compensation to the injured party (see *Janowiec and Others*, cited above, § 143). Even where a report by a parliamentary commission had been relatively specific in laying accusations of corruption against high political figures, the Court found that it did not give rise to a breach of presumption of innocence, given that the commission had not been concerned with the applicant's guilt or innocence in criminal proceedings (see *Rywin v. Poland*, nos. 6091/06, 4047/07 and 4070/07, §§ 213-17, 18 February 2016). Similarly, in the present case, the Court has not viewed the work of parliamentary commissions as complying with the procedural obligations under fundamental rights.

631. At the same time, the Court finds that the parliamentary commissions in the present case ensured important advances in securing, collecting and publicising information about the aspects of the terrorist attack and the authorities' response that was overlooked or insufficiently examined by the investigation. It notes the nuanced examination by the North Ossetian commission of questions on prevention of the terrorist act, the functioning of the OH, the actions of the security forces and detailed statistical information about the victims and fighters (see paragraphs 374 et seq. above). The Federal Assembly commission obtained first-hand testimonies from the most senior officials involved, and formulated its own conclusions, some directly relevant to the applicants' complaints (see paragraphs 398-401 above), as well a number of general measures to be

taken. Lastly, a major effort to elucidate the minutiae about the use of force and other questions was undertaken by a member of the State Duma, Mr Savelyev, himself an expert in explosions and ballistics (see paragraphs 402 et seq. above). This ensured access by the applicants, and the public in general, to knowledge about the aspects of the serious human rights violations that would have otherwise remained inaccessible. In this sense, their work could be regarded as an aspect of effective remedies aimed at establishing the knowledge necessary to elucidate the facts, distinct from the State's procedural obligations under Articles 2 and 3 of the Convention.

632. On the basis of the above, and in so far as the issues complained of have not been covered by the above findings under the procedural aspect of Article 2, the Court finds no breach of Article 13 of the Convention.

V. APPLICATION OF ARTICLES 41 AND 46 OF THE CONVENTION

633. 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."

634. Article 46 of the Convention provides:

> "1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.
>
> 2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution."

A. Non-monetary measures

635. The first group of applicants sought that an investigation compliant with the requirements of Article 2 of the Convention be conducted into the events. They were of the opinion that no previous case was comparable to theirs in terms of the number of victims, including children, for whose deaths and injuries the authorities of the respondent Government had been responsible, whether by act or omission. Even if the investigation had failed in effectively establishing the facts, those responsible, acting under the Government's control, were still easily identifiable and could be brought to justice if there was a fresh investigation into the facts of the present case. Independently from the request to have a new investigation, the applicants asked that domestic criminal case file no. 20/849 be fully disclosed to them.

636. The Government did not make any comments on this request.

637. The Court considers that this claim falls to be examined under Article 46 of the Convention, which, as interpreted in the light of Article 1, imposes on the respondent State a legal obligation to implement, under the supervision of the Committee of Ministers, appropriate general and/or individual measures to secure the right of the applicants which the Court has

found to have been violated. The Court points out that, in the context of the execution of judgments in accordance with Article 46 of the Convention, a judgment in which it finds a breach imposes on the respondent State a legal obligation under that provision to put an end to the breach and make reparation for its consequences in such a way as to restore as far as possible the situation existing before the breach. If, on the other hand, national law does not allow – or allows only partial – reparation to be made for the consequences of the breach, Article 41 empowers the Court to afford the injured party such satisfaction as appears to it to be appropriate. It follows, *inter alia*, that a judgment in which the Court finds a violation of the Convention or its Protocols imposes on the respondent State a legal obligation not just to pay those concerned the sums awarded by way of just satisfaction, but also to choose, subject to supervision by the Committee of Ministers, the general and/or, if appropriate, individual measures to be adopted in its domestic legal order to put an end to the violation found by the Court and to make all feasible reparation for its consequences in such a way as to restore as far as possible the situation existing before the breach (see *Assanidze v. Georgia* [GC], no. 71503/01, § 198, ECHR 2004‑II).

638. As the Court's judgments are essentially declaratory, the respondent State remains free, subject to the supervision of the Committee of Ministers, to choose the means by which it will discharge its legal obligation under Article 46 of the Convention, provided that such means are compatible with the conclusions set out in the Court's judgment (see *Scozzari and Giunta v. Italy* [GC], nos. 39221/98 and 41963/98, § 249, ECHR 2000‑VIII). However, exceptionally, with a view to helping the respondent State to fulfil its obligations under Article 46 of the Convention, the Court will seek to indicate the type of measure that might be taken in order to put an end to a situation it has found to exist. In a number of exceptional cases, where the very nature of the violation found was such as to leave no real choice between measures capable of remedying it, the Court has indicated the necessary measures in its judgments (see, *inter alia*, *Abuyeva and Others*, cited above, § 237, and the cases cited therein; *Nihayet Arıcı and Others v. Turkey*, nos. 24604/04 and 16855/05, §§ 173-76, 23 October 2012; and *Benzer and Others v. Turkey*, no. 23502/06, § 217, 12 November 2013).

639. In the present case, the Court notes its findings under Article 2 of the Convention: firstly, the failure to take preventive measures that should have been able, when judged reasonably, to prevent or minimise the known risk to life; secondly, that the investigation into the events was not effective in that it was not capable of leading to a determination of whether the force used had or had not been justified in the circumstances, and the public scrutiny requirement was breached; thirdly, that the operation involving use of lethal force was not planned and controlled so as to ensure that any risk to life was minimised; and, fourthly, that the use of lethal force by the State agents, and in particular indiscriminate weapons, was more than absolutely

necessary, and the weakness of the applicable legal framework contributed to the latter finding.

640. It is incumbent on the Committee of Ministers, acting under Article 46 of the Convention, to address the issue of what may be required of the respondent Government by way of compliance, through both individual and general measures (see also *McCaughey and Others v. the United Kingdom*, no. 43098/09, § 145, ECHR 2013). In the Court's view, the above found violations should be addressed by a variety of both individual and general measures consisting of appropriate responses by the State institutions, aimed at drawing lessons from the past, raising awareness of the applicable legal and operational standards and deterring new violations of a similar nature. Such measures could include further recourse to non-judicial means of collecting information and establishing the truth, public acknowledgement and condemnation of violations of the right to life in the course of security operations, and greater dissemination of information and better training for police, military and security personnel in order to ensure strict compliance with the relevant international legal standards (see *Abakarova*, cited above, § 112). The prevention of similar violations in the future should also be addressed in the appropriate legal framework, in particular ensuring that the national legal instruments pertaining to large-scale security operations and the mechanisms governing cooperation between military, security and civilian authorities in such situations are adequate, as well as clearly formulating the rules governing the principles and constraints of the use of lethal force during security operations, reflecting the applicable international standards (see paragraphs 598-599 above).

641. With respect to the failure to investigate, the Court notes that investigation no. 20/849 is still open at national level, and that a number of important factual findings have been made in the context of other relevant proceedings. Having regard to these documents, the Court considers that the specific measures required of the Russian Federation in order to discharge its obligations under Article 46 of the Convention must be determined in the light of the terms of the Court's judgment, and with due regard to the above-mentioned conclusions in respect of the failures of the investigation carried out to date. In particular, this investigation should elucidate the main circumstances of the use of indiscriminate weapons by the State agents and evaluate their actions in consideration of all the known facts. It should also ensure proper public scrutiny by securing the victims access to the key documents, including expert reports, which had been crucial for the investigation's conclusions on the causes of death and the officials' responsibility (see paragraphs 521-526 and 534-537 above).

B. Damage

1. The first group of applicants

642. Each applicant in the first group claimed non-pecuniary damage in connection with the violations found. They left the amounts to the Court's discretion.

643. Those who had suffered injuries sustained during the security operation claimed damages related to the costs of their medical treatment and for loss of income due to their disabilities. They argued that, while some of their medical expenses had been covered by public funds or charities, those payments had not been made as a consequence of the unlawfulness of the actions of the State agents. The applicants invited the Court to make awards based on the severity of the injuries. Other applicants also claimed for future loss of earnings owing to the deaths of actual or future breadwinners. They submitted a detailed breakdown of the pecuniary damages claimed, based on the above considerations, the applicable retirement ages and the average income in North Ossetia in 2014.

2. The second group of applicants

644. The second group of applicants stressed that they should be awarded non-pecuniary damages for the violations found, in view of the unprecedented suffering they had encountered. The applicants stressed that their suffering had been enhanced by complete disappointment and loss of faith in the justice system and the entire State, which could not protect the most precious part of the society – its children. No one among the officials had been found responsible for the failure to protect the victims from the terrorist attack, or for the problems during the operation and the investigation. They asked the Court to decide on the awards that would be commensurate with their suffering.

645. This group of applicants also claimed pecuniary damage for future loss of earnings owing to the deaths of actual or potential breadwinners. They used a similar method as the first group of applicants and submitted a table detailing their alleged losses.

3. The Government

646. The Government reiterated that they had already submitted detailed information to the Court about the monetary compensation and non-monetary services provided to all applicants, their relatives and all victims of the terrorist act. They argued that, in the circumstances, the finding of a violation of the Convention would be sufficient just satisfaction. They stressed that the amounts of compensation provided by the State to the victims of the terrorist attack had exceeded the maximum that could be awarded by the Court for just satisfaction.

647. In so far as the applicants claimed pecuniary damage, the Government again drew the Court's attention to the monetary and non-

monetary compensation and services provided to all applicants and other victims of the terrorist acts. All victims, including the applicants, had been provided with medical assistance and medical treatment in the years following the events. They had been offered a wide range of social services and non-monetary compensation. Taking into account the scope and amount of help provided by the State to all victims, the Government considered that obliging the State to pay the applicants an additional amount of compensation would amount to "double responsibility" under international law. In any event, the Government asked the Court to apply an individualised approach in assessing the pecuniary damages claimed by the applicants.

4. The Court's assessment

648. In so far as the applicants claimed pecuniary damages for their medical treatment, disabilities and loss of income from actual and future breadwinners, the Court reiterates that there must be a clear causal connection between the damage claimed and the violation of the Convention. Noting the absence of individual fact-finding about the circumstances of the deaths and injuries caused and the extensive schemes for medical and social rehabilitation put in place for the victims of the terrorist act, the Court does not find it appropriate in the circumstances of this case to make an award under this head.

649. In so far as the applicants claimed non-pecuniary damages, the Court reiterates that it has found a number of violations under Article 2 of the Convention. These violations relate to the authorities' response to the terrorist attack and their failure to effectively investigate the State agents' actions. Having regard to these findings, other steps taken with the aim of compensating and rehabilitating the victims of the terrorist act (see paragraphs 418-424 above), the seriousness of the damage caused, family links with the deceased and other individual circumstances, and acting on an equitable basis, the Court awards the amounts as detailed in the Appendix below.

C. Costs and expenses

1. The first group of applicants

650. The first group of applicants claimed reimbursement of the costs and expenses incurred in the domestic proceedings and in the proceedings before the Court. Three applicants, Mrs Ella Kesayeva, Mrs Emiliya Bzarova and Mrs Svetlana Margiyeva, represented themselves and other applicants in this group. They claimed a joint award of 97,900 euros (EUR), corresponding to 1,958 hours of work at a rate of EUR 50 per hour. The applicants also claimed EUR 9,190 for postal expenses incurred by the applicant Mrs Zhenya Tagayeva. In respect of postal expenses, the applicants submitted supporting documents dating between September 2012

and April 2014, totalling EUR 792. Nine applicants claimed a joint award of EUR 3,958 for travel expenses incurred by them in attending the hearing in Strasbourg on 14 October 2014 and submitted supporting documents in this respect.

651. The applicants' representative Mr Koroteyev claimed EUR 604 for the travel expenses incurred by him in going to Beslan and Strasbourg in 2013, 2014 and 2015; EUR 2,200 for travelling time at a rate of EUR 50 per hour (forty-four hours) and EUR 13,600 for 136 hours of legal work at a rate of EUR 100 per hour. Mr Koroteyev's total costs were thus estimated at EUR 15,800. Mrs Jessica Gavron (also on behalf of other unnamed EHRAC staff in London) claimed a total of 28,950 pounds sterling (GBP) for 193 hours of legal work at a rate of GBP 150 per hour. They submitted a detailed breakdown of work done.

652. The applicants also claimed reimbursement of the administrative and translation costs. Translation costs of documents at a rate of GBP 50 per 1,000 words amounted to GBP 6,270 and EUR 61. These costs were supported by invoices from the translators. Mrs Gavron also claimed EUR 1,011 for the travel costs incurred by her in going to Strasbourg in 2014 and 2015 to carry out joint work with Mr Koroteyev. Under this heading the applicants also claimed reimbursement of the expenses for the preparation of two expert reports submitted by them, totalling GBP 1,920. To sum up, the costs and expenses claimed by the representatives amounted to GBP 37,140 and EUR 17,476. The applicants asked that the entire award for the representatives' costs and expenses be paid to EHRAC's bank account in the UK.

2. The second group of applicants

653. The second group of applicants claimed reimbursement of the costs and expenses incurred in the domestic proceedings and in the proceedings before the Court. Mr Trepashkin claimed EUR 208 for the travel costs incurred by him in going to Beslan in 2014 and EUR 800 for sixteen hours of travelling time to Beslan at a rate of EUR 50 per hour. He also claimed EUR 23,600, corresponding to 236 hours of legal work at a rate of EUR 100 per hour. In total, the second group of applicants claimed EUR 24,608 for the legal costs and expenses incurred by Mr Trepashkin.

654. Mr Knyazkin claimed EUR 208 for the travel costs incurred by him in going to Beslan in 2014, EUR 644 for the travel costs incurred by him in going to Strasbourg in 2014 (no supporting documents were submitted), EUR 1,300 for the travel costs and his hotel accommodation during the hearing in Strasbourg in October 2014, EUR 3,200 for travelling time of 64 hours at a rate of EUR 50 per hour, and EUR 23,900 for a total of 239 hours of legal work at a rate of EUR 100 per hour. In total, the second group of applicants claimed EUR 28,400 for the legal costs and expenses incurred by Mr Knyazkin. The applicants submitted a detailed breakdown of the costs and expenses incurred.

3. The Government

655. In so far as the applicants claimed reimbursement of costs and expenses, the Government were of the opinion that the sums claimed were not reasonable as to quantum. The applicants had retained several representatives during the proceedings, which increased costs. The amounts spent by a group of applicants attending the oral hearing on the admissibility and merits of the present case were not justified since the applicants had been represented and had not participated in the proceedings themselves.

4. The Court

656. The Court reiterates that only such costs and expenses as were actually and necessarily incurred in connection with the violation or violations found, and reasonable as to quantum, are recoverable under Article 41 of the Convention (see, for example, *Sahin v. Germany* [GC], no. 30943/96, § 105, ECHR 2003-VIII). In so far as the applicants claimed for costs and expenses in respect of the work carried out by themselves on this case, the Court reiterates that it cannot make an award in respect of the hours applicants themselves spend working on their case, as this time does not represent the costs actually incurred by them (see *Steel and Morris v. the United Kingdom*, no. 68416/01, § 112, ECHR 2005-II).

657. In so far as the applicants claimed reimbursement of the expenses for travelling to the hearing in Strasbourg where they had been represented, the Court finds that these costs had not been necessary for the proceedings before the Court and rejects them.

658. Turning to the remaining costs and expenses claimed, the Court notes that the case was extremely complex, in view of the number of applicants involved, the complexity of the factual and legal issues covered and the geographical distance between the representatives and the applicants. On the other hand, it notes that Mr Koroteyev and Mrs Gavron joined the proceedings after the exchange of the first set of observations had taken place, that some of the complaints were declared inadmissible and that some of the costs were not justified. Making its own estimate based on the information available, the Court considers it reasonable to award the following amounts:

- EUR 792 in postal expenses, to be paid directly to applicant Mrs Zhenya Tagayeva;
- EUR 45,000 to the first group of applicants, for all the costs and expenses claimed, to be paid to EHRAC;
- EUR 20,000 to Mr Trepashkin and EUR 23,000 to Mr Knyazkin, for all the costs and expenses claimed by the second group of applicants; to be paid directly into the respective representatives' accounts.

D. Default interest

659. 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

1. *Declares*, unanimously, the complaint by Mr Alikhan Dzusov (applicant no. 351) inadmissible;

2. *Holds*, unanimously, that the deceased applicants' heirs have standing to continue the present proceedings in their stead (see Appendix);

3. *Holds*, unanimously, that there has been a violation of Article 2 of the Convention, in respect of the positive obligation to prevent the threat to life, in respect of all applicants;

4. *Holds*, unanimously, that there has been a violation of Article 2 of the Convention, in respect of the obligation to carry out an effective investigation, in respect of all applicants;

5. *Holds*, by five votes to two, that there has been a violation of Article 2 of the Convention, in respect of the obligation to plan and control the operation involving the use of lethal force so as to minimise the risk to life, in respect of the applicants in applications nos. 26562/07, 14755/08, 49380/08, 21294/11 and 37096/11;

6. *Holds*, by five votes to two, that there has been a violation of Article 2 of the Convention in that the use of lethal force by the State agents was more than absolutely necessary, in respect of the applicants in applications nos. 26562/07, 14755/08, 49380/08, 21294/11 and 37096/11;

7. *Holds*, by six votes to one, that there has been no violation of Article 13 of the Convention;

8. *Holds*, unanimously,
   (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the amounts as specified in the Appendix. These payments are to be converted into the currency of the respondent State (except the award of costs and expenses

to the first group of applicants) at the rate applicable at the date of settlement, plus any tax that may be chargeable;

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

9. *Dismisses*, unanimously, the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 13 April 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Abel Campos	Linos-Alexandre Sicilianos
Registrar	President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinions of Judges Hajiyev, Pinto de Albuquerque and Dedov are annexed to this judgment.

L.A.S.
A.C.

JOINT PARTLY DISSENTING OPINION OF JUDGES HAJIYEV AND DEDOV

1. We regret that we cannot agree with the majority that there was a violation of Article 2 of the Convention in respect of the obligation to plan and control the operation involving the use of lethal force so as to minimise the risk to life, and consider that the use of lethal force by the State agents was more than absolutely necessary.

A. Positive obligation to prevent the threat to life

2. We take the view that the most important issue in the present case is positive obligation of the State to prevent any threat to life. We agree that there was a violation of the Convention on that point. Notwithstanding that the authorities knew that the threat was real, and that the terrorist group had gathered in a forested area, training and preparing for their next attack (see paragraphs 16, 19 and 132-35 of the judgment), no reasonable preventive measures had been taken by the authorities to locate the terrorists, isolate them, prevent their moving to any other populated area and destroy them. Also, no measures had been taken in Beslan, and the terrorists had reached the school unhampered.

B. Planning and control

3. We agree with the Court's conclusion that the situation was exceptional. The Court has to acknowledge the difficulties that the authorities faced in managing the security operation. Indeed, the situation where more than 1,000 hostages were captured in the school was beyond the control of the authorities. It took time to realise that a peaceful resolution of the problem and the release of all hostages were not, in fact, possible.

4. The Court and the domestic investigation confirmed that the first explosions had occurred unexpectedly. We therefore accept the Government's observation that the authorities were under tremendous pressure and that their control over the situation was minimal. The situation was aggravated by a number of factors: the majority of hostages were children; the terrorists had lost the so-called second Chechen war and demonstrated that they were ready to die together with the hostages (see paragraph 451 of the judgment); some of them were suicide-bombers; they also fixed explosives around the hostages, so that they could all be killed immediately. The terrorists had been much better prepared and were more resistant to releasing the hostages than in the Nord-Ost theatre in Moscow two years earlier (see *Finogenov and Others v. Russia*, nos. 18299/03 and 27311/03, ECHR 2011 (extracts)). It was the last attack on such a massive

scale. It is hard to compare the scale of the terrorist attack in the present case with any precedent.

5. We are of the view that due to all these factors enormous emotional and psychological pressure was imposed on those officials responsible for planning and controlling the operation (as if "control" were an appropriate term in the context of fierce, almost hand-to-hand fighting). However, the majority has concluded that "the operation involving use of lethal force was not planned and controlled so as to ensure that any risk to life was minimised" (see paragraphs 562, 589, 611 and 639 of the judgment). This conclusion is general in character and it does not take into account the objective impossibility of controlling such a risk. The hostages' vulnerability was, rather, a reason for the authorities to take prompt action to release them.

6. We ought to mention that in the *Finogenov and Others* case the use of gas had been a significant part of the planning process, and had pursued certain aims, namely to avoid armed fighting with the strict minimum application of lethal force, and therefore to reduce the risk to hostages' lives (see *Finogenov and Others*, cited above). The present case is very different because it is impossible to pinpoint any action taken by the authorities which could have been planned in advance and subsequently controlled, especially during the first few hours after a series of explosions, apart from the organisation of medical assistance for surviving hostages, but this issue lies outside the scope of the complaints in the present case.

7. After the first explosions the hostages rushed out of the building, the terrorists rained bullets on them, State agents, under fire and with the help of parents and relatives of hostages, organised the evacuation while at the same time exchanging fire with the terrorists. The latter were also armed, *inter alia*, with indiscriminate weapons and heavy ammunition capable of destroying the roof of the building and causing mass killing (see, for example, paragraphs 140-42 of the judgment). The Court confirmed the gravity and complexity of the situation, in particular, in paragraphs 564, 606 and 607 of the judgment. In the light of those considerations, we would prefer not to examine the issue of planning and control of the operation, because the situation was extremely complex, and a clear finding of a violation or no violation is almost impossible.

8. Again, in the *Finogenov and Others* case the deficiencies on the part of the authorities were clear enough (the rescue of the hostages affected by the gas had not been properly organised, leading to the fatal consequences) (see *Finogenov and Others*, cited above). In the present case, the Court has found a violation solely because of the inability of the command structure in charge of the operation to maintain clear lines of command and accountability and to coordinate and communicate the important details relevant to the rescue operation (see paragraph 574 of the judgment). In support of this conclusion, the majority referred, in particular, to the absence

of any records of the OH meetings and decisions adopted which made it impossible to understand how the most important decisions had been taken and communicated with the principal partners (see paragraph 570). In our view, such a general wording cannot itself serve as a basis for finding a violation of the Convention.

9. In our view, the Court's conclusion on the violation of the Convention regarding the planning and control over the security operation concerns the positive obligation of the State to prevent the threat to life, which covers not only the presentation of the terrorist attack, but also the appropriate measures to be taken during the security operation to save the hostages' lives (see, for example, *Finogenov and Others*, cited above, §§ 208 and 237).

C. Use of lethal force

1. Prima facie claim

10. The majority has found that there was evidence establishing a prima facie claim that the State agents used indiscriminate weapons on the premises while the terrorists and hostages were still intermingled. The Court then comes to the conclusion that it seems to have been impossible to avoid or at least minimise the risk to the hostages (see paragraph 589 of the judgment). It is difficult to agree with this conclusion for the following reasons.

11. The conclusion is twofold: (1) the State agents used indiscriminate weapons on the premises while the terrorists and hostages were still grouped together; (2) the authorities did not ensure that there were no hostages in the premises under attack. These two factors are, in our view, mutually contradictory, as the majority shows different levels of certainty in its approach to the prima facie evidence.

12. In our view, it is doubtful whether the witness statements referred to in paragraph 523 of the judgment could be used as a prima facie evidence. Not all those statements gave precise details concerning the time and the exact targets. The domestic investigation and the Government's observations provided the Court with further testimonies confirming that immediately after the first explosions lethal force had been used against the terrorists who had fired at hostages escaping from the gymnasium, and other terrorists hiding in other sections of the building (on the upper floor of another part of the building, see paragraph 76 of the judgment). It was established that before the explosions all the hostages had been concentrated in the gymnasium, where deaths were caused by three explosions, fire, destruction of the roof and gunfire from the terrorists. It is therefore unlikely that the majority of the hostages died as a result of the indiscriminate lethal force used by the State agents elsewhere on the premises.

13. Although the Government stated that none of the hostages was injured or killed by the lethal force used by the State agents, the Court disagreed on whether the Government had provided a "satisfactory and convincing explanation" of the use of force and the circumstances of the deaths and injuries complained of by the applicants (see paragraph 590). However, it is difficult to take either of the above-mentioned positions in the absence of any objective and detailed evidence produced by the applicants or the Government.

14. We could admit that it would be almost impossible, in practice, for the investigation to establish whether the death of the hostages had been caused by the State agents or by the terrorists, since their ammunition was very similar. Yet even if the authorities did not take the necessary investigative steps to establish the responsibility of the security forces, this should be decided in the framework of the effectiveness of the investigation, rather than of the use of indiscriminate lethal force. We take the view that the Court cannot replace the domestic authorities in establishing this fact thirteen years after the events.

15. We ought to accept that the prima facie claim is not well founded because the evidence collected under the domestic proceedings was very controversial (see paragraph 523, with further references). There is solid evidence to refute the applicant's allegations (see, for example, paragraph 587). It was confirmed, or at least not excluded, that the indiscriminate lethal force was applied after 3 p.m., that is to say after the evacuation was completed (see paragraphs 142, 293, 294, 298 and 300 of the judgment).

16. Also, contrary to the general principles, the link between the evidence and the claim lacked any element of objectivity. For example, in line with the Court's usual practice, the involvement of State agents is supported: (1) in cases of disappearance: by the fact that the abduction had taken place during a security operation or in the vicinity of a police department, or the car transporting the perpetrators had passed a police road-block without any difficulties; (2) in cases of illegal transfer (see, for example, *Savriddin Dzhurayev v. Russia*, no. 71386/10, 25 April 2013): by the fact that the authorities controlled the borders by means of passport, transportation and customs checks limiting the opportunities for crossing the State border unnoticed.

17. In the present case, the fact that the State agents used lethal force does not mean that they used it when the hostages and terrorists had been intermingled and the hostages had been fatally affected by that force. The probability of the above-mentioned consequences could be accepted on the basis of additional objective evidence, but such a link was not established by the Court. It should therefore be ascertained whether the State agents had been in a position to ensure whether the premises under attack were occupied solely by terrorists, and whether the use of force was absolutely necessary.

2. Absolutely necessary

18. The majority concluded that although the decision to resort to lethal force was justified in the circumstances, Russia had breached Article 2 of the Convention by using greater lethal force than had been necessary (see paragraphs 611 and 639 of the judgment). In other words, in the Court's view, the use of force had been excessive. In particular, the Court refers to the total quantity of ammunition used by State agents during the storming of the building (see paragraph 608).

19. We agree with the Court that the security forces used a wide array of weapons, some of them extremely powerful and capable of inflicting heavy damage on the terrorists and hostages, without distinction (see paragraph 608). This assumption, however, is theoretical and needs to be examined on the basis of the case file.

20. Although the majority has found the explanations of the Government unsatisfactory, the case file does contain enough evidence to confirm that the force was applied under the control of the State agents and directly against the terrorists. In the majority's view, it remains unexplained how the agents employing lethal force were able to verify the absence of hostages in the premises under attack (see paragraphs 552 and 588 of the judgment). In our view, the conclusion that the use of force was not absolutely necessary contradicts the fact that the agents (who testified to the investigators) honestly believed that there were no hostages or that that there were unlikely to be any hostages. They confirmed that they had not seen or heard anything that would point to the presence of any hostages. Also, the records of the site examinations and video material showed that no dead hostages had been found in the places where the terrorists had been killed by heavy arms and indiscriminate weapons (see paragraph 142).

21. The failure of the commander of the Special Services Centre to testify (see paragraph 605) does not mean that the lethal force which he had approved had been applied improperly. If the Court confirms that in the present case the situation was exceptional, complex and dynamic (see paragraph 606), it has to admit that the commander exercised control over the operation in an effective manner: the lethal force was applied for a variety of tasks (for example, the T-72 tank had been used to make openings in the walls); the operation was split between the evacuation and the storming of the building, and mass indiscriminate lethal force was only used during the final stage of the security operation.

22. That means that the instructions were given before the storming, and that there is a policy on storming premises in the presence of hostages which sets out detailed instructions, depending on circumstances, on the tactics and strategy for releasing hostages. This policy is vital for training, and should not necessarily be disclosed to the public, for security reasons. The Government referred to the Suppression of Terrorism Act, Section 2 (c)

of which provides that the State must, as far as possible, keep the technical methodology of anti-terrorist operations and the identities of those involved in them secret (see paragraph 458).

23. This renders nugatory the whole section of the judgment on the legal framework (see paragraphs 592-99 and 640 of the judgment). The Court stated that the legal framework should be appropriate so as to clearly formulate the rules governing the principles and constraints of the use of lethal force during security operations. As mentioned below, the domestic law already contains the relevant principles. The principles of international law set out in the judgment apply in Russia too. In our view, further improvements are needed in terms of putting those principles into practice.

24. As regards the satisfactory explanations provided by the Government, the criminal file contains descriptions of actions conducted during the storming of the building which show that the rescue operations covered other premises and confirm that the authorities ensured that no hostages remained in the building before using indiscriminate lethal force: "a group of servicemen had entered the weights room and evacuated from it several women with small children"; "their (the security agents') movements inside the building had been slowed down by... the presence of hostages whom the terrorists had been using as human shields"; "the terrorists had used automatic weapons, hand grenades and portable grenade launchers, while the FSB forces had been constrained to fire single shots, to avoid excessive harm to the hostages" (see paragraphs 140-43 of the judgment). While the State agents were present in the building during the storming, it would have been reasonable not to use indiscriminate weapons without proper coordination by the agents who were inside the building not far from the hostages and terrorists.

25. The majority noted that the security forces had used a wide array of weapons, some of them extremely powerful and capable of inflicting heavy damage on both the terrorists and the hostages, without distinction (see paragraph 608). The majority did not take account of the fact that the indiscriminate lethal force was used much less intensively than the ordinary weapons and that the security operation relied mainly on ordinary weapons. As regards the total number of weapons, it would be difficult to use such statistics to conclude that the use of force had been excessive. We would suggest that this issue is much more complex, as it requires detailed assessment of the concrete circumstances of the situation which may include, in particular: the total arsenal of weapons belonging to and used by the terrorists, the safety of their positions during the storming operation, difficulties with the identification of hostages during the storming operation, possibility of coordinated gunfire minimising the threat to hostages, and the proportion of losses (dead and injured) among the State agents and the terrorists.

26. We should remember that the terrorists had been heavily armed and had also used indiscriminate lethal force against the hostages and the State agents. It should be noted that, unfortunately, the terrorists used lethal force very effectively. The impugned events occurred after eight years of war in the region, in which about 20,000 State agents have died. The terrorists were very experienced and well-trained fighters. In those circumstances it would be beyond the Court's competence to assess whether the use of lethal force was necessary or not.

27. We conclude that the use of force was absolutely necessary, and it was applied as a last resort in exceptional circumstances in order to remove the actual threat.

3. Nature and tasks of the security operation

28. The Court has reiterated that "the primary aim of the operation should be to protect lives from unlawful violence. The massive use of indiscriminate weapons stands in flagrant contrast with this aim" (see paragraph 609). According to the Court, the operation was security-oriented, geared to saving lives and restoring law and order. Therefore, apart from the danger presented by the terrorists, the commanders had to consider the lives of over 1,000 people held by them, including hundreds of children. The hostages, who had been left exhausted by more than fifty hours of detention in stressful conditions, without access to food or water, clearly constituted a vulnerable group (see paragraph 607).

29. The Government responded that the lethal force had been used "directly and precisely" against the terrorists, with a view to eliminating the threat they had posed to the hostages and others. The Russian Government also relied on the provisions of the Suppression of Terrorism Act as the legal basis of the use of force. This Act refers to the following principles quoted in paragraph 457:

> "(a) priority should be given to the interests of people endangered by a terrorist act;
>
> (b) the State should make minimal concessions to terrorists; ..."

30. These principles set out the priorities of the security operation, and the first priority is the life of the hostages. The majority, however, have paid scant attention to those principles. Instead, the Court stated that "the operational command should have been able to take rapid and difficult decisions about the means and methods to employ so as to eliminate the threat posed by the terrorists as soon as possible" (see paragraph 606). This makes the majority's position less clear. The Court failed to explain what kind of strategy should have been implemented: one geared to saving the hostages' lives, or an effort to eliminate the threat posed by the terrorists.

31. This is a twofold task, and the priorities are interdependent, and therefore this issue of professional activity, including the tactics and the

strategy governing security operations, should lie outside the scrutiny of the Court or any other judicial authority unless there is objective and non-controversial evidence that the innocent people died as a result of errors committed during the security operation (compare with the case *Armani Da Silva v. the United Kingdom*, no. 5878/08, 30 March 2016) or of negligence (see the part of the judgment concerning the violation of a positive obligation in the present case).

32. If you compare the present case with *Armani Da Silva*, cited above, the difference might even be considered as setting double standards. In *Armani Da Silva* the Court agreed with the respondent Government that the Charlie agents had been informed, and they had honestly believed, that the person was a terrorist and they were in a situation of self-defence. The Court did not accept the arguments of the applicant who claimed that the Charlie agents should have verified first whether he was a terrorist or not before using lethal force. However, the Charlie agents were not prosecuted, and the Court did not find that the agents were obliged to carry out such verification as a part of the security operation. In the present case, the Court imposed that obligation on the national authorities under both the material and the procedural limbs of Article 2 of the Convention.

33. Due to the complexity and high dynamism of the situation, the conclusion on the use of lethal force has to be based, in our view, on a very complex analysis. The analysis would take account of the facts that the whole situation was exceptional, that all the surviving hostages had been concentrated in the gymnasium, that some of the hostages had been killed by the terrorists two days before the storming and kept on other premises, that the hostages tried to escape from the building rather than hide inside it, that the storming and the evacuation occurred simultaneously, that it was objectively impossible to halt the storming and to allow the terrorists to leave the school in order to prevent further killings, that it was difficult to assess how many terrorists were actually in the building and how many were required to control the whole building with more than 1,000 hostages, that the agents should have had far greater resources to eliminate the terrorists, and that during police operations (and it was certainly a police operation because of the hostages) State agents always face the problem of terrorists hiding behind the hostages. Accordingly, we believe that it would have been sufficient to find that the investigation had not been effective.

PARTLY DISSENTING OPINION OF JUDGE PINTO DE ALBUQUERQUE

1. I voted with the majority as regards the procedural limb of Article 2 (see paragraphs 495 to 540 of the judgment), the planning and control of anti-terrorist operations (see paragraphs 541 to 575 of the judgment) and the use of lethal force in anti-terrorist operations (see paragraphs 576 to 612 of the judgment). In this regard, I am satisfied that the majority remained faithful to the Court's standards on the use of lethal force in large-scale anti-terrorist operations, dealing with them as with any other law-enforcement operation and refusing to apply the paradigm of the law on armed conflicts to them. I am particularly satisfied that the Article 2 strict criteria of "absolute necessity" and lawfulness were applied to large-scale anti-terrorist operations (see paragraph 596 of the judgment). In other words, in interpreting Article 2, the Court clearly refused to yield to the temptation of reading into the Convention the standards of the law on armed conflicts with a view to lowering the level of protection of human rights enshrined in the Convention, as it did in *Hassan v. the United Kingdom* ([GC], no. 29750/09, ECHR 2014). In fact, the Court stated bluntly that the law on armed conflicts was not appropriate for the situation (see paragraph 599 of the judgment).

2. I also agree with the novel aspect of this judgment concerning the positive obligation to prevent terrorist attacks in the light of the evidence available to the public authorities of a real and imminent risk to the life of a group of unidentified people in Beslan and its surroundings (see paragraphs 478 to 494 of the judgment, and particularly paragraph 483).

3. Nonetheless, I disagree with the majority on the finding of no violation of Article 13 of the Convention. In my view, there has been a violation of Article 13, precisely because of the very convincing reasons enumerated by the majority for finding a procedural violation of Article 2. It is beyond my understanding that, after criticising in very strong terms the shortcomings of the domestic investigations, the majority could still not find a violation of Article 13.

4. The majority recognised the deficiencies of criminal investigation no. 20/849, which is still ongoing (see paragraphs 534 and 535 of the judgment). In addition, they acknowledged that the trial of Mr Kulayev, the only terrorist captured alive, was not concerned with the actions of State agents and therefore was not relevant for the purposes of Article 13 (see paragraph 629 of the judgment). Moreover, the majority themselves found that the victims' relatives were not given timely access to relevant pieces of evidence, and especially to two reports produced in January 2007 and October 2007 (see paragraphs 532, 535 and 536 of the judgment).They also commended the work of the parliamentary commissions, but at the same time recognised that this kind of investigative work in a political scenario

was not sufficient to meet the requirements of Article 13 (see paragraph 631 of the judgment).

5. Quite contradictorily, the majority found no violation of Article 13, on the basis of the fact that two sets of criminal proceedings had been brought against the police officers in Ingushetia and North Ossetia. Worse still, they took no account of the outcome of those proceedings. In the first case, the proceedings against the servicemen of the Pravoberezhny ROVD were discontinued owing to an amnesty (see paragraph 360 of the judgment). In the other, the servicemen of the Malgobek ROVD were acquitted (see paragraph 366 of the judgment). It is indeed surprising that the majority were willing to accept that an amnesty can put an end to an ongoing criminal investigation into criminal offences committed by public authorities during an anti-terrorist action which ended with more than 300 people dead.

6. By so doing, the majority disregarded the highly demanding standard set by paragraph 326 of the judgment in *Mocanu and Others v. Romania* ([GC], nos. 10865/09 and 2 others, ECHR 2014 (extracts)), and other concordant jurisprudence, with regard to the procedural limb of Articles 2 and 3 of the Convention. According to this standard, amnesties and pardons are not admissible in cases involving criminal conduct by State agents that infringes the rights protected by Articles 2 and 3 of the Convention. Furthermore, the majority made no mention of the doubtful acquittal of the defendants in the Malgobek ROVD case in spite of the evidence provided by the applicants. Finally, the majority did not consider the fact that both sets of civil proceedings brought by the victims were dismissed by the North Ossetia Supreme Court (see paragraphs 371 and 372 of the judgment).

7. In sum, this judgment should be praised for two main reasons. First, even in the face of the most egregious form of terrorism, a large-scale attack on a school which left more than 330 people dead, the Court stood by its principles on the interpretation of Article 2 of the Convention and did not yield to the temptation of applying the *Hassan* interpretative technique (cited above). The rhetoric of the "war on terror" does not yet permeate the interpretation of Article 2 of the Convention, as it has done with the interpretation of Article 5. Second, this judgment innovates, in so far as a positive obligation to prevent terrorist acts has been acknowledged in certain circumstances. Nevertheless, it is regrettable that, having found the investigations subsequent to the attack to be seriously deficient, the judgment did not find a violation of Article 13 as well.

APPENDIX
List of applications and awards made by the Court under Article 41 of the Convention

Application title and number / Representative	No.	Applicant no. as per admissibility decision	Applicant's name (date of demise / legal successor)	Date of birth	Place of residence	Details	Article 41 awards non-pecuniary: loss of close relative – EUR 10,000 /per deceased; grave injuries – EUR 7,000; medium injuries – EUR 5,000; light injuries/hostage/ escaped – EUR 3,000	Comments on Article 41 awards
Tagayeva and Others v. Russia 26562/07 Mr K.N. KOROTEYEV ECHRAC/ Memorial Human Rights Centre	**1.**	*1.*	Emma TAGAYEVA	04/02/1962	Beslan	mother of deceased Betrozov Alan 1988 and deceased Betrozov Aslan 1990	EUR 20,000	
	2.	*2.*	Lazar TAGAYEV (died on 14/06/2011) legal successor Alan TAGAYEV (**4**)	03/11/1933	Moscow	grandfather of deceased Betrozov Alan 1988 and deceased Betrozov Aslan 1990	-	awarded to applicant **1** - mother
	3.	*3.*	Zhenya TAGAYEVA	12/07/1927	Beslan	grandmother of deceased Betrozov Alan 1988 and deceased Betrozov Aslan 1990	-	awarded to applicant **1** - mother

	4.	*4.*	Alan TAGAYEV	14/02/1967	Beslan	uncle of deceased Betrozov Alan 1988 and deceased Betrozov Aslan 1990	-	awarded to applicant **1** - mother
	5.	*5.*	Valiko MARGIYEV	10/01/1949	Beslan	father of deceased Margiyeva Elvira 1992	EUR 5,000	see applicant **6** - mother
	6.	*6.*	Svetlana MARGIYEVA	07/10/1959	Beslan	hostage (grave injuries); mother of deceased Margiyeva Elvira 1992	EUR 13,000	see applicant **5** - father
	7.	*7.*	Taymuraz SALKAZANOV	19/05/1956	Beslan	brother of hostage Margiyeva Svetlana 1959 (grave injuries) (**6**) and uncle of deceased Margiyeva Elvira 1992	-	awarded to applicants **5** and **6** - parents
	8.	*8.*	Kazbek TSIRIKHOV	07/02/1964	Beslan	father of deceased Tsirikhova Yelizavieta 1996 and uncle of hostage Tsirikhova Zalina 1993 (**10**)	EUR 10,000 jointly with applicants **9** – mother and **10** - sister	
	9.	*9.*	Zhanna TSIRIKHOVA	02/11/1967	Beslan	hostage (medium grave injuries); mother of deceased Tsirikhova Yelizavieta 1996 and hostage Tsirikhova Zalina 1993 (**10**)	EUR 5,000	also joint award with applicants **8** – father and **10** - sister
	10.	*10.*	Zalina TSIRIKHOVA	14/06/1993	Beslan	hostage (medium grave injuries), sister of deceased Tsirikhova Yelizaveta 1996	EUR 5,000	also joint award with applicants **8** – father and **9** - mother

	11.	*11.*	Sergey BIZIKOV	26/01/1970	Moscow	uncle of deceased Tsirikhova Yelizavieta 1996	-	awarded to applicants **8, 9** and **10** – parents and sister
	12.	*12.*	Valeriy SALKAZANOV	26/02/1960	Beslan	husband of deceased Salkazanova Larisa 1961, father of deceased Salkazanova Rada 2000 and hostage Salkazanov Ruslan (**116**) 1997 (grave injuries)	EUR 20,000 jointly with applicant **116** - son	
	13.	*13.*	Vera SALKAZANOVA (died on 23/04/11) legal successor Valeriy SALKAZANOV (**12**)	01/05/1934	Beslan	hostage (medium gravity injuries); grandmother of deceased Salkazanova Rada 2000	EUR 5,000	awarded to applicant **12**
	14.	*14.*	Boris ILYIN	12/02/1953	Beslan	father of deceased Normatova Lira 1978, grandfather of deceased Bakhromov Amirkhan 2000 and deceased Normatova Zarina 1997	EUR 30,000	
	15.	*15.*	Emiliya BZAROVA	16/04/1971	Beslan	mother of deceased Dzarasov Aslanbek 1994 and hostage Dzarasov Zaurbek 1993 (medium gravity injuries) (**16**)	EUR 10,000 jointly with applicant **16** – brother and **146** - father	

	16.	*16.*	Zaurbek DZARASOV	07/01/1993	Beslan	hostage (medium gravity injuries), brother of deceased Dzarasov Aslanbek 1994	EUR 5,000	also joint award with applicants **15** - mother and **146** - father
	17.	*18.*	Zarina KESAYEVA	11/07/1992	Beslan	hostage (medium gravity injuries) represented by mother Kesayeva Ella	EUR 5,000	
	18.	*19.*	Raisa KHUADONOVA	12/09/1962	Beslan	mother of deceased Khuadonova Regina 1989	EUR 10,000 jointly with applicants **19** – sister and **390** - brother	
	19.	*20.*	Elvira KHUADONOVA	05/06/1984	Beslan	sister of deceased Khuadonova Regina 1989	-	see joint award with applicants **18** – mother and **390** - brother
	20.	*21.*	Nonna TIGIYEVA	26/09/1972	Beslan	mother of deceased Tigiyev Soslan 1990 and hostage Tigiyeva Alana 1993 (grave injuries) (**22**)	EUR 10,000 jointly with applicants **21** – father and **22** - sister	

	21.	*22.*	Boris TIGIYEV	15/03/1972	Moscow	father of deceased Tigiyev Soslan 1990 and hostage Tigiyeva Alana 1993 (grave injuries) (**22**)	-	see joint award with applicants **20** – mother and **22** - sister
	22.	*23.*	Alana TIGIYEVA	23/12/1993	Beslan	hostage (grave injuries), sister of deceased Tigiyev Soslan 1990	EUR 7,000	also joint award with applicants **20** – mother and **21** - father
	23.	*24.*	Rima BETROZOVA	07/04/1957	Vladikavkaz	sister of deceased Betrozov Ruslan 1958	EUR 5,000	see applicant **24** - sister
	24.	*25.*	Zhanna BETROZOVA	10/11/1967	Lesken, Republic Alaniya	sister of deceased Betrozov Ruslan 1958	EUR 5,000	see applicant **23** - sister
	25.	*27.*	Anna MISIKOVA	12/05/1934	Beslan	mother of deceased Misikov Artur 1974, grandmother of hostage Misikov Atsamaz 1996 (medium grave injuries) (**26**)	-	see joint award with applicant **26** – son
	26.	*28.*	Atsamaz MISIKOV	15/11/1996	Beslan	hostage (medium grave injuries), son of deceased Misikov Artur 1974	EUR 5,000; and EUR 10,000 jointly with applicant **25** - mother	

	27.	*29.*	Oleg DAUROV	29/04/1962	Beslan	father of deceased Daurov Taymuraz 1997 and hostage Daurova Diana 1994 (medium gravity injuries) (**29**)	EUR 10,000 jointly with applicants **28** – mother and **29** - sister	
	28.	*30.*	Tamara DAUROVA	14/04/1967	Beslan	mother of deceased Daurov Taymuraz 1997 and hostage Daurova Diana 1994 (medium gravity injuries) (**29**)	-	see joint award with applicants **27** - father and **29** - sister
	29.	*31.*	Diana DAUROVA	24/11/1994	Beslan	hostage (medium gravity injuries), sister of deceased Daurov Taymuraz 1997	EUR 5,000	also joint award with applicants **27** – father and **28** - mother
	30.	*32.*	Aida KHUBETSOVA	05/07/1965	Beslan	mother of deceased Khubetsova Alina 1993	EUR 10,000 jointly with applicant **32** - brother	
	31.	*33.*	Zoya AYLAROVA	24/03/1941	Vladikavkaz	grandmother of deceased Khubetsova Alina 1993	-	awarded to applicants **30** – mother and **32** - brother
	32.	*34.*	Aleksandr KHUBETSOV	03/12/1987	Beslan	brother of deceased Khubetsova Alina 1993	-	see joint award with applicant **30** - mother

	33.	*35.*	Tamerlan SAVKUYEV	23/09/1950	Vladikavkaz	father of deceased Savkuyeva Inga 1974, grandfather of deceased Tomayev Totraz 1997	EUR 10,000 jointly with applicant **175** – brother; and EUR 10,000	
	34.	*36.*	Tamara GOZOYEVA	16/07/1962	Beslan	mother of deceased Ktsoyeva Madina 1992 and hostage Ktsoyev Atsamaz 1990 (medium gravity injuries) (**36**)	EUR 10,000 jointly with applicants **35** – father and **36** - brother	
	35.	*37.*	Vladimir KTSOYEV	25/03/1953	Beslan	father of deceased Ktsoyeva Madina 1992 and hostage Ktsoyev Atsamaz 1990 (medium gravity injuries) (**36**)	-	see joint award with applicants **34** – mother and **36** - brother
	36.	*38.*	Atsamaz KTSOYEV	27/04/1990	Beslan	hostage (medium gravity injuries), brother of deceased Ktsoyeva Madina 1992	EUR 5,000	also joint award with applicants **34** – mother and **35** - father
	37.	*40.*	Kazbek GODZHIYEV	08/03/1993	Beslan	hostage (grave injuries) represented by mother Bdtayeva Madina	EUR 7,000	
	38.	*41.*	Amran GODZHIYEV	16/09/1989	Beslan	hostage (medium gravity injuries) represented by mother Bdtayeva Madina	EUR 5,000	

	39.	*42.*	Konstantin BALIKOYEV legal successor Oleg BALIKOYEV	11/10/1938 - 25/09/2009	Beslan	father of deceased Balikoyeva Larisa 1976	EUR 10,000	
	40.	*43.*	Zarema NADGERIYEVA	20/11/1971	Beslan	mother of deceased Bzykova Agunda 1994 and hostage Bzykov Alan 1992 (**41**)	EUR 10,000	
	41.	*44.*	Alan BZYKOV	21/11/1992	Beslan	hostage, brother of deceased Bzykova Agunda 1994	EUR 3,000	
	42.	*45.*	Zamira BUGULOVA	01/06/1942	Beslan	grandmother of deceased Dzhimiyev Oleg 1989	-	awarded to applicant **167**- mother
	43.	*46.*	Zareta KADOKHOVA	01/06/1933	Beslan	grandmother of deceased Tsinoyeva Inga 1990	-	awarded to applicant **174** - mother
	44.	*47.*	Yuriy KADOKHOV (died on 04/01/2014) legal successor Zareta KADOKHOVA (**43**)	01/01/1933	Beslan	grandfather of deceased Tsinoyeva Inga 1990	-	awarded to applicant **174** - mother
	45.	*48.*	Anna DZIOVA	16/05/1934	Beslan	mother of deceased Dziova (Dyambekova) Tamara 1967, grandmother of deceased Dyambekova Mayram 1998 and Dyambekova Luiza 1995	EUR 20,000; and EUR 10,000 jointly with applicants **46** – sister and **47** - sister	

	46.	*49.*	Zalina TEBLOYEVA	04/12/1961	Nogir, Prigorodnyi Region	sister of deceased Dziova (Dyambekova) Tamara 1967	-	see joint award with **45** – mother and **47** - sister
	47.	*50.*	Fatima DZIOVA	20/06/1973	Beslan	sister of deceased Dziova (Dyambekova) Tamara 1967	-	see joint award with applicants **45** – mother and **46** - sister
	48.	*51.*	Razita DEGOYEVA	08/09/1949	Beslan	mother of deceased Bazrova Dzerassa 1990	EUR 10,000	
	49.	*52.*	Totraz GATSALOV	20/08/1956	Beslan	father of deceased Gatsalova Agunda 1992	EUR 5,000	see applicant **234** - mother
	50.	*53.*	Mariya OZIYEVA	15/09/1942	Beslan	grandmother of deceased Oziyev Vadim 1995 and hostage Oziyev Vladimir 1996 (grave injuries) (**51)**	-	awarded to applicants **51** -brother and **250** - father
	51.	*54.*	Vladimir OZIYEV	23/11/1996	Beslan	hostage (grave injuries), brother of deceased Oziyev Vadim 1995	EUR 7,000	also joint award with applicant **250** - father
	52.	*55.*	Fatima MALIKIYEVA	16/05/1961	Beslan	mother of deceased Malikiyev Arsen 1990	EUR 5,000	see applicant **53** - father

	53.	*56.*	Alik MALIKIYEV	15/09/1958	Beslan	father of deceased Malikiyev Arsen 1990	EUR 5,000	see applicant **52** - mother
	54.	*57.*	Lyudmila GUTNOVA	12/10/1950	Beslan	grandmother of deceased Gutnov Zaurbek	EUR 10,000	
	55.	*58.*	Zemfira TSIRIKHOVA	10/10/1964	Beslan	hostage (medium gravity injuries), mother of deceased Urusov Aleksandr 1996 and hostage Urusov Amiran 1993 (medium gravity injuries) (**application withdrawn**)	EUR 15,000	
	56.	*60.*	Aksana DZAPAROVA	15/03/1968	Beslan	hostage (medium gravity injuries), wife of deceased Archegov Aslan 1967, mother of hostages Archegova Linda 1998 (**57**) and Archegov Alibek 1994 (**58**)	EUR 5,000; and EUR 10,000 jointly with applicants **57** – daughter, **58** – daughter and **201** - mother	
	57.	*61.*	Linda ARCHEGOVA	29/06/1998	Beslan	hostage (medium gravity injuries), daughter of deceased Archegov Aslan 1967	EUR 5,000	also joint award with applicants **56** - wife, **58** - daughter and **201** - mother
	58.	*62.*	Alibek ARCHEGOV	19/03/1994	Beslan	hostage (medium gravity injuries), daughter of deceased Archegov Aslan 1967	EUR 5,000	also joint award with applicant **56**

								- wife, **57** – daughter and **201** - mother
	59.	*63.*	Zalina SABEYEVA	11/11/1961	Beslan	mother of deceased Sabeyeva Ilona 1989	EUR 10,000	
	60.	*64.*	Mzevinari KOKOYTI (former KOCHISHVILI)	28/11/1948	Beslan	mother of deceased Kokoyti Bella 1992	EUR 10,000 jointly with applicant **287** - sister	
	61.	*65.*	Partisan KODZAYEV	13/03/1939	Beslan	husband of deceased Kodzayeva Tamara 1937	EUR 10,000 jointly with applicants **176** – daughter and **178** - son	
	62.	*66.*	Anya TOTROVA	08/03/1954	Vladikavkaz	mother of deceased Totrova Marina 1993	EUR 10,000 jointly with applicant **63** - brother	
	63.	*67.*	Vadim URTAYEV	20/06/1979	Vladikavkaz	brother of deceased Totrova Marina 1993	-	see joint award with applicant **62** - mother
	64.	*68.*	Larisa KULUMBEGOVA	11/01/1962	Vladikavkaz	mother of deceased Valigazova Stella 1992 and hostage Valgasov Georgiy 1994 (medium gravity injuries) (**118**)	EUR 5,000	see applicant **65** - father

	65.	*69.*	Albert VALIGAZOV (died on 04/05/2010) legal successor Georgyi VALGASOV (**118**)	12/05/1960	Vladikavkaz	father of deceased Valigazova Stella 1992 and hostage Valgasov Georgiy 1994 (medium gravity injuries) **(118)**	EUR 5,000	see applicant **64** - mother
	66.	*70.*	Vladimir TOMAYEV	21/08/1960	Beslan	husband of deceased Kudziyeva Zinaida 1962, father of deceased Tomayeva Madina 1994	EUR 20,000	
	67.	*71.*	Vladimir KISIYEV (died on 23/11/2008) legal successor Nanuli KISIYEVA (**235**)	28/12/1949	Vladikavkaz	father of deceased Kisiyev Artur 1975, grandfather of deceased Kisiyev Aslan 1997	EUR 10,000	see applicant **235** – mother and grandmother
	68.	*72.*	Fatima SIDAKOVA	05/11/1968	Beslan	hostage (medium gravity injuries), mother of hostages Zangiyeva Albina 1997 (medium gravity injuries) (**70**) and Zangiyeva Santa 1989 (medium gravity injuries) (**69**)	EUR 5,000	
	69.	*73.*	Santa ZANGIYEVA	15/04/1989	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	70.	*74.*	Albina ZANGIYEVA	18/11/1997	Beslan	hostage (medium gravity injuries)	EUR 5,000	

	71.	*75.*	Zarina TOKAYEVA	27/10/1976	Beslan	hostage (grave injuries)	EUR 7,000	
	72.	*76.*	Naira SIUKAYEVA	13/07/1966	Beslan	hostage (medium gravity injuries), mother of hostage Margiyeva alias Margishvili Maya 1991 (medium gravity injuries) (**73**)	EUR 5,000	
	73.	*77.*	Maya MARGIYEVA alias MARGISHVILI	21/05/1991	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	74.	*79.*	Aslanbek AYLYAROV	03/04/1990	Beslan	hostage (medium gravity injuries) represented by mother Aylyarova Fatima	EUR 5,000	
	75.	*80.*	Vyacheslav AYLYAROV	16/09/1987	Beslan	hostage (medium gravity injuries) represented by mother Aylyarova Fatima	EUR 5,000	
	76.	*81.*	Zalina KARAYEVA	08/09/1973	Beslan	hostage, mother of hostage Bigayev Khasan 1994 (medium gravity injuries) (**77**)	EUR 3,000	
	77.	*82.*	Khasan BIGAYEV	26/03/1994	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	78.	*84.*	Ketevan TIGIYEVA	02/09/1987	Beslan	hostage (medium gravity injuries) represented by mother Tigiyeva Dali	EUR 5,000	

	79.	*85.*	Tina TIGIYEVA	15/08/1989	Beslan	escaped, represented by mother Tigiyeva Dali	EUR 3,000	
	80.	*86.*	Svetlana TIGIYEVA	04/07/1992	Beslan	hostage (medium gravity injuries) represented by mother Tigiyeva Dali	EUR 5,000	
	81.	*89.*	Viktoria USHAKOVA	30/01/1992	Beslan	hostage (grave injuries) represented by parents Ushakov Viktor and Ushakova Fatima	EUR 7,000	
	82.	*90.*	Elvira GAGIYEVA	10/12/1962	Beslan	hostage (medium gravity injuries), mother of hostages Khadartseva Zarina 1993 (medium gravity injuries) (**91**) and Khadartseva Dzerassa 1990 (medium gravity injuries) (**84**)	EUR 5,000	
	83.	*91.*	Zarina KHADARTSEVA	15/02/1993	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	84.	*92.*	Dzerassa KHADARTSEVA	30/06/1990	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	85.	*94.*	Elena UZHEGOVA	12/09/1994	Beslan	hostage (medium gravity injuries) represented by mother Uzhegova Marina	EUR 5,000	

	86.	*96.*	Vladislav YESIYEV	12/10/1992	Beslan	hostage (medium gravity injuries) represented by mother Yesiyeva Elvira	EUR 5,000	
	87.	*97.*	Alan YESIYEV	16/03/1994	Beslan	hostage (grave injuries) represented by mother Yesiyeva Elvira	EUR 7,000	
	88.	*99.*	Alina TSGOYEVA	02/09/1995	Beslan	hostage (medium gravity injuries) represented by mother Tsgoyeva Bella	EUR 5,000	
	89.	*101.*	Yana KHAYEVA	13/10/1988	Beslan	hostage (medium gravity injuries) represented by mother Maliyeva Irina	EUR 5,000	
	90.	*102.*	Svetlana BIGAYEVA	08/05/1963	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	91.	*103.*	Soslanbek BIGAYEV	24/03/1988	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	92.	*104.*	Azamat BIGAYEV	01/03/1992	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	93.	*105.*	Georgiy BIGAYEV	02/01/1990	Beslan	escaped	EUR 3,000	
	94.	*107.*	Georgiy TORCHINOV	25/11/1993	Beslan	hostage (medium gravity injuries) represented by mother	EUR 5,000	

						Torchinova Liudmila		
	95.	*108.*	Zaurbek TORCHINOV	29/01/1989	Beslan	escaped, represented by mother Torchinova Liudmila	EUR 3,000	
	96.	*110.*	Soslan PERSAYEV	01/08/1994	Beslan	hostage (medium gravity injuries) represented by mother Persayeva Irina	EUR 5,000	
	97.	*111.*	Aslanbek PERSAYEV	16/02/1989	Beslan	hostage (grave injuries) represented by mother Persayeva Irina	EUR 7,000	
	98.	*112.*	Irina DOGUZOVA	20/03/1967	Beslan	hostage (medium gravity injuries), mother of deceased Dzhioyev Artur 1995 and survived hostage Dzhioyev Mark 1996 (**99**)	EUR 5,000; and EUR 10,000 jointly with applicants **99** – brother and **227** - father	
	99.	*113.*	Mark DZHIOYEV	29/09/1996	Beslan	hostage, brother of deceased Dzhioyev Artur 1995	EUR 3,000	also joint award with applicants **98** – mother and **227** - father
	100.	*114.*	Zarema BEDOSHVILI	29/10/1964	Beslan	mother of deceased Bichenov Kazbek 1995	EUR 5,000	see applicant **101** - father
	101.	*115.*	Roman BICHENOV	08/01/1963	Beslan	father of deceased Bichenov Kazbek 1995	EUR 5,000	see applicant **100** - mother

	102.	*116.*	Murat KATSANOV	28/11/1958	Beslan	father of deceased Katsanova Alana 1989	EUR 10,000	
	103.	*117.*	Valeriy NAZAROV	17/08/1940	Vladikavkaz	husband of deceased Nazarova Nadezhda 1940; farther of deceased Balandina Natalia 1975; grandfather of deceased Balandin Aleksandr 1995 and deceased Nazarova Anastasiya 1994	EUR 30,000	see applicant **104** - mother
	104.	*118.*	Yelena NAZAROVA	28/06/1967	Beslan	hostage (medium gravity injuries), mother of deceased Nazarova Anastaiya 1994	EUR 15,000	
	105.	*119.*	Irina MORGOYEVA	15/12/1955	Beslan	mother of deceased Khayeva Emma 1992	EUR 10,000 jointly with applicant **302** - sister	
	106.	*121.*	Amina KACHMAZOVA	14/09/1996	Beslan	hostage (grave injuries) represented by mother Kachmazova Rita	EUR 7,000	
	107.	*122.*	Rigina KUSAYEVA	09/12/1973	Beslan	hostage (medium gravity injuries); mother of hostages Kusayeva Izeta 1995 (**108**) and Kusayev Fidar 2000 (grave injuries) (**109**)	EUR 5,000	

	108.	*123.*	Izeta KUSAYEVA	01/09/1995	Beslan	hostage	EUR 3,000	
	109.	*124.*	Fidar KUSAYEV	14/05/2000	Beslan	hostage (grave injuries)	EUR 7,000	
	110.	*125.*	Larisa KUDZIYEVA	14/05/1964	Nogir, Progorodnyi Region	hostage (grave injuries); mother of hostage Kudziyev Zaurbek 1997 (medium gravity injuries) died on 26/04/11	EUR 7,000	
	111.	*126.*	Lyudmila TSEBOYEVA	18/12/1956	Beslan	hostage (medium gravity injuries); mother of hostage Tseboyeva Lyana 1992 (medium gravity injuries) (**112**)	EUR 5,000	
	112.	*127.*	Lyana TSEBOYEVA	11/09/1992	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	113.	*128.*	Irina DZHIBILOVA	11/12/1936	Beslan	grandmother of deceased Dzhibilov Boris 1995 and deceased Dzhibilova Alana 1992; mother-in-law of deceased Gasinova-Dzhibilova Emma 1964	EUR 30,000	
	114.	*129.*	Aleksandra KHUBAYEVA	14/08/1950	Beslan	mother of deceased Khubayeva Madina 1972	-	see joint award with applicants

								304 – sister and **401** - husband
	115.	*130.*	Alma KHAMITSEVA	07/04/1965	Beslan	sister of deceased Chedzhemova Lemma 1962	EUR 10,000	
	116.	*131.*	Ruslan SALKAZANOV	04/10/1997	Beslan	hostage (grave injuries); son of deceased Salkazanova Larisa 1961	EUR 7,000	also joint award with applicant **12** - husband
	117.	*132.*	Layma TORCHINOVA	1995 copy of passport missing		hostage (medium gravity injuries) represented by father Torchinov Saveliy	EUR 5,000	
	118.	*133.*	Georgiy VALGASOV	1994 copy of passport missing	Vladikavkaz	hostage (medium gravity injuries)	EUR 5,000	
Dudiyev and Others v. Russia 14755/08	**119.**	*1.*	Susanna DUDIYEVA	12/07/1961	Beslan	mother of deceased Dudiyev Zaur 1991	EUR 5,000	see applicant **149** - father

Mr M.I. TREPASHKIN	**120.**	*2.*	Aneta GADIYEVA	16/06/1963	Vladikavkaz	hostage; mother of deceased Dogan Alana 1995 and hostage Milena Dogan 2003 (**132**)	EUR 8,000	see applicant **151** - father
	121.	*3.*	Rita SIDAKOVA	30/05/1959	Beslan	mother of deceased Dudiyeva Alla 1995	EUR 10,000	
	122	*4.*	Viktor YESIYEV (died on 23/01/2014) legal successor wife Lima YESIYEVA	18/07/1938	Vladikavkaz	father of deceased Yesiyev Elbrus 1967	EUR 10,000	
	123.	*5.*	Elvira TUAYEVA	06/01/1962	Beslan	hostage (medium gravity injuries); mother of deceased Tuayeva Karina 1992 and deceased Tuayev Khetag 1993	EUR 15,000	see applicant **165** - father
	124.	*6.*	Rimma TORCHINOVA	26/12/1965	Beslan	mother of deceased Gumetsova Aza 1992	EUR 10,000	
	125.	*7.*	Rita TECHIYEVA	13/05/1960	Beslan	mother of deceased Rubayev Khasan 1990	EUR 5,000	see applicant **161** - father

	126.	*8.*	Aleftina KHANAYEVA	10/11/1970	Beslan	hostage (medium gravity injuries); mother of deceased Ramonova Marianna 1989	EUR 15,000	
	127.	*9.*	Svetlana TSGOYEVA	07/02/1938	Beslan	grandmother of deceased Albegova Zalina 1995	-	awarded to applicant **133** -mother
	128.	*10.*	Larisa MAMITOVA	02/11/1959	Vladikavkaz	hostage (grave injuries); mother of hostage Toguzov Tamerlan 1991 (medium gravity injuries) (**not an applicant**)	EUR 7,000	
	129.	*11.*	Zalina GUBUROVA	24/07/1964	Beslan	mother of deceased Guburov Soslan 1995 and daughter of deceased Daurova Zinaida 1935	EUR 20,000	
	130.	*12.*	Zalina BADOYEVA	08/04/1961	Vladikavkaz	sister of deceased Badoyev Akhtemir 1957	EUR 10,000	
	131.	*13.*	Zema TOKOVA	20/06/1963	Beslan	mother of deceased Godzhiyev Roman 1990	EUR 10,000	
	132.	*14.*	Milena DOGAN	2003	Vladikavkaz	hostage	EUR 3,000	

Albegova and Others v. Russia 49339/08 Mr M.I. TREPASHKIN	**133.**	*1.*	Albina ALBEGOVA	06/10/1972	Beslan	mother of deceased Albegova Zalina 1995	EUR 10,000	
	134.	*2.*	Kazbek ADYRKHAYEV	29/08/1971	Beslan	husband of deceased Alikova Zara 1966; father of deceased Galayeva Alina 1989 and deceased Adyrkhayev Albert 2001	EUR 30,000	
	135.	*3.*	Filisa BATAGOVA	23/07/1948	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	136.	*4.*	Svetlana BEROYEVA	24/07/1949	Beslan	grandmother of deceased Tokmayev Aslan 1994 and deceased Tokmayev Soslan 1994	-	awarded to applicant **138** - mother
	137.	*5.*	Alla BIBOYEVA	29/09/1958	Beslan	mother of deceased Batagov Timur 1991	EUR 10,000	
	138.	*6.*	Zalina BEROYEVA	12/03/1974	Beslan	mother of deceased Tokmayev Aslan 1994 and deceased Tokmayev Soslan 1994	EUR 20,000	

	139.	*7.*	Zarema GADIYEVA	10/03/1938	Beslan	mother of deceased Gadiyeva-Goloyeva Fatima 1975	EUR 10,000	
	140.	*8.*	Kanna GAYTOVA	04/09/1963	Beslan	mother of deceased Gaytov Alan 1998 and hostage Gaytova Yelena 1992 (medium gravity injuries) (**not an applicant**)	EUR 10,000	
	141.	*9.*	Polina GASINOVA	03/01/1938	Beslan	mother of deceased Gasinova Emma 1964	EUR 10,000	
	142.	*10.*	Marina GAPPOYEVA	08/09/1970	Beslan	hostage (grave injuries); mother of deceased Gappoyeva Dzerassa 1998 and wife of deceased Gappoyev Ruslan 1970	EUR 17,000; and EUR 10,000 jointly with applicant **366** - mother	
	143.	*11.*	Rafimat GABOYEVA	10/04/1966	Beslan	hostage (light injuries); mother of deceased Aylarova Svetlana 1998	EUR 13,000	
	144.	*12.*	Marina DUDIYEVA	25/04/1967	Beslan	daughter of deceased Dudiyeva Tina 1939; sister of hostage Kudzayeva Alina 1973 (**292**)	EUR 10,000	

	145.	*13.*	Vladimir DZGOYEV (died on 30/07/2012) legal successors children Margarita DZGOYEVA and Aslanbek DZGOYEV	06/10/1957	Beslan	husband of deceased Dzgoyeva Anna 1957; father of deceased Dzgoyeva Olga 1982 and hostages Dzgoeva Margarita 1989 (grave injuries) (**not an applicant**) and Dzgoyev Aslanbek 1990 (medium gravity injuries) (**not an applicant**)	EUR 20,000	
	146.	*14.*	Kazbek DZARASOV	30/04/1969	Beslan	hostage (medium gravity injuries); father of deceased Dzarasov Aslanbek 1994 and hostage Dzarasov Zaurbek 1993 (medium gravity injuries) (**16**)	EUR 5,000	also joint award with applicants **15** – mother and **16** - brother
	147.	*15.*	Lena DULAYEVA	25/09/1959	Beslan	mother of deceased Gugkayeva Inga 1980	EUR 10,000	
	148.	*16.*	Akhsarbek DUDIYEV	21/01/1966	Vladikavkaz	father of deceased Dudiyeva Izeta 1997 and deceased Dudiyev Soslan 1990	EUR 10,000	see applicant **150** - mother

	149.	*17.*	Elbrus DUDIYEV (died on 18/04/2012) legal successor wife Susanna DUDIYEVA (**119**)	25/03/1953	Beslan	father of deceased Dudiyev Zaur 1991	EUR 5,000	see applicant **119** - mother
	150.	*18.*	Rita DUDIYEVA	01/01/1967	Vladikavkaz	hostage (grave injuries); mother of deceased Dudiyeva Izeta 1997 and deceased Dudiyev Soslan 1990	EUR 17,000	see applicant **148** - father
	151.	*19.*	Seyfulmulal DOGAN	09/07/1955	Vladikavkaz	husband of hostage Gadiyeva Aneta, father of deceased Dogan Alana 1995 and hostage Milena Dogan 2003 (**132**)	EUR 5,000	see applicant **120** - mother
	152.	*20.*	Alik DZGOYEV	02/02/1967	Beslan	father of deceased Dzgoyeva Zalina 1996	EUR 10,000	
	153.	*21.*	Fatima DUDIYEVA	01/11/1959	Beslan	hostage (grave injuries)	EUR 7,000	
	154.	*22.*	Anatoliy KANUKOV	09/09/1965	Nuzal	father of deceased Kanukova Anzhelika 1991; husband of hostage Kanukova Zarina 1965 (medium gravity injuries) (**not an applicant**)	EUR 10,000	

	155.	*23.*	Fatima KABISOVA	07/03/1970	Vladikavkaz	mother of deceased Khadikov Islam 1989	EUR 5,000	see applicant **205** - father
	156.	*24.*	Madinat KARGIYEVA	16/04/1961	Beslan	hostage (grave injuries); mother of deceased Kastuyeva Zarina 1992 and hostage Kastuyev Alan 1995 (grave injuries) (**not an applicant**)	EUR 17,000	
	157.	*25.*	Tatyana KODZAYEVA	09/11/1968	Beslan	hostage (grave injuries); mother of deceased Kodzayeva Elina 1995	EUR 17,000	
	158.	*26.*	Elbrus NOGAYEV	17/10/1959	Beslan	husband of deceased Nogayeva Rita 1960 and deceased Nogayeva Ella 1995	EUR 20,000	
	159.	*27.*	Zalina NOGAYEVA	26/12/1969	Beslan	hostage; mother of deceased Tokova Alina 1995 and hostage Tokov Albert 1994 (grave injuries) (**not an applicant**)	EUR 13,000	

	160.	*28.*	Anzhela NOGAYEVA	07/05/1980	Beslan	hostage (grave injuries); mother of hostage Nogayev Batraz 1998 (medium gravity injuries) (**not an applicant**)	EUR 7,000	
	161.	*29.*	Kazbek RUBAYEV	05/11/1951	Beslan	father of deceased Rubayev Khasan 1990	EUR 5,000	see applicant **125** - mother
	162.	*30.*	Venera SAMAYEVA	05/05/1936	Zavodskoy	mother of deceased Muzayeva Fatima 1968	EUR 10,000	
	163.	*31.*	Irina SOSKIYEVA	16/01/1978	Beslan	daughter of deceased Soskiyeva Olga 1951	EUR 10,000	
	164.	*32.*	Natalya SALAMOVA	09/08/1940	Beslan	mother of deceased Dzutseva-Tatrova Alena 1976	EUR 10,000 jointly with applicant **280** - sister	
	165.	*33.*	Georgiy TUAYEV	15/03/1960	Beslan	husband of hostage Tuayeva Elvira 1962 (medium gravity injuries) (**123**); father of deceased Tuayeva Karina 1992 and deceased Tuayev Khetag 1993	EUR 10,000	see applicant **123** - mother

	166.	*34.*	Elbizdiko TOKHTIYEV	07/03/1952	Vladikavkaz	father of deceased Tokhtiyev Azamat 1989	EUR 10,000	
	167.	*35.*	Lyudmila KHADZARAGOVA	16/04/1964	Beslan	mother of deceased Dzhimiyev Oleg 1989 and hostage Dzhimiyeva Alina 1992 (medium gravity injuries) (**not an applicant**)	EUR 10,000	
	168.	*36.*	Rita KHABLIYEVA	19/11/1956	Beslan	mother of deceased Farniyeva Kristina 1988	EUR 10,000	
	169.	*37.*	Zalina KHUZMIYEVA	19/01/1967	Beslan	hostage (grave injuries); mother of deceased Khuzmiyev Georgiy 1996 and deceased Khuzmiyeva Stella 1997	EUR 27,000	
	170.	*38.*	Tamara SHOTAYEVA	14/05/1949	Beslan	mother of deceased Kuchiyeva-Shotayeva Albina 1973 and grandmother of deceased Kuchiyeva Zarina 1997	EUR 20,000	

	171.	*39.*	Ruslan TSKAYEV	07/09/1969	Beslan	husband of deceased Tskayeva Fatima 1974; father of deceased Tskayeva Kristina 1994 and hostages Tskayev Makharbek 2001 (**not an applicant**) and Tskayeva Alena 2004 (**not an applicant**)	EUR 20,000	
	172.	*40.*	German TSGOYEV	15/08/1959	Beslan	husband of deceased Biboyeva Fatima 1967; father of hostages Tsgoyev Aleksandr 1997 (medium gravity injuries) (**not an applicant**) and Tsgoyeva Valeriya 2000 (grave injuries) (**not an applicant**)	EUR 10,000	
	173.	*41.*	Elza TSABIYEVA	21/12/1967	Beslan	mother of deceased Pliyeva Alana 1993 and hostage Pliyeva Zalina 1996 (grave injuries) (**not an applicant**)	EUR 10,000	
	174.	*42.*	Svetlana TSINOYEVA	06/09/1964	Vladikavkaz	mother of deceased Tsinoyeva Inga 1990	EUR 10,000	

Savkuyev and Others v. Russia 49380/08 Mr K.N. KOROTEYEV ECHRAC/ Memorial Human Rights Centre	**175.**	*1.*	Timur SAVKUYEV	16/09/1981	Beslan	brother of deceased Savkuyeva Inga 1974	-	see joint award with applicant **33** –father
	176.	*2.*	Marina KODZAYEVA	21/05/1970	Vladikavkaz	daughter of deceased Kodzayeva Tamara 1937; mother of hostage Tatonov Gleb 2000 (grave injuries) (**177**)	-	see joint award with applicants **61** – husband and **178** - son
	177.	*3.*	Gleb TATONOV	07/12/2000	Beslan	hostage (grave injuries), grandson of deceased Kodzayeva Tamara 1937	EUR 7,000	awarded to applicants **61** – husband, **176** - daughter and **178** -son
	178.	*4.*	Gennadiy BELYAKOV	14/02/1961	Beslan	son of deceased Kodzayeva Tamara 1937	-	see joint award with applicants **61** – husband and **176** - daughter
	179.	*6.*	Marina BOKOYEVA	06/01/1989	Beslan	hostage (grave injuries) represented by mother Bokoyeva Svetlana	EUR 7,000	
	180.	*7.*	Zaira BOKOYEVA	17/12/1993	Beslan	hostage (medium gravity injuries) represented by mother Bokoyeva Svetlana	EUR 5,000	

	181.	*8.*	Zemfira AGAYEVA	11/06/1971	Beslan	hostage (medium gravity injuries); mother of hostage Agayev Aleksandr 1996 (medium gravity injuries) (**182**) and deceased Agayev Georgiy (Zhorik) 1996	EUR 5,000; and EUR 10,000 jointly with applicant **182** - brother	
	182.	*9.*	Aleksandr AGAYEV	20/05/1993	Beslan	hostage (medium gravity injuries), brother of deceased Agayev Georgiy (Zhorik) 1996	EUR 5,000;	also joint award with applicant **181** - mother
	183.	*10.*	Marita MAMSUROVA	24/02/1962	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	184.	*11.*	Zarina KHADIKOVA	10/04/1990	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	185.	*12.*	Atsamaz DZAGOYEV	09/12/1941	Beslan	father of hostage Dzagoyev Chermen 1997 (medium gravity injuries) (**186**), husband of deceased Dzagoyeva Zhanna 1963	EUR 10,000 jointly with applicant **186** - son	
	186.	*13.*	Chermen DZAGOYEV	22/09/1997	Beslan	hostage (medium gravity injuries), son of deceased Dzagoyeva Zhanna 1963	EUR 5,000	also joint award **185** - husband

	187.	*16.*	Alina TSORAYEVA	22/06/1992	Beslan	hostage (grave injuries) represented by mother Bekoyeva Roza	EUR 7,000	
	188.	*19.*	Larisa DZAGOYEVA	25/08/1949	Beslan	mother of deceased Dzagoyeva Irma 1980	EUR 10,000 jointly with applicant **189** - sister	
	189.	*20.*	Irina DZAGOYEVA	25/03/1988	Beslan	hostage (medium gravity injuries), sister of deceased Dzagoyeva Irma 1980	EUR 5,000	also joint award with applicant **188** - mother
	190.	*21.*	Alina SAKIYEVA	25/07/1987	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	191.	*22.*	Marina DARCHIYEVA	19/10/1967	Beslan	hostage (medium gravity injuries); mother of hostages Darchiyev Akhsarbek 1996 (medium gravity injuries) (**192**) and Darchiyeva Yelena 1992 (medium gravity injuries) (**193**)	EUR 5,000	
	192.	*23.*	Akhsarbek DARCHIYEV	28/05/1996	Beslan	hostage (medium gravity injuries)	EUR 5,000	

	193.	*24*	Yelena DARCHIYEVA	11/04/1992	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	194.	*26*	Anna ALIKOVA	12/09/1954	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	195.	*27*	Oksana DZAMPAYEVA	15/12/1976	Beslan	hostage (medium gravity injuries); mother of hostage Dzampayeva Irlanda 1997 (medium gravity injuries) (**196**)	EUR 5,000	
	196.	*28*	Irlanda DZAMPAYEVA	09/02/1997	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	197.	*30*	Soslan MORGOYEV	23/07/1995	Beslan	hostage (medium gravity injuries) represented by mother Morgoyeva Zarina	EUR 5,000	
	198.	*31*	Fatima URTAYEVA	07/03/1962	Beslan	mother of hostage Tetov Alan 1992 (medium gravity injuries) (**199**) and deceased Tetova Agunda 1991 and deceased Tetova Alina 1992	EUR 20,000 jointly with applicant **199** - brother	

	199.	*32*	Alan TETOV	10/08/1992	Beslan	hostage (medium gravity injuries), brother of deceased Tetova Agunda 1991 and deceased Tetova Alina 1992	EUR 5,000	also joint award with applicant **198** - mother
	200.	*33*	Zalina DULAYEVA	28/12/1965	Beslan	mother of deceased Tsabolov Marat 1994	EUR 10,000	
	201.	*34.*	Mariya ARCHEGOVA	24/04/1946	Beslan	mother of deceased Archegov Aslan 1967	-	see joint award with applicants **56** - wife, **57** – daughter and **58** - daughter
	202.	*36.*	Aslan DZARASOV	03/09/1990	Beslan	hostage (medium gravity injuries) represented by mother Morgoyeva Tamara	EUR 5,000	
	203.	*37.*	Soslan DZARASOV	02/07/1992	Beslan	hostage represented by mother Morgoyeva Tamara	EUR 3,000	
	204.	*39.*	Batraz CHIKHTISOV	29/12/1993	Beslan	hostage (medium gravity injuries) represented by mother Chikhtisova Vinera	EUR 5,000	
	205.	*40.*	Alan KHADIKOV	13/02/1965	Beslan	father of deceased Khadikov Islam 1989	EUR 5,000	see applicant **155** - mother

	206.	*42.*	Artur GUTIYEV	10/10/1989	Beslan	hostage (medium gravity injuries) represented by mother Berozova Tamusya	EUR 5,000	
	207.	*43.*	Diana GUTIYEVA	17/06/1991	Beslan	hostage (medium gravity injuries) represented by mother Berozova Tamusya	EUR 5,000	
	208.	*44.*	Fatima GUTIYEVA	18/04/1961	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	209.	*45.*	Zhanna DZEBOYEVA	24/10/1960	Vladikavkaz	hostage (medium gravity injuries); mother of hostage Dzandarova Diana 1995 (medium gravity injuries) (**210**)	EUR 5,000	
	210.	*46.*	Diana DZANDAROVA	26/06/1995	Vladikavkaz	hostage (medium gravity injuries)	EUR 5,000	
	211.	*47.*	Irina BEKUZAROVA	08/03/1964	Beslan	hostage (medium gravity injuries); mother of hostage Khudalova Madina 1997 (**212**) and deceased Khudalov Beksoltan 1997	EUR 5,000; and EUR 10,000 jointly with applicants **212** – sister and **305** - father	

	212.	*48.*	Madina KHUDALOVA	12/06/1997	Beslan	hostage, sister of deceased Khudalov Beksoltan 1997	EUR 3,000	also joint award with applicants **211** – mother and **305** - father
	213.	*50.*	Islam KHUDALOV	08/04/1992	Beslan	hostage (medium gravity injuries) represented by mother Khudalova Bella	EUR 5,000	
	214.	*51.*	Galina KUDZIYEVA	18/02/1962	Beslan	hostage (grave injuries); mother of deceased Daguyeva Karina 1988	EUR 17,000	
	215.	*52.*	Lyudmila KORNAYEVA	27/03/1954	Beslan	mother of hostages Kusova Dzerassa 1988 (medium gravity injuries) (**216**), Kusova Fatima 1990 (medium gravity injuries) (**217**) and deceased Kusova Madina 1993	EUR 10,000 jointly with applicants **216** – sister and **217** - sister	
	216.	*53.*	Dzerassa KUSOVA	10/10/1988	Beslan	hostage (medium gravity injuries), sister of deceased Kusova Madina 1993	EUR 5,000	also joint award with applicants **215** – mother and **217** - sister

	217.	*54.*	Fatima KUSOVA	26/04/1990	Beslan	hostage (medium gravity injuries), sister of deceased Kusova Madina 1993	EUR 5,000	also joint award with applicants **215** – mother and **216** - sister
	218.	*55.*	Lyudmila KOKAYEVA	14/02/1957	Beslan	hostage (medium gravity injuries); mother of hostage Kokayev Soslan 1990 (medium gravity injuries) (**219**)	EUR 5,000	
	219.	*56.*	Soslan KOKAYEV	24/04/1990	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	220.	*57.*	Indira KOKAYEVA	23/04/1974	Beslan	hostage (medium gravity injuries); mother of hostage Kokayev Alan 1998 (medium gravity injuries) (**221**)	EUR 5,000	
	221.	*58.*	Alan KOKAYEV	05/11/1998	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	222.	*59.*	Zoya KTSOYEVA	12/04/1963	Beslan	hostage (medium gravity injuries); mother of hostages Eltarov Boris 1988 (medium gravity injuries) (**223**) and Eltarov Soslan 1991 (medium gravity injuries) (**224**)	EUR 5,000	

	223.	*60.*	Boris ELTAROV	25/12/1988	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	224.	*61.*	Soslan ELTAROV	13/08/1991	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	225.	*62*	Albina KASTUYEVA	17/08/1966	Beslan	hostage (medium gravity injuries); mother of hostage Kastuyeva Zalina 1997 (medium gravity injuries) (**226**)	EUR 5,000	
	226.	*63.*	Zalina KASTUYEVA	01/03/1997	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	227.	*64.*	Akhsarbek DZHIOYEV	02/08/1964	Beslan	father of deceased Dzhioyev Artur 1995	-	see joint award with applicants **98** – mother and **99** – brother
	228.	*65.*	Alan ADYRKHAYEV	18/10/1963	Beslan	husband of deceased Adyrkhayeva Irina 1975; father of hostages Adyrkhayeva Milana 2000 (medium gravity injuries) (**229**) and Adyrkhayeva Emiliya 1997 (medium gravity injuries) (**230**)	EUR 10,000 jointly with applicants **229** – daughter and **230** - daughter	

	229.	*66.*	Milana ADYRKHAYEVA	13/04/2000	Beslan	hostage (medium gravity injuries), daughter of deceased Adyrkhayeva Irina 1975	EUR 5,000	also joint award with applicants **228** – husband and **230** - daughter
	230.	*67.*	Emiliya ADYRKHAYEVA	07/06/1997	Beslan	hostage (medium gravity injuries), daughter of deceased Adyrkhayeva Irina 1975	EUR 5,000	also joint award with applicants **228** – husband and **229** - daughter
	231.	*68.*	Marina PAK	25/11/1965	Beslan	mother of deceased Tsoy Svetlana 1992	EUR 10,000	
	232.	*69.*	Yelena SMIRNOVA	24/09/1965	Beslan	mother of deceased Smirnova Inna 1988	EUR 10,000	
	233.	*70.*	Aleksandra SMIRNOVA	02/06/1933	Beslan	grandmother of deceased Smirnova Alla 1989	EUR 10,000	
	234.	*71.*	Rita TIBILOVA	18/02/1963	Beslan	mother of deceased Gatsalova Agunda 1992	EUR 5,000	see applicant **49** - father

	235.	*72.*	Nanuli KISIYEVA	20/12/1953	Vladikavkaz	mother of deceased Kisiyev Artur 1975; grandmother of deceased Kisiyev Aslan 1997	EUR 10,000	see applicant **67** - father and grandfather
	236.	*73.*	Lyudmila DZAMPAYEVA	10/01/1951	Beslan	grandmother of deceased Bitsiyev Zaurbek 1996	-	awarded to applicant **245** - mother
	237.	*74.*	Ruslan GAPPOYEV	25/01/1961	Beslan	husband of deceased Gappoyeva Naida 1960; father of hostages Gappoyev Alan 1997 (grave injuries) (**238**) and Gappoyev Soslan 1993 (grave injuries) (**239**)	EUR 10,000 jointly with applicants **238** - son and **239** - son	
	238.	*75.*	Alan GAPPOYEV	24/06/1997	Beslan	hostage (grave injuries), son of deceased Gappoyeva Naida 1960	EUR 7,000	also joint award with applicant **237** - husband and **239** - son
	239.	*76*	Soslan GAPPOYEV	05/05/1993	Beslan	hostage (grave injuries), son of deceased Gappoyeva Naida 1960	EUR 7,000	also joint award with applicants **237** – husband and **238** - son

	240.	*77.*	Shorena VALIYEVA	12/03/1974	Beslan	hostage (grave injuries); mother of hostage Guldayev Georgiy 1998 (grave injuries) (**241**)	EUR 7,000	
	241.	*78.*	Georgiy GULDAYEV	06/02/1998	Beslan	hostage (grave injuries)	EUR 7,000	
	242.	*79.*	Vova GULDAYEV	05/04/1963	Beslan	husband of deceased Msostova Elza 1969; father of deceased Guldayeva Olesya 1992 and hostage Guldayeva Alina 1993 (grave injuries) (**243**)	EUR 20,000	
	243.	*80.*	Alina GULDAYEVA	01/07/1993	Beslan	hostage (grave injuries)	EUR 7,000	
	244.	*81.*	Kira GULDAYEVA	02/05/1941	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	245.	*82.*	Zarina DZAMPAYEVA	10/05/1976	Beslan	hostage (medium gravity injuries); mother of deceased Bitsiyev Zaurbek 1996	EUR 15,000	
	246.	*83.*	Lyubov SALAMOVA	08/08/1946	Beslan	grandmother of deceased Alkayev Sergey 1989	EUR 10,000	

	247.	*84.*	Fatima KELEKHSAYEVA	04/08/1964	Brut, Pravoberezhnyi Region	mother of deceased Arsoyeva Sofya 1990	EUR 10,000	
	248.	*85.*	Oksana TSAKHILOVA	25/06/1977	Vladikavkaz	sister of deceased Nayfonova Svetlana 1972	EUR 10,000	
	249.	*87.*	Rustam KOKOV	14/07/1974	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	250.	*90.*	Sergey OZIYEV	01/10/1965	Beslan	husband of deceased Oziyeva Marina 1975; father of deceased Oziyev Vadim 1995 and Oziyev Vladimir 1996 (grave injuries) (**51**)	EUR 10,000 jointly with applicant **251** - mother; and EUR 10,000 jointly with applicant **51** - brother	
	251.	*92.*	Nadezhda ZASEYEVA	08/12/1946	Beslan	mother of deceased Oziyeva Marina 1975 and grandmother of deceased Oziyev Vadim 1995	-	see joint award with applicant **250** - father**;** awarded to applicants **250** – husband and **51** - brother

	252.	*93.*	Lidiya KHODOVA	04/01/1953	Beslan	hostage (grave injuries); representative of hostage Aylyarov Asakhmat 1997 (medium gravity injuries) (**253**)	EUR 7,000	
	253.	*94.*	Asakhmat AYLYAROV	27/01/1997	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	254.	*95.*	Lyubov ZAPOROZHETS	04/05/1966	Beslan	mother of deceased Zaporozhets Sergey 1992	EUR 10,000	
	255.	*96.*	Sergey FRIYEV	27/05/1959	Beslan	father of deceased Friyeva Yelena 1995 and hostage Friyev Ruslan 1993 (**256**)	EUR 10,000 jointly with applicant **256** - brother	
	256.	*97.*	Ruslan FRIYEV	13/03/1993	Beslan	hostage, brother of deceased Friyeva Yelena 1995	EUR 3,000	also joint award with applicant **255** - father
	257.	*98.*	Larisa TSGOYEVA	19/12/1969	Beslan	wife of deceased Dzgoyev Khazbi 1970	EUR 10,000	

	258.	*99.*	Viktoriya KIBIZOVA	16/08/1987	Beslan	hostage (medium gravity injuries) represented by mother Dzagoyeva Klara	EUR 5,000	
	259.	*100.*	Zaurbek KOZYREV	1994	Beslan	hostage (grave injuries) represented by mother Kozyreva Zhanna	EUR 7,000	
	260.	*101.*	Shamil KOKOV	26/03/1996	Beslan	hostage (medium gravity injuries) represented by mother Kokova Marina	EUR 5,000	
	261.	*102.*	Madina KHOZIYEVA	08/03/1990	Beslan	hostage represented by mother Tebiyeva Anastasiya	EUR 3,000	
	262.	*103.*	Lyubov TSAGARAYEVA	1962	Beslan	hostage (medium gravity injuries) represented by mother Gioyeva Zara	EUR 5,000	
	263.	*104.*	Georgiy TSAGARAYEV	1993	Beslan	hostage (medium gravity injuries) represented by mother Gioyeva Zara	EUR 5,000	
	264.	*105.*	Valeriya KOKOVA	2001	Beslan	hostage represented by mother Kokova Marina	EUR 3,000	

Aliyeva and Others v. Russia 51313/08 Mr M.I. TREPASHKIN	**265.**	*2.*	Nadezhda BADOYEVA	22/07/1987	Beslan	hostage (grave injuries)	EUR 7,000	
	266.	*3.*	Zarema BADTIYEVA	04/11/1952	Farn, Pravoberezhnyi Region	mother of deceased Badtiyeva Anzhela 1972	EUR 10,000	
	267.	*4.*	Valeriy BEKUZAROV	11/04/1968	Alaniya	husband of deceased Bekuzarova Yelena 1974	EUR 10,000	
	268.	*6.*	Zarina VALIYEVA	20/02/1990	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	269.	*7.*	Galina VALIYEVA	08/12/1964	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	270.	*8.*	David VALIYEV	20/02/1989	Beslan	hostage (grave injuries)	EUR 7,000	
	271.	*9.*	Zinaida VARZIYEVA	21/08/1955	Alaniya	mother of deceased Varziyev Erik 1992	EUR 10,000	

	272.	*10.*	Raisa GABISOVA	21/10/1945	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	273.	*11.*	Zaurbek GAYTOV	24/03/1963	Beslan	father of deceased Gaytov Alan 1988 and hostage Gaytova Yelena 1992 (medium gravity injuries) (**not an applicant**)	EUR 10,000	
	274.	*13.*	Zara GOZYUMOVA	29/05/1959	Beslan	hostage	EUR 3,000	
	275.	*14.*	Dzhaba GOLOYEV	29/06/1979	Novyy Batako	husband of deceased Gadiyeva Fatima 1975 and father of deceased Goloyeva Kristina 2002	EUR 20,000	
	276.	*15.*	Zarina DAUROVA	18/08/1985	Vladikavkaz	hostage (medium gravity injuries)	EUR 5,000	
	277.	*16.*	Elochka DZARASOVA	30/08/1940	Beslan	hostage	EUR 3,000	
	278.	*17.*	Elza DZEBOYEVA	13/10/1951	Terek, Stavropol Region	hostage (medium gravity injuries)	EUR 5,000	

	279.	*18.*	Zoya DZUTSEVA	14/07/1939	Beslan	grandmother of deceased Tsibirova Tameris 1994 and hostage Tsibirova Amaga 1991 (grave injuries) (**not an applicant**)	EUR 10,000	
	280.	*19.*	Lyudmila DZUTSEVA	12/02/1966	Beslan	sister of deceased Dzutseva-Tatrova Alena 1976	-	see joint award with applicant **164** - mother
	281.	*20.*	Zarina DZHIBILOVA	21/06/1977	Elkhotovo	sister of deceased Dzhidzalova Edita 1976	EUR 10,000	
	282.	*22.*	Larisa DZHUMOK	30/09/1960	Beslan	hostage	EUR 3,000	
	283.	*23.*	Zara DUDAROVA	06/11/1957	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	284.	*25.*	Svetlana DZIOVA	31/03/1964	Beslan	mother of deceased Dziova Dzerassa 1990	EUR 10,000	
	285.	*28.*	Viktoriya KASTUYEVA	25/11/1971	Mikhaylovskoye	hostage	EUR 3,000	

	286.	*29.*	Raya KIBIZOVA	03/02/1942	Beslan	hostage	EUR 3,000	
	287.	*31.*	Teya KOKOYTI	06/01/1975	Beslan	sister of deceased Kokoyti Bella 1992	-	see joint award with applicant **60** - mother
	288.	*32.*	Zayra KOKOYEVA	11/10/1972	Beslan	hostage; mother of deceased Kokoyeva Lyana 1995 and hostage Kokoyeva Kristina 1993 (medium gravity injuries) (**not an applicant**)	EUR 13,000	
	289.	*33.*	Liana KOKOYEVA	02/07/1977	Kambileyevskoye, Prigorodnyi Region	hostage	EUR 3,000	
	290.	*34.*	Rita KOMAYEVA	21/05/1960	Beslan	hostage; mother of hostages Gadzhinova Diana 1990 (medium gravity injuries) (**not an applicant**), Gadzhinova Alina 1993 (medium gravity injuries) (**not an applicant**) and Gadzhinova Madina 2001 (**313**)	EUR 3,000	

	291.	*35.*	Fatima KOCHIYEVA	13/11/1971	Vladikavkaz	hostage; mother of hostages Melikova Larisa 1999 (medium gravity injuries) (**not an applicant**) and Melikov Soslan 1999 (medium gravity injuries) (**not an applican**t)	EUR 3,000	
	292.	*36.*	Alina KUDZAYEVA	20/10/1973	Beslan	hostage; mother of hostage Kudzayeva Dzerassa 1997 (medium gravity injuries) (**not an applicant**), Kudzayeva Madina 2002 (**314**)	EUR 3,000	
	293.	*38.*	Konstantin MAMAYEV (died on 10/01/2012) legal successor wife Fatima KULIYEVA	25/09/1954	Beslan	father of deceased Mamayeva Sabina 1990	EUR 10,000	
	294.	*39.*	Kazbek MISIKOV	20/03/1961	Beslan	hostage (grave injuries); husband of hostage Dzutseva Irina 1969 (grave injuries) (**not an applicant**); father of hostages Misikov Batraz 1989 (light injuries) (**not an applicant**) and Misikov Atsamaz 1997 (grave injuries) (**315**)	EUR 7,000	

	295.	*40.*	Marina MIKHAYLOVA	14/02/1979	Beslan	hostage (grave injuries)	EUR 7,000	
	296.	*41.*	Natalya MOKROVA	28/06/1959	Beslan	wife of deceased Mokrov Vladimir 1951 and mother of hostage Mokrov Vladislav 1994 (medium gravity injuries) (**not an applicant**)	EUR 10,000	
	297.	*42.*	Tamara SKAYEVA	17/10/1966	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	298.	*43.*	Svetlana SUANOVA	26/08/1963	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	299.	*44.*	Larisa TOMAYEVA	14/02/1971	Beslan	hostage; mother of hostages Tomayev Azamat 1993 (medium gravity injuries) (**not an applicant**) and Tomayeva Kristina 1995 (medium gravity injuries) (**not an applicant**)	EUR 5,000	
	300.	*46.*	Alan URMANOV	04/08/1974	Beslan	father of deceased Urmanova Maria 1995	EUR 10,000	

	301.	*47.*	Lidiya URMANOVA	19/04/1950	Beslan	mother of deceased Urmanova-Rudik Larisa 1972; mother-in-law of deceased Urmanova Rita 1965; grandmother of deceased Urmanova Zalina 1998, deceased Rudik Yana 1992, deceased Rudik Yulia 1990, deceased Urmanova Maria 1995	EUR 50,000	See award to applicant **300** - father
	302.	*49.*	Tamara KHAYEVA	15/05/1987	Beslan	sister of deceased Khayeva Emma 1992	-	see joint award with applicant **105** - mother
	303.	*50.*	Aleta KHASIYEVA	03/05/1962	Beslan	hostage	EUR 3,000	
	304.	*51.*	Marina KHUBAYEVA	06/07/1975	Beslan	sister of deceased Khubayeva Madina 1972	-	see joint award with applicants **114** - mother and **401** - husband
	305.	*52.*	Batraz KHUDALOV	12/05/1964	Beslan	father of hostage Khudalova Madina 1997 (**212**) and deceased Khudalov Beksoltan 1997	-	see joint award with applicants **211** – mother and **212** - sister

	306.	*53.*	Zalina KHUDALOVA	10/04/1972	Beslan	wife of deceased Khudalov Elbrus 1951; mother of deceased Khudalov Georgiy 1994	EUR 20,000	
	307.	*54.*	Anzhela KHUMAROVA	23/02/1972	Beslan	hostage (grave injuries); mother of hostage Khumarov Timur 1997 (medium gravity injuries) (**316**)	EUR 7,000	
	308.	*55.*	Fatima TSAGARAYEVA	04/08/1964	Beslan	hostage; mother of hostages Murtazova Diana 1990 (grave injuries) (**not an applicant**), Murtazova Viktoriya 1992 (medium gravity injuries) (**not an applicant**) and Murtazova Madina 1997 (medium gravity injuries) (**317**)	EUR 3,000	
	309.	*56.*	Svetlana KHUTSISTOVA	16/08/1953	Beslan	mother of deceased Khutsistov Azamat 1978	EUR 10,000	
	310.	*57.*	Rimma TSOMARTOVA	10/08/1944	Beslan	hostage (medium gravity injuries); grandmother of hostages Fardzinova Zhaklin 1994 (medium gravity injuries) (**not an applicant**) and Fardzinov Alan 1996 (medium gravity injuries) (**not an applicant**)	EUR 5,000	

	311.	*58.*	Olga SHCHERBININA	18/10/1956	Beslan	hostage (light injuries)	EUR 3,000	
	312.	*59.*	Umar DUDAROV	2003	Beslan	hostage (medium gravity injuries) represented by mother Dudarova Madina	EUR 5,000	
	313.	*60.*	Madina GADZHINOVA	2001	Beslan	hostage	EUR 3,000	
	314.	*61.*	Madina KUDZAYEVA	2002	Beslan	hostage	EUR 3,000	
	315.	*62.*	Atsamaz MISIKOV	1997	Beslan	hostage (grave injuries)	EUR 7,000	
	316.	*63.*	Timur KHUMAROV	1997	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	317.	*64.*	Madina MURTAZOVA	1997	Beslan	hostage (medium gravity injuries)	EUR 5,000	
Kokova and Others v. Russia 21294/11 Mr K.N. KOROTEYEV	**318.**	*1.*	Tereza KOKOVA	29/04/1966	Beslan	hostage (medium gravity injuries); mother of hostages Kokova Alana 1993 (medium gravity injuries) (**319**) and Kokov Batraz 1995 (medium gravity injuries) (**320**)	EUR 5,000	

ECHRAC/ Memorial Human Rights Centre	**319.**	*2.*	Alana KOKOVA	13/12/1993	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	320.	*3.*	Batraz KOKOV	29/03/1995	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	321.	*4.*	Mairbek VARZIYEV	21/05/1996	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	322.	*5.*	Aleksandr CHEDZHEMOV	30/09/1992	Beslan	hostage (grave injuries)	EUR 7,000	
	323.	*6.*	Lidiya RUBAYEVA	27/01/1938	Beslan	mother of deceased Rubayev Artur 1963	EUR 10,000	
	324.	*7.*	Artur TSAGARAYEV	22/11/1991	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	325.	*8.*	Vadim TSAGARAYEV	07/01/1994	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	326.	*9.*	Alina KANUKOVA	08/02/1990	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	327.	*10.*	Inal KANUKOV	06/01/1992	Beslan	hostage	EUR 3,000	
	328.	*11.*	Soslan MARGIYEV	20/10/1991	Beslan	hostage (medium gravity injuries)	EUR 5,000	

	329.	*12.*	Andzhela KODZAYEVA	16/07/1971	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	330.	*13.*	Diana AGAYEVA	18/12/1996	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	331.	*14.*	Bella NUGZAROVA	13/10/1993	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	332.	*15.*	Soslan KANUKOV	09/07/1991	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	333.	*16.*	Yelena ZAMESOVA	11/01/1972	Beslan	mother of deceased Zamesova Natalya 1994 and deceased Zamesov Igor 1992	EUR 20,000	
	334.	*17.*	Raisa ZHUKAYEVA	27/04/1942	Beslan	hostage (grave injuries)	EUR 7,000	
	335.	*19.*	Ksenya TEBIYEVA	26/11/1952	Beslan	mother of deceased Tebiyeva Alma 1991	EUR 10,000	
	336.	*20.*	Fatima BITSIYEVA	01/11/1945	Beslan	grandmother of deceased Bitsiyev Zaurbek 1996	-	awarded to applicant **245** - mother

	337.	*21.*	Sergey ZHUKAYEV	25/03/1969	Beslan	husband of deceased Zhukayeva Marina 1973 and father of hostages Zhukayeva Madina (grave injuries) (**338**) and Zhukayeva Albina 1997 (medium gravity injuries) (**339**)	EUR 10,000	
	338.	*22.*	Madina ZHUKAYEVA	26/12/1996	Beslan	hostage (grave injuries)	EUR 7,000	
	339.	*23.*	Albina ZHUKAYEVA	04/12/1997	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	340.	*24.*	Azamat TETOV	30/10/1994	Beslan	hostage (grave injuries)	EUR 7,000	
	341.	*25.*	Tatyana TETOVA	21/05/1940	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	342.	*26.*	Liliya KHAMATKOYEVA	23/10/1969	Beslan	daughter of deceased Khamatkoyeva Rimma 1938 and mother of hostages Urusova Luiza 1993 (medium gravity injuries) (**343**) and Urusova Zarina 1995 (medium gravity injuries) (**344**)	EUR 10,000	

	343.	*27.*	Luiza URUSOVA	01/08/1993	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	344.	*28.*	Zarina URUSOVA	15/02/1995	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	345.	*29.*	Zemfira DZANDAROVA	19/06/1972	Beslan	hostage (medium gravity injuries); mother of hostages Dzandarov Ruslan 1991 (**346**) (grave injuries) and Dzandarova Viktoriya 1997 (**347**) (medium gravity injuries)	EUR 5,000	
	346.	*30.*	Ruslan DZANDAROV	02/09/1991	Beslan	hostage (grave injuries)	EUR 7,000	
	347.	*31.*	Viktoriya DZANDAROVA	11/04/1997	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	348.	*32.*	Sima ALBEGOVA	30/03/1949	Beslan	hostage (grave injuries)	EUR 7,000	

	349.	*34.*	Roman BZIYEV	28/01/1998	Beslan	hostage (medium gravity injuries) represented by tutor Dzusova Yelena; son of deceased Pliyeva (Bziyeva) Dinara 1964; grandchild of hostage Dauyeva Taisya 1938 (died on 09/08/2006)	EUR 10,000	see applicant **350** – son
	350.	*35.*	Boris BZIYEV	14/11/2001	Beslan	represented by tutor Dzusova Yelena; son of deceased Pliyeva (Bziyeva) Dinara 1964	EUR 5,000	see applicant **349** - son
	351.	*36.*	Alikhan Georgievich DZUSOV	26/12/1996	Beslan	represented by mother Dzusova Yelena; grandchild of hostage Dauyeva Taisya 1938 (died on 09/08/2006)	-	**Inadmissible** *ratione personae*
	352.	*37.*	Ilona DZUSOVA	25/05/1999	Beslan	hostage represented by mother Dzusova Yelena; grandchild of hostage Dauyeva Taisya 1938 (died on 09/08/2006)	EUR 3,000	
	353.	*38.*	Agunda VATAYEVA	25/11/1990	Beslan	hostage (grave injuries); daughter of deceased Vatayeva Gulemdan 1951	EUR 13,000	see applicant **354** - daughter

	354.	*39.*	Yelizaveta VATAYEVA	21/09/1985	Beslan	daughter of deceased Vatayeva Gulemdan 1951	EUR 5,000	see applicant **353** - daughter
	355.	*40.*	Alan KODZAYEV	21/11/1996	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	356.	*41.*	Inna DZANAYEVA	13/09/1990	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	357.	*43.*	Khetag GUTIYEV	03/07/1988	Beslan	escaped	EUR 3,000	
	358.	*44.*	Azamat GUTIYEV	24/01/1992	Beslan	escaped	EUR 3,000	
	359.	*45.*	Zarina KASTUYEVA	22/04/1993	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	360.	*46.*	Tamara BEROYEVA	20/04/1938	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	361.	*47.*	Vladimir GUBIYEV	18/10/1994	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	362.	*48.*	Bela GUBIYEVA	28/12/1991	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	363.	*49.*	Chermen PLIYEV	23/10/1995	Beslan	hostage (medium gravity injuries)	EUR 5,000	

Bibayeva and Others v. Russia 37096/11 Mr K.N. KOROTEYEV ECHRAC/ Memorial Human Rights Centre	**364.**	*1.*	Fatima BIBAYEVA	20/08/1988	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	365.	*3.*	Rozita MORDAS TSIRIKHOVA	21/10/1993	Beslan	hostage (~~(~~grave injuries) represented by mother Tsirikhova Aida	EUR 7,000	
	366.	*4.*	Lyudmila GAPPOYEVA	24/01/1941	Beslan	mother of deceased Gappoyev Ruslan 1970	-	see joint award with applicant **142** - wife
	367.	*6.*	Arsen KHAREBOV	28/09/1995	Beslan	hostage (medium gravity injuries) represented by mother Kharebova Inga	EUR 5,000	
	368.	*7.*	Svetlana DZHERIYEVA	01/06/1964	Beslan	hostage (medium gravity injuries); mother of hostage Chedzhemova Dana 1997 (medium gravity injuries) (**369**)	EUR 5,000	
	369.	*8.*	Dana CHEDZHEMOVA	18/07/1997	Beslan	hostage (medium gravity injuries)	EUR 5,000	

	370.	*10.*	Rustam KABALOYEV	20/06/1993	Beslan	hostage (grave injuries) represented by mother Sakiyeva Albina	EUR 7,000	
	371.	*11.*	Lalita URTAYEVA	29/06/1979	Beslan	hostage (medium gravity injuries); mother of hostage Urtayev Taymuraz 1996 (**372**) (medium gravity injuries)	EUR 5,000	
	372.	*12.*	Taymuraz URTAYEV	28/09/1996	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	373.	*14.*	Siranush SIMONYAN	16/04/1987	Beslan	hostage (medium gravity injuries) represented by mother Saribekyan Amest	EUR 5,000	
	374.	*15.*	Mariam SIMONYAN	06/01/1991	Beslan	hostage (grave injuries) represented by mother Saribekyan Amest	EUR 7,000	
	375.	*16.*	Ovannes SIMONYAN	03/09/1993	Beslan	hostage (light injuries) represented by mother Saribekyan Amest	EUR 3,000	

	376.	*17*	Zarina PUKHAYEVA	05/04/1979	Beslan	hostage (medium gravity injuries); mother of hostage Pukhayev Gennadiy 1997 (medium gravity injuries) (**377**)	EUR 5,000	
	377.	*18*	Gennadiy PUKHAYEV	25/03/1997	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	378.	*20*	Vladimir KUBATAYEV	27/04/1989	Beslan	hostage (medium gravity injuries) represented by mother Kubatayeva Olga	EUR 5,000	
	379.	*22*	David TSALLAGOV	19/09/1993	Beslan	hostage (medium gravity injuries) represented by mother Tsallagova Yelena	EUR 5,000	
	380.	*23*	Serafima BASIYEVA	03/01/1960	Beslan	hostage (medium gravity injuries); mother of hostages Bekoyev Azamat 1989 (medium gravity injuries) (**381**) and Bekoyev Atsamaz 1993 (medium gravity injuries) (**382**)	EUR 5,000	
	381.	*24*	Azamat BEKOYEV	08/12/1989	Beslan	hostage (medium gravity injuries)	EUR 5,000	

	382.	*25*	Atsamaz BEKOYEV	17/05/1993	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	383.	*27.*	Arsen GABISOV	28/07/1995	Beslan	hostage (medium gravity injuries) represented by mother Gabisova Tamara	EUR 5,000	
	384.	*28.*	Larisa DZAMPAYEVA	30/09/1959	Beslan	hostage (medium gravity injuries); mother of hostage Gabisova Dzerassa 1995 (**385**) (medium gravity injuries)	EUR 5,000	
	385.	*29.*	Dzerassa GABISOVA	31/10/1995	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	386.	*30.*	Madina TOKAYEVA	21/10/1988	Beslan	hostage (grave injuries)	EUR 7,000	
	387.	*32.*	David BEDOYEV	17/10/1992	Beslan	hostage (medium gravity injuries) represented by mother Bedoyeva Daniya	EUR 5,000	
	388.	*34.*	Anzhelika PARSIYEVA	30/07/1990	Beslan	hostage (grave injuries) represented by mother Parsiyeva Irina	EUR 7,000	

	389.	*35.*	Raisa TOTIYEVA	01/08/1960	Beslan	mother of deceased Totiyeva Larisa 1990, deceased Totiyeva Lyubov 1992, deceased Totiyeva Albina 1993, deceased Totiyev Boris 1996	EUR 40,000	
	390.	*36.*	Ruslan KHUADONOV	15/03/1986	Beslan	brother of deceased Khuadonova Regina 1989	-	see joint award with applicants **18** – mother and **19** - sister
	391.	*37.*	Zalina BIGAYEVA	25/12/1974	Beslan	hostage (medium gravity injuries); mother of hostages Bigayeva Madina (medium gravity injuries) 1996 (**392**) and Bigayeva Alina (medium gravity injuries) 1998 (**393**)	EUR 5,000	
	392.	*38.*	Madina BIGAYEVA	07/08/1996	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	393.	*39.*	Alina BIGAYEVA	09/01/1998	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	394.	*41.*	Madina AZIMOVA	25/12/1992	Beslan	hostage (medium gravity injuries) represented by mother Bagayeva Zalina	EUR 5,000	

	395.	*42.*	Marina AZIMOVA	03/04/1991	Beslan	hostage represented by mother Bagayeva Zalina	EUR 3,000	
	396.	*44.*	Tsezar KHUGAYEV	21/09/1991	Beslan	hostage (medium gravity injuries) represented by father Khugayev Tamaz	EUR 5,000	
	397.	*45.*	Albina KHUGAYEVA	29/11/1992	Beslan	hostage (grave injuries) represented by father Khugayev Tamaz	EUR 7,000	
	398.	*47.*	Borislav KHADIKOV	19/06/1993	Beslan	hostage (medium gravity injuries) represented by mother Khanikayeva Anzhela	EUR 5,000	
	399.	*49.*	Georgiy ILYIN	29/11/1996	Beslan	hostage (medium gravity injuries) represented by mother Kusova Fatima	EUR 5,000	
	400.	*50.*	Zareta KARGIYEVA	20/03/1941	Beslan	mother-in-law of deceased Khubayeva Madina 1972, grandmother of deceased Khubayev Ruslan 1993 and hostage Khubayeva (Kargiyeva) Ilona (grave injuries) 1996 (**408**)	-	awarded to applicant **401** – husband and father

	401.	*51.*	Igor KARGIYEV	25/05/1965	Beslan	husband of deceased Khubayeva Madina 1972 and father of deceased Khubayev Ruslan 1993 and of hostage Khubayeva (Kargiyeva) Ilona 1996 (grave injuries) (**408**)	EUR 10,000 jointly with applicants **114** – mother and **304** – sister; and EUR 10,000	
	402.	*52.*	Svetlana DZODZIYEVA	19/10/1969	Beslan	hostage; mother of hostages Peliyev Georgiy 1991 (medium gravity injuries) (**403**) and Peliyeva Zarina 1995 (medium gravity injuries) (**404**)	EUR 3,000	
	403.	*53.*	Georgiy PELIYEV	30/07/1991	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	404.	*54.*	Zarina PELIYEVA	21/04/1995	Beslan	hostage (medium gravity injuries)	EUR 5,000	
	405.	*55.*	Larisa SABANOVA	01/03/1952	Beslan	daughter of deceased Sabanov Tarkan 1915	EUR 5,000	see applicant **406** - daughter
	406.	*56.*	Fatima SABANOVA	28/03/1948	Beslan	daughter of deceased Sabanov Tarkan 1915	EUR 5,000	see applicant **405** - daughter

	407.	*57.*	Vladimir DAUROV	13/03/1969	Beslan	hostage (medium gravity injuries); father of deceased Daurov David 1994	EUR 15,000	
	408.	*58.*	Ilona KARGIYEVA	18/06/1996	Beslan	hostage (grave injuries)	EUR 7,000	
	409.	*59.*	Zarina TSIRIKHOVA	1990	Beslan	hostage (grave injuries) represented by mother Tsirikhova Aida	EUR 7,000	

Awards under Article 41 in respect of costs and expenses

Application number	Applicant/representative	Awards under Article 41 (costs and expenses)
Application no. 26562/07	Applicant Zhenya Tagayeva (applicant no. 3)	EUR 792 (seven hundred ninety two) (postal expenses)
Applications nos. 26562/07, 49380/08, 21294/11 and 37096/11	Lawyers of the EHRAC, to be paid directly to the EHRAC account	EUR 45,000 (forty five thousand)
Applications nos. 14755/08, 49339/08 and 51313/08	Mr Trepashkin, to be paid directly to his account	EUR 20,000 (twenty thousand)
	Mr Knyazkin, to be paid directly to his account	EUR 23,000 (twenty three thousand)