



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

FIRST SECTION

CASE OF IBRAGIMOV AND OTHERS v. RUSSIA

(Application no. 34561/03)

JUDGMENT

STRASBOURG

29 May 2008

FINAL

01/12/2008

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

In the case of Ibragimov and Others v. Russia,

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

Christos Rozakis, *President*,

Anatoly Kovler,

Elisabeth Steiner,

Dean Spielmann,

Sverre Erik Jebens,

Giorgio Malinverni,

George Nicolaou, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 6 May 2008,

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

PROCEDURE

1. The case originated in an application (no. 34561/03) 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 six Russian nationals (“the applicants”), on 22 September 2003.

2. The applicants, who had been granted legal aid, were represented by lawyers of the Stichting Russian Justice Initiative (“SRJI”), an NGO based in the Netherlands with a representative office in Russia. The Russian Government (“the Government”) were represented by Mr P. Laptev, Representative of the Russian Federation at the European Court of Human Rights.

3. On 1 September 2005 the President of the Chamber decided to apply Rule 41 of the Rules of Court and to grant priority treatment to the application.

4. On 23 May 2006 the Court decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

THE FACTS**I. THE CIRCUMSTANCES OF THE CASE**

5. The applicants are:

- 1) Mr Umtazh Supyanovich Ibragimov, born in 1938;
 - 2) Ms Tamara Saidovna Ibragimova, born in 1953;
 - 3) Ms Zulikhan Umtazhovna Ibragimova, born in 1974;
 - 4) Ms Yakha Umtazhovna Ibragimova, born in 1985;
 - 5) Mr Magomed Umtazhovich Ibragimov, born in 1987; and
 - 6) Ms Ayznat Umtazhovna Ibragimova, born in 1988.
6. The facts of the case, as submitted by the parties, may be summarised as follows.

A. Disappearance of Rizvan Ibragimov

1. The applicants' account

7. The first and second applicants are the parents of Mr Rizvan Umtazhovich Ibragimov, born in 1977, and of the third, fourth, fifth and sixth applicants. At the material time the Ibragimovs lived at 26 Bezymyannaya Street, Urus-Martan, the Chechen Republic. Their house had burned down, and the family lived in a refurbished cattle shed consisting of two rooms. Since 1999 Rizvan Ibragimov had been working as a construction worker in the town of Malgobek, Ingushetiya. In December 2002 he came to visit his parents in Urus-Martan because he needed to complete some formalities with the military commissariat.

8. On the night of 28 to 29 December 2002 the Ibragimovs were sleeping at home, except for the third and fourth applicants. The first applicant was sleeping in the front room, while the second, fifth and sixth applicants and Rizvan Ibragimov slept in the next room. They were sleeping on the floor because all their furniture had been burned in the fire.

9. At about 2 a.m. a group of five men in camouflage uniforms forcibly entered the house. Three of them were wearing balaclava masks. They did not produce identity papers or any documents to justify their actions and gave no explanations. The applicants assumed that they were federal military or security servicemen because they spoke Russian without accent, their faces as far as the applicants could see had Slavic features and also because of their arrival during curfew hours, which was only possible with the military commander's permission.

10. Three servicemen walked straight to the back room, and two others stayed in the front room. The first applicant was told to stay still on his bed and a machine gun was pointed at him. One serviceman then announced that it was an "identity papers check". Another serviceman in the back room pointed at Rizvan Ibragimov and ordered him to get dressed. The first applicant handed a pullover to the serviceman to pass to Rizvan Ibragimov, but the serviceman threw it aside. Rizvan Ibragimov was asked where his identity papers were; when he answered that they were on the windowsill, the servicemen took them, with his driving licence. Two servicemen took

Rizvan Ibragimov out to the courtyard. He did not put up any resistance. The second applicant was crying and asking the servicemen who they were and where they were taking her son. The first applicant was also asking them to what authority they belonged and where to make enquiries. The servicemen did not answer but told the first and second applicants to remain inside the building. When the first applicant tried to follow them into the courtyard, one of the servicemen ordered him to stop, threatening to shoot.

11. The first applicant nonetheless followed the servicemen, but one of them squatted down, put a bullet into his gun and told the first applicant that he would shoot. Having realised the seriousness of the threat, the first applicant stopped.

12. More than ten armed men in camouflage uniforms were standing in the courtyard, all of them unmasked but wearing bullet-proof jackets. More military were waiting outside the gates and across the street.

13. Across the street from the applicants' courtyard there was a bakery which had a lamp above the entrance. One of the military shot the light out. His weapon made no sound, and the applicants concluded that it was equipped with a silencer. The street lamp was also off, but the moonlight enabled the servicemen's movements to be seen.

14. The first applicant could see that the military were walking down the street in groups of four or five, taking Rizvan Ibragimov with them. The first applicant followed the servicemen until they crossed the bridge over the Martanka River, turned left and then right. They took Kuybysheva Street in the direction of Trudovaya Street.

15. Two armoured personnel carriers ("APCs") and an Ural vehicle were parked at the corner of Kalanchatskaya Street and Trudovaya Street, 600-700 metres from the applicants' house.

16. According to written statements by two eyewitnesses about the events of the night of 28 to 29 December 2002, at about 2 a.m. two APCs and one Ural vehicle, all with illegible registration numbers, stopped at the corner of Trudovaya Street, then around forty armed men in camouflage uniforms crossed the bridge, moving away from the town centre, and returned some 20-25 minutes later, bringing back a man who looked like Rizvan Ibragimov. The vehicles then drove away towards the centre of Urus-Martan.

2. The Government's account

17. The Government submitted that the Prosecutor General's Office had established that at about 2.20 a.m. on 29 December 2002 unidentified persons armed with machine guns and wearing camouflage uniforms and masks had entered the house at 14, Beregovaya Street, Urus-Martan, the Chechen Republic, and kidnapped Rizvan Ibragimov, and that the latter's whereabouts had not been established.

B. Search for Rizvan Ibragimov and investigation

1. The applicants' account

18. Since 29 December 2002 the applicants, primarily the first applicant, have been searching for Rizvan Ibragimov. They applied to various official bodies both in person and in writing, trying to find out his whereabouts and what had happened to him, arguing that he must have been detained by some representatives of State agencies, because the armed men had arrived in a large group during curfew hours and had worn uniforms similar to those used by the Russian troops. The applicants retained copies of some of their letters to authorities and the answers, which they submitted to the Court. Their attempts to find out the whereabouts of Rizvan Ibragimov can be summarised as follows.

19. In the morning of 29 December 2002 the first applicant visited the department of interior of the Urus-Martan District ("ROVD"), the prosecutor's office of the Urus-Martan District ("the district prosecutor's office") and the local administration. He was told there that they did not know who had detained his son or where he was. While visiting the ROVD, the first applicant filed a written declaration concerning the disappearance of his son and attached a description of the events.

20. On 15 January 2003 the first applicant complained of his son's disappearance to the Office of the Special Envoy of the Russian President for Rights and Freedoms in the Chechen Republic. Later his letter was forwarded to the district prosecutor's office.

21. On 28 January 2003 the district prosecutor's office opened criminal investigation file no. 34005 into the abduction of Rizvan Ibragimov by unknown armed persons.

22. On 4 February 2003 the first applicant was granted victim status in the criminal proceedings.

23. On 4 February 2003 the first applicant wrote to the prosecutor's office of the Chechen Republic, the military prosecutor's office of the Chechen Republic, the local military commander and to the head of the administration of the Chechen Republic, Mr Kadyrov, and asked for their assistance in finding his son. On 7 February 2003 the prosecutor's office of the Chechen Republic forwarded the first applicant's letter to the district prosecutor's office.

24. In March 2003 the district prosecutor's office informed the first applicant that the investigation had been suspended.

25. On 3 April 2003 the first applicant complained to the prosecutor's office of the Chechen Republic about inaction by the district prosecutor's office's. He requested that all requisite investigative measures be taken to establish Rizvan Ibragimov's whereabouts.

26. On 4 April 2003 the first applicant asked the district prosecutor's office for an update on the progress of the investigation.

27. On 5 April 2003 the military prosecutor's office of the United Group Alignment ("the UGA prosecutor's office") forwarded the first applicant's complaint to the military prosecutor of military unit no. 20102 ("the unit prosecutor's office").

28. On 9 April 2003 the district prosecutor's office informed the first applicant of the suspension of the investigation.

29. On 15 April 2003 the district prosecutor's office replied to the first applicant's letter of 4 April 2003, reiterating that the investigation had been suspended on 28 March 2003.

30. On 21 April 2003 the unit prosecutor's office informed the first applicant that there were no grounds to claim involvement of the military in the kidnapping of Rizvan Ibragimov.

31. On 4 May 2003 the first applicant, as part of a group of people whose relatives had disappeared, asked the district prosecutor's office for assistance in obtaining documents certifying the past involvement or non-involvement of their disappeared relatives in the hostilities in the Chechen Republic.

32. On 12 May 2003 the prosecutor's office of the Chechen Republic informed the first applicant that the investigation in case no. 34005 had been resumed on 6 May 2003. The case was referred to as having been opened on 29 December 2002 and suspended on 29 February 2003 (as opposed to the earlier dates given, 28 January and 28 March 2003). It was acknowledged that the investigation conducted previously had not been comprehensive.

33. On 22 May 2003 the unit prosecutor's office informed the first applicant that there was no involvement of the military in his son's kidnapping.

34. On 7 June 2003 the district prosecutor's office informed the first applicant that the investigation in case no. 34005 had been suspended for failure to identify those responsible.

35. On 18 June 2003 the first applicant sent a letter to the head of the Federal Security Service ("FSB") alleging the involvement of federal forces, so-called "power structures" (*силовые структуры*), in the abduction of his son and requesting assistance in establishing his whereabouts.

36. On 30 June 2003 the first applicant wrote to the prosecutor's office of the Chechen Republic alleging the involvement of the federal "power structures" in the abduction of his son and requesting that the investigation be resumed and measures taken to ensure the security of the applicants.

37. On 15 July 2003 the prosecutor's office of the Chechen Republic informed the first applicant that the investigation had again been resumed, that the investigation conducted previously had not been comprehensive and that instructions had been given as to which investigative steps were to be taken.

38. On 1 August 2003 the first applicant asked the district prosecutor's office for an update on the progress of the investigation and requested them to transfer the case to a military prosecutor's office.

39. On 15 August 2003 the Department of the FSB of the Chechen Republic informed the first applicant that they were taking all necessary steps to investigate the circumstances of Rizvan Ibragimov's disappearance and to establish his whereabouts. It was stated that he had not been arrested by the FSB, that there had been no legal grounds for his arrest and that he was not suspected of any crime.

40. On 15 September 2003 the prosecutor's office of the Chechen Republic informed the first applicant that the investigation had been resumed on 12 September 2003.

41. On 24 December 2003 the first applicant complained to the prosecutor's office of the Chechen Republic of inaction by the district prosecutor's office and requested that the investigation be accelerated. On 13 January 2004 the prosecutor's office of the Chechen Republic forwarded that request to the district prosecutor's office and ordered them to consider it on the merits, to intensify the investigation and to provide the first applicant with a detailed written report on the progress in the case.

42. On 15 January 2004 the district prosecutor's office informed the first applicant that his complaint had been included in the case file and that since 12 October 2003 the investigation had been adjourned as the identities of the perpetrators had not been established.

43. On 18 February 2004 the first applicant requested the district prosecutor's office to take certain investigative measures. On 23 April 2004 they replied that those measures had already been taken before the first applicant's request.

44. On 21 June 2004 the first applicant requested the district prosecutor's office to allow him access to the investigation file.

45. On 4 July 2006 the district prosecutor's office resumed the investigation.

46. On 11 September 2006 the applicants requested the district prosecutor's office to update them on the progress of the investigation.

47. On 14 September 2006 the district prosecutor's office informed the applicants that all requisite measures had been taken to solve the crime and that the investigation had been suspended on 4 August 2006.

2. Information submitted by the Government

48. On 29 December 2002 the first applicant complained of his son's abduction to the district prosecutor's office.

49. On 31 December 2002 the district prosecutor's office forwarded the first applicant's complaint for a preliminary inquiry to the ROVD.

50. On 28 January 2003 the district prosecutor's office instituted criminal proceedings related to the disappearance of Rizvan Ibragimov

under Article 126 § 2 of the Russian Criminal Code (aggravated kidnapping). The case file was assigned number 34005.

51. On 4 February 2003 the first applicant was granted victim status. He was questioned on several occasions and submitted that on the night of 29 December 2002 unknown masked men armed with machine guns had entered his house and kidnapped his son.

52. Between 28 March 2003 and 11 September 2004 the investigation in case no. 34005 was suspended three times for failure to identify those responsible and then resumed. In particular, it was resumed on 7 May 2003. The first applicant was informed promptly of all decisions.

53. On 4 February 2003 the district prosecutor's office questioned the second applicant as a witness. She submitted that at about 2 a.m. on 29 December 2002 armed men in masks had ordered her son to get ready and taken him away. She had not seen any cars or APCs.

54. On 15 April 2003 the prosecutor's office of the Chechen Republic received a complaint by the first applicant of the district prosecutor's office's inaction, which stated that the unknown armed persons had arrived in two APCs, two Ural vehicles and a UAZ vehicle.

55. On 15 May 2003 Ms D., the applicants' neighbour, questioned as a witness, submitted that at about 3 a.m. on the night of 28 to 29 December 2002 she had seen from her window around forty armed men in camouflage uniforms and masks who were escorting a man whose arms were tied. She had not seen any vehicles.

56. The district prosecutor's office repeatedly requested information on Rizvan Ibragimov's abduction from various law-enforcement agencies. On 28 February 2003 the Department of the FSB of the Chechen Republic replied that Rizvan Ibragimov had not been arrested by the FSB and no criminal proceedings against him had been instituted. The military commander of the Urus-Martan District and various branches of the Ministry of Interior of the Chechen Republic submitted that their servicemen had not arrested Rizvan Ibragimov and that the latter had not been kept in any temporary detention facilities.

57. In the course of the investigation the perpetrators were not identified and the hypothesis of involvement of special forces' servicemen in the crime was not proved.

58. On 11 October 2004 the district prosecutor's office once again suspended the investigation.

59. On 4 July 2006 the district prosecutor's office quashed the decision of 11 October 2004 and resumed the investigation due to the need to verify some newly-established facts. The proceedings were being supervised by the Prosecutor General's Office.

60. On 5 July 2006 the district prosecutor's office questioned the third, fifth and sixth applicants. They submitted that on the night of 28 to

29 December 2002 they had seen five armed men in camouflage uniforms and masks who had taken their brother away. They had not heard any APCs.

61. On 5 July 2006 the district prosecutor's office dismissed the applicants' request to institute criminal proceedings in relation to the events of 29 December 2002 under Article 139 § 2 (unlawful violent intrusion into one's dwelling) for expiry of the statutory limitation period.

62. On 7 July 2006 the local administration of Urus-Martan informed the district prosecutor's office that there had never been any street named "Beregovaya" in the town of Urus-Martan and that the first applicant resided at 26 Bezymyannaya Street .

63. Despite specific requests by the Court the Government did not disclose most of the contents of criminal case no. 34005, providing only copies of decisions to suspend and resume the investigation and to grant victim status, as well as of several notifications to the relatives of the suspension and resumption of the proceedings. Relying on the information obtained from the Prosecutor General's Office, the Government stated that the investigation was in progress and that disclosure of the documents would be in violation of Article 161 of the Code of Criminal Procedure, since the file contained information of a military nature and personal data concerning witnesses or other participants in criminal proceedings.

C. Judicial proceedings against the investigators

64. On 27 June or July 2004 (the exact date was disputed between the parties) the first applicant brought proceedings before the Urus-Martan Town Court ("the town court") challenging the failure on the part of the district prosecutor's office to carry out the investigation and requested that the investigative measures be carried out and that he be allowed access to the investigation file.

65. According to the Government, on 19 August 2004 a lawyer lodged on the first applicant's behalf a similar complaint with the town court.

66. On 27 September 2004 the town court found that the investigation had already been resumed on 11 September 2004 and dismissed the first applicant's complaint of the district prosecutor's office's inactivity. As for the alleged lack of access to the case file, the town court found that the right to have access to the materials of a criminal case file did not arise before the completion of the investigation.

67. On 8 October 2004 the first applicant appealed to the Supreme Court of the Chechen Republic, which upheld the town court's judgment on 3 November 2004.

II. RELEVANT DOMESTIC LAW

68. For a summary of the relevant domestic law see *Akhmadova and Sadulayeva v. Russia*, no. 40464/02, § 67-69, 10 May 2007.

THE LAW

I. THE GOVERNMENT'S OBJECTION REGARDING THE VALIDITY OF THE APPLICATION FORM

69. The Government doubted the validity of the application form dated 5 November 2004 because it bore the stamp of the applicants' representatives and had not been signed by hand.

70. Having examined the application form, the Court considers that it bore the stamps of three of the applicants' representatives and the handwritten signature of one of them. In such circumstances the Court finds no grounds to doubt the validity of the application form. Accordingly, the Government's objection must be dismissed.

II. THE GOVERNMENT'S OBJECTION REGARDING EXHAUSTION OF DOMESTIC REMEDIES

A. The parties' submissions

71. The Government contended that the application should be declared inadmissible for non-exhaustion of domestic remedies. They submitted that the investigation of the disappearance of Rizvan Ibragimov had not yet been completed. They further argued that it had been open to the applicants to lodge court complaints about the allegedly unlawful detention of their relative or to challenge in court any actions or omissions of the investigating or other law-enforcement authorities.

72. The applicants contested that objection. They stated that the criminal investigation had proved to be ineffective and that their complaints to that effect, including the application to the town court, had been futile. Referring to the other cases concerning such crimes reviewed by the Court, they also alleged that the existence of an administrative practice of non-investigation of crimes committed by State servicemen in the Chechen Republic rendered any potentially effective remedies inadequate and illusory in their case.

B. The Court's assessment

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

74. The Court observes that the applicants complained to the law-enforcement agencies immediately after the abduction of Rizvan Ibragimov and that an investigation has been pending since 28 January 2003. The applicants and the Government disputed the effectiveness of this investigation.

75. The Court considers that the Government's objection raises issues concerning the effectiveness of the criminal investigation which are closely linked to the merits of the applicants' complaints. Thus, it considers that these matters fall to be examined below under the relevant substantive provisions of the Convention.

III. THE COURT'S ASSESSMENT OF THE EVIDENCE AND THE ESTABLISHMENT OF THE FACTS

A. The parties' submissions

76. The applicants maintained that it was beyond reasonable doubt that the men who had intruded into their home and taken away Rizvan Ibragimov were State agents. They explained that by December 2002 Urus-Martan had been under the total control of federal troops and military checkpoints had been installed at all roads into and out of the town.

77. The Government submitted that on 29 December 2002 unidentified armed men had kidnapped Rizvan Ibragimov. They further contended that the investigation into the incident was ongoing and that there was no evidence that the men had been State agents and that there were therefore no grounds for holding the State liable for the alleged violations of the applicants' rights. They further argued that there was no convincing evidence that the applicants' relative was dead.

B. The Court's evaluation of the facts

78. The Court observes that it has developed a number of general principles relating to the establishment of facts in dispute, in particular when faced with allegations of disappearance under Article 2 of the Convention (for a summary of these, see *Bazorkina v. Russia*, no. 69481/01, §§ 103-09, 27 July 2006). The Court also notes that the conduct of the parties when evidence is being obtained has to be taken into account (see *Ireland v. the*

United Kingdom, cited above, pp. 64-65, § 161). In view of this and bearing in mind the principles referred to above, the Court finds that it can draw inferences from the Government's conduct in respect of the well-foundedness of the applicants' allegations. The Court will thus proceed to examine crucial elements in the present case that should be taken into account when deciding whether the applicants' relative can be presumed dead and whether his death can be attributed to the authorities.

79. The applicants alleged that the persons who had taken Rizvan Ibragimov away on 29 December 2002 were State agents.

80. The Court notes that the applicants' allegation is supported by the witness statements collected by the applicants and by the investigation. It finds that the fact that a large group of armed men in uniform driving an APC and other military vehicles was able to move freely through federal checkpoints at night strongly supports the applicants' allegation that these were State servicemen. The domestic investigation also accepted factual assumptions as presented by the applicants and took steps to check whether law-enforcement agencies had been involved in the kidnapping. The investigation was unable to establish precisely which military or security units had carried out the operation, but it does not appear that any serious steps were taken to that end.

81. The Court observes that where the applicant makes out a *prima facie* case and the Court is prevented from reaching factual conclusions owing to the lack of documents, it is for the Government to argue conclusively why the documents in question cannot serve to corroborate the allegations made by the applicant, or to provide a satisfactory and convincing explanation of how the events in question occurred. The burden of proof is thus shifted to the Government and if they fail in their arguments, issues will arise under Article 2 and/or Article 3 (see *Toğcu v. Turkey*, no. 27601/95, § 95, 31 May 2005, and *Akkum and Others v. Turkey*, no. 21894/93, § 211, ECHR 2005-II).

82. Taking into account the above elements, the Court is satisfied that the applicants have made out a *prima facie* case that their relative was apprehended by State servicemen. The Government's statement that the investigation did not find any evidence to support the involvement of the special forces in the kidnapping is insufficient to discharge them from the above-mentioned burden of proof. Drawing inferences from the Government's failure to submit the documents which were in their sole possession or to provide another plausible explanation for the events in question, the Court considers that Rizvan Ibragimov was apprehended on the night of 28 to 29 December 2002 at his home by State servicemen during an unacknowledged security operation.

83. There has been no reliable news of Rizvan Ibragimov since 29 December 2002. His name has not been found in any official detention

facility's records. The Government have not submitted any explanation as to what happened to him after the abduction.

84. The Court notes with great concern that a number of cases have come before it which suggest that the phenomenon of "disappearances" is well known in the Chechen Republic (see, among others, *Bazorkina*, cited above; *Imakayeva v. Russia*, no. 7615/02, ECHR 2006-... (extracts); *Luluyev and Others v. Russia*, no. 69480/01, ECHR 2006-... (extracts); *Baysayeva v. Russia*, no. 74237/01, 5 April 2007; *Akhmadova and Sadulayeva v. Russia*, cited above; and *Alikhadzhiyeva v. Russia*, no. 68007/01, 5 July 2007). The Court has already found that, in the context of the conflict in the Chechen Republic, when a person is detained by unidentified servicemen without any subsequent acknowledgment of the detention, this can be regarded as life-threatening. The absence of Rizvan Ibragimov or of any news of him for several years supports this assumption.

85. The Court further notes that, regrettably, it has been unable to benefit from the results of the domestic investigation, owing to the Government's failure to disclose most of the documents from the file (see paragraph 63 above). Nevertheless, it is clear that the investigation did not identify the perpetrators of the kidnapping.

86. Furthermore, in a case involving disappearance, the Court finds it particularly deplorable that there should have been no thorough investigation of the relevant facts by the domestic prosecutors. The few documents submitted by the Government from the investigation file opened by the district prosecutor's office do not suggest any progress in more than three years and ten months and, if anything, show the incomplete and inadequate nature of those proceedings. Moreover, the stance taken by the district prosecutor's office after the news of Rizvan Ibragimov's abduction had been communicated to them by the applicants contributed significantly to the likelihood of the disappearance, as no necessary steps were taken in the crucial first days after the kidnapping.

87. For the above reasons the Court considers that it has been established beyond reasonable doubt that Rizvan Ibragimov must be presumed dead following his unacknowledged detention by State servicemen.

IV. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

88. The applicants complained under Article 2 of the Convention that Rizvan Ibragimov had disappeared after having been detained by Russian servicemen and that the domestic authorities had failed to carry out an effective investigation of the matter. Article 2 reads:

"1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.”

A. The parties’ submissions

89. The Government contended that the domestic investigation had obtained no evidence to the effect that Rizvan Ibragimov was dead or that any servicemen of the federal law-enforcement agencies had been involved in his kidnapping or alleged killing. The Government claimed that the investigation into the disappearance of the applicants’ relative met the Convention requirement of effectiveness, as all measures envisaged in national law were being taken to identify the perpetrators.

90. The applicants argued that Rizvan Ibragimov had been detained by State servicemen and should be presumed dead in the absence of any reliable news of him for several years. The applicants also argued that the investigation had not met the requirements of effectiveness and adequacy, as required by the Court’s case-law on Article 2. They noted that the investigation had been suspended and resumed a number of times – thus causing delay in taking the most basic steps – and that the applicants had not been properly informed of the most important investigative measures. They argued that the fact that the investigation had been pending for more than three years and ten months without producing any known results had been further proof of its ineffectiveness. The applicants invited the Court to draw conclusions from the Government’s unjustified failure to submit the documents from the case file to them or to the Court.

B. The Court’s assessment

1. Admissibility

91. The Court considers, in the light of the parties’ submissions, that the complaint raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. Further, the Court has already found that the Government’s objection concerning the alleged non-exhaustion of domestic remedies should be joined to the merits of the complaint (see paragraph 75 above). The complaint under Article 2 of the Convention must therefore be declared admissible.

2. *Merits*

(a) **The alleged violation of the right to life of Rizvan Ibragimov**

92. The Court reiterates that Article 2, which safeguards the right to life and sets out the circumstances when deprivation of life may be justified, ranks as one of the most fundamental provisions in the Convention, from which no derogation is permitted. In the light of the importance of the protection afforded by Article 2, the Court must subject deprivation of life to the most careful scrutiny, taking into consideration not only the actions of State agents but also all the surrounding circumstances (see, among other authorities, *McCann and Others v. the United Kingdom*, judgment of 27 September 1995, Series A no. 324, pp. 45-46, §§ 146-147, and *Avşar*, cited above, § 391).

93. The Court has already found it established that the applicants' relative must be presumed dead following his unacknowledged arrest by State servicemen and that his death can be attributed to the State. In the absence of any justification in respect of the use of lethal force by State agents, the Court finds that there has been a violation of Article 2 in respect of Rizvan Ibragimov.

(b) **The alleged inadequacy of the investigation of the kidnapping**

94. The Court has on many occasions stated that the obligation to protect the right to life under Article 2 of the Convention also requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force. It has developed a number of guiding principles to be followed for an investigation to comply with the Convention's requirements (for a summary of these principles see *Bazorkina*, cited above, §§ 117-19).

95. In the present case the kidnapping was investigated. The Court must assess whether that investigation met the requirements of Article 2 of the Convention.

96. The Court notes at the outset that most of the documents from the investigation were not disclosed by the Government. It therefore has to assess the effectiveness of the investigation on the basis of the few documents submitted by the parties and the information about its progress presented by the Government.

97. The Court notes that the authorities were immediately made aware of the crime by the applicants' submissions. However, the investigation was opened thirty days after the kidnapping had occurred. This delay in itself was liable to affect the investigation of a crime such as kidnapping in life-threatening circumstances, where crucial action has to be taken in the first days after the event. Within the next few days the first and second applicants were questioned and the first applicant was granted victim status.

However, it appears that after that a number of crucial steps were delayed and were eventually taken only after the communication of the complaint to the respondent Government, or not at all. For instance, the district prosecutor's office questioned the third, fifth and sixth applicants, the siblings of Rizvan Ibragimov, only in July 2006, that is, more than three and a half years after the crime. The Court considers such a delay excessive, especially in view of the fact that the fifth and sixth applicants witnessed their brother's kidnapping. It is obvious that such measures, if they were to produce any meaningful results, should have been taken immediately after the crime was reported to the authorities, and as soon as the investigation commenced. This delay, for which there has been no explanation in the instant case, not only demonstrates the authorities' failure to act of their own motion but also constitutes a breach of the obligation to exercise exemplary diligence and promptness in dealing with such a serious crime (see *Paul and Audrey Edwards v. the United Kingdom*, no. 46477/99, § 86, ECHR 2002-II).

98. The Court also notes that, even though the first applicant was granted victim status, he was only informed of the suspension and resumption of the proceedings, and not of any other significant developments. Accordingly, the investigators failed to ensure that the investigation received the required level of public scrutiny, or to safeguard the interests of the next of kin in the proceedings.

99. Finally, the Court notes that the investigation was suspended and resumed a number of times and that no proceedings were pending for almost two years, between 11 October 2004 and 4 July 2006. The Government mentioned the possibility for the applicants to apply for judicial review of the decisions of the investigating authorities in the context of exhaustion of domestic remedies. The Court observes that the applicants did make use of this remedy, which proved to be futile. In any event, the effectiveness of the investigation had already been undermined in its early stages by the authorities' failure to take necessary and urgent investigative measures. The investigation was repeatedly suspended and resumed, but it appears that no significant investigative measures were taken to identify the perpetrators. In such circumstances the Court considers that the applicants could not be required to challenge in court every single decision of the district prosecutor's office. Accordingly, the Court finds that the remedy relied on by the Government was ineffective in the circumstances and dismisses their preliminary objection as regards the applicants' failure to exhaust domestic remedies within the context of the criminal investigation.

100. In the light of the foregoing, the Court holds that the authorities failed to carry out an effective criminal investigation into the circumstances surrounding the disappearance of Rizvan Ibragimov, in breach of Article 2 in its procedural aspect.

V. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

101. The applicants further relied on Article 3 of the Convention, submitting that as a result of their relative's disappearance and the State's failure to investigate it properly, they had endured mental suffering in breach of Article 3 of the Convention. Article 3 reads:

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

A. The parties' submissions

102. The Government contested the allegations and argued that the investigation had not established that the applicants and Rizvan Ibragimov had been subjected to inhuman or degrading treatment prohibited by Article 3 of the Convention. As to the level of suffering allegedly caused to the applicants by the fact of their relative's disappearance, that, in the Government's view, was beyond the evaluation of the law-enforcement authorities and could not be objectively measured, as it related to psychological aspects, such as the emotions and personalities of the individuals concerned.

103. The applicants reiterated their complaint.

B. The Court's assessment

1. Admissibility

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

2. Merits

105. The Court observes that the question whether a member of the family of a “disappeared person” is a victim of treatment contrary to Article 3 will depend on the existence of special factors which give the suffering of the applicant a dimension and character distinct from the emotional distress which may be regarded as inevitably caused to relatives of a victim of a serious human rights violation. Relevant elements will include the proximity of the family tie, the particular circumstances of the relationship, the extent to which the family member witnessed the events in question, the involvement of the family member in the attempts to obtain information about the disappeared person and the way in which the

authorities responded to those enquiries. The Court would further emphasise that the essence of such a violation does not mainly lie in the fact of the “disappearance” of the family member but rather concerns the authorities’ reactions and attitudes to the situation when it is brought to their attention. It is especially in respect of the latter that a relative may claim directly to be a victim of the authorities’ conduct (see *Orhan v. Turkey*, no. 25656/94, § 358, 18 June 2002, and *Imakayeva*, cited above, § 164).

106. In the present case the Court notes that the applicants are the parents and siblings of the missing person. For more than three years and ten months they have not had any news of Rizvan Ibragimov. During this period the applicants have applied to various official bodies with enquiries about their relative, both in writing and in person. Despite their requests, the applicants have never received any plausible explanation or information as to what became of Rizvan Ibragimov following his kidnapping. The responses received by the applicants mostly denied that the State was responsible for his abduction or simply informed them that an investigation was ongoing. The Court’s findings under the procedural aspect of Article 2 are also of direct relevance here.

107. In view of the above, the Court finds that the applicants suffered, and continue to suffer, distress and anguish as a result of the disappearance of their relative and their inability to find out what happened to him. The manner in which their complaints have been dealt with by the authorities must be considered to constitute inhuman treatment contrary to Article 3.

108. The Court therefore concludes that there has been a violation of Article 3 of the Convention in respect of the applicants.

VI. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION

109. The applicants further stated that Rizvan Ibragimov had been detained in violation of the guarantees of Article 5 of the Convention, which reads, in so far as relevant:

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

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

...

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

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

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

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

A. The parties’ submissions

110. In the Government’s opinion, no evidence was obtained by the investigators to confirm that Rizvan Ibragimov had been deprived of his liberty in breach of the guarantees set out in Article 5 of the Convention.

111. The applicants reiterated their complaint.

B. The Court’s assessment

1. Admissibility

112. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. Further, the Court has already found that the Government’s objection concerning the alleged non-exhaustion of domestic remedies should be joined to the merits of the complaint (see paragraph 75 above). It further notes that the complaint is not inadmissible on any other grounds and must therefore be declared admissible.

2. Merits

113. The Court has previously noted the fundamental importance of the guarantees contained in Article 5 to secure the right of individuals in a democracy to be free from arbitrary detention. It has also stated that unacknowledged detention is a complete negation of these guarantees and discloses a very grave violation of Article 5 (see *Çiçek v. Turkey*, no. 25704/94, § 164, 27 February 2001, and *Luluyev*, cited above, § 122).

114. The Court has found it established that Rizvan Ibragimov was apprehended by State servicemen on 29 December 2002 and has not been seen since. His detention was not acknowledged, was not logged in any custody records and there exists no official trace of his subsequent whereabouts or fate. In accordance with the Court’s practice, this fact in itself must be considered a most serious failing, since it enables those

responsible for an act of deprivation of liberty to conceal their involvement in a crime, to cover their tracks and to escape accountability for the fate of a detainee. Furthermore, the absence of detention records which note such matters as the date, time and location of detention and the name of the detainee as well as the reasons for the detention and the name of the person effecting it must be seen as incompatible with the very purpose of Article 5 of the Convention (see *Orhan*, cited above, § 371).

115. The Court further considers that the authorities should have been more alert to the need for a thorough and prompt investigation of the applicants' complaints that their relative had been detained and taken away in life-threatening circumstances. However, the Court's findings above in relation to Article 2 and, in particular, the conduct of the investigation, leave no doubt that the authorities failed to take prompt and effective measures to safeguard him against the risk of disappearance.

116. Having regard to the Government's objection concerning the applicants' failure to complain of their relatives' unlawful detention to domestic authorities, the Court observes that after Rizvan Ibragimov had been taken away by armed men on 29 December 2002, the applicants actively attempted to establish his whereabouts and applied to various official bodies, whereas the authorities denied responsibility for their relative's detention. In such circumstances, and in particular in the absence of any proof of the very fact of the detention, even assuming that the remedy referred to by the Government was accessible to the applicants, it is more than questionable whether a court complaint of the unacknowledged detention of Rizvan Ibragimov by the authorities would have had any prospects of success. Moreover, the Government have not demonstrated that the remedy indicated by them would have been capable of providing redress in the applicants' situation, namely, that it would have led to the release of Rizvan Ibragimov and the identification and punishment of those responsible. Accordingly, the Government's objection concerning non-exhaustion of domestic remedies must be dismissed.

117. In view of the foregoing, the Court finds that Rizvan Ibragimov was held in unacknowledged detention without any of the safeguards contained in Article 5. This constitutes a particularly grave violation of the right to liberty and security enshrined in Article 5 of the Convention.

VII. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

118. In their application form the applicants complained, relying on Article 8 of the Convention, that they could no longer enjoy family life with their close relative following his abduction by the State authorities. Article 8 of the Convention, in so far as relevant, provides:

"1. Everyone has the right to respect for his ... family life, his home ...

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

A. The parties’ submissions

119. The Government objected and claimed that the alleged interference with the right to respect for family life of Rizvan Ibragimov was not imputable to the State. They also stated that Russian servicemen had not participated in the search of the applicants’ house.

120. In their observations on the admissibility and merits of the case dated 27 November 2006 the applicants raised a complaint under Article 8 of the Convention concerning the unlawful search of their house carried out on the night of 28 to 29 December 2002.

B. The Court’s assessment

1. Admissibility

(a) The right to respect for home

121. The Court reiterates at the outset that Article 35 § 1 of the Convention requires that the Court may only deal with a matter where it has been introduced within six months of the date of the final decision. Where it is clear from the outset however that no effective remedy is available to the applicant, the period runs from the date of the acts or measures complained of, or from the date of knowledge of that act or its effect on, or prejudice to, the applicant (see *Dennis and Others v. the United Kingdom* (dec.), no. 76573/01, 2 July 2002).

122. The Court observes that, according to the applicants, their house was searched on the night of 28 to 29 December 2002. It therefore has no doubts that the applicants immediately became aware of the alleged breach of their right to respect for home. The applicants themselves emphasised that, in their view, no effective domestic remedies for the violations complained of existed at domestic level. Nevertheless, they did not raise the issue of the unlawful search in their correspondence with the Court before 27 November 2006, that is, almost four years after the relevant events.

123. It follows that the complaint in respect of the search of the applicants’ house was introduced out of time and must be rejected pursuant to Article 35 §§ 1 and 4 of the Convention.

(b) The right to respect for family life

124. The Court considers, in the light of the parties' submissions, that the applicants' complaint concerning the breach of their right to respect for family life raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. Further, the Court has already found that the Government's objection concerning the alleged non-exhaustion of domestic remedies should be joined to the merits of the complaint (see paragraph 75 above). This part of the complaint under Article 8 of the Convention must therefore be declared admissible.

2. Merits

125. The Court does not deem it necessary to rule on the issue of exhaustion of domestic remedies as regards the alleged interference with the applicants' family life and that of their close relative for the following reason.

126. The applicants' complaint concerning their inability to enjoy family life with Rizvan Ibragimov concerns the same facts as those examined above under Articles 2 and 3 of the Convention. Having regard to its above findings under these provisions, the Court finds that no separate issue arises under Article 8 of the Convention in this respect.

VIII. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

127. The applicants complained that they had been deprived of effective remedies in respect of the aforementioned violations, contrary to Article 13 of the Convention, which provides:

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

A. The parties' submissions

128. The Government contended that the applicants had had effective remedies at their disposal as required by Article 13 of the Convention and that the authorities had not prevented them from using them. The applicants had had an opportunity to challenge the actions or omissions of the investigating authorities in court, which they had failed to do. In sum, the Government submitted that there had been no violation of Article 13.

129. The applicants reiterated their complaint.

B. The Court's assessment

1. Admissibility

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

2. Merits

131. The Court reiterates that Article 13 of the Convention guarantees the availability at the national level of a remedy to enforce the substance of the Convention rights and freedoms in whatever form they might happen to be secured in the domestic legal order. According to the Court's settled case-law, the effect of Article 13 of the Convention is to require the provision of a remedy at national level allowing the competent domestic authority both to deal with the substance of a relevant Convention complaint and to grant appropriate relief, although Contracting States are afforded some discretion as to the manner in which they comply with their obligations under this provision. However, such a remedy is only required in respect of grievances which can be regarded as "arguable" in terms of the Convention (see, among many other authorities, *Halford v. the United Kingdom*, judgment of 25 June 1997, *Reports of Judgments and Decisions* 1997-III, p. 1020, § 64).

132. As regards the applicants' complaint of lack of effective remedies in respect of their complaint under Article 2, the Court emphasises that, given the fundamental importance of the right to protection of life, Article 13 requires, in addition to the payment of compensation where appropriate, a thorough and effective investigation capable of leading to the identification and punishment of those responsible for the deprivation of life, including effective access for the complainant to the investigation procedure leading to the identification and punishment of those responsible (see *Anguelova v. Bulgaria*, no. 38361/97, §§ 161-162, ECHR 2002-IV, and *Süheyra Aydın v. Turkey*, no. 25660/94, § 208, 24 May 2005). The Court further reiterates that the requirements of Article 13 are broader than a Contracting State's obligation under Article 2 to conduct an effective investigation (see *Khashiyev and Akayeva*, cited above, § 183).

133. In view of the Court's above findings with regard to Article 2, this complaint is clearly "arguable" for the purposes of Article 13 (see *Boyle and Rice v. the United Kingdom*, judgment of 27 April 1988, Series A no. 131, § 52). The applicants should accordingly have been able to avail themselves of effective and practical remedies capable of leading to the identification and punishment of those responsible and to an award of compensation, for the purposes of Article 13.

134. It follows that in circumstances where, as here, the criminal investigation into the disappearance of Rizvan Ibragimov has been ineffective and the effectiveness of any other remedy that may have existed has consequently been undermined, the State has failed in its obligation under Article 13 of the Convention.

135. Consequently, there has been a violation of Article 13 of the Convention in conjunction with Article 2 of the Convention.

136. As regards the applicants' reference to Article 3 of the Convention, the Court notes that it has found a violation of the above provision on account of the applicants' mental suffering as a result of the disappearance of their close relatives, their inability to find out what had happened to them and the way the authorities handled their complaints. However, the Court has already found a violation of Article 13 of the Convention in conjunction with Article 2 of the Convention on account of the authorities' conduct that led to the suffering endured by the applicants. The Court considers that, in the circumstances, no separate issue arises in respect of Article 13 in connection with Article 3 of the Convention.

137. As regards the applicants' reference to Article 5 of the Convention, the Court reiterates that, according to its established case-law, the more specific guarantees of Article 5 §§ 4 and 5, being a *lex specialis* in relation to Article 13, absorb its requirements and in view of its above findings of a violation of Article 5 of the Convention as a result of unacknowledged detention, the Court considers that no separate issue arises in respect of Article 13 read in conjunction with Article 5 of the Convention in the circumstances of the present case.

138. As for the complaint under Article 13 in conjunction with Article 8, the Court notes that in paragraph 126 above it found that no separate issue arises under that provision. Therefore, it considers that no separate issue arises under Article 13 in this respect either.

IX. ALLEGED VIOLATIONS OF ARTICLES 6 AND 14 OF THE CONVENTION

139. In their application form the applicants stated that they had been deprived of access to a court, contrary to the provisions of Article 6 of the Convention, and that they had been discriminated against on the grounds of their ethnic origin, in breach of Article 14 of the Convention. The relevant parts of Article 6 of the Convention read as follows:

"In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... by [a] ... tribunal..."

Article 14 of the Convention, in so far as relevant, provides:

"The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as ... national ... origin..."

140. In their observations on admissibility and merits of 27 November 2006 the applicants stated that they no longer wished their complaints under Articles 6 and 14 of the Convention to be examined.

141. The Court, having regard to Article 37 of the Convention, finds that the applicants do not intend to pursue this part of the application, within the meaning of Article 37 § 1 (a). The Court also finds no reasons of a general character, affecting respect for human rights, as defined in the Convention, which require the further examination of the present complaints by virtue of Article 37 § 1 of the Convention *in fine* (see, for example, *Chojak v. Poland*, no. 32220/96, Commission decision of 23 April 1998, unpublished; *Singh and Others v. the United Kingdom* (dec.), no. 30024/96, 26 September 2000; and *Stamatios Karagiannis v. Greece*, no. 27806/02, § 28, 10 February 2005).

142. It follows that this part of the application must be struck out in accordance with Article 37 § 1 (a) of the Convention.

X. APPLICATION OF ARTICLE 41 OF THE CONVENTION

143. 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

144. The applicants did not submit any claims for pecuniary damage. They claimed non-pecuniary damage for the suffering which they had endured as a result of the loss of their relative, the indifference shown by the authorities towards them and the failure to provide any information about the fate of Rizvan Ibragimov. The first and second applicants claimed 70,000 euros (EUR) each, while the third, fourth, fifth and sixth applicants claimed EUR 30,000 each.

145. The Government submitted that the applicants' claims had been unsubstantiated and excessive.

146. The Court has found a violation of Articles 2, 5 and 13 of the Convention on account of the unacknowledged detention and disappearance of the applicants' relative. The applicants themselves have been found to have been victims of a violation of Article 3 of the Convention. The Court thus accepts that they have suffered non-pecuniary damage which cannot be compensated for solely by the findings of violations. On an equitable basis it awards the first and second applicant EUR 25,000 jointly and the third,

fourth, fifth and sixth applicants EUR 2,500 each plus any tax that may be chargeable thereon.

B. Costs and expenses

147. The applicants were represented by the SRJI. They submitted an itemised list of costs and expenses that included the drafting of legal documents submitted to domestic authorities at a rate of EUR 50 per hour and to the Court at a rate of EUR 150 per hour, EUR 8,250 in total. They also claimed EUR 52.51 in translation fees, EUR 93.15 in fees for international courier mail and EUR 577.50 in administrative costs. The aggregate claim in respect of costs and expenses related to the applicants' legal representation amounted to EUR 8,973.16.

148. The Government submitted that the sum claimed was excessive for legal representation rates applicable in Russia and disputed the reasonableness and the justification of the amounts claimed under this heading. They also objected to the representatives' request to transfer the award for legal representation directly into their account in the Netherlands.

149. The Court has to establish first whether the costs and expenses indicated by the applicants were actually incurred and, second, whether they were necessary (see *McCann and Others*, cited above, § 220).

150. Having regard to the details of the information, the Court is satisfied that these rates are reasonable and reflect the expenses actually incurred by the applicants' representatives.

151. Further, it has to be established whether the costs and expenses incurred for legal representation were necessary. The Court notes that this case was rather complex and required a certain amount of preparation. It notes at the same time that, due to the application of Article 29 § 3 in the present case, the applicants' representatives submitted their observations on admissibility and merits in one set of documents. The Court thus doubts that legal drafting was necessarily time-consuming to the extent claimed by the representatives.

152. Furthermore, the Court observes that it is its standard practice to rule that awards in relation to costs and expenses are to be paid directly into applicants' representatives' accounts (see, for example, *Toğcu*, cited above, § 158, and *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, § 175, ECHR 2005-VII).

153. Having regard to the details of the claims submitted by the applicants' representatives, the Court awards them EUR 6,500, less EUR 850 received by way of legal aid from the Council of Europe, together with any value-added tax that may be chargeable, the net award to be paid into the representatives' bank account in the Netherlands, as identified by the applicants.

C. Default interest

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention in so far as it concerns the applicants' complaints under Articles 6 and 14 of the Convention;
2. *Decides* to join to the merits the Government's objection concerning non-exhaustion of domestic remedies;
3. *Declares* the complaints under Articles 2, 3, 5 and 13, as well as the complaint concerning the alleged breach of the applicants' right to respect for family life under Article 8 of the Convention, admissible and the remainder of the application inadmissible;
4. *Holds* that there has been a violation of Article 2 of the Convention in respect of Rizvan Ibragimov;
5. *Holds* that there has been a violation of Article 2 of the Convention in respect of the failure to conduct an effective investigation into the circumstances in which Rizvan Ibragimov had disappeared;
6. *Holds* that there has been a violation of Article 3 of the Convention in respect of the applicants;
7. *Holds* that there has been a violation of Article 5 of the Convention in respect of Rizvan Ibragimov;
8. *Holds* that no separate issue arises under Article 8 of the Convention as regards the right to respect for the applicants' family life;
9. *Holds* that there has been a violation of Article 13 of the Convention in respect of the alleged violation of Article 2 of the Convention;
10. *Holds* that no separate issues arise under Article 13 of the Convention in respect of the alleged violations of Articles 3, 5 and 8 of the Convention;

11. *Holds*

(a) that the respondent State is to pay, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:

(i) EUR 25,000 (twenty-five thousand euros) in respect of non-pecuniary damage to the first and second applicants jointly and EUR 2,500 (two thousand five hundred euros) to the third, fourth, fifth and sixth applicants each, to be converted into Russian roubles at the date of settlement, plus any tax that may be chargeable to these amounts;

(ii) EUR 5,650 (five thousand six hundred and fifty euros) in respect of costs and expenses, to be paid into the representatives' bank account in the Netherlands, plus any tax that may be chargeable to the applicants;

(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;

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

Done in English, and notified in writing on 29 May 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President