



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

FIRST SECTION

CASE OF DZHAMBKOVA AND OTHERS v. RUSSIA

(Applications nos. 27238/03 and 35078/04)

JUDGMENT

STRASBOURG

12 March 2009

FINAL

14/09/2009

This judgment may be subject to editorial revision.

In the case of Dzhambekova 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 Malinvernì,

George Nicolaou, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 17 February 2009,

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

PROCEDURE

1. The case originated in two applications (nos. 27238/03 and 35078/04) 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 19 Russian nationals, listed below (“the applicants”), on 10 July 2003 and 19 August 2004 respectively.

2. The applicants 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 and Ms V. Milinchuk, former Representatives of the Russian Federation at the European Court of Human Rights.

3. The applicants alleged that four of their relatives had disappeared after being detained by servicemen in Chechnya in 2001 and 2002. The first and fifth applicants also complained that their administrative detention in December 2002 was unlawful and about the conditions of that detention. They invoked Articles 2, 3, 5, 6, 8 and 13 of the Convention.

4. On 1 September 2005 the President of the First Section decided to grant priority to the application under Rule 41 of the Rules of Court.

5. By a decision of 13 March 2008, the Court joined the applications and declared them partly admissible. The President of the Chamber acceded to the Government’s request not to make publicly accessible the documents from the criminal investigation file deposited with the Registry in connection with the application (Rule 33 of the Rules of Court).

6. The Chamber having decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 3 *in fine*), the parties replied in writing to each other’s observations.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicants in application no. 27238/03 are:

1. Ms Zaynap Khadushovna Dzhambekova, born in 1959;
2. Mr Adlan Lukayevich Dzhambekov, born in 1953;
3. Ms Markha Adlanovna Dzhambekova, born in 1998;
4. Mr Islam Adlanovich Dzhambekov, born in 1990;
5. Ms Aminat Dodayevna Ependiyeva, born in 1949;
6. Mr Ali Magomedovich Soltymuradov, born in 1992;
7. Ms Toita Dodayevna Soltymuradova, born in 1954;
8. Ms Aysha Magomedovna Soltymuradova, born in 1997;
9. Ms Madina Magomedovna Soltymuradova, born in 1990;
10. Mr Uvays Soltymuradovich Soltymuradov, born in 1930;
11. Ms Zulpa Uvaysovna Soltymuradova, born in 1958;
12. Ms Umisat Dodyevna Nakayeva, born in 1965;
13. Ms Ayza Shaidovna Tokayeva, born in 1966;
14. Ms Zara Baidovna Tatariyeva, born in 1940;
15. Ms Kheda Rezvanovna Tatariyeva, born in 2000;
16. Ms Zura Shamsudinovna Tatariyeva, born in 1967.
17. Ms Marina Dukvakhayevna Islamova, born in 1980.

The applicants in application no. 35078/04 are:

18. Vakha Salmanovich Visaitov, born in 1944;
19. Zulay Sayd-Khasanovna Magomadova, born 1949.

8. They live in the Urus-Martan district, Chechnya.

A. The applicants' relatives' arrest

9. The applicants belong to four families, members of whom were detained in three separate incidents in 2001 and 2002 in the town of Urus-Martan or in villages in the Urus-Martan district. The four men disappeared following their detention, and the families have been conducting the search for them together.

1. Apprehension of Imran Dzhambekov

10. The first four applicants are relatives of Imran Dzhambekov, who was born in 1979. The first two applicants are his mother and father, and the third and fourth applicants are his younger sister and brother. The Dzhambekov family live in their own house at 209 Sovetskaya Street in the village of Goyty in the Urus-Martan district. In March 2002 Imran Dzhambekov was a second-year student at the Grozny Oil Institute, in the

faculty of Construction Management and Economics. The local police office in Urus-Martan certified that he had no problems with the law and was known to his neighbours and fellow students as a responsible member of the community. In May 2003, at the first applicant's request, the Goyty village policeman certified that there was no reason to suspect Imran Dzhambekov of involvement with illegal armed groups.

11. On the evening of 19 March 2002 the first four applicants and Imran Dzhambekov were at home. At about midnight the first applicant heard someone trying to open the front door. She walked to the door, which opened, and a man wearing camouflage and a mask entered and pointed a machine gun at her. He turned on the light, and then about twelve more servicemen entered the house. They were all armed and masked. They spoke Russian without any accent and the first applicant noticed blue eyes and light features through the openings in the masks. The first applicant asked them what they wanted but they told her to keep quiet. They did not explain anything to the applicants and did not produce any papers.

12. The servicemen asked the first applicant to indicate who was in which room of the house. The first applicant pointed to the room where her husband, the second applicant, was sleeping and to the room where her elder son Imran Dzhambekov was sleeping. One serviceman went into the second applicant's room, and about ten of them went into Imran's room. The first applicant managed to get past the servicemen into her son's room and saw him lying on the floor face down, his hands tied behind his back. He was wearing a short-sleeved T-shirt and shorts in which he had been sleeping. The servicemen ordered him to be silent and asked the first applicant her son's name and date of birth. Then they ordered her to fetch his passport and other documents, which she did.

13. In the meantime the first and second applicants' two minor children, the third and fourth applicants, started to cry and one of the soldiers took the children and the first applicant and escorted them into the second applicant's room. Then they closed the door and pushed some furniture against it to block it from the outside. The second applicant received several blows from the servicemen in the face and in the stomach, and for some time lay on the floor in pain. When the applicants managed to open the door after about ten minutes, the servicemen had already left and taken Imran Dzhambekov with them.

14. The first applicant ran along the street crying out her son's name. She saw a group of servicemen walking towards two armoured personnel carriers (APCs) and one UAZ vehicle stationed on the crossroads of Sovetskaya Street and Titova Street. The second applicant meanwhile grabbed a metal rod and started to knock on a gas pipe pillar in order to wake up the neighbours.

15. By the time the first applicant reached the crossroads, the military had boarded the vehicles and left along Titova Street. The first applicant tried to catch up with them but they turned into Pushkina Street.

16. In the meantime, the second applicant got into his car and also tried to catch the military vehicles. At some point he picked up his wife, the first applicant, in the street and together they continued along the tracks left by the APCs until they reached the main road, from where there were two directions out of the village – to the north towards Grozny, or to the south towards Urus-Martan. Both exits were controlled by Russian military roadblocks.

17. The first and second applicants first went to the roadblock at the exit towards Grozny. They personally knew a military serviceman who served there, Sergey from St. Petersburg, and the first applicant walked up to the roadblock and called him by name. When he came out she told him that servicemen in APCs had detained her son, and Sergey told her that no traffic had entered the village that night from their side, and that they should go to the roadblock on the road leading to Urus-Martan.

18. The applicants then went to the house of the local policeman and asked him to go with them, but he refused. He told them to go and wait for the military vehicles at the roadblock until 6 a.m. because nobody would be allowed to travel during the curfew. They then went to the house of the head of the village administration, but did not find him.

19. After that the first and second applicants went to the roadblock on the road leading towards Urus-Martan. There, at about 1.30 a.m., they saw two APCs and a UAZ vehicle heading towards Urus-Martan. They clearly noted the identification number of one of the APCs as 237, and a long dent and white paint marks on the back of the UAZ. Later the neighbours told them that they had noted the APC identification numbers as 237 and 246, and the UAZ number plate as “378-t”.

20. The first and second applicants returned home and decided to continue the search in the morning, after the end of the curfew. In the street in front of their house they found Imran Dzhambekov’s one shoe and socks. They realised that he had been taken away in his shorts and T-shirt and barefoot, despite the cold.

21. In addition to their own detailed statements, the applicants submitted witness statements from their neighbours about the events of the night of 19-20 March 2002, which corroborated their submissions. One witness testified that she had seen bruises on the second applicant’s face from the blow he had received that night. The neighbours testified that they had heard the first applicant crying out her son’s name and the knocking sound made by the second applicant, and had seen the military in two APCs and a man in underwear being put into an APC.

22. The applicants also submitted a hand-drawn map of Goyty indicating the places to which they had referred.

23. The applicants have had no news of Imran Dzhambekov since that night.

24. The Government in their observations submitted in May 2006 (hereinafter “the first set of observations”) did not dispute most of the facts as presented by the applicants. They stated that it had been established that at about midnight on 19 March 2002 unidentified men wearing camouflage uniforms and armed with automatic weapons had entered the applicants’ house at 209 Sovetskaya Street in Goyty and taken away Imran Dzhambekov. In their subsequent observations submitted in March 2008 after the application had been declared admissible (“the second set of observations”) they disputed certain aspects of the applicants’ version of the events with reference to the documents from the criminal investigation file (see details below).

2. Apprehension of Magomed Soltymuradov

25. Applicants five to thirteen are relatives of Magomed Dodiyeovich Soltymuradov, who was born in 1969. The fifth, seventh and twelfth applicants are his sisters, the sixth, eighth and ninth applicants his son and daughters, the tenth applicant his uncle and the eleventh applicant his cousin. The thirteenth applicant is Magomed Soltymuradov’s wife. The applicants live in two private houses located in Urus-Martan at nos. 5 and 7 Polevaya Street. Magomed Soltymuradov, his wife and three children lived at no. 5, while his uncle and cousin, the tenth and eleventh applicants, live in no. 7. In addition, there is another building in the same household where the fifth applicant lives.

26. Magomed Soltymuradov is a trained economist. Before the hostilities started he worked in a bank. Between November 1999 and December 2001 he lived as an internally displaced person with his wife and three children in the Volgograd Region. Since his return to Urus-Martan he had been unemployed, while his wife, the thirteenth applicant, worked as a medical worker in a hospital. The applicants stated that Magomed Soltymuradov had suffered from an ulcer since childhood and required constant medical treatment.

27. On the night of 10-11 January 2002 the thirteenth applicant was in the hospital where she was working the night shift. The sixth, eighth and ninth applicants were at home with their father, Magomed Soltymuradov. They slept through the night, and at 7 a.m. when the ninth applicant woke up and was getting ready for school, she discovered that her father was not at home and that the front door had been broken down.

28. The eleventh applicant testified that at about 2 a.m. on 11 January 2002 she had heard noises at the front door of her house. She had gone to the door, turned on the lights and asked in Russian who was there. She had been told in Russian to open the door for a document check. When she opened the door, four armed men in camouflage uniforms and wearing

masks had entered the house. They had told her to produce her passport and had searched her room, including the bed and wardrobe.

29. They had then proceeded to search the room of the tenth applicant, her father. After about twenty minutes they had left. The tenth and eleventh applicants then heard a car leaving the junction of Plevaya Street and Chekhova Street, from the direction of the house of Magomed Soltymuradov.

30. The fifth applicant said that in the middle of the night she had heard noises in her house but had not understood what was going on. She had looked out into the courtyard, but it was dark and she could not see anything. She had then fallen asleep.

31. At about 7 a.m. on 11 January 2002 the ninth applicant, Madina Soltymuradova, the daughter of Magomed Soltymuradov, alerted the tenth and eleventh applicants to her father's absence. The relatives had together inspected the fresh snow in the courtyard, where they could clearly see traces of military boots with the marking "USSR". There were also imprints of sports shoes. The applicants estimated that there must have been about twenty people in the courtyard. The footprints led to houses nos. 5 and 7, and inside the houses. In both buildings the front doors had been broken down. Magomed Soltymuradov's room and bed were in disorder. The applicants also realised that 4,000 roubles (RUB) they had in cash had gone missing.

32. The applicants submitted a hand-drawn map of the neighbourhood indicating the buildings to which they referred and the traces left by the boots.

33. The applicants have not had any news of Magomed Soltymuradov since 11 January 2002.

34. The Government in their first set of observations did not dispute the facts as presented by the applicants. They stated that it had been established that at about 3 a.m. on 11 January 2002 unidentified armed men wearing camouflage uniforms and masks and armed with automatic weapons had entered the household at no. 5 Plevaya Street in Urus-Martan and taken away Magomed Soltymuradov, whose whereabouts remained unknown. In their second set of observations the Government disputed the applicants' version of their relative's arrest, in view of the absence of evidence from the eye-witnesses that he had actually been taken away by armed men (see details below). They also noted that the applicants had not informed the investigation about the allegedly missing money.

3. Apprehension of Rizvan Tatariyev

35. Applicants fourteen to seventeen are relatives of Rizvan Shamsudinovich Tatariyev, who was born in 1977. The fourteenth applicant is his mother, the fifteenth applicant is his daughter, the sixteenth applicant his sister and the seventeenth applicant his wife. The applicants live in two

private houses joined by a common courtyard, located at 16 Bolnichnaya Street in Gekhi, Urus-Martan district. Six members of the family of Arbi T., Rizvan Tatariyev's brother, live in the same household. Rizvan Tatariyev worked as a construction worker. In May 2003 the Gekhi village policeman and the head of the village administration certified that there was no reason to suspect him of involvement with illegal armed groups.

36. On the night of 22 December 2001 the applicants and other members of their family were at home sleeping. At about 3 a.m. a large group of some twenty servicemen forcibly entered the household. They were armed with hand pistols, automatic weapons and truncheons and wearing camouflage uniforms and masks. They were tall and well-built and spoke Russian without any accent. They wore head lamps, so the applicants could not see their faces clearly, but the applicants were convinced that they belonged to the special forces.

37. The applicants were awoken by the soldiers who were already in the house and had spread out into the rooms. They first went to the room of Rizvan Tatariyev's nephew, Ruslan T., who at that time was 21 years old. They forced him onto the floor and held him there using their feet and truncheons. One of the female relatives fetched his passport at the request of the servicemen, who inspected it and said to another: "It's not him."

38. They then proceeded to the room where the fourteenth applicant and her son Rizvan Tatariyev had been sleeping. Several servicemen threw Rizvan Tatariyev onto the floor and started to kick him, before tying his hands behind his back. They inspected his driving licence and said "It's him". They did not ask for his passport. In the meantime the fourteenth applicant tried to get to her son, but the military pushed her away. Then they escorted Rizvan Tatariyev outside through the back door and left one by one. They warned the applicants not to go outside the house or they would shoot.

39. The applicants submitted that, according to their neighbours' statements, the military had arrived in an APC and two UAZ vehicles which they had parked about 80 metres from the house. When the applicants came out of the house some time after the departure of the armed men, they found the gates open, but the military had already left.

40. In addition to their own statements and the statements by their relatives who lived in the same household, the applicants submitted a hand-drawn map of the area and of the two houses, noting the places to which they had referred in their statements. In the morning they learnt that on the same night the servicemen had detained and taken away another man in Gekhi, Sharpudi Visaitov.

41. The applicants have not seen or heard from their relative Rizvan Tatariyev since the night of 21-22 December 2001.

42. The Government in their first set of observations did not dispute most of the facts as presented by the applicants. They stated that it had been

established that at about 4 a.m. on 22 December 2001 unidentified armed men wearing masks had taken Rizvan Tatariyev away from his home, and that his whereabouts remained unknown. In the second set of observations the Government questioned the accuracy of certain details in the witness statements, including the alleged presence of the military vehicles (see below).

4. Apprehension of Sharpudi Visaitov

43. The eighteenth and nineteenth applicants are married. They are the father and mother of Sharpudi Vakhayevich Visaitov, who was born in 1980. The applicants live with their eight children, their daughter-in-law and two grandchildren in a private house at 20 Nuradilova Street in Gekhi, Urus-Martan district. Their son Sharpudi Visaitov worked as a car mechanic. In May 2003 the Gekhi village policeman and the head of the village administration certified that there was no reason to suspect Sharpudi Visaitov of involvement with illegal armed groups.

44. On the night of 21 to 22 December 2001 the applicants and their family members were at home sleeping. At about 4 a.m. a large group of servicemen in camouflage uniforms forcibly entered their house. They were armed with machine guns and spoke Russian without any accent. Some of them wore masks, while others did not and had typically Slavic features. They were wearing helmets with head lamps. The men did not produce identity papers or any documents to justify their actions and gave no explanation.

45. The applicants were woken up by the servicemen who were in their room and pointing automatic rifles at them. They told them to be quiet, not to wake up the children and to produce their identity documents for checking. They also asked them how many men there were in the house and if there were any weapons, to which the eighteenth applicant replied in the negative.

46. The men proceeded to search the rooms and inspected the passports of the occupants. In the meantime a group of soldiers remained in the courtyard, aiming their weapons at the windows.

47. The military then ordered four of the applicants' sons, including Sharpudi Visaitov, to go into the courtyard. They were not permitted to dress or to put on their shoes. After a while Sharpudi's three brothers were released and returned to the house one by one. The servicemen left after about thirty minutes and took Sharpudi Visaitov with them. Before leaving they told the applicants to remain inside the house for twenty minutes because the house was being watched by snipers and they would be shot at if they disobeyed. After the departure of the servicemen the applicants realised that they had taken Sharpudi Visaitov's passport and some family photos.

48. In the morning of 22 December 2001 the applicants found Sharpudi Visaitov's slippers in the courtyard and saw the imprints of bare feet in the snow, which they concluded were his. They found an opening cut in the metal wire fence around their vegetable patch, through which the servicemen had arrived and departed.

49. Later on they discovered that on the same night another person from the village had been detained, Rizvan Tatariyev. The Tatariyevs' house is situated in Bolnichnaya Street, which is parallel to Nuradilova Street, so that the two households border each other's back gardens. The applicants submitted a hand-drawn map of the area and of the house.

50. They also identified witnesses from among their neighbours who testified that they had seen a large group of servicemen in the Visaitovs' house on that night at about 4 a.m., as well as an APC and another vehicle stationed in the neighbouring Kirova Street. These statements were annexed to their application.

51. The applicants submitted that two days after the detention of Sharpudi Visaitov an APC and a UAZ vehicle had arrived at their house. A group of military servicemen had told them that if they did not give up their weapons they would take away other men, as they had done with Sharpudi. The applicants had no weapons to surrender, and the military searched the house and left without taking anything. They did not identify themselves or present any papers. The applicants said that the vehicles had left in the direction of Urus-Martan.

52. The Government in their observations did not dispute most of the facts as presented by the applicants. They stated that it had been established that at about 4 a.m. on 22 December 2001 unidentified armed men wearing masks had taken Sharpudi Visaitov away from his home, and that his whereabouts remained unknown.

B. The search for Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov and the investigation

53. Immediately after the detention of their family members the applicants started to search for them. They coordinated their actions and conducted part of the search together. The search was primarily carried out by the mothers or sisters of the detained men. At some point in 2003 the applicants set up a non-governmental organisation called the "Society of War Victims", which was headed by the first applicant. Part of the search was conducted on behalf of this NGO.

54. On numerous occasions, both in person and in writing, they applied to prosecutors at various levels, to the Ministry of the Interior, the Special Envoy of the Russian President for Rights and Freedoms in the Chechen Republic, military commanders, the Federal Security Service (FSB), the administrative authorities in Chechnya and to the media and public figures.

They also personally visited detention centres, police stations, military bases and prisons in Chechnya as well as further afield in the Northern Caucasus.

55. Besides personal visits, the applicants addressed numerous letters to the prosecutors and other authorities in which they described the circumstances in which their relatives had been detained and asked for assistance and details of the investigation. The applicants submitted copies of some of the letters they had written.

56. The applicants received hardly any substantive information from official bodies about the investigations into the disappearances. On several occasions they were sent copies of letters forwarding their requests to different prosecution services. Below is a summary of the letters retained by the applicants and the replies they received from the authorities, and of other relevant developments.

1. Search for Imran Dzhambekov

57. Imran Dzhambekov was detained in the early hours of 20 March 2002. Once the curfew was over at 6 a.m. his parents, the first and second applicants, took warm clothes for him and went to Urus-Martan, in the direction taken by the military vehicles that had detained him. They personally visited the Urus-Martan temporary district department of the interior (VOVD) and the military commander's office. They were not allowed to enter the buildings, but the officers denied that Imran Dzhambekov had been detained by them.

58. On 20 March 2002 the applicants submitted a written application to the Urus-Martan district prosecutor, complaining of the unlawful arrest of their son by military servicemen travelling in two APCs. The applicants were received by the district prosecutor, who in their presence called the VOV, the military commander's office and the headquarters of the Ministry of the Interior special operations division no. 100 (referred to as DON-100). These services denied that their vehicles or servicemen had been involved in any operations in the village of Goyty on that night and stated that they had not detained Imran Dzhambekov.

59. On the same day at about 2 p.m. the first and second applicants talked to officer Ya., the deputy military commander of the Urus-Martan district, who allegedly told them that a detainee "from the left side of Sovetskaya Street in Goyty" had been taken that night to the "boarding school". The applicants said that the Urus-Martan VOV was located in the premises of the former boarding school.

60. Also on 20 March 2002, while standing in front of the gates of the VOV, the applicants noticed a UAZ vehicle which they identified by white paint marks and a dent on the back as the vehicle involved in their son's arrest. They also noted the vehicle's number plates.

61. On 21 March 2002 the applicants returned to Urus-Martan. They said that they were informed by an officer of the military commander's

office that their son was being held for questioning in the VOVD, and would be released in a day or two.

62. On 23 March 2002 the applicants, through a middleman, contacted the chief of staff of the district military commander's office A., who told them that they should look for their son at Khankala (the main Russian military base in Chechnya) and that he had been in the custody of the Regional Department for Combating Organised Crime (RUBOP). On the same day the second applicant spoke to a police detective from the VOVD, Alik Kh., who confirmed that the UAZ vehicle belonged to the head of the VOVD and advised him to look for his son at the RUBOP branch in Grozny. In early April an officer at the Urus-Martan district military commander's office also told the first and second applicants that their son had been detained by the Grozny branch of RUBOP.

63. At about 10 a.m. on 24 March 2002 the second applicant spoke to the head of the criminal investigation department of the VOVD, K., in the courtyard of the VOVD building. The second applicant showed him the UAZ vehicle, but the officer said that the car could have been taken without the VOVD's knowledge; he again denied any knowledge of Imran Dzhambekov's detention.

64. On 25 March 2002 the Urus-Martan district prosecutor's office ("the district prosecutor's office") opened criminal investigation file no. 61058 into the kidnapping of Imran Dzhambekov. On the same day the first applicant communicated all the known details of the APCs and the UAZ vehicle to the prosecutor's office.

65. At the end of March 2002 the first applicant talked to investigator Sergey L. from the district prosecutor's office, who was in charge of her son's case. He told her that he could not question anyone in the military commander's office but that he had carried out checks and established that the APCs with the said numbers belonged to the district military commander's office and the UAZ to the VOVD. He also said that when he had tried to put some questions to a serviceman from the commander's office he had been threatened. The same investigator later told the applicants that he had visited the VOVD personally and had not found Imran Dzhambekov, but "that there were only four cells there to which he had been given access".

66. The applicants said that on 15 April 2002 the second applicant had again met the head of the criminal investigation department of the VOVD, K., at the VOVD who had denied that Imran Dzhambekov had ever been detained there. As proof, the officer showed the second applicant the log of detainees. The second applicant noted the name "Dzhanashvili" and suggested that it could have been his son, but that his name had been deliberately misspelled. The officer said that he could not show him that man either and refused to assist the applicants any further.

67. The first and second applicants also explained that they had attempted to find a middleman among the military servicemen in order to pay for their son's release, but had been told that it was impossible. Some time in April the applicants had also contacted a man who worked in Khankala who told them that Imran Dzhambekov had allegedly been detained there, that he had been charged with crimes related to terrorism and that he had been transferred to Rostov-on-Don on 18 or 24 April with a group of other detainees.

68. On 16 May 2002 the first applicant had applied in person to the acting Chechnya Prosecutor, Mr Chernov, who invited her to a meeting in his office with a senior military prosecutor, Mr Kolomeyets. The first applicant recounted the story of her son's detention to both men, who assured her that, since details such as the APC and the UAZ numbers were known, the case would certainly be resolved. The military prosecutor assured the applicant that he too would take the case under his personal supervision.

69. On 24 May 2002 the first applicant wrote to the head of the Urus-Martan VOVD and asked him to investigate her son's disappearance and the involvement of the two APCs and the UAZ vehicle, the numbers and other details of which she indicated.

70. On 28 May 2002 the first applicant was granted victim status in the criminal investigation into her son's abduction.

71. On 10 June 2002 the first applicant again requested the Chechnya Prosecutor to organise an effective investigation into her son's abduction. She stated in her letter the known details of the vehicles that had taken him away and requested that it be established to which authority they belonged.

72. On 11 June 2002 the district prosecutor's office replied to the applicants that all the necessary investigative measures had been carried out, but had not led to the identification of the culprits.

73. On 22 June 2002 the head of the Urus-Martan district department of the interior (ROVD) informed the first applicant that their office had opened a search file on her missing son and that she would be informed of the results.

74. On 9 July 2002 the Chechnya Prosecutor's Office informed the first applicant that their office had examined the criminal investigation file concerning her son's abduction, quashed the decision to adjourn the criminal investigation and forwarded the case for further investigation to the district prosecutor's office.

75. On 2 September 2002 the first applicant wrote a letter to the Urus-Martan military commander's office giving details of her son's abduction and requested an investigation to find out his whereabouts.

76. On 23 January 2003 the Chechnya department of the FSB informed the first applicant that they had no information regarding Imran Dzhambekov and that he was not suspected of participation in illegal

activities. Her letter was forwarded to the military prosecutor of the United Group Alignment (UGA) in the Northern Caucasus.

77. On 31 January 2003 the military prosecutor of the UGA forwarded the first applicant's letter to the military prosecutor of military unit no. 20102, based in Khankala, and instructed him to verify whether the UAZ vehicle with the number plate indicated by the applicant belonged to the VOVD of Urus-Martan.

78. On 3 February 2003 the district prosecutor's office informed the first applicant that the investigation of criminal case no. 61058 into her son's abduction had been adjourned on 25 May 2002 owing to a failure to identify the culprits, and had been reopened on 30 January 2003.

79. On 14 February 2003 the Chechnya Prosecutor's Office informed the first applicant that the investigation in criminal case no. 61058 had been resumed on 30 January 2003 and that it was checking the information concerning the APCs and the UAZ vehicle communicated by her.

80. On 18 February 2003 the military prosecutor of military unit no. 20102 responded to the first applicant, informing her that, as with her previous requests, this was not a matter for the military prosecutor's office. The letter further informed her that the criminal investigation into her son's abduction would only be transferred from the Urus-Martan district prosecutor's office to the military prosecutor's office if it was established that military servicemen were implicated in the crime.

81. On 17 March 2003 the Prosecutor General's Office wrote to a member of the State Duma, Mr Nikitin, in reply to his enquiry concerning missing persons and crimes against civilians in Chechnya. It stated that 1,250 criminal investigation files had been opened in respect of 1,802 kidnapped or missing persons. In 2002 alone 565 criminal cases had been opened in respect of 738 missing persons. 559 persons had been found. The letter listed a number of steps taken by the prosecutor's office in order to prevent disappearances and to effectively investigate such cases, including the issue of a number of instructions and the holding of coordination meetings between various bodies. The letter also contained a list of missing persons, which included Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov, and stated that criminal investigations were pending into each of those cases. It added that the involvement of servicemen from the Ministry of Defence or Ministry of the Interior had not been established in any of the cases, and the investigation into all the cases had been adjourned. Measures to solve the crimes were continuing. On 3 April 2003 Mr Nikitin forwarded the Prosecutor General's Office's response to the first applicant for information.

82. On 8 April 2003 the first applicant submitted applications to the Minister of the Interior and to the Speakers of the two Chambers of the Federal Assembly, asking them to take into account the situation of the

“disappeared” when working on a draft document on the granting of amnesties in respect of events in Chechnya.

83. On 17 April 2003 the Chechnya Prosecutor’s Office wrote to the first applicant in response to her complaint. It stated that following her son’s kidnapping by unknown persons wearing camouflage on 20 March 2002, criminal case no. 61058 had been opened on 25 March 2002 by the district prosecutor’s office under Article 126, part 2 of the Criminal Code. On 25 May 2002 the investigation had been adjourned owing to a failure to identify the culprits. On 30 January 2003 the investigation had been reopened and accepted for further examination by an investigator from the district prosecutor’s office. During this additional investigation the first applicant had been granted victim status and the second applicant and other witnesses had been questioned about the circumstances of the abduction. The letter further stated that the investigation had forwarded requests for information to the various military and police authorities in order to identify APCs nos. 237 and 246 and the UAZ vehicle with registration number 378-02 that had been involved in the abduction. Additional requests for information had been forwarded to the Orenburg Region. The letter concluded that, unfortunately, these investigative steps had not led to the identification of the culprits or to the establishment of Imran Dzhambekov’s whereabouts. The investigation had again been adjourned, but attempts to solve the crime were continuing.

84. On 18 April 2003 the first applicant, acting in her capacity as the head of the NGO “Society of War Victims”, forwarded a list of missing persons who had disappeared following their detention by the “power structures” in the Urus-Martan district to the Urus-Martan ROVD and asked for its assistance in finding them.

85. On 21 April 2003 the military prosecutor of the UGA informed the applicants that, according to the information obtained from the military and police authorities of the Urus-Martan district, APCs with the identification numbers 237 and 246 and the UAZ vehicle with registration number R378-02 did not belong to any of these authorities. No special operations had been carried out in Goyty on the night of 19-20 March 2002 and Mr Dzhambekov had not been detained by servicemen from the federal forces. The letter advised the first applicant to direct further queries to the district prosecutor’s office in charge of the case.

86. On 22 April 2003 the SRJI, acting on the first applicant’s behalf, wrote to the district prosecutor and the Chechnya Prosecutor asking them to provide an update of the criminal investigation into Mr Dzhambekov’s disappearance, including the results of the checks concerning the number plates of the vehicles involved.

87. On 29 April 2003 the head of the Urus-Martan district administration wrote to the first applicant and informed her that the district administration was struggling to cope with the number of “enforced disappearances”. The

letter stated that between 1 January and 22 April 2003 alone 27 cases of “disappearances” had been recorded in the district, and that as a result of the efforts made by the authorities, four persons had been released and three bodies found.

88. On 10 June 2003 the district prosecutor’s office informed the first applicant that on 10 June 2003 their office had reopened the investigation into her son’s abduction.

89. On 31 July 2003 and 20 August 2003 the second applicant wrote to the Chechnya Prosecutor. He restated the known circumstances of his son’s detention on 20 March 2002, including the details of the vehicles involved. He also referred to the information collected by him and his wife in the weeks following the abduction, according to which the APCs had passed through the military checkpoints without any problems and the UAZ vehicle belonged to the head of the Urus-Martan VOVD. He further complained that when he had been questioned on 31 January 2003 by an investigator from the district prosecutor’s office, the investigator had refused to record in the minutes of the interview full information about the number plates of the vehicles involved. The second applicant said that when he had subsequently accessed the minutes he had observed that the investigator had noted the APC number as “23”, even though he had given the number as “237”, and had failed to record the number plates of the UAZ. The second applicant requested the prosecutor to resume the investigation of criminal case no. 61068 and to take the action necessary to identify the servicemen responsible, as well as to transfer the case for investigation to the military prosecutor’s office in view of the involvement of military servicemen in the abduction.

90. On 15 September 2003 the Chechnya Prosecutor’s Office informed the second applicant that following his complaint the decision of 10 July 2003 to adjourn the investigation had been reversed and on 12 September 2003 the investigation had been resumed by the district prosecutor’s office.

91. It appears that the investigation was adjourned again on 12 October 2003.

92. In January 2004 several applicants, including the first applicant, joined the open letter to President Putin signed by 131 relatives of persons who had “disappeared” in Chechnya. They referred to the information that in most known cases the disappeared persons had been taken away by State agents, judging from the use of military vehicles and their ability to travel unhindered in groups through military and security roadblocks. They deplored the absence of any official information about their family members following such detention and asked the President to ensure that investigations be conducted into such crimes.

93. At some point the applicants requested the district prosecutor’s office to grant them access to the case file as victims in the proceedings. On 15 April 2004 the district prosecutor’s office rejected the first applicant’s

request for access to the file, on the ground that the investigation was pending.

94. The applicants appealed against that refusal to the district court, and on 6 August 2004 the Urus-Martan Town Court allowed in part the first applicant's complaint against the district prosecutor's office based on the latter's failure to take effective steps to investigate her son's abduction. The Town Court ordered the district prosecutor's office to resume the investigation and to take a number of investigative measures that had been requested by the applicants, such as questioning the former head of the Urus-Martan VOVD and other servicemen from that office named by the applicants, and identifying the detainee referred to as "Dzhanashvili" who had been at the VOVD in March 2002. The court refused to grant the applicants access to the case file, stating that that right was accorded to victims only on completion of the investigation, not when the proceedings were adjourned. On 24 August 2004 the Chechnya Supreme Court upheld that decision.

95. On 12 October 2005 the district prosecutor's office informed the first applicant that the investigation had been resumed on 5 October 2005.

96. The first applicant said that since the abduction of her son her health had deteriorated and that she suffered from a number of chronic illnesses that were made worse by the stress she was under.

2. Search for Magomed Soltymuradov

97. Magomed Soltymuradov disappeared from his house on the night of 10 to 11 January 2002. The applicants submitted that he had been detained by the same military servicemen who had searched the neighbouring house occupied by his relatives, the tenth and eleventh applicants.

98. At about 9 a.m. on 11 January 2002 the fifth and tenth applicants, Magomed Soltymuradov's sister and uncle, applied in person to the district prosecutor's office, the district administration and the military commander's office. On the same day they submitted to these offices written applications stating the circumstances of Mr Soltymuradov's detention and asking for assistance in finding him. They submitted their application in person to the district prosecutor, who together with the applicants went to the Urus-Martan VOVD. When the prosecutor came out of the VOVD building he told the applicants that "the local guys did not do this, we do not work at night. These must be GRU [the Army's Main Intelligence Service] or the FSB." The prosecutor advised the applicants to look for Mr Soltymuradov at the military commander's office or through the administration.

99. On 11 January 2002 the head of the district administration forwarded the applicants' complaint to the district military commander and asked him to find out the reasons for Mr Soltymuradov's detention and obtain his release.

100. Throughout the following week Magomed Soltymuradov's relatives maintained a vigil in front of the district prosecutor's office, hoping that he would be released. The applicants also personally contacted several officials in the district administration and the former head of the Grozny administration, Vahid M., who allegedly had good contacts among the military. They did not obtain any information about their missing relative.

101. On 17 January 2002 the fifth applicant again wrote to the district military commander. She stated the circumstances of her brother's detention by military servicemen and asked for the commander's assistance in obtaining his release.

102. On 21 January 2002 the seventh applicant, Magomed Sotymuradov's other sister, wrote to the district prosecutor, the military commander, the head of the VOVD, the Memorial Human Rights Centre and the Special Envoy of the Russian President for Rights and Freedoms in the Chechen Republic. In her letter she stated the known circumstances of her brother's detention, referred to his medical problems and stated that since his arrest his relatives had received no information whatsoever about the reasons for his detention or the authority which had carried it out. She asked for assistance in finding her brother.

103. On 25 January 2002 the district prosecutor's office opened criminal investigation no. 62004 into the abduction of Magomed Soltymuradov by persons unknown. On the same day the fifth applicant was granted victim status in the criminal investigation concerning her brother's abduction.

104. On 27 January 2002 the fifth applicant wrote to the head of the Chechnya department of the FSB and asked for his assistance in finding her brother and obtaining his release. The letter was co-signed by dozens of their neighbours.

105. On 22 March 2002 the district prosecutor replied to the fifth applicant that the criminal case pending with that office concerning her brother's abduction had failed to identify the culprits.

106. On 4 April 2002 the applicants received a handwritten note requiring "the relatives of Magomed Soltymuradov to come to the VOVD boarding school building at 3 p.m. on 5 April 2002" and to report to Alik Kh.

107. On 5 April 2002 the fifth, seventh and twelfth applicants, sisters of the missing man, went to the VOVD. At the entrance they were met by an operational detective, Alik Kh., who confirmed that he had sent the note, and invited only the fifth applicant to come inside. There he took her into a room with another officer of the VOVD and told the fifth applicant that her brother had been killed in Grozny on 5 January 2002. The fifth applicant was upset and confused by this statement, because her brother had only been detained on 11 January 2002. She asked if they had any papers confirming his death and if they could obtain the body for burial, but the

officers said that they could not do anything because the case was under investigation. They asked her questions about a certain K. from the village of Gekhi, but the fifth applicant said that she did not know anyone from that village.

108. After that conversation, on 5 and 6 April 2002, the fifth applicant tried to find out further news from the district prosecutor's office, but the investigator responsible for the case was not available.

109. On 8 April 2002 the fifth applicant talked to an officer at the Chechnya Prosecutor's Office who told her that her brother was not listed among those killed.

110. In April 2002 the fifth applicant asked other relatives of missing persons who regularly gathered in front of the VOVD building if they knew K. from Gekhi, about whom she had been questioned in the VOVD. She met the brothers of K., who was also missing, and they told her that they in turn had been questioned about Mr Soltymuradov.

111. On 17 April 2002 the district prosecutor's office informed the fifth applicant that on 25 January 2002 it had opened criminal case no. 61004.

112. On 4 June 2002 the fifth applicant applied to the military prosecutor of military unit no. 20102. She stated the circumstances of Mr Soltymuradov's arrest and complained that the district prosecutor's office had made no progress in its investigation and had not informed the relatives about the proceedings. She asked the military prosecutor to carry out an investigation into her brother's arrest.

113. On 5 June 2002 the fifth applicant sent a similar letter to the Chechnya Prosecutor. She also asked him to ensure that she was informed about progress in the proceedings.

114. On 24 June 2002 the acting district military commander informed the fifth applicant that they had no information about the whereabouts of Magomed Soltymuradov.

115. On 20 September 2002 the military prosecutor of the Northern Caucasus military circuit forwarded the fifth applicant's complaint to the military prosecutor of military unit no. 20102 and instructed him to check the facts and to give an answer to the applicant.

116. On 27 September 2002 the fifth applicant wrote to the head of the Chechnya department of the FSB and requested him to provide her with information about her brother, who had allegedly been detained by officers from that service.

117. On 7 October 2002 the Urus-Martan district department of the FSB wrote to the fifth applicant to say that they had no information about the detention or whereabouts of Magomed Soltymuradov.

118. On 14 October 2002 the district prosecutor's office informed the fifth applicant that on 26 March 2002 the investigation in criminal case file no. 61004 had been suspended owing to a failure to identify the culprits. She was informed of her right to appeal.

119. On 17 October 2002 the fifth applicant appealed against the decision to adjourn the criminal investigation to the Urus-Martan District Court. She requested the court to quash the decision and to require the investigators to carry out a thorough investigation into her brother's disappearance.

120. On 8 January 2003 the district prosecutor's office wrote in response to the fifth applicant's complaint, stating that the criminal investigation in case no. 61004 had thus far failed to establish Magomed Soltymuradov's whereabouts or to identify his abductors. The applicant was invited to submit any relevant information which came into her possession to that office.

121. On 28 March 2003 the fifth applicant appealed to the Supreme Court of Chechnya against the Urus-Martan District Court's failure to act. She stated that despite her numerous applications in person to that court no action had been taken in response to her complaint of 17 October 2002 concerning the ineffectiveness of the criminal investigation. On 16 April 2003 the Supreme Court referred the complaint back to the Urus-Martan District Court and instructed it to take appropriate steps.

122. The thirteenth applicant, the wife of Magomed Soltymuradov, applied to the district court for an order declaring her husband a missing person. On 3 April 2003 the Urus-Martan District Court granted her request and declared him a missing person with effect from 10 January 2002. The court took into account the statements of the thirteenth applicant and two neighbours who testified that on the night of 10 to 11 January 2002 her husband had been taken away by unknown persons and had not been seen since. The criminal investigation into the abduction had produced no results. The decision was not appealed against and became final on 13 April 2003. On the same day the court granted the thirteenth applicant's request to certify Magomed Soltymuradov's paternity of her three children, for the purposes of obtaining social-security benefits.

123. On 24 April 2003 the fifth applicant again complained to the civil and military prosecutors of Chechnya. She restated the known facts of her brother's abduction and of the investigation, in particular referring to the questions put to her by the VOVD officers in April 2002 about K. and the questions K.'s relatives had been asked about her brother. She insisted that her brother could only have been detained by the authorities and asked the prosecutor to ensure an effective investigation.

124. On 5 August 2003 the fifth applicant complained to the Chechnya Prosecutor and requested him to reopen the investigation, to take steps aimed at finding her brother and to identify the perpetrators among the State structures.

125. On 1 September 2003 the Chechnya Prosecutor's Office replied to the fifth applicant that the investigation into her brother's abduction had

been reopened on 21 August 2003 and that she could obtain news about the ongoing investigation at the district prosecutor's office.

126. On 5 January and 19 April 2004 the fifth applicant asked the district prosecutor's office to take a number of investigative steps and to inform her of the progress of the investigation.

127. On 6 May 2004 the district prosecutor's office informed the fifth applicant that the investigation was pending with that office and that she would be informed if her brother's whereabouts were established.

128. On 13 May 2004 the fifth applicant again wrote to the district prosecutor's office. She claimed that the investigation had not made any genuine attempt to find her brother or identify the persons who had abducted him. She asked the prosecutor's office to visit their house, to question all the relatives and neighbours who had been eye-witnesses to Magomed Soltymuradov's abduction and could describe the persons and vehicles involved, to question the officers of the Urus-Martan VOVD who had information about her brother and K. in April 2002 and the servicemen of the Urus-Martan military commander's office who could authorise the movement of military personnel and vehicles in the district.

129. On 5 July 2004, in response to a request from the investigator of the district prosecutor's office in charge of criminal case no. 61004, the NGO Memorial stated that, according to their figures, between December 1999 and March 2004, 205 residents of the Urus-Martan district had "disappeared". The NGO stressed that their information was not complete and that in every such case the information had been transferred to the law-enforcement bodies.

130. On 26 November 2004 the fifth applicant again asked the district prosecutor's office to inform her about progress in the investigation of her brother's abduction and to allow her access to the case file.

131. On 2 January 2005 the district prosecutor's office informed the fifth applicant that the investigation had been suspended on the same day for failure to identify the culprits. The fifth applicant was also informed of her right to appeal.

132. In February 2004 several applicants, including the fifth applicant, joined the open letter to the then President of Chechnya Mr Alkhanov, signed by 126 relatives of persons who had "disappeared" in Chechnya. They referred to the information that in most known cases the disappeared persons had been taken away by State agents, judging from the use of military vehicles and the ability of the groups to travel unhindered through military and security roadblocks. They deplored the absence of any official information about their family members following such detention and asked the President to ensure that investigations be conducted into such crimes.

3. *Search for Rizvan Tatariyev*

133. Rizvan Tatariyev was apprehended in his house in the early hours of 22 December 2001. In the morning of 22 December 2001 his relatives learned that on the same night another man, Sharpudi Visaitov, had been detained in their village of Gekhi. The fourteenth applicant, Rizvan Tatariyev's mother, together with the parents of Sharpudi Visaitov, went to Urus-Martan and personally visited the district prosecutor, the military commander's office and the head of the district administration. On the same day the fourteenth applicant submitted two written statements to the district prosecutor, stating the circumstances of her son's detention and asking him to help establish his whereabouts. The relatives did not receive any news about the detainees.

134. On 2 January 2002 the district prosecutor's office opened criminal investigation file no. 25180 concerning the kidnapping of Rizvan Tatariyev and Sharpudi Visaitov. The applicants submitted that since that date and until the communication of the complaint to the Government, no one from the investigation had visited their homes or questioned any family members or neighbours of Rizvan Tatariyev or Sharpudi Visaitov.

135. On 3 January 2002 the fourteenth applicant wrote to the head of the district administration and asked him to help her find her son.

136. On 2 March 2002 the investigator of the district prosecutor's office adjourned the investigation of criminal case no. 25180 for failure to identify the culprits. The investigation had established that on 22 December 2001 unidentified persons wearing military-type camouflage uniforms and masks had apprehended Rizvan Tatariyev and Sharpudi Visaitov in their homes and taken them away in an unknown direction.

137. On 8 April 2002 the military prosecutor of military unit no. 20102 wrote to the fourteenth applicant, stating that there were no grounds for suspecting the involvement of servicemen from the Ministry of Defence, the FSB or the Interior Troops of the Ministry of the Interior in the abduction of her son. The supporting documents were forwarded to the district prosecutor's office.

138. On 25 May 2002 the fourteenth applicant sent a letter to the Urus-Martan military commander asking for his help in finding her son.

139. On 30 June 2002 the Chechnya department of the FSB informed the fourteenth applicant that the facts stated in her application did not fall within the competence of the FSB.

140. On 29 August 2002 the district military commander replied to the fourteenth applicant that their office had no information about her son. He further stated that his office had no competence to charge anyone with a crime and that it would continue to make every effort to establish the son's whereabouts.

141. On 3 September 2002 the office of the military prosecutor of the Northern Caucasus military circuit forwarded the applicant's complaint to

the military prosecutor of military unit no. 20102 in Khankala and instructed him to verify the facts and sent an answer to the applicant.

142. On 13 November 2002 the district prosecutor's office issued a notice to the district social-security service confirming that Rizvan Tatariyev had been abducted on 21 December 2001 in Urus-Martan and that his whereabouts remained unknown, despite a pending investigation.

143. On 25 February 2003 the fourteenth applicant was granted victim status in criminal investigation no. 25180 concerning the abduction of Rizvan Tatariyev by unknown armed persons in military uniform.

144. On 11 June 2003 the district prosecutor's office reopened the criminal investigation into Rizvan Tatariyev's abduction and informed the fourteenth applicant accordingly.

145. On 17 June 2003 the Chechnya Prosecutor's Office informed the fourteenth applicant that on 2 March 2002 criminal investigation no. 25180 into her son's abduction had been adjourned for failure to identify the culprits. On 10 June 2003 the district prosecutor had quashed that decision as unlawful and forwarded the case for additional investigation.

146. On 11 July 2003 the district prosecutor's office again adjourned the investigation and informed the fourteenth applicant of her right to appeal.

147. In April 2004 the fourteenth applicant asked the Urus-Martan military commander to help find her son and establish the reasons for his detention following his arrest by State servicemen at his own house on 22 December 2001.

148. On 8 December 2005 the head of the criminal police department of the Urus-Martan ROVD informed the fourteenth applicant that they had no information about any special operation on 22 December 2001 or the detention of her son by the military or police. He also stated that requests for information had been sent to all the district departments of the interior in Chechnya and further afield in the region, as well as to the main information centre of the Ministry of the Interior.

149. In September 2006 several applicants, including the fourteenth applicant, joined an open letter to the Chairman of the Parliament of Chechnya, signed by more than a hundred relatives of persons who had "disappeared" in Chechnya. They referred to information that in most known cases the disappeared persons had been taken away by State agents. They deplored the absence of any official information about their family members following their detention and asked the Chairman to ensure that investigations be conducted into such crimes.

4. Search for Sharpudi Visaitov

150. Sharpudi Visaitov was apprehended in his house in the early hours of 22 December 2001. In the morning of 22 December 2001 the eighteenth and nineteenth applicants (Sharpudi Visaitov's father and mother) learned that on the same night another man, Rizvan Tatariyev, had been detained in

Gekhi. Together with the parents of Tatariyev they went to Urus-Martan and personally visited the local prosecutor, the military commander's office and the head of the district administration, stating the circumstances of their sons' detention and asking them to help establish their whereabouts. They did not receive any news about the detainees (see above).

151. On 24 December 2001 the eighteenth applicant wrote to the district prosecutor and the military commander and asked them about the reasons for his son's detention.

152. On 2 January 2002 the district prosecutor's office opened criminal investigation no. 25180 into the abduction of Rizvan Tatariyev and Sharpudi Visaitov by persons unknown. The applicants submitted that despite the opening of the investigation, until the communication to the Government of their complaint to the European Court no one conducting the investigation had visited their homes or questioned any family members or neighbours of theirs or of Rizvan Tatariyev.

153. On 8 April 2002 the military prosecutor of military unit no. 20102 replied to the eighteenth applicant that it had been established that no servicemen from the Ministry of Defence or the Interior Troops of the Ministry of the Interior had participated in the actions of which he had complained. The complaint had therefore been forwarded to the district prosecutor's office.

154. On 21 May 2002 the nineteenth applicant wrote to the district military commander and asked for assistance in finding her son, who had been taken away by unknown armed servicemen.

155. On 28 February 2003 the nineteenth applicant was granted victim status in criminal investigation no. 25180 concerning the abduction of Sharpudi Visaitov.

156. On 7 December 2004 the nineteenth applicant wrote to the district prosecutor's office. She reiterated the available information about her son's arrest and insisted that the detention had been carried out by State servicemen. She asked the prosecutor to take a number of steps in order to identify the agency, vehicles and servicemen involved in the arrest and thus to establish the whereabouts of her son. She also asked him to inform her of progress in the investigation.

157. The nineteenth applicant stated that since her son's disappearance her health had deteriorated significantly. She suffered from a number of chronic diseases of the heart and respiratory system and from hypertension, and in August and September 2001 had twice been taken to hospital. In September 2001 she has been advised to undergo surgical treatment in Moscow, but had not done so.

5. Summary of the investigations as submitted by the applicants

158. The applicants were thus informed that three criminal investigation files had been opened by the district prosecutor's office in respect of the

kidnappings of their relatives: file no. 61068 opened on 25 March 2002 in respect of Imran Dzhambekov, file no. 62004 opened on 25 January 2002 in respect of Magomed Soltymuradov, and file no. 25180 opened on 2 January 2002 concerning the abduction of Rizvan Tatariyev and Sharpudi Visaitov. These proceedings were adjourned and reopened several times, but produced no tangible results.

159. The first applicant was granted victim status on 28 May 2002 in criminal investigation no. 61068 into her son's abduction. On 25 January 2002 the fifth applicant was granted victim status in criminal investigation no. 62004 concerning her brother's abduction. On 25 February 2003 the fourteenth applicant and on 28 February 2003 the nineteenth applicant were granted victim status in criminal investigation file no. 25180 concerning the abduction of their sons. It appears that no other relatives of the missing men were granted victim status in the proceedings, and very few persons among the relatives and neighbours – except for those granted victim status – were questioned, at least until the communication of the complaints to the respondent Government.

C. Information submitted by the Government about the investigation

160. In response to requests by the Court, the Government disclosed a number of documents from criminal files nos. 61068, 62004 and 25180. After the case had been declared admissible, they provided 159 pages of documents from the three investigation files, including decisions to open, to suspend and resume the investigations and to grant victim status, letters to the relatives informing them of the adjournment and reopening of the proceedings and various witness statements. Relying on information obtained from the Prosecutor General's Office, the Government stated that the investigation was in progress and that the disclosure of the remaining 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 the witnesses or other participants in the criminal proceedings.

161. These documents, as well as the Government's submissions on the progress of the investigation can be summarised as follows.

1. Investigation into the kidnapping of Imran Dzhambekov

162. On 20 March 2002 the first applicant submitted a written application to the district prosecutor, asking him to investigate and find her son, who had been taken away that night by a group of military servicemen in two APCs. The first applicant indicated that she had not seen the hull numbers of the APCs.

163. On 25 March 2002 the Urus-Martan ROVD opened a search file in respect of Imran Dzhambekov, who had been taken from his house by unknown armed men.

164. On 25 March 2002 the district prosecutor's office opened criminal investigation no. 61058 into the kidnapping of Imran Dzhambekov. According to a document issued on 20 April 2006 by the acting district prosecutor, the main aspect of the crime examined by the investigation was the involvement of "power structures and military units" (*"силовых структур и воинских подразделений"*).

165. On 25 March 2002 the first applicant was questioned as a witness. The Government submitted a copy of her witness statement, in which she stated that at about midnight on 19 March 2002 a group of about ten or twelve armed and masked men wearing camouflage uniforms, had entered their house. The men had hit her husband, locked her in a room with her younger daughter and taken her son to two APCs which had been stationed not far from the house. She had followed the APCs on foot, while her husband had taken his car and followed the two APCs to the road leading towards Urus-Martan. He had noted their identification numbers as 237 and 246; he had also noted the figures "02" on the number plates of a UAZ vehicle which had accompanied the APCs. The first applicant had reached the roadblock situated at the exit of the village on foot, where she had been told that the vehicles had not used that road.

166. On 31 January 2003 the first applicant was granted victim status in the investigation and questioned. She was questioned again on 20 June 2003 and on 18 October 2005. On 20 June 2003 she explained that on 17 April 2002 she and her husband had travelled to the Khankala military base and talked to man called "Akhmed" who worked there. On 11 May 2002 "Akhmed" had told them that their son had been transferred to Rostov-on-Don upon charges of terrorism. On 18 October 2005 she again submitted details of her son's detention. She referred to the APCs' hull numbers which she had noted as 237 and 246, and the UAZ vehicle as "R 378 02". She also specified that the intruders had talked between themselves in unaccented Russian and that she had seen blue eyes and light features in the openings of the masks and concluded that they were Russian. She described the discussion with the police detective Alik Kh. who had confirmed that the UAZ vehicle belonged to the Urus-Martan VOVD and that he was not aware where it had been taken on the night of 19 March 2002.

167. The second applicant was questioned on 31 January 2003. According to his statement submitted by the Government, on the night of 19 March 2002 he had been awoken by men dressed in blue camouflage uniforms, who had entered their house and hit the second applicant several times in the face and torso. They had then locked his wife and two younger children in the room, having blocked the door with a sofa. Once the applicants had managed to get outside, they realised that their eldest son

Imran had been taken away. After the abductors had left, the second applicant had run into the street and seen a group of men walking away, but had not at that time seen the APCs and vehicles. His wife, the first applicant, had pursued the men on foot, while he had taken his car and followed two APCs and the UAZ vehicle along Lenina Street towards the exit to Urus-Martan. He had then decided to go to the head of the local administration in order to ask him to notify the military at the roadblock, but had not managed to find him. The guards at the house had told him that they had no radios and could not contact the roadblock. He had then gone to the house of the local policeman, who told him to wait at the roadblock leading to Goyty, at the eastern side of the village. At about 2 a.m. on the same night he had seen the same APCs and UAZ moving towards Urus-Martan. He noted the two last digits of the identification number of one of the APCs as "23" and the number plate of the UAZ vehicle as "R-378 02". The second applicant further stated that he had later seen the UAZ in the courtyard of the Urus-Martan VOVD. Police detective Alik Kh. from the VOVD had informed him that his son had probably been arrested by the RUBOP and taken to Khankala. The same information had been given to him by Lieutenant-Colonel G. who was the deputy military commander of the Urus-Martan district.

168. The second applicant was further questioned on 26 October 2005. He again recounted the events of the night of 19 to 20 March 2002, and repeated the details about the number plate of the UAZ vehicle and the hull numbers of two APCs. He also referred to the discussion with Alik Kh. who had confirmed that the vehicle had been used on the night in question in Goyty. The second applicant had again mentioned the discussion he had had with the officer from the military commander's office, G., who had told him to look for his son in Khankala, at the RUBOP. Finally, he had provided a detailed physical description of his son and of the clothes he had been wearing on the night of abduction.

169. The Government also submitted four witness statements by the Dzhambekovs' neighbours which had been taken in December 2005. The neighbours confirmed that they had heard noises and screaming in their neighbours' courtyard on the night of Imran Dzhambekov's kidnapping, but said that they had not seen the kidnappers or any vehicles.

170. The Government also furnished the transcripts of the questioning of various officials by the investigators as follows. On 27 February 2003 the investigators questioned officer Ya., deputy head of the district military command, who denied that he had known Imran Dzhambekov or had any information about his abduction. He also stated that Lieutenant-Colonel G. had left Urus-Martan in the autumn of 2002.

171. In December 2005 the deputy head of the Urus-Martan district administration stated that the Dzhambekov family had never informed their

office of their son's kidnapping and that he had no information about any special operations having taken place in Goyty on 20 March 2002.

172. In February 2006 the then head of the Goyty village administration confirmed that in March 2002 he had met the first applicant who had complained about the disappearance of her son. He had no further information about the case.

173. On 2 December 2005 an investigator had inspected the scene of the crime at the Dzhambekovs' house.

174. The Government also submitted copies of several requests for information that had been sent by those investigating Imran Dzhambekov's disappearance to various State bodies. On 31 January 2003 and 12 February 2003 the investigators asked the Urus-Martan military commander's office whether on 19 and 20 March 2002 "sweeping operations" had been carried out in Goyty, whether Imran Dzhambekov had been detained during such operations and where he had been taken. They further asked the military commander's office to establish the provenance of the APCs with hull numbers 237 and 246 and the UAZ vehicle with number plate "R 378 02" and to disclose information about officer G. so that he could be questioned as a witness. In its response, the military commander's office denied all knowledge of any of these points. In March 2003 it informed the investigators that it had no information about the alleged involvement of Imran Dzhambekov in illegal armed groups. In May 2003 the military commander also informed the investigators that his office had been established in December 2002, that it used a different form of numbering for its APCs and that it had no number plates with the regional plate suffix "02", since it used the regional number "15".

175. According to other documents submitted by the Government, on 18 February 2003 the Chechnya department of the FSB had informed the investigators that it had no information relevant to the case. The local bodies of the Ministry of the Interior and the prosecutors' offices had never detained Imran Dzhambekov and had carried out no criminal investigation in respect of him. He had not been brought to any of the remand centres in the Southern Federal Circuit.

176. The Government submitted that the statements made by the first and the second applicants to the investigators were mutually contradictory and inconsistent with their statements submitted to the Court. The Government thus questioned their credibility and veracity. They further maintained that the applicants' assertion that they had noted the numbers of the military vehicles was irrelevant, because they had seen the APCs at the roadblock one and a half hours after the kidnapping of their son, so that there were no grounds for suspecting that Imran Dzhambekov had been transported in them.

177. The decisions to adjourn the investigation submitted by the Government established that the abductors had used two APCs with the

identification numbers 237 and 246 and a khaki-coloured UAZ-469 with the number plate “R 378 02”. The provenance of these vehicles had not been established.

178. The documents and additional information submitted by the Government indicate that between March 2002 and June 2006 the investigation was adjourned on seven occasions, and each time reopened upon the orders of supervising prosecutors on account of the “incomplete nature of the investigative measures”.

2. Investigation into the kidnapping of Magomed Soltymuradov

179. On 11 January 2002 the fifth applicant wrote to the district prosecutor’s office and asked for help in finding her brother, who had been taken away during the night by unknown armed men.

180. On 18 January 2002 the fifth applicant submitted a complaint to the Chechnya Prosecutor’s office, stating that at about 3 a.m. on 11 January 2002 her brother Magomed Soltymuradov had been taken away by unidentified servicemen. She referred to the written complaints her family had submitted on 11 January 2002 to the district prosecutor’s office and the district administration, which had produced no results.

181. Criminal investigation file no. 61004 was opened by the district prosecutor’s office on 25 January 2002. According to a document issued on 20 April 2006 by the acting district prosecutor, the scenario favoured by the investigators was the involvement of “power structures and military units”.

182. On 25 January 2002 the fifth applicant was questioned and granted victim status. According to her statement, which was produced by the Government, unknown persons had entered the family’s house at about 3 a.m. on 11 January 2002 and taken her brother away. She had learnt of the crime from her uncle, the tenth applicant. She referred to the imprints of military boots that had been seen by the family members the following morning. While scarcely legible, another transcript of an interview with the fifth applicant dated 10 April 2002 indicates that on 5 January 2002 her brother had been away from home for the whole day and that on that day a landmine had exploded in Urus-Martan. She was further questioned on 3 December 2004, when she told the investigators about her visit to the Urus-Martan VOVD in April 2002 and her encounter with Alik Kh., who had told her about her brother’s alleged death in Grozny on 5 January 2002.

183. The same file contains three other witness statements collected by the police detective Alik Kh. in April 2002 from residents of Gekhi. They concern the explosion of a landmine in Urus-Martan on 5 January 2002, as a result of which one serviceman had died. Two of the witnesses indicated one Ruslan K. from Gekhi as the person responsible for the explosion, and one witness mentioned that Magomed Soltymuradov had caused the explosion. The witness did not indicate the source of this knowledge.

184. The tenth applicant was also questioned on 25 January 2002 and confirmed that on the night in question a group of men wearing camouflage uniforms and masks had broken down the door of his house, searched the house and left. In the morning he learnt that Magomed Soltymuradov had disappeared, and saw footprints in the fresh snow in the courtyard. He was not aware who had abducted his nephew and whether they had used any vehicles.

185. The Government noted that the applicants had stated to the Court that RUB 4,000 had disappeared from their house; but had made no mention of this in their statements to the domestic investigators. They also specified that the fifth applicant had told the investigators “that [on 5 April 2002] the operational detective [of the Urus-Martan VOVD], Kh., had not informed her of the death of her brother, but had asked for information about the possible death of the latter”.

186. On 6 December 2004 the investigators inspected the scene of the crime at no. 5 Plevaya Street, Urus-Martan.

187. In June 2006 the pre-trial detention centres of the Northern Caucasus informed the investigators that Magomed Soltymuradov had not been detained in any of them.

188. The documents submitted by the Government indicate that between January 2002 and June 2006 the investigation was adjourned on four occasions, and each time reopened upon the orders of supervising prosecutors owing to “the need to carry out additional investigative measures.”

3. Investigation into the kidnapping of Rizvan Tatariyev and Sharpudi Visaitov

189. On 22 December 2001 the nineteenth applicant complained to the district prosecutor’s office about the detention of her son Sharpudi Visaitov on the previous night by military servicemen wearing masks. A similar statement was submitted by the fourteenth applicant on 3 January 2001 concerning the kidnapping of her son Rizvan Tatariyev.

190. On 2 January 2002 the district prosecutor’s office opened criminal investigation no. 25180. The decision stated that “at about 4 a.m. on 22 December 2001 servicemen from the federal forces wearing balaclavas, [had] detained and [taken] away in an unknown direction Rizvan Tatariyev and Sharpudi Visaitov. The whereabouts of the said persons [had] not been established”. Further decisions also referred to the “army camouflage uniforms” of the kidnappers.

191. The fourteenth applicant was questioned on 3 January 2002. She gave a detailed statement about the kidnapping of her son in the early hours of 22 December 2001. She described their dark army uniforms and the electric lamps attached to the foreheads, as well as masks and said that they were armed with handguns. They had spoken Russian and forbidden the

family members to follow them into the courtyard, unless they wanted Rizvan Tatariyev to be killed on the spot. The fourteenth applicant did not see or hear any vehicles that night. She was again questioned on 25 February 2003 and granted victim status in the proceedings. On 11 December 2004 she was questioned once more and repeated her statements. According to the Government, she was further interviewed on 28 July 2005, but no copy of her statement has been submitted.

192. On 26 February 2003 the investigators questioned the sixteenth applicant. She confirmed her mother's statements about a group of some eight to ten armed men in dark blue camouflage uniforms and masks, with electric lights attached to their foreheads, saying that the men had entered their house on the night of 22 December 2001, checked their documents and led away her brother Rizvan Tatariyev.

193. On 28 February 2003 the nineteenth applicant was granted victim status and questioned. In her statement about the detention of her son Sharpudi Visaitov she recounted that soon after 3 a.m. on 22 December 2001 a group of seven to eight armed persons had entered their house, while about a dozen more remained in the courtyard. They were armed with automatic weapons and instructed the inhabitants to remain calm because it was a passport check. They checked the documents and looked around the house before leaving, taking Sharpudi Visaitov with them. They also took away the passport of the nineteenth applicant's other son, Sharip Visaitov, probably by mistake. In the dark one of the applicant's sons saw two UAZ cars and a large vehicle stationed further down the street, but could not make out any details. The same group then went to the Tatariyevs' house.

194. On 10 December 2004 the investigators again questioned the nineteenth applicant. She added that the intruders who had taken away her son had spoken unaccented Russian and that Sharpudi Visaitov was a friend of Rizvan Tatariyev, who had also been kidnapped that same night.

195. Also on 10 December 2004 the investigators questioned the eighteenth applicant, Sharpudi Visaitov's father. His statements about the circumstances of the kidnapping were similar to those previously given by his wife. He stressed, in addition, that Sharpudi Visaitov and his friend Rizvan Tatariyev had never been involved in illegal activities and had no contact with illegal armed groups.

196. On 12 December 2004 the investigators questioned another eye-witness of the abduction of Rizvan Tatariyev: his brother's wife. She confirmed that the kidnappers had been dressed in dark camouflage uniforms, and were masked and armed with automatic weapons. They had checked the residents' passports and when they saw Rizvan Tatariyev, one of them said "It's him". They had spoken between themselves in Russian and did not address each other by name or rank.

197. According to the Government, two other relatives of Sharpudi Visaitov who were not eye-witnesses to his abduction were also questioned

in November 2004, but were not aware of the identities of the kidnappers. They did not produce copies of these statements.

198. According to the information submitted by the Government, the investigation was resumed and suspended on numerous occasions. In June 2006 the investigators collected information from the Chechnya Department of the FSB, district departments of the Interior and temporary detention wards in Chechnya. None of these agencies had information about the detention of the two men or about their involvement with illegal armed groups.

4. Information relating to all three investigations

199. With regard to the three investigations, the Government stated that the applicants' statements that those responsible for kidnapping their relatives belonged to State agencies could not be confirmed. It was impossible to identify the perpetrators of the crimes. The applicants had stated during questioning that they did not recall any details of the clothes, weapons or markings on the abductors' uniforms.

200. The Government stated that the investigating authorities had sent requests for information to the competent State agencies and taken other necessary steps, but had found no evidence to support the involvement of the "special structures" (*специподразделений*) in the crimes. The law-enforcement authorities of Chechnya had never arrested or detained the applicants' four relatives on criminal or administrative charges and had not opened criminal investigations into their actions. The investigations had been adjourned and reopened on several occasions, and the applicants had been informed of these developments. The Prosecutor General's Office had supervised the progress of the investigations, which were ongoing.

D. Detention of the first, fifth and fourteenth applicants and subsequent events

1. Events of 11-15 December 2002

201. On 11 December 2002 Zaynap Dzhambekova (the first applicant), Aminat Ependiyeva (the fifth applicant) and Zara Tatariyeva (the fourteenth applicant) learned that on that day a "congress of the Chechen people" was to take place in the town of Gudermes. It was announced that the congress would be attended by members of the State Duma and the Chechnya and Federal Governments and by journalists. The three women decided that they would travel there and try to draw attention to their relatives' plight. They were joined by a fourth woman who was also looking for her missing relative, Khamsat Ts.

202. At about 2 p.m. on 11 December 2002 the three women arrived at the assembly hall in Gudermes where the congress was to take place. They chose a spot about 30-40 metres from the entrance, so as to be visible to the participants and the media. In order to get their message across they unfolded two homemade banners which read: "Give us back our sons", "Stop abducting people" and "Stop the genocide".

203. The applicants said that their presence was noticed by journalists who started to film them. A few people came up to them and asked them questions. One elderly man approached them and asked where they were from and wished them good luck.

204. After about five minutes a bus stopped nearby and about 25-30 policemen jumped out. They rushed at the women, threw their banners to the ground and destroyed them. Other policemen forced the women onto the bus, which took them to the Gudermes district department of the interior (ROVD). There they were put into a cell. Detained with them was the old man from Gudermes who had come up to them to express his sympathy and whose name they discovered was Khalid E.

205. The applicants said that their cell was extremely cold and dirty. The window was not glazed but covered with a metal grille and a steel sheet with holes, through which cold air passed. Most of the cell was occupied by a wooden bunk with one dirty blanket. There were also plastic bottles with urine and remains of food strewn over the floor and the bunk. The applicants described the smell in the cell as unbearable.

206. After about half an hour the applicants and Khalid E. were taken out of the cell one by one and searched. Their bags and clothes were also searched. Then an investigator questioned them about the picket and they signed the transcripts of their interviews. They were then returned to the cell.

207. At about 5 p.m. they were taken out of the cell and escorted to the Gudermes Town Court. However, half-way to the court building a policeman caught up with them and said that the head of the ROVD had ordered them to return. The four women and Khalid E. were then taken back to the same cell.

208. They started to bang on the door and demanded that they be kept separately from the man. They asked for their relatives to be notified of where they were. They also complained about the cold and dirt, but their complaints were ignored. The policeman on duty told them that they had no more blankets. The four women and Khalid E. spent the night in the cell, suffering from bitter cold. The first applicant said that during the night Khamsat Ts. and the fourteenth applicant, who were both over 60 years old, had suffered from cramps and that they had had to massage them and give them some heart medicine they found in their bags.

209. In the morning of 12 December 2002 the women again demanded to be kept separately from the man, to be transferred to a heated cell, to be

allowed to notify their relatives and to be given access to a lawyer. The staff of the ROVD noted their demands but did not do anything. Later that day two young men were brought to the same cell. Both had visible marks on their heads and said that they had been beaten by the police in order to make them confess. The cell now had four female and three male occupants.

210. In the evening of 12 December 2002 the four women were taken out of the cell and taken to the temporary confinement ward (IVS). They were again searched and their belongings and medicines were taken from them. They were placed in a cell that was warm, but extremely dirty. There were several dirty mattresses and pillows and part of a blanket. There were also two buckets provided for use as toilets, which were emptied in the mornings. The guards told them that the door would remain locked during the night and that it was no use knocking. In the evening they were given some food and the guard told them that it had come from Khalid E., so the women guessed that it had been brought by his relatives. It was the first time in one and a half days that they had received any food. Later that night a guard brought them a loaf of bread and some hot water and said that it was the daily ration for four people. The women were appalled by such treatment and refused to accept it, declaring that they were on hunger strike.

211. Later that night Khamsat Ts.'s condition again worsened. She suffered from diabetes and heart disease and was in pain. The applicants called the guard, and some time later she was taken to a duty doctor who gave her some pills before returning her to the cell. The doctor promised to inform the head of the ward that she was unfit for detention, but she remained in the cell another day.

212. In the evening of 13 December 2002 the guards removed Khamsat Ts. from the cell and said that they would take her to hospital. The applicants were very worried about her, knowing that the curfew was already in place and that it was unlikely that there would be any doctors at the hospital in the evening.

213. During the night of 13 to 14 December 2002 the applicants were awoken by the sound of blows and the cries of a man who was asking not to be beaten. They were very frightened and could not help thinking of their missing relatives, who were probably also subjected to beatings and torture. The three applicants remained in the same cell until 15 December 2002, refusing to accept food.

214. On 15 December 2002 the first, fifth and fourteenth applicants were taken to the Gudermes Town Court. A lawyer invited by the NGO Memorial, which had been alerted by the applicants' relatives, was also present. The judge invited them into the courtroom one by one and asked them about the circumstances of the picket and whether they had obstructed anyone's passage or disturbed the public order. The applicants gave their account of the events and denied that they had created any disturbance. They also complained about the length and conditions of their detention.

The first applicant submitted that the judge had orally agreed with them that their detention between 11 and 15 December 2002 had been unlawful and said that they would be released. She told them that the written decision would be issued later.

215. The applicants explained that they did not insist on obtaining copies of the decisions because they were exhausted and sick and wanted to get home as soon as possible. The first applicant was feeling unwell and her husband, who had been waiting for her outside the court, took her to the nearest hospital, Grozny no. 7, where she remained until 8 January 2003. According to a certificate issued by that hospital, she was diagnosed with a number of acute bronchial and gastric illnesses, anaemia and other health problems.

216. The applicants said that they obtained copies of the decisions issued on 15 December 2002 several days later. Identical decisions were issued in respect of the first, fifth and fourteenth applicants. The decisions stated that on 11 December 2002 each of them had participated in an unauthorised picket and had obstructed the holding of the congress of the Chechen people. Referring to section 20.1 of the Code of Administrative Offences (“Violation of the prescribed order governing the organisation or holding of a gathering, meeting, demonstration, march or picket”), the Gudermes Town Court sentenced each applicant to three days’ administrative detention.

217. The Government did not submit any comments on the applicants’ complaints in their first set of observations. In their second set, they informed the Court that, according to the Ministry of the Interior, the Gudermes temporary detention ward was situated in a separate building and contained 11 cells with capacity for 38 detainees. The ward was equipped with electric lights, sleeping room and central heating. Ventilation was provided by the windows. Persons of the opposite sex were detained separately. In cases of need, an ambulance could be called from the Gudermes district hospital. As to the applicants’ situation in December 2002, the registration logs of the administrative detainees and the record of administrative offences had been destroyed since the period they were required to be held in the archives was established by a ministerial decree of 2005 at three years. The Government did not submit any documents in support of these assertions.

2. Subsequent proceedings

218. On 23 December 2002 the first and fifth applicants appealed against the decisions of the Gudermes Town Court. They argued that section 20.2 of the Code provided for up to fifteen days’ administrative detention only in cases where an unauthorised meeting had been held in the immediate vicinity of a nuclear energy facility. In all other cases the section prescribed only a fine. The applicants also denied that they had disturbed the holding of the congress or otherwise breached public order. The first and

fifth applicants complained that their detention for four days had been unlawful and that they had been detained in inhuman conditions. In particular, they mentioned that they had had to share a cell with men, that the cell was very cold and they had received no warm blankets, that the only food they had received on 13 December 2002 was some hot water and a loaf of bread to be shared by four people. The applicants added that the conditions had led to health problems for all of them. They claimed RUB 200,000 each in damages from the Gudermes ROVD.

219. The fourteenth applicant did not appeal against the decision of 15 December 2002.

220. On 27 January 2003 the Chechnya Supreme Court reviewed the first and fifth applicants' appeals. It overturned the decisions of 15 December 2002 in so far as they had sentenced the applicants to administrative arrest, owing to the absence of such a penalty in section 20.2 of the Code of Administrative Offences and sentenced each of them to a fine in the amount of five minimum monthly wages. Because they had already served the detention they were exempted from payment of the fines. The Supreme Court did not address the applicants' complaints concerning the lawfulness and conditions of, or compensation for, their detention.

221. The first and fifth applicants tried to obtain supervisory review of the decision of 27 January 2003 and requested that their civil claims to the ROVD be reviewed. Their requests were turned down by the Chechnya Supreme Court.

II. RELEVANT DOMESTIC LAW

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

223. As to the first and fifth applicants' complaint about their administrative detention, section 20.2 of the Code of Administrative Offences (no. 195-FZ of 30 December 2001) provides in parts 1 and 2 that organisers of and participants in a gathering, meeting, demonstration, march or picket who violate the prescribed order of the event are liable to a fine of between five and twenty minimum monthly wages. Part 3 of the same section provides that the holding of an unauthorised demonstration in the immediate vicinity of a nuclear energy facility is punishable by a fine of between ten and twenty minimum monthly wages, or by administrative detention of up to fifteen days.

224. Section 27.3 provides that administrative arrest, that is a temporary restriction of liberty of an individual, may be ordered in exceptional circumstances where it is necessary for the correct and prompt examination of the administrative case. Section 27.5 stipulates that the duration of administrative arrest must not exceed three hours. Where the person is

charged with an offence punishable by administrative detention, he or she may be placed under administrative arrest for a period not exceeding forty-eight hours. Pursuant to Section 29.6 part 3, where a person has been subjected to administrative arrest, the proceedings concerning his or her administrative offence should be reviewed by a judge no later than forty-eight hours after the detention.

III. RELEVANT INTERNATIONAL DOCUMENTS RELATING TO POLICE CUSTODY

225. The relevant extract from the 2nd General Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (CPT/Inf (92) 3) reads as follows:

“42. Custody by the police is in principle of relatively short duration... However, certain elementary material requirements should be met.

All police cells should be of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and blankets.

Persons in custody should be allowed to comply with the needs of nature when necessary in clean and decent conditions, and be offered adequate washing facilities. They should be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day.

43. The issue of what is a reasonable size for a police cell (or any other type of detainee/prisoner accommodation) is a difficult question. Many factors have to be taken into account when making such an assessment. However, CPT delegations felt the need for a rough guideline in this area. The following criterion (seen as a desirable level rather than a minimum standard) is currently being used when assessing police cells intended for single occupancy for stays in excess of a few hours: in the order of 7 square metres, 2 metres or more between walls, 2.5 metres between floor and ceiling.”

The CPT reiterated the above conclusions in its 12th General Report (CPT/Inf (2002) 15, § 47).

226. The part of the Report to the Russian Government on the visit to the Russian Federation carried out by the CPT from 2 to 17 December 2001 (CPT/Inf (2003) 30) read, in so far as it concerned the conditions of detention in administrative-detention cells located within police stations, as follows:

“25. Similar to the situation observed during previous visits, none of the district commands (RUVD) and local divisions of Internal Affairs visited were equipped with facilities suitable for overnight stays; despite that, the delegation found evidence that persons were occasionally held overnight at such establishments... The cells seen by the delegation were totally unacceptable for extended periods of custody: dark, poorly

ventilated, dirty and usually devoid of any equipment except a bench. Persons held overnight were not provided with mattresses or blankets. Further, there was no provision for supplying detainees with food and drinking water, and access to a toilet was problematic.

The CPT reiterates the recommendation made in its report on the 1999 visit (cf. paragraph 27 of document CPT (2000) 7) that material conditions in, and the use of, cells for administrative detention at district commands and local divisions of Internal Affairs be brought into conformity with Ministry of Internal Affairs Order 170/1993 on the general conditions and regulations of detention in administrative detention cells. Cells which do not correspond to the requirements of that Order should be withdrawn from service.

Further, the Committee reiterates the recommendation made in previous visit reports that administrative detention cells not be used for accommodating detainees for longer than 3 hours.”

THE LAW

I. THE GOVERNMENT’S PRELIMINARY OBJECTION

A. Arguments of the parties

227. The Government contended that the application should be declared inadmissible for non-exhaustion of domestic remedies. They submitted that the investigation into the disappearance of Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov had not yet been completed. They further argued that it had been open to the applicants to challenge in court any acts or omissions of the investigating or other law-enforcement authorities, but that the applicants had not availed themselves of any such remedy. They also argued that it was open to the applicants to pursue civil complaints but that they had failed to do so.

228. The applicants contested that objection. With reference to the Court’s practice, they argued that they were not obliged to apply to the domestic courts in order to exhaust domestic remedies. They stated that the criminal investigation had proved to be ineffective and that their complaints to that effect, including their application to the district court, had been futile.

B. The Court’s assessment

229. In the present case, the Court took no decision about the exhaustion of domestic remedies at the admissibility stage, having found that this

question was too closely linked to the merits. It will now proceed to 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).

230. The Court notes that the Russian legal system provides, in principle, two avenues of recourse for the victims of illegal and criminal acts attributable to the State or its agents, namely civil and criminal remedies.

231. As regards a civil action to obtain redress for damage sustained through the alleged illegal acts or unlawful conduct of State agents, the Court has already found in a number of similar cases that this procedure alone cannot be regarded as an effective remedy in the context of claims brought under Article 2 of the Convention (see *Khashiyev and Akayeva v. Russia*, nos. 57942/00 and 57945/00, §§ 119-121, 24 February 2005, and *Estamirov and Others*, cited above, § 77). In the light of the above, the Court confirms that the applicants were not obliged to pursue civil remedies. The preliminary objection in this regard is thus dismissed.

232. As regards criminal-law remedies, the Court observes that the applicants complained to the law enforcement authorities immediately after the detention of Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov and that investigations have been pending ever since. The applicants and the Government dispute the effectiveness of this investigation.

233. The Court considers that this limb of the Government's preliminary 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 substantive provisions of the Convention.

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

A. The parties' arguments

1. The applicants

234. The applicants submitted that it was beyond reasonable doubt that their relatives had been detained by servicemen and then deprived of their lives, while still under the full control of State representatives. Each of their relatives had been detained by servicemen in similar circumstances. Military vehicles had been used during the arrests of Imarn Dzhambekov and of Sharpudi Visaitov and Rizvan Tatariyev. Since their relatives had been

missing for a very lengthy period, they could be presumed dead. That presumption was further supported by the circumstances in which they had been arrested, which should be recognised as life-threatening. Moreover, the Government's failure to produce the complete set of documents from the case files or to provide a plausible explanation of the events placed the burden of proof onto the Government, who were obliged to prove that their agents were not responsible for the arbitrary detention and killing of the four men. All the information disclosed from the criminal-investigation files supported their assertion as to the involvement of State agents in the abductions. The applicants also pointed out that the ground cited by the Government for refusing to submit the file in criminal cases was that it contained "information of a military nature disclosing the location and nature of actions by military and special security forces".

2. The Government

235. The Government disputed the allegation of State involvement in the kidnappings and the fact that the applicants' relatives had died. In particular, they made the following submissions.

(a) Concerning the abduction of Imran Dzhambekov

236. In their first set of observations, the Government did not dispute most of the facts as presented by the applicants. They stated that it had been established that at about 12 a.m. on 19 March 2002 unidentified men wearing camouflage uniforms and armed with automatic weapons had entered the applicants' house at 209 Sovetsakaya Street in Goyty and taken away Imran Dzhambekov.

237. However, in their second set of observations, the Government raised a number of objections to the applicants' presentation of the facts. They stressed that the neighbours questioned by the investigators had not seen the military vehicles or the abductors, but had learnt of the kidnapping from the applicants. Further, in March 2002 the first applicant had initially denied that she had seen the APC hull numbers. Although she had subsequently given the hull numbers when questioned on 25 March 2002 she stated that it was her husband who had noted them down. For his part, in his witness statement of 31 January 2003 the second applicant had stated that it was not until the vehicles were crossing the roadblock on the road to Urus-Martan that he had noted the numbers of one of the APCs and of the UAZ vehicle. The first applicant had given yet another version of the events when questioned on 18 October 2005, saying that she had noted the APC and UAZ numbers when she ran out into the street. In the Government's opinion, such discrepancies in their statements seriously undermined the applicants' credibility.

238. Furthermore, the Government noted that the first and the second applicants had lost sight of the convoy of vehicles immediately after they

had left the crossroads near their house and had only seen them at the roadblock some one and a half or even two hours later. It could thus not be excluded that these were different vehicles from those they had spotted near their house.

239. The Government stressed that as the transcripts of the witness statements showed, the applicants' reference to the vehicle numbers had been fully noted by the investigators, and that relevant requests had been sent to the military commander's office of Urus-Martan. However, that office had denied that any special operations had been carried out in Goyty on 19 or 20 March 2002 or that those vehicles were listed at the commander's office.

240. The Government also questioned the credibility of the applicants' statements concerning their meetings with various officials. They noted that it was unlikely that the officials would have given such varying answers to the applicants, referring them to the ROVD, the military commander's office, the military base in Khankala and, finally, to Rostov-on-Don. This inconsistency was further confirmed by the responses received by the investigators from various law-enforcement agencies in Chechnya and further afield in the Northern Caucasus stating that they had no information about the detention of the first and second applicant's son. As an example of the incongruity of the applicants' claims, the Government referred to the second applicant's statement of 31 January 2003, in which he had for the first time mentioned Lieutenant-Colonel G. from the military commander's office. On 27 February 2003 the investigators questioned an officer of the military commander's office Ya., who had explained that G. had left Chechnya in the autumn of 2002. In the Government's opinion, there was no explanation for the second applicant's failure to inform the investigators of his encounter earlier, while G. was still in Chechnya.

241. Finally, the Government contended that the first and second applicants had described in their submissions to the Court how they had contacted various "middlemen" and tried to offer money to officials, which was in itself a crime under the Russian Criminal Code. This information had not been given by them to the investigators.

(b) Concerning the abduction of Magomed Soltymuradov

242. In their first set of observations, the Government stated that it had been established that at about 3 a.m. on 11 January 2002 unidentified armed men wearing camouflage uniforms and masks and armed with automatic weapons had entered the household at no. 5 Polevaya Street in Urus-Martan and taken away Magomed Soltymuradov, whose whereabouts remained unknown.

243. In their second set of observations, the Government disputed the underlying facts as presented by the applicants. They noted that there were no eye-witnesses to Magomed Soltymuradov's abduction, since his relatives

who lived in the same courtyard had only learnt of his absence in the morning and his children, who slept in the same house with him, had not heard anything during the night. The Government regarded as highly implausible the statement by the eleventh applicant that after her documents had been checked by a group of armed men in the middle of the night she had gone back to sleep, without learning first what had happened in other houses occupied by her relatives in the same courtyard.

244. The Government further referred to the information contained in file no. 62004 which indicated that Magomed Soltymuradov could have been implicated in the planting of a landmine in Urus-Martan on 5 January 2002.

245. They concluded that the applicants' assertion that Magomed Soltymuradov had been kidnapped was unfounded.

(c) Concerning the abduction of Rizvan Tatariyev and Sharpudi Visaitov

246. In their first set of observations, the Government stated that it had been established that at about 4 a.m. on 22 December 2001 unidentified armed men wearing masks had taken Rizvan Tatariyev and Sharpudi Visaitov away from their homes, and that their whereabouts remained unknown.

247. In their second set of observations, the Government argued that the kidnapped men's relatives were the only source of information about the circumstances of their abduction. The neighbours whose statements the applicants had submitted to the Court had seen either an APC or a group of armed men, but none of them had stated that "a group of servicemen using APCs" had kidnapped Rizvan Tatariyev and Sharpudi Visaitov. Other neighbours had only learnt of the alleged kidnappings from the applicants on the following day.

248. The Government further noted that one of the main arguments all the applicants had used to allege State responsibility for the abduction of their relatives had been the fact that the abductors had worn camouflaged uniforms and used automatic weapons. The Government informed the Court, however, that camouflaged uniforms similar to that used by servicemen were freely available for purchase all over Russia. The applicants had been unable to identify any specific insignia or other features on the uniforms and masks of the abductors to show that the abductors were indeed servicemen on duty. The Government also suggested that the crime could have been committed by members of illegal armed groups and referred to several cases in Chechnya of crimes being committed with the help of illegally obtained uniforms and forged documents.

249. The Government concluded that the applicants' submissions were so confused and contradictory as to be incapable of constituting a basis for a finding of State responsibility according to the standards developed by the Court.

B. Article 38 § 1 (a) and consequent inferences drawn by the Court

250. In their observations made before the decision on admissibility, the Government stated that it would be contrary to Article 161 of the Code of Criminal Procedure for them to submit the complete case files. After the decision on admissibility the Government provided an update on the progress of the investigation and 159 pages of documents from the files, including copies of the investigators' decisions, which contained detailed descriptions of the investigative steps that had been taken, and a number of witness statements. They argued that other documents from the investigation files could not be submitted.

251. The Court has on many occasions reiterated that the Contracting States are required to furnish all necessary facilities to the Court and that a failure on a Government's part to submit information which is in their hands, without a satisfactory explanation, may not only give rise to the drawing of inferences as to the well-foundedness of the applicant's allegations, but may also reflect negatively on the level of compliance by a respondent State with its obligations under Article 38 § 1 (a) of the Convention (see *Timurtaş v. Turkey*, no. 23531/94, § 66, ECHR 2000-VI).

252. The Court notes that in previous cases it has already found a reference to Article 161 of the Criminal Procedural Code insufficient to justify the withholding of key information requested by the Court (see, among other authorities, *Imakayeva v. Russia*, no. 7615/02, § 123, ECHR 2006-... (extracts)). It therefore regrets the Government's position in respect of the remaining documents from the criminal investigation files and does not find that reference to the above-mentioned provision of the national legislation can serve as a basis for withholding documents requested by the Court.

253. At the same time, the Court reiterates that Article 38 § 1 (a) of the Convention is applicable to cases which have been declared admissible. It notes that the Government have submitted a large part of the procedural documents from the criminal investigation files, as requested by the Court. These documents contain a detailed description of the investigations and witness statements which have made a significant contribution to the examination of the case. As to the remainder, the Court finds that it can draw inferences from the Government's failure to disclose the entire contents of the files.

254. In view of these inferences and the circumstances of the present case, the Court does not find it necessary to draw separate conclusions under Article 38 § 1 (a) of the Convention.

C. The Court's evaluation of the facts

1. General principles

255. 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 disappearances under Article 2 of the Convention (for a summary of these, see *Bazorkina v. Russia*, no. 69481/01, §§ 103-109, 27 July 2006). It 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, § 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. It will thus proceed to examine crucial elements in the present case that should be taken into account when deciding whether the applicants' relatives can be presumed dead and whether their deaths can be attributed to the authorities.

2. Whether the applicants' relatives were detained by State agents

256. The Court will deal firstly with the suggestion made in the Government's submissions that the abductors of Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov may have been members of paramilitary groups. However, this allegation was not specific and the Government did not submit any material to support it. The Court would stress in this regard that the evaluation of the evidence and the establishment of the facts is a matter for the Court, and it is incumbent on it to decide on the evidentiary value of the documents submitted to it (see *Çelikbilek v. Turkey*, no. 27693/95, § 71, 31 May 2005). In the absence of any relevant evidence, the Court cannot accept this version as plausible.

257. The Court will further examine the parties' submissions and the available materials with regard to each of the episodes alleged.

(a) The abduction of Imran Dzhambekov

258. The first and second applicants alleged that the persons who took Imran Dzhambekov away on 20 March 2002 were State agents.

259. The Court notes that their version of the events is supported by the witness statements which they and the investigators collected. The first and second applicants and their neighbours stated that the abductors had acted in a manner similar to that of servicemen engaged in a security operation – they had arrived in a large group, entered and searched the house, checked the residents' passports and spoken Russian among themselves and to the residents. The first and second applicants and the witnesses identified by them clearly referred to the use of military vehicles such as APCs, which

would not have been available to paramilitary groups. In their applications to the authorities both applicants consistently maintained that their relative had been detained by unknown servicemen and requested the investigators to look into that possibility.

260. The Court finds that the fact that a large group of armed men in uniform, equipped with military vehicles, was able to move freely through military roadblocks in a town area during curfew hours and proceeded to check identity documents and to arrest a person at his home 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 the involvement of law-enforcement bodies in the arrest and to identify the provenance of the vehicles. The investigators were unable to establish which precise military or security units had carried out the operation, but it does not appear that any serious steps were taken to that end.

261. The Government questioned the credibility of the first and second applicants' statements in view of certain discrepancies relating to the timing of the identification of the hull and registration numbers of the military vehicles and the description of the hours immediately following their son's detention. In the Court's view, the fact that over a period of several years the applicants' recollection of an extremely traumatic and stressful event differed in rather insignificant details does not in itself suffice to cast doubt on the overall veracity of their statements.

262. The Court observes that where the applicants make out a *prima facie* case and the Court is prevented from reaching factual conclusions owing to the lack of relevant documents, it is for the Government to argue conclusively why the documents in question cannot serve to corroborate the allegations made by the applicants, 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).

263. Taking into account the above elements, the Court is satisfied that the first and second applicants have made a *prima facie* case that their son was detained by State servicemen. The Government's statement that the investigators had not found any evidence to support the involvement of the special forces in the abduction is insufficient to discharge them from the above-mentioned burden of proof. Having examined the documents submitted by the parties, and drawing inferences from the Government's failure to submit the remaining documents which were in their exclusive possession or to provide another plausible explanation for the events in question, the Court finds that Imran Dzhambekov was arrested on 20 March

2002 in his house in Gekhi by State servicemen during an unacknowledged security operation.

(b) The abduction of Magomed Soltymuradov

264. The family of Magomed Soltymuradov alleged that he had been detained in the early hours of 11 January 2002 by State servicemen.

265. In their second set of observations, the Government expressed doubt that Magomed Soltymuradov had ever been detained, since no one had witnessed the event. However, the Court notes that the applicants submitted coherent statements about a group of armed men who had entered the houses situated in their common courtyard, and inspected the premises and the documents of the residents, including the tenth and eleventh applicants (see paragraphs 28 and 29 above). The applicants submitted similar statements to the authorities as soon as the disappearance of Magomed Soltymuradov became apparent and referred to the imprints of military boots they had seen in the fresh snow. Furthermore, this part of their account was fully accepted by the investigators, who considered the most likely scenario to be that the applicants' relative had been kidnapped by a group of armed men who had entered their house during the night (see paragraph 181 above).

266. The Court furthermore notes that some documents in the investigation file submitted by the Government indicate that in April 2002 investigators from the district prosecutor's office tried to find out whether Magomed Soltymuradov had been involved in illegal activities in January 2002, and collected information on that issue. However, it is unclear whether this suspicion was ever properly investigated, in the absence of any further mention of it in later documents.

267. Finally, the Court notes that on 3 April 2003 the Urus-Martan District Court declared Magomed Soltymuradov a missing person, with effect from 10 January 2002, at the request of the thirteenth applicant. The court had accepted a statement by the thirteenth applicant, corroborated by two neighbours, that her husband had been taken away from home by a group of armed men and had not been seen since. That decision remains in force.

268. In the light of the above, the Court finds that the applicants have made out a *prima facie* case that their relative was detained by State servicemen. The Government's statement that the investigators had not found any evidence to support the involvement of servicemen in the abduction is insufficient to discharge them from the above-mentioned burden of proof. Having examined the documents submitted by the parties and drawing inferences from the Government's failure to submit the remaining documents which were in their exclusive possession or to provide another plausible explanation for the events in question, the Court finds that Magomed Soltymuradov was arrested on 11 January 2002 in his house in

Urus-Martan by State servicemen during an unacknowledged security operation.

(c) The abduction of Rizvan Tatariyev and Sharpudi Visaitov

269. Rizvan Tatariyev and Sharpudi Visaitov were detained by a group of armed and masked men in two neighbouring houses in Gekhi on the night of 22 December 2001. Their families alleged that the abductors were State servicemen.

270. The Government argued that none of the witnesses, including the applicants, had clearly seen “a group of military servicemen on an APC” taking the two men away. However, they did not dispute the submissions of the relatives about the similar circumstances surrounding the abduction of the two men, including the inspection of the rooms and the checking of residents’ identities. The neighbours said that they had seen military vehicles stationed about 80 metres away from the applicants’ houses, which tallies with the applicants’ claims that the two men were led away towards the place where the vehicles were parked. This information was immediately communicated by the relatives to the authorities in full. The criminal investigation was opened in relation to the kidnapping of the two men “by servicemen from the federal forces”.

271. The Court finds that the applicants have made out a *prima facie* case that Rizvan Tatariyev and Sharpudi Visaitov were detained by State servicemen. The Government’s statement that the investigators had not found any evidence to support the involvement of servicemen in the abduction is insufficient to discharge them from the above-mentioned burden of proof. Having examined the documents submitted by the parties, and drawing inferences from the Government’s failure to submit the remaining documents which were in their exclusive possession or to provide another plausible explanation for the events in question, the Court finds that Rizvan Tatariyev and Sharpudi Visaitov were arrested on 22 December 2001 in their respective houses in Gekhi by State servicemen during an unacknowledged security operation.

3. Whether Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov can be presumed dead

272. There has been no reliable news of the applicants’ relatives’ since December 2001 and January and March 2002, respectively. Their names have not been found in any official detention facility records. Finally, the Government have not submitted any explanation as to what happened to them after their arrest.

273. 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 Chechnya (see, among others, *Bazorkina*, cited above; *Imakayeva*, cited above; *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 Chechnya, 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 Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov without any news for over six years supports this assumption.

274. Furthermore, in cases involving disappearances, the Court finds it particularly regrettable that there should have been no thorough investigation of the relevant facts by the domestic prosecutors or courts. The documents submitted by the Government from the investigation files opened by the district prosecutor do not suggest any progress in several years and, if anything, show the incomplete and inadequate nature of those proceedings. Moreover, the stance taken by the prosecutor's office and the other law-enforcement authorities after the news of the abductions was communicated to them by the applicants contributed significantly to the likelihood of their relatives' disappearance, as no necessary steps were taken in the crucial first days and weeks after the arrest. The authorities' behaviour in the face of the applicants' well-substantiated complaints gives rise to a strong presumption of at least acquiescence in the situation and raises strong doubts as to the objectivity of the investigation.

275. For the above reasons the Court considers that it has been established that Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov must be presumed dead following their unacknowledged detention by State servicemen.

III. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

276. The applicants complained under Article 2 of the Convention that their relatives had been deprived of their lives 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 alleged violation of the right to life of Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov

277. The Court has already found that the applicants’ relatives must be presumed dead following their unacknowledged arrest by State servicemen and that the deaths can be attributed to the State. In the absence of any justification for the use of lethal force by State agents, the Court finds that there has been a violation of Article 2 in respect of Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov.

B. The alleged inadequacy of the investigation of the abductions

278. The Court notes at the outset that the Government have not disclosed all the documents from the investigation file and that the reason for that cited by the Government has been found insufficient. It therefore finds that in evaluating the effectiveness of the investigations it is entitled to draw inferences from the Government’s failure to submit the complete file.

1. Investigation into the abduction of Imran Dzhambekov

279. The applicants concerned argued that the investigation had not met the effectiveness and adequacy requirements laid down by the Court’s case-law. They noted that it had been adjourned and reopened a number of times so that the taking of even the most basic steps had been protracted, and that the relatives had not been informed properly of the most important investigative steps. They argued that the fact that the investigation had been pending for such a long period of time without producing any known results was further proof of its ineffectiveness. They also invited the Court to draw conclusions from the Government’s unjustified failure to disclose all the documents from the case file.

280. The Government claimed that the investigation into the disappearance of the applicants’ relative had met the Convention requirement of effectiveness, as all measures available under national law were being taken to identify those responsible. They argued that the investigation had been opened only six days after the abduction and so within the ten-day limit prescribed by the law. The applicants had been granted victim status and had had every opportunity to participate effectively in the proceedings. They themselves had been to blame for some of the delays; for example they had not informed the investigators in a timely manner of their contacts with the officials from the military commander’s office, as a result of which a person the investigators wished

to speak to had left Chechnya and could not be questioned. The Government also noted that although the term allowed for the preliminary investigation under the national legislation was two months, it could subsequently be extended. The numerous decisions to suspend and resume the investigation did not demonstrate the ineffectiveness of the proceedings, but showed that the authorities in charge had continued to take steps to solve the crime.

281. 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, §§ 117-119).

282. In the present case, an investigation was carried out. The Court must assess whether it met the requirements of Article 2 of the Convention.

283. The Court notes, firstly, that the abduction was immediately reported to the authorities by the missing man's family. The investigation was opened on 25 March 2002, six days after the abduction. Despite the Government's position that such a delay was legally permissible, the Court finds that in a crime such as kidnapping this delay in itself was liable to affect the investigation, where crucial action has to be taken in the first days after the event. On 25 March 2002 the first applicant was questioned. However, it appears that after that the taking of even the most elementary steps was delayed for several months, or even years.

284. In particular, the Court notes that, as the documents submitted by the Government show, the second applicant was questioned for the first time on 31 January 2003. Despite being aware of the involvement of military vehicles and even of the vehicle hull and registration numbers from the outset of the investigation, the investigators only forwarded requests for information to the district military commander's office in January and February 2003. One official from the military commander's office was questioned in February 2003. Four neighbours of the Dzhambekovs' were identified and questioned in December 2005. The crime scene was inspected in December 2005.

285. It is obvious that these 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. These delays, for which there has been no explanation in the instant case, not only demonstrate the authorities' failure to act of their own motion but also constitute 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).

286. A number of essential steps were never taken. Most notably, it does not appear that the investigators attempted to identify and question the

servicemen who had manned the roadblock to which the applicants referred and through which the vehicles had passed on the night of Imran Dzhambekov's arrest, or to otherwise check that information. No further attempts were made to identify and question other servicemen and officers at the military commander's office and the law-enforcement bodies to whom the applicants had referred. The provenance of the three military vehicles with known number plates was never established.

287. The Court also notes that even though the first applicant was granted victim status in January 2003, she was only informed of the adjournment and reopening 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.

288. Finally, the Court notes that the investigation was adjourned and resumed a number of times and that on several occasions the supervising prosecutors and on one occasion the Urus-Martan District Court criticised deficiencies in the proceedings and ordered remedial measures, but it appears that these instructions were not complied with. The Court emphasises in this respect that while the adjourning or reopening of proceedings is not in itself a sign that the proceedings are ineffective, in the present case the decisions to adjourn were made without the necessary investigative steps being taken, which led to numerous periods of inactivity and thus unnecessary protraction.

289. The Government argued that the applicants could have sought judicial review of the decisions of the investigating authorities in the context of the exhaustion of domestic remedies. The Court observes that the applicants did in fact apply to the Urus-Martan District Court and on 6 August 2004 obtained a ruling obliging the prosecutor's office to carry out a number of investigative steps (see paragraph 94 above). However, documents from the investigation file indicate that these steps were never in fact taken. In any event, without access to the case file and proper information on the progress of the investigation, the applicants were in no position to effectively challenge the acts or omissions of the investigating authorities. Furthermore, the investigation was resumed by the prosecuting authorities themselves a number of times owing to the need to take additional investigative steps. However, they still failed to investigate the applicants' allegations properly. Moreover, owing to the time that had elapsed since the events complained of, certain investigative measures that ought to have been carried out much earlier could no longer usefully be taken. Accordingly, the Court finds that the remedy cited 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.

290. 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 Imran Dzhambekov in breach of Article 2 in its procedural aspect.

2. Investigation into the abduction of Magomed Soltymuradov

291. The applicants argued that the investigation had not been effective and adequate. They noted that it had been opened belatedly, and had then been adjourned and reopened a number of times so that the taking of even the most basic steps had been protracted; they had not been informed properly of the most important investigative steps. They argued that the fact that the investigation had been pending for such a long period of time without producing any known results provided further proof of its ineffectiveness. They 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.

292. The Government claimed that the investigation into the disappearance of the applicants' relative was effective and that all measures available under national law were being taken to identify the perpetrators. They argued that the investigation had been opened fourteen days after the abduction and that the delay was understandable in the unclear circumstances of the case. The applicants had been granted victim status and had had an opportunity to participate effectively in the proceedings. The Government also noted that although the term allowed for the preliminary investigation under the national legislation was two months, that it could subsequently be extended. The numerous decisions to suspend and resume the investigation did not demonstrate the ineffectiveness of the proceedings, but showed that the authorities in charge had continued to take steps to solve the crime.

293. Turning to the facts of the case, the Court notes a number of serious and inexplicable delays that have plagued the proceedings from the start. Certain steps, which could have been crucial to the outcome of the proceedings, were never taken. Thus, despite the applicants' immediate submission of written and oral complaints to the district prosecutor's office and other authorities, the investigation into what was a serious crime was commenced only two weeks after the event. Only the fifth and tenth applicants were questioned in January 2002; no one else from the family or neighbours has ever been questioned. The scene of the crime was inspected in December 2004 – almost two years after the kidnapping took place. As the documents submitted by the Government attest, the pre-trial detention centres in the region were contacted for the first time only in 2006.

294. The Court finds no explanation for the investigators' failure to carry out these actions within a reasonable time-frame, or at all. Furthermore, it does not appear that the prosecutor's office took real and

timely steps to obtain information from the local military or security authorities about the carrying out of special operations in the district on the night in question, or to follow up the possibility that Magomed Soltymuradov had been detained on suspicion of involvement in illegal activities (see paragraph 183 above).

295. The Court also notes that even though the fifth applicant was granted victim status, she was only informed of some of the decisions to adjourn or reopen 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.

296. Finally, for the same reasons as above, the Court notes that in view of the numerous decisions to adjourn and reopen the proceedings the taking of even most basic investigative steps was protracted and the overall effectiveness of the proceedings compromised.

297. For the same reasons as those summarised in paragraph 289 above, 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.

298. 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 Magomed Soltymuradov, in breach of Article 2 in its procedural aspect.

3. Investigation into the abduction of Rizvan Tatariyev and Sharpudi Visaitov

299. The applicants concerned argued that the investigation had not met the effectiveness and adequacy requirements laid down by the Court's case-law on Article 2.

300. The Government denied that allegation.

301. As in the cases of Mr Dzambekhov and Mr Soltymuradov, the Court finds that the investigation into the abduction of Rizvan Tatariyev and Sharpudi Visaitov has been plagued by delays and omissions. It was opened ten days after the crime was committed and reported to the authorities. The only person questioned in January 2002 was the fourteenth applicant. She was granted victim status in February 2003. Sharpudi Visaitov's family was questioned for the first time on 28 February 2003, when the nineteenth applicant was also granted victim status. His other relatives and neighbours were questioned for the first time in November and December 2004. It does not appear that any other steps were taken, such as inspecting the site of the crime, or identifying and questioning the relevant officers from the military commander's office or the law-enforcement bodies. Finally, despite the fact that the decision to open the criminal investigation expressly referred to

“servicemen from the federal forces” as the possible perpetrators of the crime (see paragraph 190 above), it does not appear that the investigators ever contacted the military prosecutor’s office, which is in principle in charge of such proceedings.

302. For the same reasons as those summarised in paragraph 289 above, the Court finds that the domestic remedy cited 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.

303. 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 Tatariyev and Sharpudi Visaitov, in breach of Article 2 in its procedural aspect.

IV. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

304. The applicants relied on Article 3 of the Convention, submitting that as a result of their relatives’ disappearance and the State’s failure to investigate the events 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.”

305. The Government disagreed with these allegations.

306. The Court has found on many occasions that in a situation of enforced disappearance close relatives of the victim may themselves be victims of treatment in violation of Article 3. 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 (see *Orhan v. Turkey*, no. 25656/94, § 358, 18 June 2002, and *Imakayeva*, cited above, § 164).

307. Turning to the applicants in the present case, the Court first notes that the tenth and eleven applicants are the Magomed Soltymuradov’s uncle and cousin. They thus cannot be considered close family members of the disappeared man, especially in view of the presence among the applicants of his wife, children and siblings. Further, no evidence has been submitted to the Court that they were involved in the search for Magomed Soltymuradov (see, by contrast, *Luluyev and Others*, cited above, § 112). In such circumstances, while accepting that the events of 9 November 2002 might have been a source of considerable distress to the tenth and eleventh applicants, the Court is nevertheless unable to conclude that their mental suffering was distinct from the emotional distress inevitably experienced in situations such as that in the present case and serious enough to fall within the ambit of Article 3 of the Convention.

308. The remaining applicants are the parents, siblings, wives and children of the individuals who have disappeared. They lived in the same households and most of them were eye-witnesses to their abduction. For more than six years they have not had any news of the missing men. During this period the applicants have made enquiries of various official bodies, both in writing and in person, about their missing relatives. Despite their attempts, they have never received any plausible explanation or information about what became of them following their detention. The responses they received mostly denied State responsibility for their relatives' arrest or simply informed them that the investigation was ongoing. The Court's findings under the procedural aspect of Article 2 are also of direct relevance here.

309. The Court therefore finds that there has been a breach of Article 3 in respect of the applicants, with the exception of applicants ten and eleven.

V. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION

310. The applicants further stated that Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov had been detained in violation of the guarantees contained in 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.”

311. The Government asserted that no evidence had been obtained by the investigators to confirm that Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov had been detained. They were not listed among the persons kept in detention centres and none of the regional law-enforcement agencies had information about their detention.

312. 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).

313. The Court has found it established that Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov were detained by State servicemen and have not been seen since. Their detention was not acknowledged, was not logged in any custody records and there exists no official trace of their 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, noting 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).

314. 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 relatives 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 them against the risk of disappearance.

315. Consequently, the Court finds that Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov were 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.

VI. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

316. The applicants stated that they had been deprived of access to a court, contrary to the provisions of Article 6 of the Convention, the relevant parts of which provide:

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

317. The Government disputed this allegation.

318. The Court finds that the applicants’ complaint under Article 6 concerns essentially the same issues as those discussed under the procedural aspect of Article 2 and under Article 13. It should also be noted that the applicants submitted no information to prove their alleged intention to apply to a domestic court to claim compensation. In these circumstances, the Court finds that no separate issues arise under Article 6 of the Convention.

VII. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

319. The applicants alleged that the searches carried out at their homes at the time of their relatives’ arrest were illegal and constituted a violation of their right to respect for their homes, and thus of Article 8 of the Convention, which provides:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

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.”

320. The Government objected that those complaints were unfounded.

321. The Court observes that the applicants did not submit any additional evidence, such as witness statements and complaints to the domestic investigative bodies substantiating their complaint under this head. It notes that the applicants’ complaints to the authorities, as far as can be judged from the documents submitted by the parties, referred essentially to the fact that their close relatives had been unlawfully detained on the dates in question. No separate proceedings were lodged by any of the applicants in respect of the unlawful searches allegedly carried out at their homes (cf *Imakayeva*, cited above, §§ 184-185; *Betayev and Betayeva v. Russia*, no. 37315/03, § 113, 29 May 2008).

322. Against this background and in view of its above findings under Articles 2 and 5 of the Convention, the Court finds that no separate issues arise under Article 8 of the Convention.

VIII. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

323. 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.”

324. The Government contended that the applicants 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 could have made use of their procedural status as victims in the criminal cases. In particular, they had an opportunity to appeal against the acts or omissions of the investigating authorities in court. The Government referred to Article 125 of the Code of Criminal Procedure, which allowed participants in criminal proceedings to complain to a court about measures taken during an investigation. They added that participants in criminal proceedings could also claim damages in civil proceedings and referred to two cases in 2003 and 2004 in which victims in criminal proceedings had been awarded damages from state bodies and, in one instance, the prosecutor’s office.

325. The Court reiterates that in circumstances where, as here, a criminal investigation into violent deaths has been ineffective and the effectiveness of any other remedy that might have existed, including civil remedies, has consequently been undermined, the State has failed in its obligation under Article 13 of the Convention (see *Khashiyev and Akayeva*, cited above, § 183).

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

327. As regards the applicants’ reference to Articles 3 and 5 of the Convention, the Court considers that, in the circumstances, no separate issue arises in respect of Article 13, read in conjunction with Articles 3 and 5 of the Convention (see *Kukayev v. Russia*, no. 29361/02, § 119, 15 November 2007, and *Aziyevy v. Russia*, no. 77626/01, § 118, 20 March 2008).

IX. ALLEGED VIOLATION OF ARTICLE 3 IN RESPECT OF THE FIRST AND FIFTH APPLICANTS

328. The first and fifth applicants complained under Article 3 of the Convention that they had been subjected to inhuman and degrading treatment on account of the conditions of their detention at the Gudermes ROVD from 11 to 15 December 2002. In particular, they complained of the cold and poor sanitary conditions in the cells and the absence of natural light and facilities for personal hygiene, and that they had been held in the same cells as male detainees, denied food and water for a prolonged period and had not been given medical aid.

329. The Government explained that the exact conditions of the applicants’ detention could no longer be established, since the documents relating to their administrative detention in the Gudermes ROVD had been

destroyed after the expiration of the three-year period for the preservation of such archives. The Government referred to the information obtained from the Ministry of the Interior that the Gudermes ROVD had satisfactory facilities for the reception of detainees, as it was equipped with 11 cells with the capacity to hold 38 prisoners. The cells were equipped with electric light, central heating and sleeping room. Prisoners of opposite sexes were detained in separate cells. The Government did not submit any documents relevant to this part of the complaint.

330. The parties thus dispute the conditions of the first and the fifth applicants' detention between 11 and 15 November 2002 at the Gudermes ROVD.

331. In this connection, the Court reiterates that Convention proceedings, such as the present application, do not in all cases lend themselves to a rigorous application of the principle *affirmanti incumbit probatio* (he who alleges something must prove that allegation), as in certain instances the respondent Government alone have access to information capable of corroborating or refuting allegations. A failure on a Government's part to submit such information without a satisfactory explanation may give rise to the drawing of inferences as to the well-foundedness of the applicant's allegations (see *Ahmet Özkan and Others v. Turkey*, no. 21689/93, § 426, 6 April 2004).

332. In the present case, the first, fifth and fourteenth applicants presented detailed and coherent accounts about the circumstances and conditions of their detention. Furthermore, in their complaints to the Supreme Court of Chechnya in January 2003 the first and fifth applicants described in similar fashion the conditions of their detention and requested an inquiry and compensation for unlawful detention.

333. As to the Government's position, the Court notes that they have submitted no documents whatsoever in relation to this part of the complaint. The Court is unable to accept as conclusive evidence their submissions about the conditions of detention at the Gudermes ROVD as summarised above, in the absence of any further indications of the origins of this information or at least the period to which it relates.

334. In such circumstances, the Court accepts the applicants' description of their detention. It is furthermore corroborated by the medical document submitted by the first applicant, who was admitted to hospital immediately following her release from detention and diagnosed with a number of acute bronchial and gastric conditions.

335. The Court will next proceed to examine whether these facts disclose a breach of Article 3 of the Convention, which enshrines one of the most fundamental values of a democratic society. It prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the circumstances and the victim's behaviour (see, for example, *Labita v. Italy* [GC], no. 26772/95, § 119, ECHR 2000-IV).

336. To fall within the scope of Article 3, ill-treatment must attain a minimum level of severity. The assessment of this minimum is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim (see, among other authorities, *Ireland v. the United Kingdom*, cited above, § 162).

337. Turning to the present case, the Court observes that for one night the applicants were held in a cell with male detainees, in breach of the most basic rules for the detention of prisoners. The Court also accepts that while in detention the applicants suffered from the cold, did not receive adequate food and water and did not have unrestricted access to adequate hygiene and sanitary facilities.

338. The Court has previously found a violation of Article 3 in a case where an applicant was kept for twenty-two hours in an administrative-detention police cell without food or drink or unrestricted access to a toilet. It also noted that the unsatisfactory conditions of the applicant's detention in that case had exacerbated the mental anguish he had been caused by the unlawful nature of his detention (see *Fedotov v. Russia*, no. 5140/02, § 67, 25 October 2005).

339. In the present case, the Court comes to the same conclusion, taking into special account the applicants' vulnerable position, in view of their age and gender.

340. It thus finds that there has been a violation of Article 3 on account of the conditions of the first and fifth applicants' administrative detention between 11 and 15 December 2002.

X. ALLEGED VIOLATION OF ARTICLE 5 IN RESPECT OF THE FIRST AND FIFTH APPLICANTS

A. The Government's preliminary objection

341. In their submissions following the Court's decision on the admissibility of the application, the Government stated that the first and fifth applicants had failed to seek civil compensation for unlawful detention and, therefore, to exhaust domestic remedies.

342. The Court reiterates that, under Rule 55 of the Rules of Court, any plea of inadmissibility must be raised by the respondent Contracting Party in its written or oral observations on the admissibility of the application (see *K. and T. v. Finland* [GC], no. 25702/94, § 145, ECHR 2001-VII, and *N.C. v. Italy* [GC], no. 24952/94, § 44, ECHR 2002-X). However, in their observations on the admissibility of the application the Government did not raise this point. Moreover, the Court cannot discern any exceptional circumstances that could have dispensed the Government from the

obligation to raise their preliminary objection before the adoption of the Chamber's admissibility decision of 8 September 2005 (see *Prokopovich v. Russia*, no. 58255/00, § 29, 18 November 2004).

343. Consequently, the Government are estopped at this stage of the proceedings from raising the preliminary objection of failure to use the domestic remedy. It follows that the Government's preliminary objection must be dismissed.

B. Whether the first and the fifth applicants are still victims of the violation alleged

344. In so far as the Government can be understood to claim that the applicants were no longer victims of the violations alleged because the order for their detention had been quashed on appeal, the Court points out that an applicant may lose the status of a victim in instances where "the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention" (see *Dalban v. Romania* [GC], no. 28114/95, § 44, ECHR 1999-VI). In the present case, the Court cannot accept that the Supreme Court of Chechnya's decision of 27 January 2003 constituted either an acknowledgement of a violation or redress for it. The Supreme Court confined itself to altering the sentence of three days' imprisonment already served by the applicants to the payment of a fine, in accordance with the relevant provisions of the national legislation, and then exempted them from paying the fine since the sentence had already been served. This cannot be considered as either an acknowledgement of a violation or redress for it. The first and fifth applicants therefore continue to have victim status in so far as they claim that their detention was unlawful.

C. The parties' submissions

345. The first and fifth applicants alleged that their detention between 2 p.m. on 11 December and 10 a.m. on 15 December 2002 was not covered by the grounds set out in Article 5 § 1, was arbitrary and did not comply with the procedure prescribed by law. They also argued that their detention was not duly authorised and that they were not brought promptly before a judge, contrary to Article 5 § 3. They stressed that they had not been brought before a judge until almost four days after their arrest, which was too late to satisfy the requirements of the Convention and the national legislation.

346. The Government denied these allegations. They noted that the domestic courts had found the applicants guilty of an administrative offence, even though the Supreme Court of Chechnya had changed the sentence applicable in their case. Thus their rights had been restored. It had

furthermore been open to the applicants to claim compensation from the Gudermes ROVD in civil proceedings, but no such claim had been made.

D. The Court's assessment

347. The Court notes that on 11 December 2002 the first and fifth applicants were detained in Gudermes and taken to the police station for breach of the regulations on holding public gatherings and meetings. Their detention thus, in principle, falls to be examined under Article 5 § 1 (c).

348. The Court recalls the following general principles that were stated in *Benham v. the United Kingdom* (judgment of 10 June 1996, *Reports* 1996-III, §§ 40-42) and reiterated in other cases (see *Lloyd and Others v. the United Kingdom*, nos. 29798/96 et seq., 1 March 2005, and *Perks and Others v. the United Kingdom*, nos. 25277/94 et seq., 12 October 1999):

40. The main issue to be determined in the present case is whether the disputed detention was 'lawful', including whether it complied with 'a procedure prescribed by law'. The Convention here essentially refers back to national law and states the obligation to conform to the substantive and procedural rules thereof, but it requires in addition that any deprivation of liberty should be consistent with the purpose of Article 5, namely to protect individuals from arbitrariness ...

41. It is in the first place for the national authorities, notably the courts, to interpret and apply domestic law. However, since under Article 5 § 1 failure to comply with domestic law entails a breach of the Convention, it follows that the Court can and should exercise a certain power to review whether this law has been complied with.

42. A period of detention will in principle be lawful if it is carried out pursuant to a court order. A subsequent finding that the court erred under domestic law in making the order will not necessarily retrospectively affect the validity of the intervening period of detention. For this reason, the Strasbourg organs have consistently refused to uphold applications from persons convicted of criminal offences who complain that their convictions or sentences were found by the appellate courts to have been based on errors of fact or law."

349. The Court observes that the first and fifth applicants' detention was based from the outset on provisions of the national legislation which did not carry a sanction of administrative arrest. It therefore manifestly lacked justification under section 27.5 of the Code of Administrative Offences. Furthermore, their detention was not authorised by a competent judicial authority within a period not exceeding forty-eight hours, as required by the national legislation. The applicants were not brought before a judge until ninety-two hours after their arrest. Despite these gross procedural breaches, for which no explanation has been provided, their detention was retroactively endorsed by a judge of the Gudermes Town Court.

350. As stated in the Court's case-law cited above, the substantive correctness of a domestic court's order will generally fall outside the scope of the Court's review. However, the present case is different from cases in

which the impugned decisions were taken by judicial authorities in good faith, following the procedure prescribed by law. The judge in the instant case, on the contrary, exercised her authority in a manner that was in manifest contradiction to the procedural guarantees provided for by the domestic legislation and the Convention. The detention was thus inconsistent with the general protection from arbitrariness guaranteed by Article 5 of the Convention (see *Menesheva v. Russia*, no. 59261/00, § 92, ECHR 2006-...).

351. It follows that there has been a violation of Article 5 § 1 in respect of the first and fifth applicants' detention between 11 and 15 December 2002.

352. In view of this conclusion, the Court finds that it is not necessary to examine the complaint under Article 5 § 3.

XI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

353. 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. Pecuniary damage

354. The sixth, eighth, ninth and thirteenth applicants claimed damages in respect of loss of earnings by their father and husband Magomed Soltymuradov. The fourteenth, fifteenth and seventeenth applicant claimed damages in respect of lost financial support from their son, father and husband Rizvan Tatariyev. The eighteenth and nineteenth applicants claimed damages for the financial support which their son Sharpudi Visaitov would have provided for them. They submitted that as Magomed Soltymuradov and Rizvan Tatariyev were unemployed at the time of their arrest and no wage slips could be obtained for Sharpudi Visaitov, who had worked as a car mechanic, the calculation should be made on the basis of the subsistence level established by law. Their calculations were based on Russian legislation and the actuarial tables for use in personal injury and fatal accident cases published by the United Kingdom Government Actuary's Department in 2004 (“Ogden tables”).

355. The sixth, eighth, ninth and thirteenth applicants assumed that they would have been financially dependent on Magomed Soltymuradov from the date of his arrest until the children reached the age of 18. They calculated his earnings for that period, taking into account an average 10% inflation rate, and argued that the thirteenth applicant could count on 25%

and each child on 15% of the total. They claimed RUB 488,822 (14,139 euros (EUR)).

356. In their capacity as the mother, daughter and wife of Rizvan Tatariyev, the fourteenth, fifteenth and seventeenth applicants claimed, respectively, 10%, 25% and 25% of his lost earnings. Their aggregate claim came to RUB 727,124 (EUR 21,031).

357. The eighteenth and nineteenth applicants claimed 10% each of their son's, Sharpudi Visaitov's, lost earnings. They claimed a total of RUB 298,899 (EUR 8,645).

358. The Government regarded these claims as based on supposition and unfounded. They furthermore stressed that in respect of Magomed Soltymuradov the thirteenth applicant had successfully applied to a local court for a declaration that her husband was a missing person, following which her children had been granted a pension for the loss of the family breadwinner, and that the other applicants could have used the same statutory machinery to obtain compensation in their cases.

359. The Court reiterates that there must be a clear causal connection between the damage claimed by the applicants' relatives and the violation of the Convention, and that this may, in an appropriate case, include compensation in respect of loss of earnings. Having regard to its above conclusions, it finds that there is a direct causal link between the violation of Article 2 in respect of the applicants' close relatives and the loss by the applicants of the financial support which they could have provided. The Court further finds that the loss of earnings also applies to the dependent children and, in some instances, to elderly parents (see, among other authorities, *Imakayeva*, cited above, § 213).

360. Having regard to the applicants' submissions, and accepting that it is reasonable to assume that their relatives would eventually have had some earnings resulting in financial support for their families, the Court awards the following sums in respect of pecuniary damage, plus any tax that may be chargeable on these amounts:

(i) EUR 10,000 to the sixth, eighth, ninth and thirteenth applicants jointly;

(ii) EUR 11,000 to the fourteenth, fifteenth and seventeenth applicants jointly; and

(iii) EUR 5,000 to the eighteenth and nineteenth applicants jointly.

B. Non-pecuniary damage

361. The applicants claimed financial compensation in respect of non-pecuniary damage for the suffering they had endured as a result of the loss of their family members and the authorities' indifference. They sought amounts ranging from EUR 10,000 to EUR 80,000 each, depending on the closeness of their family ties with the missing men.

362. In addition, the first and fifth applicants claimed EUR 50,000 each as compensation for the moral suffering inflicted upon them in relation to the violations of Articles 3 and 5 of the Convention.

363. The Government found these amounts exaggerated.

364. The Court has found a violation of Articles 2, 3, 5 and 13 of the Convention on account of the unacknowledged detention and disappearance of the applicants' relatives. It has also found a violation of Articles 3 and 5 on account of the conditions and lawfulness of the detention of the first and fifth applicants. It thus accepts that they have suffered non-pecuniary damage which cannot be compensated for solely by the findings of violations. It awards the following amounts to the applicants, plus any tax that may be chargeable on them:

- (i) EUR 35,000 to the first, second, third and fourth applicants jointly;
- (ii) EUR 35,000 to applicants five to thirteen jointly;
- (iii) EUR 35,000 to applicants fourteen to seventeen jointly;
- (iv) EUR 35,000 to the eighteenth and nineteenth applicants jointly; and
- (v) EUR 10,000 to the first and fifth applicants each.

C. Costs and expenses

365. The applicants were represented by the SRJI. They submitted an itemised schedule of costs and expenses that included research and interviews in Ingushetia and Moscow, at a rate of EUR 50 per hour for the work in the area of exhausting domestic remedies and of EUR 150 per hour for the drafting of submissions to the Court. The aggregate claim in respect of the costs and expenses related to the applicants' legal representation amounted to EUR 14,653.

366. The Government disputed the reasonableness of and justification for the amounts claimed under this heading. They questioned, in particular, whether all the lawyers working for the SRJI had been involved in the present case and whether it had been necessary for the applicants to rely on courier mail.

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

368. Having regard to the details of the information submitted and the contracts for legal representation concluded between the SRJI and the applicants, the Court is satisfied that these rates are reasonable and reflect the expenses actually incurred by the applicants' representatives. The Court notes that this case was rather complex and required the amount of research and preparation claimed by the applicants.

369. Having regard to the details of the claims submitted by the applicants, the Court awards them the amount as claimed, together with any value-added tax that may be chargeable to the applicants, the net award to

be paid into the representatives' bank account in the Netherlands, as identified by the applicants.

D. Default interest

370. 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. *Dismisses* the Government's preliminary objection as to the exhaustion of domestic remedies;
2. *Holds* that The Government are estopped from raising the issue of non-exhaustion of domestic remedies in respect of the first and fifth applicants' complaint under Article 5 of the Convention;
3. *Holds* that there is no need to examine separately the applicants' complaints under Article 38 § 1 (a) of the Convention;
4. *Holds* that there has been a violation of Article 2 of the Convention in respect of Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov;
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 Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov disappeared;
6. *Holds* that there has been a violation of Article 3 of the Convention in respect of all the applicants, except applicants ten and eleven, on account of their moral suffering;
7. *Holds* that there has been a violation of Article 5 of the Convention due to the unacknowledged detention of Imran Dzhambekov, Magomed Soltymuradov, Rizvan Tatariyev and Sharpudi Visaitov;
8. *Holds* that no separate issues arise under Article 6 of the Convention;
9. *Holds* that no separate issues arise under Article 8 of the Convention in respect of the searches of the applicants' homes;

10. *Holds* that there has been a violation of Article 13 of the Convention in respect of the alleged violations of Article 2 of the Convention;
11. *Holds* that no separate issues arise under Article 13 of the Convention in respect of the alleged violations of Articles 3 and 5;
12. *Holds* that there has been a violation of Article 3 of the Convention in respect of the inhuman and degrading conditions of detention of the first and fifth applicants;
13. *Holds* that there has been a violation of Article 5 § 1 of the Convention in respect of the lawfulness of the first and fifth applicants' detention between 11 and 15 December 2002;
14. *Holds* that it is not necessary to examine the first and fifth applicants' complaint under Article 5 § 3 of the Convention;
15. *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 to be converted into Russian roubles at the rate applicable at the date of settlement, save in the case of the payment in respect of costs and expenses:
 - (i) EUR 10,000 (ten thousand euros) to the sixth, eighth, ninth and thirteenth applicants jointly;
 - (ii) EUR 11,000 (eleven thousand euros) to the fourteenth, fifteenth and seventeenth applicants jointly;
 - (iii) EUR 5,000 (five thousand euros) to the eighteenth and nineteenth applicants jointly;
 - (iv) EUR 35,000 (thirty-five thousand euros) to the first, second, third and fourth applicants jointly;
 - (v) EUR 35,000 (thirty-five thousand euros) to applicants five to thirteen, jointly;
 - (vi) EUR 35,000 (thirty-five thousand euros) to applicants fourteen to seventeen jointly;
 - (vii) EUR 35,000 (thirty-five thousand euros) to the eighteenth and nineteenth applicants jointly;
 - (viii) EUR 10,000 (ten thousand euros) to the first and fifth applicants each;
 - (ix) EUR 14,653 (fourteen thousand six hundred and fifty-three euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses, to be paid into the representatives' bank account in the Netherlands;

(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;

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

Done in English, and notified in writing on 12 March 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President