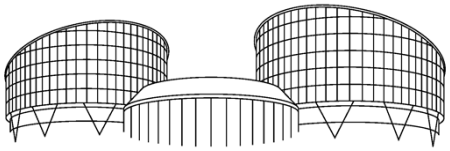

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

GRAND CHAMBER

CASE OF Z.A. AND OTHERS v. RUSSIA

(Applications nos. 61411/15, 61420/15, 61427/15 and 3028/16)

JUDGMENT

STRASBOURG

21 November 2019

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

In the case of Z.A. and Others v. Russia,

The European Court of Human Rights, sitting as a Grand Chamber composed of:

Linos-Alexandre Sicilianos, *President*,
Angelika Nußberger,
Robert Spano,
Jon Fridrik Kjølbro,
Ksenija Turković,
Paul Lemmens,
Ledi Bianku,
Işıl Karakaş,
Nebojša Vučinić,
André Potocki,
Aleš Pejchal,
Dmitry Dedov,
Yonko Grozev,
Mārtiņš Mits,
Georges Ravarani,
Jolien Schukking,
Péter Paczolay*, judges*,

and Johan Callewaert, *Deputy Grand Chamber Registrar,*

Having deliberated in private on 18 and 19 April 2018 and on 13 March and 3 October 2019,

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

PROCEDURE

1. The case originated in four applications (nos. 61411/15, 61420/15, 61427/15 and 3028/16) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by Mr Z.A., an Iraqi national, Mr M.B., who holds a passport issued by the Palestinian Authority, Mr A.M., a Somalian national and Mr Hasan Yasien, a Syrian national ("the applicants") on 12 December 2015 (the first three applications) and 14 January 2016 (the latter application). The President of the Grand Chamber acceded to the first three applicants' request not to have their names disclosed (Rule 47 § 4 of the Rules of Court).

2. The applicants were represented by Ms E. Davidyan, Ms D. Trenina, and Mr K. Zharinov, lawyers practising in Moscow. The Russian Government ("the Government") were represented by Mr G. Matyushkin, Representative of the Russian Federation to the European Court of Human Rights, and then by his successor in that office, Mr M. Galperin.

3. The applicants complained under Article 5 § 1 of the Convention that they had been unlawfully detained in the transit zone of Sheremetyevo Airport pending examination of their asylum applications. Relying on Article 3 of the Convention, they further complained that the conditions of their detention had been inadequate.

4. The applications were allocated to the Third Section of the Court (Rule 52 § 1 of the Rules of Court). A Chamber of that Section composed of Helena Jäderblom, Branko Lubarda, Helen Keller, Dmitry Dedov, Pere Pastor Vilanova, Alena Poláčková, Georgios A. Serghides, judges, and also of Stephen Phillips, Section Registrar, delivered a judgment on 28 March 2017. The Court unanimously joined the applications and declared them admissible and held, by a majority, that there had been violations of Article 5 § 1 and Article 3 of the Convention. The dissenting opinion of Judge Dedov was annexed to the judgment.

5. On 27 June 2017 the Government requested the referral of the cases to the Grand Chamber in accordance with Article 43 of the Convention. On 18 September 2017 the panel of the Grand Chamber granted that request.

6. The composition of the Grand Chamber was determined according to the provisions of Article 26 §§ 4 and 5 of the Convention and Rule 24 of the Rules of Court. The President of the Court decided that, in the interests of the proper administration of justice, the present case and the case of *Ilias and Ahmed v. Hungary* (application no. 47287/15) should be assigned to the same composition of the Grand Chamber (Rules 24, 42 § 2 and 71).

7. The applicants and the Government each filed further written observations (Rule 59 § 1) on the merits.

8. In addition, third-party comments were received from the Hungarian Government, which had been given leave by the President of the Grand Chamber to intervene in the written procedure (Article 36 § 2 of the Convention and Rule 44 § 3). Third-party comments received in the course of the proceedings before the Chamber from the Office of the United Nations High Commissioner for Refugees (UNHCR), which had been granted leave by the President of the Third Section to intervene in the written procedure in application no. 3028/16, were included in the file before the Grand Chamber.

9. A hearing took place in public in the Human Rights Building, Strasbourg, on 18 April 2018 (Rule 59 § 3).

There appeared before the Court:

(a) *for the respondent Government*
Mr M. GALPERIN, Representative of the Russian Federation to the European Court of Human Rights, *Agent*,
Ms YA. BORISOVA,
Ms O. OCHERETYANAYA, *Advisers*;

(b) *for the applicants*
Ms E. DAVIDYAN,
Ms D. TRENINA,
Mr K. ZHARINOV, *Counsel.*

The Court heard addresses by Ms Trenina, Mr Zharinov, Ms Davidyan, and Mr Galperin, and replies to the questions from judges by Ms Davidyan and Mr Galperin.

THE FACTS

I. THE BACKGROUND TO THE APPLICANTS' RESPECTIVE CASES AND ARRIVAL AT SHEREMETYEVO AIRPORT

10. The applicants found themselves staying in the transit zone of Sheremetyevo Airport in Moscow. Certain details of the factual circumstances of the case are in dispute between the parties, as indicated below.

A. Mr Z.A.

11. Mr Z.A. is an Iraqi national who was born in 1987.

12. Following threats from an Islamic State militant group, the applicant left Iraq for Turkey on a single-entry transit tourist visa received in Mosul on 11 May 2014. According to the applicant, he fled Iraq on 12 June 2014; according to the Government, he moved to Turkey by car on 27 June 2014.

13. According to the Government, Mr Z.A. spent a year in Turkey seeking employment, but did not apply for refugee status there. According to the applicant, he unsuccessfully applied for asylum in Turkey in June 2014 and moved to China in June 2015, where he had no opportunity to seek asylum.

14. On 24 July 2015 Mr Z.A. travelled by air from Shanghai to Ankara via Moscow. The Turkish authorities denied him entry because he had no visa. The applicant was sent to Moscow on 27 July 2015. On arrival at Sheremetyevo Airport on the same day, he was not allowed to pass through passport control. The Russian Border Guard Service of the Federal Security Service ("the BGS") seized his passport.

B. Mr M.B.

15. Mr M.B., who was born in 1988, holds a passport issued by the Palestinian Authority.

16. On 19 April 2013 the applicant left Gaza by car and arrived in Cairo, Egypt, on 20 April 2013. According to the Government, he did not apply for refugee status in Egypt.

17. On 22 April 2013 Mr M.B. left Egypt and arrived in Moscow holding a business visa valid from 16 April 2013 to 25 February 2014. On 23 April 2013 he arrived in Irkutsk where he resided with his uncle and found casual jobs. After his visa expired, Mr M.B. stayed in Irkutsk.

18. On 18 August 2015 a Russian court found Mr M.B. guilty of a breach of the migration rules and ordered his expulsion. The parties have not submitted a copy of the judgment of 18 August 2015, nor have they specified the name of the court that delivered it.

19. On 21 August 2015 the applicant took a flight from Russia to the Gaza Strip via Cairo. However, given that the crossing point in Rafah was closed, he was held for two days in the transit zone of Cairo Airport and then sent back to Moscow.

20. Mr M.B. arrived at Sheremetyevo Airport on 23 August 2015. As he did not have a visa, he was denied entry into Russia. The BGS seized his passport.

C. Mr A.M.

21. Mr A.M. is a Somalian national who was born in 1981.

22. In 2005 the applicant moved from Somalia, where he had worked as a journalist, to Yemen, and was granted refugee status there. In 2010 he went back to Somalia and worked as a journalist for a national TV channel in Mogadishu.

23. In the applicant's submission, on 20 September 2012 members of the militant group Al-Shabaab carried out a terrorist attack next to the TV channel's office to coerce its journalists into broadcasting extrajudicial killings that the group performed. As the applicant refused to obey them, his family was taken hostage. On 23 September 2012 one of the applicant's sons, aged seven, was killed, and another received a blow as a result of which he was paralysed. The applicant himself was beaten and tortured. Eventually Mr A.M. and his remaining family managed to escape. In September 2012 the applicant again fled to Yemen. On 16 September 2012 he obtained a temporary residence permit valid until 15 September 2014. A copy of the Yemeni residence permit shows that it was issued on 16 September 2012 in Sana'a, Yemen. The applicant has provided no explanation for the discrepancy in dates regarding the terrorist attack of 20 September 2012 and the attack on his family of 23 September 2012.

24. In August 2014 Mr A.M. obtained Yemeni nationality and a Yemeni passport. In March 2015 the applicant decided to go to Cuba and apply for asylum there because of a personal conflict and the escalation of hostilities in Yemen.

25. In the Government's submission, at the end of 2012 the applicant went to Yemen and set up a business there. Later the applicant had to move to Cuba because his former business partner had allegedly threatened him and kidnapped his wife.

26. On 12 March 2015 Mr A.M. travelled by air to Havana, Cuba. The journey consisted of three legs: Sana'a to Istanbul, Istanbul to Moscow and Moscow to Havana. On 13 March 2015 the applicant, who was in possession of a Russian transit visa, landed in Moscow for the first time. He then continued his journey to Havana.

27. The applicant had a valid one-month Cuban visa. According to the applicant, he requested asylum immediately upon arrival in Cuba but was not allowed to enter the country. His asylum request was not processed. Mr A.M. took a flight to Quito, Ecuador, where he unsuccessfully requested asylum and was denied entry into the country and access to the asylum procedure. The applicant was sent back to Cuba, where he was detained in a special detention facility for aliens.

28. On 9 April 2015 the applicant was deported from Cuba to Russia.

29. On 10 April 2015 the applicant arrived at Sheremetyevo Airport. He was not allowed to pass through passport control. The BGS seized his passport.

D. Mr Yasien

30. Mr Hasan Yasien is a Syrian national who was born in 1975.

31. In 2004 and 2008 the applicant stayed in Russia for several months on business visas.

32. According to the applicant, in 2011 he left Syria for Lebanon because of the hostilities and unsuccessfully applied for temporary asylum there. Nine months later he returned to Syria to renew his passport. In June 2014 he left for Lebanon. On 11 June 2014 he obtained a Russian business visa valid until 25 August 2014 from the Russian embassy in Beirut.

33. On 4 July 2014 Mr Yasien arrived in Moscow from Beirut. After his business visa expired he remained in Russia.

34. On 8 September 2014 the Noginsk City Court of the Moscow Region ("the Noginsk Court") found the applicant guilty of a breach of the migration rules and ordered his expulsion.

35. On 10 September 2014 Mr Yasien applied to the Moscow City Department of the Federal Migration Service ("the Moscow City FMS") for temporary asylum. That application was refused on 8 December 2014. The applicant did not appeal against the refusal and remained in Russia.

36. On 17 August 2015 the Noginsk Court again found the applicant guilty of a breach of the migration rules and ordered his expulsion.

37. On 18 August 2015 the applicant took a flight from Moscow to Antalya, Turkey. The BGS seized his passport and handed it over to the aircraft crew. The Turkish authorities denied the applicant entry into the country and sent him back to Moscow, on 20 August 2015 according to the applicant and on 21 August 2015 according to the Government. Upon the applicant's arrival in Moscow, the Russian authorities sent him back to Antalya. The Turkish authorities then returned the applicant to Moscow.

38. On 8 September 2015 the applicant took a flight to Beirut, but the Lebanese authorities denied him entry into the country and sent him back to Moscow.

39. On 9 September 2015 Mr Yasien arrived at Sheremetyevo Airport. The BSG did not allow him to pass through passport control and seized his passport.

II. CONDITIONS OF THE APPLICANTS' STAY IN THE SHEREMETYEVO AIRPORT TRANSIT ZONE

A. Submissions by the applicants

40. The applicants described the conditions of their stay in the airport transit zone as follows.

41. They had slept on a mattress on the floor in the boarding area of the airport, which had been constantly lit, crowded and noisy. There had been no showers readily available to them in the transit area. The only shower that was free of charge was located in the room for detainees and had been locked. Access to it had been conditional upon permission of the BGS officers, who had allowed the applicants to use it and provided them with the key several times during the first week of their stay.

42. The applicants had not had access to fresh air and had not been able to take any outdoor exercise. They had not had access to a notary, which had precluded them from issuing notarised powers of attorney required under Russian law to appoint a representative who could communicate with the public authorities on their behalf, or to medical, legal, social or postal services. All their requests for medical assistance had been dismissed; medical personnel had not been allowed to visit the applicants in the transit zone.

43. The applicants had not been in possession of their passports throughout the duration of their stay. The BGS officers had seized each applicant's passport upon their arrival and had handed them to the aircraft crews only when the applicants were about to take a flight out of Sheremetyevo Airport.

44. The applicants' access to a lawyer had remained within the discretion of the BGS officers on duty in the transit zone and "[had] never [been] guaranteed". All meetings of the applicants with the lawyers who had been introduced to them by the Russian office of the UNHCR had taken place in the presence of two or three BGS officers.

B. Submissions by the Government

45. In their written observations and oral submissions before the Grand Chamber, the Government did not provide any description of the material conditions of the applicants' stay in the transit zone of Sheremetyevo Airport.

III. THE APPLICANTS' ASYLUM APPLICATIONS IN RUSSIA AND THE ENSUING PROCEEDINGS

A. Mr Z.A.

46. On 29 July 2015 Mr Z.A. applied for refugee status in Russia through the BGS.

47. According to the applicant, about one month after that date the BGS officers had "forced [him] to rewrite his application changing the date of the initial request to the current one", threatening him with expulsion to Iraq in order "to conceal their failure" to transmit the request to the Federal Migration Authority within three days.

48. On 17 September 2015 Mr Z.A. was interviewed in the airport transit zone by officers of the Moscow Regional Department of the Federal Migration Service ("the Moscow Region FMS").

49. On 23 September 2015 the application for refugee status was accepted for examination on the merits. According to the applicant, the Moscow Region FMS did not issue him with an examination certificate (see paragraphs 99-100 below). According to the Government, an examination certificate was issued on 23 September 2015. The Government have enclosed a copy of the decision to issue a certificate but no copy of the document itself.

50. On 10 November 2015 the Moscow Region FMS dismissed Mr Z.A.'s request for asylum on the grounds that "the reason why the applicant left [Iraq] and why he is reluctant to return there is not in order to seek asylum but economic considerations and a difficult social and economic situation on the territory of [Iraq]." They concluded that the applicant had not put forward convincing reasons why he personally feared persecution. The applicant was notified accordingly on 14 November 2015. On 1 December 2015 the applicant's lawyer requested the Moscow Region

FMS to issue Mr Z.A. with an examination certificate and to assign him to a temporary accommodation centre.

51. On 3 December 2015 the applicant appealed to the Federal Migration Service of Russia ("the Russian FMS"), which, at the material time, prior to its dissolution by the Presidential Decree of 5 April 2016, served as the higher migration authority. He requested that the Russian FMS overrule the decision of 10 November 2015, issue him with an examination certificate, and assign him to a centre for the temporary detention of aliens.

52. On 29 December 2015 the Russian FMS dismissed the applicant's appeal.

53. On 1 February 2016 the applicant lodged an appeal against the decisions of 10 November and 29 December 2015 with the Basmannyy District Court of Moscow ("the Basmannyy Court").

54. On 5 February 2016 the UNHCR recognised the applicant as a person in need of international protection and started a resettlement procedure.

55. On 17 March 2016, having been resettled by UNHCR, the applicant left for Denmark.

56. On 12 May 2016 the Basmannyy Court upheld the Russian FMS's decision. On the same date the applicant's lawyer lodged a brief statement of appeal *(краткая апелляционная жалоба),* pending receipt of a reasoned judgment in written form. Subsequently the Basmannyy Court discontinued the proceedings on the grounds that the applicant's lawyer could not obtain a notarised authority form following the resettlement.

B. Mr M.B.

57. Three weeks after his arrival at Sheremetyevo Airport the applicant applied for refugee status in Russia through the BGS. Neither party has submitted the exact date; if calculated from 23 August 2015, the date of Mr M.B.'s arrival at Sheremetyevo Airport, the date would fall on 13 September 2015.

58. On 14 November 2015 the Moscow Region FMS officers interviewed Mr M.B. in the airport transit zone.

59. On 20 November 2015 Mr M.B.'s application for refugee status was accepted for examination on the merits. According to the Government, an examination certificate was issued on the same date. The Government have enclosed a copy of the decision to issue a certificate but no copy of the document itself. According to the applicant, the Moscow Region FMS did not provide Mr M.B. with such a certificate.

60. On 1 December 2015 the applicant's lawyer requested the Moscow Region FMS to issue Mr M.B. with an examination certificate and to assign him to a temporary accommodation centre.

61. On the same date the Moscow Region FMS dismissed Mr M.B.'s application for refugee status on the grounds that "the reason why the applicant left Palestine and why he is reluctant to return there is not in order to seek asylum but the poor social and economic situation in the territory of Palestine." They concluded that the applicant had not put forward convincing reasons why he personally feared persecution.

62. On 21 December 2015 the applicant's lawyer appealed to the Russian FMS. On 31 December 2015 the Russian FMS dismissed the appeal.

63. On 1 February 2016 the applicant lodged an appeal against the Russian FMS's decision with the Basmannyy Court.

64. On 13 February 2016 the Egyptian authorities opened the Rafah crossing point to Gaza. The applicant agreed to take a flight to Egypt and left the transit zone of Sheremetyevo Airport.

65. On 12 May 2016 the Basmannyy Court upheld the Russian FMS's decision. The applicant's lawyer lodged a brief statement of appeal on the same date, pending receipt of a reasoned judgment in written form. Later, the Basmannyy Court discontinued the proceedings on the grounds that the applicant's lawyer could not obtain a notarised authority form following the departure and thus could not lodge a detailed statement of appeal.

C. Mr A.M.

66. The applicant applied for refugee status in Russia through the BGS (according to the applicant, on 10 April 2015; according to the Government, on 11 April 2015).

67. On 1 July 2015 the Moscow Region FMS interviewed the applicant in the airport transit zone.

68. In the applicant's submission, on 1 July 2015 his application was accepted for examination on the merits. However, he was not issued with an examination certificate. In the Government's submission, an examination certificate was issued on 7 July 2015. The Government have enclosed a copy of the decision to issue a certificate but no copy of the document itself.

69. On 1 October 2015 the Moscow Region FMS dismissed the application for refugee status on the grounds that the applicant's family had continued living in Somalia without being persecuted and that he had worked in Yemen. They concluded that the applicant had not left Somalia for any of the reasons listed in Federal Law FZ-4528-1 of 19 February 1993 (with amendments, hereinafter "the Refugees Act"), and thus could be deported there. The applicant was informed accordingly on 3 November 2015, but claimed that he had not been served with a copy of the decision rejecting his application.

70. On 24 November 2015 Mr A.M. appealed against the decision of 1 October 2015 to the Russian FMS.

71. On 1 December 2015 the applicant's lawyer requested the Moscow Region FMS to issue Mr A.M. with an examination certificate and to assign him to a temporary accommodation centre.

72. On 7 December 2015 the Russian FMS dismissed the applicant's appeal against the decision of 1 October 2015 on the grounds that he had been unwilling to return to Yemen because of threats from a third person but nothing prevented him from returning to Somalia in the absence of convincing claims of persecution there. It also noted that the applicant had expressed his readiness to go to Somalia.

73. On 15 December 2015 Mr A.M. applied for temporary asylum through the BGS.

74. On 29 December 2015 the applicant lodged an appeal with the Basmannyy Court against the Russian FMS's decision of 7 December 2015 rejecting his application for refugee status.

75. On 22 December 2015 the Moscow Region FMS refused the application for temporary asylum as unsubstantiated on the grounds that the applicant had applied for it merely in order to legitimise his situation in Russia. The applicant was notified accordingly, on 25 December 2015 according to the Government and on 28 December 2015 according to the applicant.

76. On 10 February 2016 the Russian FMS rejected an appeal against the Moscow Region FMS's decision of 22 December 2015 regarding temporary asylum on the grounds that the applicant had been unwilling to return to Yemen because of the threats from a third person but nothing prevented him from returning to Somalia in the absence of convincing claims of persecution there. They also noted that the applicant had expressed his readiness to go to Somalia.

77. On 24 February 2016 the UNHCR recognised the applicant as a person in need of international protection.

78. On 19 May 2016 the Basmannyy Court dismissed an appeal lodged by the applicant on 11 March 2016 against the decisions of the Moscow Region FMS and the Russian FMS dismissing his application for temporary asylum. It reasoned, in particular, that the applicant had not proved that the terrorists who had threatened him in 2005 represented any danger more than ten years later and that, should such threats persist, he "ha[d] not been deprived of an opportunity to avail himself of the protection of his State of nationality [that is to say] to apply to the law-enforcement agencies of the Republic of Somalia [for protection]." The applicant's lawyer appealed against the judgment on 31 May 2016.

79. On 12 September 2016 the Basmannyy Court upheld the Russian FMS's decision of 7 December 2015 concerning the application for refugee status.

80. On 20 September 2016 the Moscow City Court dismissed his appeal against the Basmannyy Court's judgment of 19 May 2016 concerning the

application for temporary asylum on the grounds that the situation in Somalia had not changed since the applicant's application for refugee status had been rejected, and that there were no humanitarian grounds that would warrant granting him temporary asylum. It was also noted that the applicant had abused his right to apply to court by trying to circumvent the legal procedure for legitimising his situation in Russia.

81. On 6 February 2017 the Moscow City Court dismissed his appeal against the Basmannyy Court's judgment of 12 September 2016 concerning the application for refugee status on the grounds that the applicant had not needed asylum at the moment of "crossing the State border of the Russian Federation" because he had not provided proof of the existence of a real threat in the event of his return to Somalia.

82. According to the applicant, having received the final rejections of his applications for refugee status and temporary asylum from the Russian authorities, he decided that he did not have any chance of obtaining asylum in Russia and informed the BGS that he agreed to leave for Mogadishu, Somalia. On 9 March 2017 the UNHCR obtained the agreement of Turkish Airlines to provide Mr A.M. with a ticket to Mogadishu via Istanbul. The officers of the Federal Security Service escorted the applicant to Vnukovo Airport of Moscow, ensured that he boarded the aircraft and handed his passport over to the crew. Since then the applicant has resided in Mogadishu, where he has abandoned journalism "to escape the attention of the terrorists".

D. Mr Yasien

83. According to the Government, Mr Yasien applied for temporary asylum on 19 September 2015.

84. According to the applicant, on that date he applied for refugee status through the BGS. His application was allegedly lost. The applicant lodged a new application for refugee status on 5 October 2015.

85. On 3 November 2015 the Moscow Region FMS interviewed the applicant in the airport transit zone.

86. According to the applicant, the Moscow Region FMS accepted his application for examination on the merits on 3 November 2015 but did not provide him with an examination certificate. In his submission, it was a well-established practice of the migration authorities to issue, but not deliver, examination certificates to detained asylum-seekers. The certificates of asylum-seekers in detention were kept at the migration service office together with the case files.

87. On 1 December 2015 the applicant's lawyer requested the Moscow Region FMS to issue Mr Yasien with an examination certificate and to assign him to a temporary accommodation centre.

88. On 21 December 2015 the Moscow Region FMS dismissed Mr Yasien's application for temporary asylum although the applicant had applied for refugee status, not temporary asylum. The grounds for rejection were as follows: the applicant's economic situation in Syria had been unsatisfactory so he had left the country for economic reasons, and he had applied for temporary asylum to legitimise his situation in Russia in order to have an opportunity to work there. The applicant was notified accordingly, on 23 December 2015 according to the applicant and on 25 December 2015 according to the Government. According to the applicant, he was not served with a copy of the decision.

89. On 29 December 2015 Mr Yasien again submitted his application for refugee status through the BGS.

90. On 12 January 2016 the applicant appealed, through his lawyer, against the decision of 21 December 2015 to the Russian FMS. He emphasised that on 19 September and 5 October 2015 he had applied for refugee status, while the decision in question concerned temporary asylum, and that for unknown reasons the Moscow Region FMS had substituted the temporary asylum procedure for the refugee status procedure. The applicant referred to the grave humanitarian crisis in Syria and submitted that, in breach of the Refugees Act, the Moscow Region FMS had not issued him with an examination certificate.

91. On 4 February 2016 the Russian FMS dismissed the appeal and upheld the decision of 21 December 2015. It noted, in particular, that there were regular flights from Moscow to Damascus, from where Syrian nationals could travel to other parts of the country under the control of the Government of Syria, and that "many Syrians wish[ed] to leave the country not only because of a fear for their lives but, in large part, because of the worsening economic and humanitarian situation". The Russian FMS did not address the applicant's argument regarding the replacement of the refugee status procedure with the one for temporary asylum.

92. On 7 April 2016 the applicant once again lodged an application for refugee status through the BGS. He received no response.

93. On 11 April 2016 the applicant complained to the Zamoskvoretskiy District Court of Moscow ("the Zamoskvoretskiy Court") about the decisions of 21 December 2015 and 4 February 2016 and the inaction of the Russian FMS.

94. On 21 April 2016 the UNHCR recognised the applicant as a person in need of international protection and started a resettlement procedure.

95. On 11 May 2016 the applicant was resettled by the UNHCR and left for Sweden.

96. On 31 August 2016 the Zamoskvoretskiy Court upheld the Russian FMS's decision of 4 February 2016.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LAW

97. Section 6 of the Federal Law on Exit from and Entry into the Territory of the Russian Federation (FZ-114 of 15 August 1996, with amendments), in so far as relevant, reads as follows:

> "Upon arrival in and departure from the Russian Federation, foreign nationals or stateless persons are obliged to present valid documents confirming their identity and [which are] accepted as such by the Russian Federation, and a visa, unless this Federal Law, or a treaty concluded by the Russian Federation, or decrees by the President of the Russian Federation, provide otherwise."

98. Section 14 of the State Border of the Russian Federation Act (FZ-4730-1 of 1 April 1993, with amendments), in so far as relevant, reads as follows:

> "Foreign nationals and stateless persons who do not possess the status of a person living or residing in the Russian Federation and who have crossed the State border [upon arrival] from the territory of a foreign State shall be [held responsible], in accordance with the Russian law, if there are indications that their actions [constitute] a criminal or administrative offence.
>
> Where there are no grounds for instituting criminal or administrative proceedings against ... violators of the State border, and if they do not enjoy the right to political asylum, ... the border authorities shall officially transfer them upon arrival to the authorities of the State from ... which they have crossed the [Russian] State border. If their transfer to the authorities of the foreign State is not envisioned by a treaty between the Russian Federation and that State, the border authorities shall deport them [to places] outside the territory of the Russian Federation ... designated by the border authorities."

99. Section 4 of the Refugees Act provides, in so far as relevant, as follows:

> "1. An adult who has expressed a wish to be recognised as refugee shall lodge a written application, either in person or through a representative:
>
> ...
>
> 1 (2) with the Border Guard Service [the BGS] of the Federal Security Service ... at the border crossing point of the Russian Federation at the time when that person crosses the border ...
>
> ...
>
> 3. An application lodged with the Border Guard Service at the border crossing point ... shall be transmitted by [the BGS] to the ... migration authority ... within three days of the date of its being lodged.
>
> ...
>
> 5 (2) An application made by a person who is at a border crossing point ... shall be preliminarily examined by ... the migration authority ... within five days of the date of its receipt.

...

6. A decision to issue a certificate [to confirm the examination of an application for refugee status on the merits ("certificate")] shall be taken ... by the migration authority.

A decision to issue a certificate shall serve as grounds for recognising the person's ... rights and for imposing obligations on him or her ...

7. Within twenty-four hours of that decision ... the migration authority ... shall send the certificate to the person or serve it on him or her ...

The certificate is a document [that serves to identify] a person who has applied for refugee status.

...

The certificate also serves as grounds for a person ... to receive a document authorising his placement in a temporary accommodation centre."

100. Section 6 of the Refugees Act reads, in so far as relevant, as follows:

"1. The person in receipt of the certificate ... has a right:

1 (1) to the services of a translator and an interpreter and to information on the procedure for the granting of refugee status;

...

1 (3) to receive a lump-sum allowance ...

1 (4) to receive from ... the migration authority a document authorising his or her placement in a temporary accommodation centre;

...

1 (6) to receive food and communal services at the temporary accommodation centre ...

1 (7) to receive medical and pharmacological aid ..."

II. INTERNATIONAL LAW

The 1951 United Nations Convention Relating to the Status of Refugees

101. Article 31 of the 1951 Convention reads as follows:

"1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into

another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country."

102. Article 33 of the 1951 Convention provides:

"1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country."

III. COMPARATIVE-LAW MATERIALS

103. According to the survey of the situation of asylum-seekers confined to a transit zone on the territory of a State pending the outcome of asylum proceedings in thirty-four Contracting Parties to the Convention made available to the Court, in seven of the thirty-four member States surveyed, namely the Czech Republic, France, Lithuania, Montenegro, the Netherlands, Portugal and Ukraine, the stay in a transit zone of persons who have applied for international protection is regarded under national law as a deprivation of liberty, whereas under the national law of eighteen of the thirty-four Contracting Parties, namely Albania, Austria, Azerbaijan, Bulgaria, Croatia, Estonia, Finland, Georgia, Germany, Greece, North Macedonia, Republic of Moldova, Poland, Romania, Serbia, Slovenia, Spain and the United Kingdom (England and Wales), such stay is not regarded as a deprivation of liberty.

104. In nine of the thirty-four Contracting Parties, namely Armenia, Belgium, Iceland, Liechtenstein, Luxembourg, Norway, San Marino, Slovakia and Sweden, there are no transit zones in either legal or practical terms in which asylum-seekers are confined pending the outcome of their asylum proceedings.

105. Twelve of the thirty-four Contracting Parties, namely Austria, Croatia, Czech Republic, France, Georgia, Greece, Lithuania, Montenegro, Netherlands, Portugal, Romania and Spain, have in place legal provisions and procedures specifically applicable to persons who have applied for international protection while in a transit zone at an airport or at a land or sea border point.

THE LAW

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

106. The applicants complained that their confinement in the transit zone of Sheremetyevo Airport had amounted to an unlawful deprivation of

liberty, in breach of Article 5 § 1 of the Convention, the relevant parts of which read as follows:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
>
> ...
>
> (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition."

A. The Chamber judgment

107. The Chamber declared the complaint under Article 5 § 1 admissible and found that the applicants' confinement in the transit zone of Sheremetyevo Airport had amounted to a *de facto* deprivation of liberty.

108. The Chamber further examined the issue of lawfulness of the applicants' *de facto* deprivation of liberty. In the absence of any reference by the Government to any domestic legal provision capable of serving as a legal basis, the Chamber considered that the applicants' lengthy confinement in the transit zone of Sheremetyevo Airport had not had any legal basis in the domestic law, in breach of the requirement of Article 5 § 1 of the Convention, and found a violation of that provision.

B. The parties' submissions

1. The applicants

109. The applicants submitted that while in the airport transit zone they had been in the situation of asylum-seekers whose applications had not yet been considered. They had not had the option of entering a State other than the one they had fled and had been under the jurisdiction of Russia. During their lengthy stay in the airport transit zone they had been unable to enter Russian territory or receive visits from doctors and notaries; access to them by their lawyers had been conditional and occasionally denied; and the BGS had seized their passports. Accordingly, the applicants had not chosen to stay in the transit zone and thus could not be said to have validly consented to being deprived of their liberty. They concluded that their confinement in the transit zone had amounted to a *de facto* deprivation of liberty.

110. Regarding the compatibility of their *de facto* deprivation of liberty with Article 5 § 1, the applicants submitted that there had been no court or other official decision authorising their respective detention. In the absence of any legal procedure to assess the lawfulness or duration of their detention, the applicants had been "in a legal vacuum." They concluded that their lengthy confinement in the airport transit zone for an indefinite and unforeseeable period in the absence of a specific legal provision justifying it

and of judicial authorisation or review had not had any basis in domestic law, in breach of Article 5 § 1.

111. The applicants submitted that the subject of their complaint before the Court was not the Russian authorities' refusal to grant them asylum. The thrust of their respective applications was "that their rights [had been] violated by the absence of legal regulations and by the authorities' violation of the regulations that should have applied and their complete lack of consideration or intention to preserve human dignity."

112. The applicants stated that they had lodged applications for refugee status and temporary asylum in compliance with Russian domestic law despite the lack of information about the procedure available in the airport transit zone and the fact that the BGS officers had only spoken Russian. The Russian authorities' failure to treat the applicants as asylum-seekers and to provide them with examination certificates had deprived them of the opportunity to enjoy the rights guaranteed by the Refugees Act.

2. The Government

113. The Government insisted that it was "vital to draw a distinction between genuine refugees and migrants", the latter being persons moving to a third country for mainly economic reasons. In the Government's view, the applicants had not met the refugee criteria laid down by the Geneva Convention as they had not arrived in Russia directly from the countries of the alleged risk, had not chosen it as a first safe country for the purposes of claiming asylum, had not applied for asylum in Russia immediately upon arrival there, and had not sought asylum in other countries beforehand. In the course of interviews by the Russian migration authorities, the applicants had not substantiated their allegations that their lives were endangered in the countries of origin but had referred to a poor economic situation. Allegations of possible risks had been raised only after the applicants had been put in contact with lawyers specialising in asylum cases. Accordingly, the applicants were not "genuine asylum-seekers" but "ordinary migrants" whose asylum applications had been "artificially created and had little prospects of success."

114. The Government submitted that they should not be deemed responsible for difficulties that had been the result of the applicants' own choices. The Court's position in asylum-seekers' cases encouraged migrants "to abuse the right to asylum".

115. The Government insisted that a person under a State's jurisdiction was not necessarily "at the hands of the authorities" and further stated that the applicants should have been well aware of the fact that they had not had the requisite documents and had not had valid grounds to enter Russia. By deliberately attempting to enter Russia without valid visas and grounds on which to be regarded as refugees, the applicants had breached Russian law and had validly consented to be deprived of their liberty. The fact that the

Russian authorities had examined the applicants' asylum applications did not mean they had had to stay in the airport transit zone as the prospects of success of those applications had been slim. They also referred to the margin of appreciation that States enjoyed in granting asylum. They concluded that Article 5 was inapplicable in the present case.

116. The Government further referred to a State's "inherent sovereign right to control the entry and residence of aliens on its territory" and submitted that the applicants' passports had not been seized. The applicants had not been subject to expulsion, deportation or extradition proceedings; therefore, there had been no deprivation of liberty as the applicants had been free to leave Russia at any time and eventually had done so.

117. They further submitted that if a State prohibited an alien from entering its territory, he or she was forced to leave the State. Should an applicant meeting the asylum-seeker criteria laid down by the Geneva Convention be forced to return to a country where he had been persecuted, an issue under Article 3 of the Convention could arise, but only if a relevant complaint was raised by that applicant.

118. The Government further argued that the Court had "invented" a new right under the Convention – which did not guarantee a right to asylum – imposing an obligation on States to allow anyone claiming to be an asylum-seeker to enter its territory unimpeded. They concluded that there had been no violation of Article 5 § 1 in the present case.

C. Third-party interveners

1. The UNHCR

119. The UNHCR, in their submissions, addressed the Russian domestic legal framework and practice applicable to the treatment of asylum-seekers in transit zones of airports in the Russian Federation and provided its interpretation of the relevant principles of international law.

120. Russian law did not contain any provisions addressing the grounds for or duration of stays in border areas and in transit zones or stipulating procedural safeguards for asylum-seekers at the borders; nor did it provide for the possibility of judicial review in respect of the situation of those stranded in a transit zone. The conditions of stay in airport transit zones were not regulated by domestic law. Russian law did not place responsibility on any State authority for ensuring minimum basic care for asylum-seekers in transit zones.

121. Migration authorities had no staff in transit zones, which were under the full control of the BGS. The BGS did not make decisions to keep a person in the transit zone; rather, they simply did not allow the person to pass through passport control. They could also refuse, without giving reasons, to accept asylum applications. Asylum-seekers in airport transit zones were deprived of the minimum rights guaranteed by the Refugees Act

as they remained in legal limbo even after being issued with an examination certificate. They could not effectively exercise their right to appeal against a rejection at first instance of their application for refugee status.

122. Asylum-seekers stranded in transit zones were deprived of access to fresh air, privacy, food, and access to medical and social care. The period for which an asylum-seeker had to undergo such a dire lack of basic facilities could be prolonged as on average the complete asylum procedure, including appeals, could last between one and two years.

123. The UNHCR stated that, where applied, the detention of asylum-seekers should be justified under the principles of necessity, reasonableness and proportionality, and should be subject to a series of important procedural safeguards – all of which were absent in the context of persons held in airport transit zones in the Russian Federation.

2. The Government of Hungary

124. The Government of Hungary argued before the Grand Chamber that there was no "right to asylum-shopping" (that is, the right to choose a country in which to seek asylum) under current international law despite the fact that the UNHCR and "other organisations promoting refugee rights" advocated it.

125. According to the Government of Hungary, there was no right to be granted asylum. Article 14 of the Universal Declaration of Human Rights guaranteed the right to enjoy asylum; Article 12 § 2 of the International Covenant on Civil and Political Rights and Article 2 § 2 of Protocol No. 4 to the Convention proclaimed the right to leave one's own country. Yet no right to admission to a country for the purposes of seeking asylum was recognised in international law. Asylum-shopping benefitted international organised crime and escalated the European "migration crisis." The Convention did not "confer a right of admission to the territory and thus the full jurisdiction of the State". The threshold for the application of Articles 3 and 5 and their standards left "ample room for interpretation in the light of Article 1 of the Convention."

D. The Court's assessment

1. Preliminary considerations

(a) The scope of the case

126. The Court takes note of the concerns expressed by the Russian and Hungarian Governments in their submissions and agrees that the present case must be seen in the context of the practical, administrative, budgetary and legal challenges that the member States face as a consequence of the influx of refugees and immigrants. However, contrary to the Russian and Hungarian Governments' submissions before the Grand Chamber, in the

Court's view this case has little to do with the issue of whether a right to asylum as such or a right to asylum-shopping exist under current international law.

127. The thrust of the Chamber's findings was not the fact that none of the applicants had been granted asylum in Russia but the absence of a legal basis for their lengthy confinement in the airport transit area and the failure to take care of their essential needs pending the examination of their asylum applications. The Court would reiterate that the Convention has been created to set minimum standards. The right to have one's liberty restricted only in accordance with the law and the right to humane conditions, if detained under State control, are minimum guarantees that should be available to those under the jurisdiction of all member States, despite the mounting "migration crisis" in Europe.

128. Accordingly, the Court's task in the present case is to verify the respondent Government's compliance with these Convention obligations.

(b) Article 1 of the Convention

129. The first issue to be addressed is whether the applicants fell within Russian jurisdiction within the meaning of Article 1 of the Convention. The Court notes in this connection that during the events at issue the applicants were physically present on the territory of Russia and found themselves under the control of the Russian authorities.

130. The Court reiterates that an airport, including an international airport, located on the territory of a State is legally part of the territory of that State (see *Amuur v. France*, 25 June 1996, §§ 41 and 43-45, *Reports of Judgments and Decisions* 1996-III; *Shamsa v. Poland*, nos. 45355/99 and 45357/99, § 45, 27 November 2003; *Riad and Idiab v. Belgium*, nos. 29787/03 and 29810/03, § 68, 24 January 2008; *Rashed v. the Czech Republic*, no. 298/07, § 70, 27 November 2008; and *Abou Amer v. Romania*, no. 14521/03, § 39, 24 May 2011).

131. It is noteworthy that the Russian Government did not deny before the Grand Chamber that the transit zone of Sheremetyevo Airport was part of Russian territory; nor did they dispute that the applicants were under the control of the authorities throughout the relevant period (see paragraph 115 above).

132. The Court concludes that the applicants were within the jurisdiction of Russia during the events of the present case.

2. Article 5 § 1

(a) Applicability of Article 5 § 1

(i) General principles

133. In proclaiming the "right to liberty", paragraph 1 of Article 5 contemplates the physical liberty of the person. Accordingly, it is not

concerned with mere restrictions on liberty of movement, which are governed by Article 2 of Protocol No. 4. Although the process of classification into one or other of these categories sometimes proves to be no easy task, in that some borderline cases are a matter of pure opinion, the Court cannot avoid making the selection upon which the applicability or inapplicability of Article 5 depends (see *Khlaifia and Others v. Italy* [GC], no. 16483/12, § 64, 15 December 2016, with further references).

134. In order to determine whether someone has been "deprived of his liberty" within the meaning of Article 5, the starting-point must be his or her specific situation in reality and account must be taken of a whole range of factors such as the type, duration, effects and manner of implementation of the measure in question (see *Nada v. Switzerland* [GC], no. 10593/08, § 225, ECHR 2012, and *Gahramanov v. Azerbaijan* (dec.), no. 26291/06, § 40, 15 October 2013). The difference between deprivation and restriction of liberty is one of degree or intensity and not one of nature or substance (see *De Tommaso v. Italy* [GC], no. 43395/09, § 80, 23 February 2017, with further references; see also *Kasparov v. Russia*, no. 53659/07, § 36, 11 October 2016).

135. The Court considers that in drawing the distinction between a restriction on liberty of movement and deprivation of liberty in the context of confinement of asylum-seekers, its approach should be practical and realistic, having regard to the present-day conditions and challenges. It is important in particular to recognise the States' right, subject to their international obligations, to control their borders and to take measures against foreigners circumventing restrictions on immigration.

136. The question whether staying at airport international zones amounts to deprivation of liberty has been dealt with in a number of cases (see, among those: *Amuur*, cited above, § 43; *Shamsa*, cited above, § 47; *Mogoş v. Romania* (dec.), no. 20420/02, 6 May 2004; *Mahdid and Haddar v. Austria* (dec.), no. 74762/01, ECHR 2005-XIII (extracts); *Riad and Idiab*, cited above, § 68; *Nolan and K. v. Russia*, no. 2512/04, §§ 93-96, 12 February 2009; and *Gahramanov*, cited above, §§ 35-47).

137. The Court stated the following in the case of *Amuur*, at § 43:

> "Holding aliens in the international zone does indeed involve a restriction upon liberty, but one which is not in every respect comparable to that which obtains in centres for the detention of aliens pending deportation. Such confinement, accompanied by suitable safeguards for the persons concerned, is acceptable only in order to enable States to prevent unlawful immigration while complying with their international obligations, particularly under the 1951 Geneva Convention Relating to the Status of Refugees and the European Convention on Human Rights. States' legitimate concern to foil the increasingly frequent attempts to circumvent immigration restrictions must not deprive asylum-seekers of the protection afforded by these conventions.
>
> Such holding should not be prolonged excessively, otherwise there would be a risk of it turning a mere restriction on liberty - inevitable with a view to organising the

> practical details of the alien's repatriation or, where he has requested asylum, while his application for leave to enter the territory for that purpose is considered - into a deprivation of liberty. In that connection account should be taken of the fact that the measure is applicable not to those who have committed criminal offences but to aliens who, often fearing for their lives, have fled from their own country.
>
> Although by the force of circumstances the decision to order holding must necessarily be taken by the administrative or police authorities, its prolongation requires speedy review by the courts, the traditional guardians of personal liberties. Above all, such confinement must not deprive the asylum-seeker of the right to gain effective access to the procedure for determining refugee status."

138. In determining the distinction between a restriction on liberty of movement and deprivation of liberty in the context of confinement of foreigners in airport transit zones and reception centres for the identification and registration of migrants, the factors taken into consideration by the Court may be summarised as follows: i) the applicants' individual situation and their choices, ii) the applicable legal regime of the respective country and its purpose, iii) the relevant duration, especially in the light of the purpose and the procedural protection enjoyed by applicants pending the events, and iv) the nature and degree of the actual restrictions imposed on or experienced by the applicants (see the cases cited in the preceding three paragraphs).

139. The Court considers that the factors outlined above are also relevant, *mutatis mutandis*, in the present case.

(ii) Application of those principles

(α) The applicants' individual situation and choices

140. The Court observes that all four applicants entered the airport involuntarily, but without any involvement of the Russian authorities, either because they had been denied entry into the country they wanted to go to or because they had been deported to Russia. Compelled by the circumstances, they all decided to seek asylum in Russia. While this fact in itself does not exclude the possibility of the applicants finding themselves in a situation of *de facto* deprivation of liberty after having entered, the Court considers that it is a relevant consideration, to be looked at in the light of all other circumstances of the case.

141. It is true that in a number of cases the Court stated that detention might violate Article 5 of the Convention even though the person concerned had agreed to it and emphasised that the right to liberty is too important for a person to lose the benefit of the protection of the Convention for the single reason that he gave himself up to be taken into detention (see *De Wilde, Ooms and Versyp v. Belgium*, 18 June 1971, § 65, Series A no. 12; *I.I. v. Bulgaria*, no. 44082/98, §§ 84-87, 9 June 2005; *Osypenko v. Ukraine*, no. 4634/04, § 48, 9 November 2010; *Venskutė v. Lithuania*, no. 10645/08, § 72, 11 December 2012; and *Buzadji v. Moldova* [GC], no. 23755/07,

§§ 106-10, 5 July 2016). Those cases, however, concerned situations where the law provided for deprivation of liberty or situations where the applicants had complied with an obligation, such as, among others, to enter a prison or a police station or submit to house arrest. The circumstances are not the same, in the Court's view, where the applicants – as in the present case – had no relevant prior link to the State concerned and no obligation to which they acquiesced but requested admission to that State's territory of their own initiative and sought asylum there. In such cases the starting point regarding the applicants' individual position *vis-à-vis* the authorities is entirely different.

142. In the present case, having regard to the known facts about the applicants and their respective journeys and, notably, the fact that they did not arrive in Russia because of a direct and immediate danger for their life or health but rather due to specific circumstances of their travel routes, there is no doubt that they entered the Sheremetyevo airport involuntarily, but without the Russian authorities being involved. It is therefore clear that, at all events, the Russian authorities were entitled to do the necessary verifications and examine their claims before deciding whether or not to admit them.

(β) The applicable legal regime, its purpose and the relevant duration in the light of that purpose and the attendant procedural protection

143. Second, it is also relevant that the rationale and purpose of the domestic legal regime applicable to the Sheremetyevo airport transit zone was to put in place a waiting area while the authorities decided whether to formally admit the asylum-seekers to Russia (see paragraphs 99 and 100 above). Albeit not decisive in itself, it is relevant to note that the Russian authorities did not seek to deprive the applicants of their liberty and that they denied them entry at once (see paragraphs 14, 20, 29 and 39 above). The applicants remained in the transit zone essentially because they awaited the outcome of their asylum proceedings (see paragraphs 46-96 above).

144. The right of States to control the entry of foreigners into their territory necessarily implies that admission authorisation may be conditional on compliance with relevant requirements. Therefore, absent other significant factors, the situation of an individual applying for entry and waiting for a short period for the verification of his or her right to enter cannot be described as deprivation of liberty imputable to the State, since in such cases the State authorities have undertaken *vis-à-vis* the individual no other steps than reacting to his or her wish to enter by carrying out the necessary verifications (see, *mutatis mutandis*, *Gahramanov*, cited above, §§ 35-47; see also *Mahdid and Haddar*, cited above, where the applicants' asylum requests were dismissed in an airport transit zone within three days and the Court found that there had been no deprivation of liberty (taking

into consideration additional factors, such as that the applicants were not under constant police control).

145. It is further relevant whether, in line with the purpose of the applicable legal regime, procedural guarantees concerning the processing of the applicants' asylum claims and domestic provisions fixing the maximum duration of their stay in the transit zone existed and whether they were applied in the present case.

146. On the facts, the Court notes that the respondent Government were unable to point at any domestic provisions fixing the maximum duration of the applicants' stay in the transit zone and that furthermore in disregard of the Russian domestic rules granting every asylum-seeker the right to be issued with an examination certificate and to be placed in temporary accommodation facilities pending examination of the asylum application (see paragraphs 99 and 100 above; compare *Riad and Idiab*, cited above, § 101), the applicants were essentially left to their own devices in the transit zone. The Russian authorities did not acknowledge that they were in any manner responsible for the applicants, thereby leaving the latter in a legal limbo without any possibility of challenging the measures restricting their liberty (see paragraph 44 above). While in the transit zone, all four applicants had little information regarding the outcome of their respective applications for refugee status and temporary asylum (see paragraphs 41-44 above).

147. In the Court's case-law concerning confinement of aliens in an immigration context, the duration of the relevant restriction on movement and the link between the actions of the authorities and the restricted freedom may be elements affecting the classification of the situation as amounting to deprivation of liberty or not (see, *mutatis mutandis*, *Amuur*, cited above, § 43; *Gahramanov*, cited above, §§ 35-47; and *Mahdid and Haddar*, cited above). However, as long as the applicant's stay in the transit zone does not exceed significantly the time needed for the examination of an asylum request and there are no exceptional circumstances, the duration in itself should not affect the Court's analysis on the applicability of Article 5 in a decisive manner. That is particularly so where the individuals, while waiting for the processing of their asylum claims, benefitted from procedural rights and safeguards against excessive waiting periods. The presence of domestic legal regulation limiting the length of stay in the transit zone is of significant importance in this regard.

148. In the present case the processing and subsequent judicial examination of the applicants' respective cases was anything but speedy, as Mr Z.A. spent seven months and nineteen days in the transit zone awaiting the outcome of his asylum proceedings (see paragraphs 46-55 above); Mr M.B. five months and one day (see paragraphs 57-64 above); Mr A.M. one year, nine months and at least twenty-eight days (see paragraph 66-82 above); and Mr Yasien seven months and twenty-two days (see

paragraphs 83-95 above). The Court thus considers that the applicants' situation was very seriously influenced by delays and inactions of the Russian authorities which were clearly attributable to them and were not justified by any legitimate reasons.

149. The Court would add that the case file contains no indication that the applicants in the present case failed to comply with the legal regulations in place or did not act in good faith at any time during their confinement in the transit zone or at any stage of the domestic legal proceedings by, for instance, complicating the examination of their asylum cases (see, by contrast, *Mahdid and Haddar*, cited above, where the applicants remained in the international zone of an airport after the rejection of their request for asylum and destroyed their documents in an attempt to force the Austrian authorities to accept them).

(χ) The nature and degree of the actual restrictions imposed on or experienced by the applicants

150. The individuals staying at the Sheremetyevo airport transit zone were not permitted to leave in the direction of the remaining territory of Russia, the country where the zone was located (compare and contrast *Mogoş*, cited above). This is unsurprising having regard to the very purpose of the transit zone as a waiting area while the authorities decided whether to formally admit asylum-seekers to Russia.

151. The Court further observes, and this was not in dispute between the parties, that even though the applicants were largely left to their own devices within the perimeter of the transit zone, the restrictions on their liberty were nevertheless substantial given that the whole area was under the permanent control of the BSG, a branch of the FSB. The Court finds that, overall, the size of the area and the manner in which it was controlled were such that the applicants' freedom of movement was restricted to a very significant degree, in a manner similar to that characteristic of certain types of light regime detention facilities.

152. The remaining question is whether the applicants could leave the transit zone in a direction other than the territory of Russia.

153. The Court recalls its reasoning in the case of *Amuur* (cited above), where it stated that "the mere fact that it is possible for asylum-seekers to leave voluntarily the country where they wish to take refuge cannot exclude a restriction on liberty" and noted that the possibility to leave "becomes theoretical if no other country offering protection comparable to the protection they expect to find in the country where they are seeking asylum is inclined or prepared to take them in" (ibid., § 48).

154. In this regard, the Court observes that unlike in land border transit zones, in this particular case leaving the Sheremetyevo airport transit zone would have required planning, contacting aviation companies, purchasing tickets and possibly applying for a visa depending on the destination. The

Court considers that the Government have failed to substantiate their assertion that despite these obstacles "the applicants were free to leave Russia at any time and go wherever they wished". The practical and real possibility for the applicants to leave the airport transit zone and do so without a direct threat for their life or health, as known by or brought to the attention of the authorities at the relevant time, must be convincingly shown to exist.

155. In the light of this conclusion, the Court does not find it necessary to address the parties' arguments relating to the merits of the applicants' asylum requests. The Convention cannot be read as linking in such a manner the applicability of Article 5 to a separate issue concerning the authorities' compliance with Article 3 (see *Ilias and Ahmed* [GC], no. 47287/15, §§ 244-46, 21 November 2019).

(δ) Conclusion as regards the applicability of Article 5

156. The Court thus finds that, having regard in particular to the lack of any domestic legal provisions fixing the maximum duration of the applicants' stay, the largely irregular character of the applicants' stay in the Sheremetyevo airport transit zone, the excessive duration of such stay and considerable delays in domestic examination of the applicants' asylum claims, the characteristics of the area in which the applicants were held and the control to which they were subjected during the relevant period of time and the fact that the applicants had no practical possibility of leaving the zone, the applicants were deprived of their liberty within the meaning of Article 5. Article 5 § 1 is therefore applicable.

(b) Compatibility of the applicants' deprivation of liberty with Article 5 § 1 of the Convention

157. The aim of the applicants' deprivation of liberty was "to prevent [their] effecting an unauthorized entry into the country" and, therefore, it falls to be examined under the first limb of subparagraph Article 5 § 1 (f) (see *Saadi v. the United Kingdom* [GC], no. 13229/03, §§ 64-66, ECHR 2008).

158. The first question to be addressed is whether the detention was effected "in accordance with a procedure prescribed by law", within the meaning of Article 5 § 1 of the Convention.

(i) General principles

159. Article 5 § 1 of the Convention delimits the circumstances in which individuals may be lawfully deprived of their liberty, it being stressed that these circumstances must be given a narrow interpretation having regard to the fact that they constitute exceptions to a most basic guarantee of

individual freedom (see, with further references, *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, § 230, ECHR 2012).

160. Contracting States have the right, as a matter of well-established international law and subject to their treaty obligations including the Convention, to control the entry, residence and expulsion of aliens (see *Abdulaziz, Cabales and Balkandali v. the United Kingdom*, 28 May 1985, § 67, Series A no. 94, and *Chahal v. the United Kingdom*, 15 November 1996, § 73, *Reports* 1996-V). It is a necessary adjunct to this right that States are permitted to detain would-be immigrants who have applied for permission to enter, whether by way of asylum or not. Deprivation of liberty of asylum-seekers to prevent their unauthorised entry into a State's territory is not in itself in contravention with the Convention (see *Saadi,* cited above, §§ 64-65, and *Suso Musa v. Malta*, no. 42337/12, §§ 89-90, 23 July 2013).

161. Any deprivation of liberty, however, must be "in accordance with the procedure prescribed by law" that meets the "quality of law" criteria, as well as be free from arbitrariness. Where deprivation of liberty is concerned, it is essential that the general principle of legal certainty be satisfied and therefore that the conditions for deprivation of liberty under domestic law be clearly defined and that the law itself be foreseeable in its application (see *Khlaifia and Others*, cited above, § 92, with further references). Furthermore, the detention of a person constitutes a major interference with individual freedom and must always be subject to rigorous scrutiny.

162. The Court is fully conscious of the difficulties that member States may face during periods of massive arrivals of asylum-seekers at their borders. Subject to the prohibition of arbitrariness, the lawfulness requirement of that provision may be considered generally satisfied by a domestic legal regime that provides, for example, for no more than the name of the authority competent to order deprivation of liberty in a transit zone, the form of the order, its possible grounds and limits, the maximum duration of the confinement and, as required by Article 5 § 4, the applicable avenue of judicial appeal.

163. Furthermore, Article 5 § 1 (f) does not prevent States from enacting domestic law provisions that formulate the grounds on which such confinement can be ordered with due regard to the practical realities of massive influx of asylum-seekers. In particular, subparagraph 1(f) does not prohibit deprivation of liberty in a transit zone for a limited period on grounds that such confinement is generally necessary to ensure the asylum seekers' presence pending the examination of their asylum claims or, moreover, on grounds that there is a need to examine the admissibility of asylum applications speedily and that, to that end, a structure and adapted procedures have been put in place at the transit zone (see, for a similar approach, *Saadi,* cited above, § 80).

(ii) Application of these principles

164. The Court notes the argument of the applicants and the UNHCR pointing to the lack of any legal basis for the applicants' confinement in the transit zone of Sheremetyevo Airport (see paragraph 110 above). It also notes that the Government essentially did not dispute that allegation (see paragraphs 113-118 above). Having examined the applicable domestic law (see paragraphs 97-100 above), the Court finds no trace of any provision of Russian law capable of serving as grounds for justifying the applicants' deprivation of liberty. Accordingly, it concludes that in the present case there was no strictly defined statutory basis for the applicants' detention.

165. This in itself would be sufficient to find a violation of Article 5 § 1 of the Convention. However, the Court would also point at the following additional factors, which further worsened the applicants' respective situations in the present case. As transpires from the facts of the case, the applicants' access to the asylum procedure was considerably impeded as a result of their detention, as there was no information available on asylum procedures in Russia in the transit zone and their access to legal assistance was severely restricted (see paragraphs 42-44 above).

166. The Court next observes that the applicants experienced serious delays when attempting to submit and register their asylum applications (see paragraphs 46-49, 57-59, 66-67 and 83-85 above) and, despite their written requests, were not issued and served with examination certificates as required by the domestic law (see paragraphs 49, 51, 59, 60, 68, 71 and 86 above).

167. The Court notes that some of the decisions taken by the Russian administrative and judicial bodies were communicated to them with delays (see paragraphs 50, 69, 75 and 88 above).

168. Also, the applicants were confined in a place which was clearly inappropriate for a long-term stay (see paragraphs 191-195 below).

169. Lastly, the duration of each applicant's stay in the airport transit zone was considerable and clearly excessive in view of the nature and purpose of the procedure concerned, ranging from five months to over a year and nine months (compare *Kanagaratnam v. Belgium*, no. 15297/09, §§ 94-95, 13 December 2011; see also *Longa Yonkeu v. Latvia*, no. 57229/09, § 131, 15 November 2011, where the combined length of three periods of detention lacking a legal basis amounted to three months and seven days; and *Suso Musa,* cited above, § 102, where the period in question was "more than six months".)

170. The Court finds that the applicants' detention for the purposes of the first limb of subparagraph 5 § 1 (f) fell short of the Convention standards.

171. There has accordingly been a violation of Article 5 § 1 of the Convention in respect of each applicant.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

172. The applicants complained that the poor material conditions of their stay in the transit zone of Sheremetyevo Airport had been incompatible with the guarantees of Article 3 of the Convention, which reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. The Chamber judgment

173. The Chamber declared the complaint about the poor material conditions of the applicants' detention in the airport transit zone admissible.

174. Referring to the Court's well-established standards regarding conditions of detention in general, as well as those relevant in the context of confinement of aliens, and noting the rules on distribution of the burden of proof in conditions of detention cases, the Chamber acknowledged that the applicants had provided a credible and reasonably detailed description of the allegedly degrading conditions of detention, constituting a prima facie case of ill-treatment. Given that the Government had not submitted any description of the conditions of the applicants' confinement in the airport transit zone, the Chamber found it established that the applicants had not had individual beds and had not enjoyed access to shower and cooking facilities and considered it unacceptable that anyone could be detained in conditions in which there was a complete failure to take care of his or her essential needs. The Chamber concluded that the fact that the applicants had been detained for many months in the transit zone of Sheremetyevo Airport in unacceptable conditions amounted to inhuman and degrading treatment within the meaning of Article 3 of the Convention.

B. The parties' submissions

1. The applicants

175. Reiterating that their confinement in the transit zone had amounted to deprivation of liberty, the applicants emphasised that, according to the Court's case-law, the State must ensure that a person is detained in conditions compatible with respect for human dignity and that confinement of aliens must be accompanied by suitable standards, and maintained that they had stayed in the transit zone for lengthy periods of time in unacceptable conditions against their will, being unable to return to their home countries. They concluded that there had been a violation of Article 3 of the Convention.

2. The Government

176. The Government stressed that a person under a State's jurisdiction was not necessarily "at the hands of the authorities". In the absence of a violation of Article 5 § 1, the Russian Government had not been under any obligation under Article 3 *vis-à-vis* the applicants, who had put themselves in difficult conditions through their own actions.

177. The Government further stated that there was no right to asylum and no corresponding obligations were imposed on a State; however, a State could afford "appropriate protection" to persons fleeing from persecution. The applicants in the present case had acted in bad faith when applying for asylum as they should have known that they were not eligible for such protection and should have foreseen that they would not be allowed entry into Russia. The Government concluded that there had been no violation of Article 3 of the Convention.

C. Third-party intervener

178. The UNHCR described the material conditions of the stay of asylum-seekers in Russian airport transit zones as follows.

179. The conditions of stay in airport transit zones were not regulated by Russian law. Nor had they been improved over the previous several years. Asylum-seekers stranded in transit zones were deprived of access to fresh air, privacy, food, and access to medical and social care. They had no choice but to stay in the open area of the transit zone in question without access to any hygienic facilities and to sleep on the floor. The UNHCR distributed basic food items and bed linen, clothing, and hygienic products on a weekly basis.

180. Russian law did not place responsibility on any State authority for ensuring minimum basic care for asylum-seekers in transit zones. The period during which an asylum-seeker had to undergo such a dire lack of basic facilities could be prolonged as on average the complete asylum procedure, including appeals, could last between one and two years.

D. The Court's assessment

1. General principles

181. Ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of that level is relative and depends on all the circumstances of the case, principally the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim. In the context of confinement and living conditions of asylum seekers, the Court has summarised the relevant general principles in the case of *Khlaifia and Others* (cited above, §§ 158-69).

182. Article 3 of the Convention requires the State to ensure that detention conditions are compatible with respect for human dignity, that the manner and method of the execution of the measure do not subject the detainees to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, their health and well-being are adequately secured (see, for example, *Kudła v. Poland* [GC], no. 30210/96, § 94, ECHR 2000-XI).

183. In so far as the confinement of aliens and asylum-seekers is concerned, the Court reiterates the standard under Article 3 of the Convention, as recapitulated in *M.S.S. v. Belgium and Greece* ([GC], no. 30696/09, §§ 216-18, ECHR 2011 (see also *Dougoz v. Greece*, no. 40907/98, § 44, ECHR 2001-II; *Kaja v. Greece*, no. 32927/03, §§ 45-46, 27 July 2006; *S.D. v. Greece*, no. 53541/07, §§ 45-48, 11 June 2009; *Mahamed Jama v. Malta*, no. 10290/13, §§ 86-89, 26 November 2015; *Khlaifia and Others*, cited above, §§ 163-67; *Boudraa v. Turkey*, no. 1009/16, §§ 28-29, 28 November 2017; and *S.F. and Others v. Bulgaria*, no. 8138/16, §§ 78-83, 7 December 2017), according to which it must be accompanied by suitable safeguards for the persons concerned and is acceptable only in order to enable States to prevent unlawful immigration while complying with their international obligations and without depriving asylum-seekers of the protection afforded by the 1951 Geneva Convention relating to the Status of Refugees and the European Convention on Human Rights (see also *Rahimi v. Greece*, no. 8687/08, § 62, 5 April 2011, *Khlaifia and Others*, cited above, § 162, in the context of positive obligations *vis-à-vis* foreign nationals pending issuance of a transit visa; and *Shioshvili and Others v. Russia*, no. 19356/07, §§ 83-86, 20 December 2016).

184. The States' legitimate concern to foil the increasingly frequent attempts to circumvent immigration restrictions must not deprive asylum-seekers of the protection afforded by these conventions (see *Amuur*, cited above, § 43).

185. Where the Court is called upon to examine the conformity of the manner and method of the execution of the measure with the provisions of the Convention, it must look at the particular situations of the persons concerned (see *Riad and Idiab*, cited above, § 100). The States must have particular regard to Article 3 of the Convention, which enshrines one of the most fundamental values of democratic societies and prohibits in absolute terms torture and inhuman or degrading treatment or punishment irrespective of the circumstances and of the victim's conduct (see, among other authorities, *Labita v. Italy* [GC], no. 26772/95, § 119, ECHR 2000-IV).

186. The Court further reiterates that, quite apart from the necessity of having sufficient personal space, other aspects of physical conditions of detention are relevant for the assessment of compliance with Article 3 in such cases. Relevant elements include access to outdoor exercise, natural

light or air, availability of ventilation, and compliance with basic sanitary and hygiene requirements (see, for example, *S.D. v. Greece*, cited above, §§ 49-54; *Tabesh v. Greece*, no. 8256/07, §§ 38-44, 26 November 2009; *A.A. v. Greece*, no. 12186/08, §§ 57-65, 22 July 2010; *E.A. v. Greece*, no. 74308/10, §§ 50-51, 30 July 2015; *Abdi Mahamud v. Malta*, no. 56796/13, §§ 89-90, 3 May 2016; *Alimov v. Turkey*, no. 14344/13, §§ 84-85, 6 September 2016; *Abdullahi Elmi and Aweys Abubakar v. Malta*, nos. 25794/13 and 28151/13, §§ 113-14, 22 November 2016; and *Khlaifia and Others*, cited above, § 167).

2. Application of those principles

187. The Court notes first of all that many of the Contracting Parties to the Convention are experiencing considerable difficulties in coping with the influx of migrants and asylum-seekers. The Court does not underestimate the burden and pressure this situation places on the States concerned and it is particularly aware of the difficulties involved in the reception of migrants and asylum-seekers on their arrival at major international airports.

188. However, the Court would reiterate in this connection that the prohibition of inhuman or degrading treatment is a fundamental value in democratic societies. It is also a value of civilisation closely bound up with respect for human dignity, part of the very essence of the Convention. The prohibition in question is absolute, for no derogation from it is permissible even in the event of a public emergency threatening the life of the nation or in the most difficult circumstances, such as the fight against terrorism and organised crime, irrespective of the conduct of the person concerned (see *Khlaifia and Others*, cited above, § 158 with further references). The difficulties mentioned in the above paragraph cannot therefore absolve a State of its obligations under Article 3.

189. Having regard to its earlier finding that the applicants' stay in the airport transit zone amounted to a deprivation of liberty (see paragraph 156 above), the Court's task in the present case is to review the applicants' detention against the yardstick of the Convention provisions and to examine, in particular, whether the applicants were detained in conditions compatible with respect for human dignity (see *Riad and Idiab*, cited above, § 100, and *Khlaifia and Others*, cited above, § 162).

190. It is important to note that the applicants gave a credible and reasonably detailed description of their living conditions in the airport transit zone, which are supported by similar findings by the UNHCR (see paragraphs 122, 179 and 180 above), and are not explicitly disputed by the Government. This being so, referring to its well-established standard of proof in conditions-of-detention cases (see *Muršić v. Croatia* [GC], no. 7334/13, § 128, 20 October 2016; see also *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 121-23, 10 January 2012), the Court accepts that description as accurate.

191. On the basis of the available material, the Court can clearly see that the conditions of the applicants' stay in the transit zone of Sheremetyevo Airport were unsuitable for an enforced long-term stay. In its view, a situation where a person not only has to sleep for months at a stretch on the floor in a constantly lit, crowded and noisy airport transit zone without unimpeded access to shower or cooking facilities and without outdoor exercise, but also has no access to medical or social assistance (see paragraphs 41 and 42 above) falls short of the minimum standards of respect for human dignity.

192. This situation was aggravated in the circumstances of the case by the fact that the applicants were left to their own devices in the transit zone, in disregard of the Russian domestic rules granting every asylum-seeker the right to be issued with an examination certificate and to be placed in temporary accommodation facilities pending examination of the asylum application (see paragraphs 99 and 100 above; compare *Riad and Idiab*, cited above, § 101).

193. The Court would also note that three of the applicants were eventually recognised by the UNHCR as being in need of international protection (see paragraphs 54, 77 and 94 above), which suggests that their distress was accentuated on account of the events that they had been through during their migration (see *M.S.S. v. Belgium and Greece*, cited above, § 232).

194. Lastly, the Court notes the extremely long duration of the detention for each of the applicants. The applicants' detention lasted for many months in a row: seven months and nineteen days in the case of Mr Z.A.; five months and one day in the case of Mr M.B.; one year, nine months and at least twenty-eight days in the case of Mr A. M.; and seven months and twenty-two days in the case of Mr Yasien (see paragraph 148 above).

195. The Court considers that, taken together, the appalling material conditions which the applicants had to endure for such long periods of time and the complete failure of the authorities to take care of the applicants constitute degrading treatment contrary to Article 3 of the Convention.

196. Nothing in the Government's submissions warrants concluding otherwise. The Court has also ruled that the applicants were under the respondent State's control and in their custody throughout the relevant period of time (see paragraph 151 above).

197. The Court concludes that there has therefore been a violation of Article 3 of the Convention in respect of each applicant.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

198. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only

partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

199. Before the Chamber, the applicants claimed the following amounts in respect of non-pecuniary damage: 20,000 euros (EUR) each for Mr Z.A. and Mr Yasien, EUR 15,000 for Mr M.B. and EUR 35,000 for Mr A.M.

200. The Chamber found that the applicants had experienced distress and frustration on account of the breaches of Article 5 § 1 and Article 3 of the Convention, and that those breaches could not be made good solely by its findings. Making its assessment on an equitable basis, it awarded Mr Z.A. and Mr Yasien EUR 20,000 each, EUR 15,000 to Mr M.B. and EUR 26,000 to Mr A.M. in respect of non-pecuniary damage.

201. In the Grand Chamber proceedings the applicants claimed identical amounts to those claimed before the Chamber.

202. The Court considers that the applicants must have suffered distress and frustration as a result of the violations of Article 5 § 1 and Article 3 of the Convention in their case. It takes account of the circumstances of the present case, the claims made by each applicant and its practice adopted in previous comparable cases (see, for example, *Riad and Idiab*, cited above, § 117; *Shamsa*, cited above, § 65; and *Rashed*, cited above, § 81). Deciding on an equitable basis, the Court awards them the same amounts in respect of non-pecuniary damage as the Chamber did, that is, EUR 20,000 each to Mr Z.A. and Mr Yasien, EUR 15,000 to Mr M.B., and EUR 26,000 to Mr A.M.

B. Costs and expenses

203. Before the Chamber, the applicants submitted the following claims for costs and expenses incurred domestically: EUR 1,650 for Mr Z.A., EUR 1,250 for Mr M.B., EUR 3,500 for Mr A.M., and EUR 2,000 for Mr Yasien. As regards the costs and expenses incurred before the Court, the applicants claimed EUR 3,500 each.

204. The Chamber awarded each applicant the sum of EUR 3,500, covering costs and expenses under all heads.

205. In the Grand Chamber proceedings the applicants claimed, jointly, EUR 4,900 for costs and expenses incurred domestically, EUR 14,000 for the proceedings before the Chamber, and EUR 7,800 for the proceedings before the Grand Chamber, that is, EUR 26,700 in total. The applicants' representatives requested that the sums awarded be paid directly into their respective bank accounts.

206. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as

to quantum. In the present case, regard being had to the documents in its possession and to its case-law, the Court considers excessive the total sum claimed for the costs and expenses incurred in the domestic proceedings and the proceedings before it. It decides to award the applicants EUR 19,000 jointly under that head. That sum is to be paid directly into the bank accounts of the applicants' representatives (see *Khlaifia and Others*, cited above, § 288).

C. Default interest

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

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Holds*, that there has been a violation of Article 5 § 1 of the Convention;

2. *Holds* that there has been a violation of Article 3 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicants, within three months, the following amounts**,** to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) in respect of non-pecuniary damage:
      EUR 15,000 (fifteen thousand euros), plus any tax that may be chargeable, to Mr M.B.;
      EUR 20,000 (twenty thousand euros) each, plus any tax that may be chargeable, to Mr Z.A. and Mr Yasien;
      EUR 26,000 (twenty-six thousand euros), plus any tax that may be chargeable, to Mr A.M.;
      (ii) in respect of costs and expenses:
      to the applicants jointly, EUR 19,000 (nineteen thousand euros), plus any tax that may be chargeable to them, to be paid into the bank accounts of their representatives;
   (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;

4. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 21 November 2019.

Johan Callewaert Deputy to the Registrar	Linos-Alexandre Sicilianos President