



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

FIRST SECTION

CASE OF BITIYEVA AND OTHERS v. RUSSIA

(Application no. 36156/04)

JUDGMENT

*This version was rectified on 20 January 2010
under Rule 81 of the Rules of Court*

STRASBOURG

23 April 2009

FINAL

06/11/2009

This judgment may be subject to editorial revision.

In the case of Bitiyeva and Others v. Russia,

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

Christos Rozakis, *President*,

Nina Vajić,

Anatoly Kovler,

Elisabeth Steiner,

Khanlar Hajiyeu,

Giorgio Malinverni,

George Nicolaou, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 2 April 2009,

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

PROCEDURE

1. The case originated in an application (no. 36156/04) 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 thirty-eight Russian nationals listed in the annexe (“the applicants”) on 6 October 2004.

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 Moscow, Russia. The Russian Government (“the Government”) were represented by Ms V. Milinchuk, the former Representative of the Russian Federation at the European Court of Human Rights.

3. The applicants alleged, in particular, that their relatives had been unlawfully detained, ill-treated and then killed by State agents and that there had been no adequate investigation into the matter. They also claimed that they had suffered mentally on account of these events and complained of the lack of effective remedies in respect of those violations. The applicants relied on Articles 2, 3, 5, 6, 8 and 13 of the Convention.

4. On 28 September 2007 the President of the First Section decided to give notice of the application to the Government. It was also decided to examine the merits of the application at the same time as its admissibility (Article 29 § 3).

5. The Government objected to the joint examination of the admissibility and merits of the application. Having considered the Government's objection, the Court dismissed it.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The applicants live in the village of Duba-Yurt, the Shali District in the Chechen Republic.

A. The facts

1. Abduction of inhabitants of Duba-Yurt

(a) The applicants' account of events

i. General background

7. According to the applicants, as of early 2000 the village of Duba-Yurt in the Shali District of the Chechen Republic was under the control of the federal forces, who established an administration, a military commander's office and a police station in the village. At the period described in the statement of facts, there were federal check-points at all roads leading to and from the village.

ii. Bayali Elmurzayev

8. The first applicant was married to Mr Bayali Abdullayevich Elmurzayev, born in 1968; they were the parents of the second, third and fourth applicants.

9. At about 2 a.m. on 27 March 2004 around fifteen armed men wearing masks and uniforms burst into Bayali Elmurzayev's house at 15 Rodnikovaya Street, while a number of other armed men remained standing in the courtyard. Without introducing themselves, the men levelled their machine guns at the family members. Then they dragged Bayali Elmurzayev out of bed and beat him; they also beat his mother. Eventually the men took Bayali Elmurzayev outside, where two armoured personnel carriers, a Gazel vehicle, a Niva car and several UAZ off-road vehicles («таблетки») were parked and put him into an UAZ vehicle.

iii. Sharip Elmurzayev

10. The fifth applicant is a brother of Mr Sharip Khamidovich Elmurzayev, born in 1971. The sixth applicant was Sharip Elmurzayev's cohabiting partner; they were the parents of the seventh and eighth applicants.

11. At about 2 a.m. on 27 March 2004 around ten armed men in masks burst into the courtyard at 10 Partizanskaya Street. There were two houses in the courtyard; the armed men entered and examined each of them. They grabbed Sharip Elmurzayev from his bed and beat the family members. The men swore in Russian. They took Sharip Elmurzayev outside and put him in a white Gazel vehicle that had no registration plate.

iv. Khusin and Isa Khadzhimuradov

12. The tenth applicant was married to Mr Khusin Imranovich Khadzhimuradov, born in 1975; they were the parents of the eleventh and twelfth applicants. The thirteenth applicant was married to Mr Isa Imranovich Khadzhimuradov, born in 1965; they are the parents of the fourteenth, fifteenth, sixteenth and seventeenth applicants.

13. At about 2 a.m. on 27 March 2004 a group of armed men forcibly entered the house at 21 Rodnikovaya Street, apprehended Khusin and Isa Khadzhimuradov and took them away.

v. Lechi Shaipov

14. The eighteenth applicant is a brother of Mr Lechi Abuyezitovich Shaipov, born in 1960. The latter was married to the nineteenth applicant; they were the parents of the twentieth and twenty-first applicants.

15. At about 2 a.m. on 27 March 2004 around fifteen armed men wearing camouflage uniforms and masks arrived at the Shaipovs' house at 10 Beregovaya Street. The men broke down the entrance door and burst inside. Without introducing themselves, they ordered everyone to lie down, threatening the inhabitants of the house with weapons equipped with silencers, and demanded that the Shaipov men introduce themselves. Then they informed someone via a portable radio transmitter that they had "taken Shaipov as well". They seized Lechi Shaipov's identity papers and the money that they had found. The eighteenth applicant looked through the window and saw two armoured personnel carriers, a Niva car, an UAZ vehicle and three off-road vehicles parked outside. Then the armed men took Lechi Shaipov to the street, put him in one of the vehicles and drove away.

vi. Apti Murtazov

16. The twenty-third and twenty-fourth applicants are the parents of Mr Apti Atsiyevich Murtazov, born in 1964. The twenty-second, twenty-fifth and twenty-sixth applicants are Apti Murtazov's siblings.

17. At 2.30 a.m. on 27 March 2004 between eight and ten armed men wearing masks and uniforms arrived at the Murtazovs' house at 73 Nuradilova Street located near a check-point on the edge of Duba-Yurt. The twenty-second applicant was awake; he looked through the window and saw a number of UAZ vehicles parked outside.

18. The armed men burst inside, took the stairs to the second floor and went directly to Apti Murtazov's bedroom. They awakened Apti Murtazov and demanded that he identify himself. Then they took him out of the house. The twenty-second applicant managed to look out of the window and saw eight vehicles, including two armoured personnel carriers, an UAZ vehicle and a Niva vehicle. However, he did not notice in which vehicle the armed men put his brother.

19. After the armed men had left, the twenty-second applicant rushed into the street and ran to the check-point, where he saw the eight vehicles mentioned above driving in the direction of Grozny. At some point the vehicles crossed the river and stopped. The twenty-second applicant heard a few shots.

vii. Zelimkhan Osmayev

20. The thirty-first applicant is the mother of Mr Zelimkhan Umiyevich Osmayev, born in 1975. The twenty-seventh, thirty-second and thirty-third applicants are Zelimkhan Osmayev's siblings. Zelimkhan Osmayev was married to the twenty-eighth applicant; they were the parents of the twenty-ninth and thirtieth applicants.

21. At about 2 a.m. on 27 March 2004 around fifteen armed men wearing the masks and uniforms of the special fast deployment team ("SOBR") burst into the Osmayevs' house at 36 Podgornaya Street. The men spoke unaccented Russian. They turned on the light, awakened the Osmayevs and asked for Zelim Osmayev. Zelimkhan Osmayev identified himself and asked the armed men why they had come. The men took him outside, where three UAZ vehicles were parked. They brought Zelimkhan Osmayev to one of the vehicles and directed a flash-light at him as if they wanted someone to identify him. Then they put Zelimkhan Osmayev in a car and drove away.

viii. Idris and Suleyman Elmurzayev

22. The thirty-fourth and thirty-fifth applicants are the parents of Mr Idris Said-Khuseynovich Elmurzayev, born in 1974. Idris Elmurzayev was married to the thirty-sixth applicant; they were the parents of the thirty-seventh and thirty-eighth applicants.

23. At about 2 a.m. on 27 March 2004 around fifteen armed men wearing masks and uniforms broke into the house at 23 Rodnikovaya Street and forced all family members to the floor. Then they took Idris Elmurzayev and his brother, Suleyman Elmurzayev, outside, put them in an UAZ off-road vehicle and drove away.

ix. Other events

24. On the same night a group of armed masked men took two other residents of Duba-Yurt, namely Umar and Ibragim Elmurzayev, from their

home. After leaving the village, the servicemen allowed those two men and Suleyman Elmurzayev to get out of the vehicles, told them to lie still for several hours on the ground and left. Later the three men returned home.

(b) The Government's account of events

25. According to the Government, in the village of Duba-Yurt on 27 March 2004 in the period between 2 and 3.30 a.m. unidentified men wearing camouflage uniforms and masks, armed with automatic firearms and equipped with armoured personnel carriers and UAZ vehicles, abducted Bayali Elmurzayev from the house at 15 Rodnikovaya Street, Apti Murtazov from the house at 73 Nuradilova Street, Idris Elmurzayev from the house at 23 Rodnikovaya Street, Lechi Shaipov from the house at 10 Beregovaya Street, Khusin and Isa Khadzhimuratov from the house at 21 Rodnikovaya Street, Sharip Elmurzayev from the house at 10 Partizanskaya Street, and Zelimkhan Osmayev from the house at 36 Podgornaya Street and took them away in an unknown direction.

2. The applicants' search for their relatives

26. In the applicants' submission, starting from 27 March 2004 they complained to a number of State law-enforcement agencies, such as the military commander's office of the Shali District ("the district military commander's office"), the Chechen President, the office of the Ministry of the Interior for the Shali District ("the district office of the interior"), the Ministry of the Interior of the Chechen Republic and the Federal Security Service, about the abduction of their eight relatives. It does not appear that those complaints concerned the searches allegedly carried out in their homes.

27. According to the applicants, they also tried to establish their relatives' whereabouts through unofficial channels and had several conversations with various State officials. In the applicants' submission, Mr N., a counsellor to the Chechen President, told the applicants that the eight missing men were "drinking tea" at the federal military base in Khankala and promised that they would be released. Mr P., a military prosecutor whom the applicants met at the office of the Special Envoy of the Russian President in Chechnya for Rights and Freedoms, initially confirmed that the eight men had been kept at the Khankala base but later said that he knew nothing about the fate of those missing. The applicants overheard Mr K., an investigator of the prosecutor's office of the Shali District, talking to a military prosecutor's office via a radio transmitter. Mr K. allegedly said that the two Khadzhimuradov brothers would be released immediately and the others on the following day. According to the applicants, several officials told them that the eight abducted men would be released by 9 April 2004. The applicants submitted that they had no documentary evidence to confirm that they had, indeed, had the above-

mentioned conversations with State officials. According to the Government, the applicants never informed the investigating authorities about their contacts with State officials.

28. In the applicants' submission, they received via unofficial channels an unsigned and undated document entitled "KUS-332. The Shali District. Kidnapping" (*«КУС-332. Шалинский район. Похищение человека»*), which apparently represented an extract from the register of crime reporting (*книга учета сообщений о преступлениях* – "KUS") of the district office of the interior. According to the document, a copy of which the applicants submitted to the Court, at 9 p.m. on 29 March 2004 a duty unit of the district office of the interior had been informed by an unspecified prosecutor's office that eight inhabitants of Duba-Yurt had been apprehended by unidentified military servicemen driving armoured personnel carriers and UAZ off-road vehicles. Three officers, Mr K., Mr G. and Mr M., had carried out an inquiry and established that those missing had been detained in Khankala. According to the Government, there was no such document in the file of the investigation instituted into the abduction; however, on 29 March 2004 record no. 148 was entered in the KUS confirming the abduction on 27 March 2004 of the applicants' eight relatives. In the Government's submission, there was no other information, in particular any data concerning the location of those missing, in the record.

3. Discovery of dead bodies

29. On 9 April 2004 an unidentified person discovered nine dead bodies near the village of Serzhen-Yurt in the Shali District; eight of them were those of the applicants' missing relatives. On the same day the same person reported the event to the police. The corpses were transported to the district office of the interior.

30. At about 3 or 4 p.m. on 9 April 2004 the applicants heard a rumour that their relatives had been found dead. By the time they arrived at the district office of the interior the police had examined and photographed the corpses. The applicants collected their relatives' dead bodies in the evening of 9 April 2004 and buried them on the following day.

31. According to the applicants, Lechi Shaipov had sixteen gunshot wounds to the body and three to the head; Sharip Elmurzayev's body had several gunshot wounds and was burned, and the left eye was missing; Isa Khadzhimuradov's body was mutilated; Bayali Elmurzayev's body was mutilated to the extent that it was hardly recognisable and bore nineteen or twenty gunshot wounds; there were nineteen gunshot wounds to Zelimkhan Osmayev's body.

32. On 29 April 2004 the Shali District Hospital issued three medical certificates of death in respect of Lechi Shaipov, Sharip Elmurzayev and Isa Khadzhimuradov. According to those certificates, each of the three men was

murdered on 9 April 2004. Lechi Shaipov died of traumatic shock caused by multiple gunshot wounds to the body and extremities. Sharip Elmurzayev's death was a result of traumatic shock caused by multiple gunshot wounds to the head and body. Isa Khadzhimuradov died of traumatic shock caused by multiple gunshot wounds to the body.

33. On 30 April 2004 the Civil Registry Office of the Shali District issued a certificate stating that Zelimkhan Osmayev had died on 9 April 2004. The cause of death was not specified.

34. On 12 May 2004 the Civil Registry Office of the Shali District issued death certificates in respect of Bayali Elmurzayev and Idris Elmurzayev. According to the certificates, both men died on 9 April 2004; the cause of death was not specified.

35. It is unclear whether official death certificates were issued in respect of Idris Elmurzayev, Khusin Khadzhimuradov and Apti Murtazov.

4. Official investigation

(a) Information received by the applicants

36. On 27 March 2004 Lechi Shaipov's father filed a written complaint about his son's abduction to the prosecutor's office of the Shali District ("the district prosecutor's office").

37. On 8 April 2004 the prosecutor's office of the Chechen Republic ("the republican prosecutor's office") forwarded the thirty-fourth applicant's complaint about the disappearance of Bayali, Idris and Sharip Elmurzayev to the district prosecutor's office. On the same day it forwarded to the district prosecutor's office complaints by other relatives of the eight missing inhabitants of Duba-Yurt.

38. On 8 April 2004 the acting military commander of the Chechen Republic demanded that the district military commander's office verify the facts complained of by the eighteenth and twenty-second applicants by 9 and 10 April 2004, respectively.

39. On 16 April 2004 the district prosecutor's office informed the twenty-second applicant that the investigation into his brother's kidnapping in case no. 36025 was underway and that investigative measures were being taken to resolve the crime. On the same date the republican prosecutor's office informed some of the applicants that the investigation into the kidnapping of the eight inhabitants of Duba-Yurt was pending.

40. On 5 June 2004 the republican prosecutor's office informed the applicants that the investigation in case no. 36025 had been suspended on account of a failure to identify those responsible. They further noted that, despite the suspension of the proceedings, investigative measures were being taken to resolve the crime and advised the applicants of their right to appeal against the decision.

41. On 8 June 2004 the military prosecutor's office of military unit no. 20116 informed the eighteenth and twenty-second applicants that the servicemen of that unit had not carried out any special operations in Duba-Yurt and had not apprehended any individuals on the dates mentioned in their complaints.

42. It does not appear that the applicants received any further information regarding the investigation.

(b) Information provided by the Government

43. According to the Government, on 31 March 2004 the district prosecutor's office instituted an investigation into the disappearance of the eight inhabitants of Duba-Yurt under Article 126 (2) of the Russian Criminal Code (aggravated kidnapping). The case file was assigned the number 36025.

44. On the same date the investigating authorities sent a number of enquiries to representatives of the federal military authorities, district and republican departments of the Federal Security Service, town and district prosecutor's offices of the Chechen Republic and the criminal police of the Shali District. They requested information as to which military units had been stationed in the Shali District and could have participated in the detention of the applicants' eight relatives, whether any special operations had been carried out in that area on the relevant date, whether any criminal proceedings had ever been brought against, or detention order given in respect of, the applicants' relatives, and whether they had been kept in any of the detention centres in the Chechen Republic. According to the Government, the military and law-enforcement bodies replied that they had no information as to whether, and which, military units had conducted any special operation on 27 March 2004, that no criminal proceedings had ever been brought and no special measures had ever been taken against the applicants' eight relatives, and that they had never been arrested or detained by any of them and had not been listed among the detainees of any detention centres.

45. In the Government's submission, during the investigation the authorities inspected the crime scenes at each of the houses from which the applicants' eight relatives had been abducted.

46. The Government further submitted without specifying the date that seven relatives of those missing, including the first, fifth and twenty-third applicants, were declared victims of a crime. They were all questioned on unspecified dates and confirmed the circumstances of their family members' abduction, stating, in particular, that they had been taken away by armed men in camouflage uniforms and masks who had arrived in UAZ vehicles and armoured personnel carriers. The twenty-fifth applicant, questioned on 5 April 2004, made similar submissions.

47. According to the Government, on 30 March 2004 the military commander of the Shali District drew up a report stating that on 27 March 2004 federal forces had carried out a special operation in the village of Duba-Yurt, during which the applicants' eight relatives had been apprehended and delivered to the federal military base in Khankala. During his witness interview of 7 May 2004, the military commander of the Shali District stated that on 27 March 2004 he had learnt "from radio communications" about the abduction of eight inhabitants of Duba-Yurt and had gone to the village to clarify the circumstances of the incident, and that his report had been based on the information which he had received from local residents.

48. In a witness interview of 5 April 2004 Suleyman Elmurzayev, one of the three men who had been taken away and then released on the date of the incident (see paragraphs 23 and 24 above), stated that on 27 March 2004 a group of men wearing camouflage uniforms and armed with automatic firearms had burst into the house at 23 Rodnikovaya Street and forced him outside, where he had been put in an UAZ vehicle. After having driven about 500 metres the vehicle had stopped and the men ordered him and his two uncles, apprehended with him, out of the car. They remained there for an hour, threatening the three men with death by shooting. He had seen two UAZ vehicles driving away. According to the Government, Ibragim Elmurzayev made similar statements. They did not provide any information as to whether Umar Elmurzayev had been questioned in connection with the incident of 27 March 2004.

49. On 5 April 2004 the military prosecutor of the United Group Alignment received a letter from the Chief of the Headquarters of the United Group Alignment stating that no special operations had been conducted in Duba-Yurt on 27 March 2004.

50. The Government further submitted that on 9 April 2004 the district prosecutor's office had instituted criminal proceedings under Article 105 (2) of the Russian Criminal Code (aggravated murder) in connection with the discovery on the same date of nine dead bodies, with bound hands and multiple gunshot entry wounds, in a river in the Shali District. The case file was assigned the number 36027.

51. On the same date the corpses were identified by residents of Duba-Yurt; eight of them were those of the applicants' eight missing relatives. Rope knots were seized from the hands of the bodies and sent for expert examination.

52. On the same date the investigator in charge inspected the crime scene and found the trace of an unidentified motor vehicle and two bullets of 7.62 mm calibre.

53. A number of expert examinations were ordered and performed. According to those examinations, a tyre trace found at the scene of the incident was that of an UAZ vehicle and the two bullets had been fired from

a machine-gun. An expert examination of the rope knots found that they had all been of the same type and that it was impossible to establish for which profession the use of such knots was typical. The results of medical forensic examinations of the corpses confirmed that they had multiple gunshot wounds to the heads, chests and extremities and that any of those wounds could be lethal.

54. By a decision of 12 April 2004 the prosecutor of the Shali District ordered that criminal cases nos. 36025 and 36027 be joined under the former number.

55. On 13 April 2004 the investigating authorities questioned the deputy commander of the consolidated special group of the Federal Security Service, who stated that the group's personnel had not conducted any special operations in Duba-Yurt on 27 March or 8 and 9 April 2004 and had not detained any residents there, and that he had learnt about the abduction of eight residents of Duba-Yurt from the village administration.

56. During a witness interview of 14 April 2004 the commander of military unit no. 75143-1 stated that his personnel did not participate in any special operations, that it was strictly forbidden to his personnel to access any settlement, that there had been no Gazel or UAZ vehicles at the disposal of his military unit and that only one of three armoured personnel carriers belonging to his unit was in working order.

57. On 14 April 2004 the investigating authorities requested the commander of military unit no. 90960 to provide information as to whether armoured personnel carrier no. 80, Gazel vehicles, an UAZ-469 and an UAZ-3962 vehicle were at the disposal of his military unit, and, if so, whether those vehicles had left the territory where the unit had been located in the period from 27 March to 9 April 2004. The commander replied that his unit had only an armoured UAZ-469 vehicle with registration number 0669 KK 21 RUS, and that this vehicle had not left the location of the unit during the indicated period.

58. During a witness interview of 15 April 2004 the commander of military unit no. 90960 stated that there were about a thousand servicemen under his command and that a number of motor vehicles were at the disposal of his unit, namely armoured personnel carrier no. 70, an Ural-4320 truck, Kamaz trucks, a GAZ-66 vehicle, a ZIL-131 vehicle, a creeper tractor and an UAZ-469 car. He further stated that during the period from 27 March to 9 April 2004 the military personnel and vehicles of his unit had not been involved in any special operations in the vicinity of Duba-Yurt and that he had learnt about the killing of several residents of Duba-Yurt from law-enforcement officers. According to the Government, servicemen Z., G. and L. questioned on the same date, made similar oral submissions.

59. In his witness interview of 16 April 2004 the deputy commander of the battalion "West" stated that on 27 March 2004 the battalion's personnel had not received an order, nor pursued any combat mission in the village of

Duba-Yurt, and that, according to the battalion's register, no motor and armoured vehicles belonging to the battalion had been used on 26 or 27 March 2004. He also stated that he had learnt about the abduction of eight residents of Duba-Yurt in early April 2004.

60. On the same date the investigating authorities questioned the commander of the battalion "West", who had made statements similar to those of the deputy commander, and examined the register confirming that no motor vehicles, including armoured vehicles, had been used on 27 March 2004.

61. On 12 and 22 April 2004 the investigating authorities questioned a number of residents of Duba-Yurt, including the twenty-seventh applicant, who made similar statements to the effect that during the night of 27 March 2004 they had seen military vehicles, in particular, an armoured personnel carrier and an UAZ vehicle, moving in their village. According to the Government, the twenty-seventh applicant did not mention during his witness interview with the investigating authorities that the men who had abducted his relative had been wearing the uniforms of the special fast deployment team ("SOBR"), as he did in his submissions to the Court.

62. On 24 April 2004 case no. 36025 was joined with case no. 32026 opened in connection with the abduction and murder of a resident of Grozny, whose dead body had been found on 9 April 2004 along with the bodies of the applicants' eight relatives. The case file was assigned the number 32026.

63. The Government did not provide any further information regarding the investigation.

B. Documents submitted by the Government

1. Documents from the investigation file

64. In September 2007, when the application was communicated to them, the Government were invited to produce a copy of the investigation file in criminal case no. 32026 opened in connection with the abduction of the applicants' relatives and discovery of their dead bodies. The Government produced several documents but refused to submit the entire file stating that, under Article 161 of the Russian Code of Criminal Procedure, disclosure of the documents was contrary to the interests of the investigation and could entail a breach of the rights of the participants in the criminal proceedings. They also submitted that they had taken into account the possibility of requesting confidentiality under Rule 33 of the Rules of Court, but noted that the Court provided no guarantees that once in receipt of the investigation file, the applicants or their representatives would not disclose these materials to the public. According to the Government, in the absence of any sanctions in respect of applicants for the disclosure of confidential

information and materials, there were no guarantees concerning compliance by the applicants with the Convention and the Rules of Court. At the same time, the Government suggested that a Court delegation could be given access to the file in Russia, with the exception of those documents containing military and State secrets, and without the right to make copies of the case file.

65. The documents submitted by the Government included:

(a) four reports of 29 March 2004 on inspection of crime scenes at the houses at 73 Nuradilova Street from which Apti Murtazov had been taken, at 15 Rodnikovaya Street from which Bayali Elmurzayev had been taken, at 21 Rodnikovaya Street from which Khusin and Isa Khadzhimuradov had been taken, at 23 Rodnikovaya Street from which Idris Elmurzayev had been taken, and 10 Partizanskaya Street from which Sharip Elmurzayev had been taken;

(b) a letter of 29 March 2004 by which the prosecutor of the Shali District sent the materials concerning “the abduction by unidentified persons on 27 March 2004 in Duba-Yurt” of the applicants' eight relatives to the office of the interior of the Shali District “for registration”;

(c) reports of 12 April 2004 drawn up by a forensic medical expert in respect of the dead bodies of each of the applicants' relatives on the basis of the transcripts of examination of the corpses performed on 9 April 2004.

66. The reports of 12 April 2004 attest the presence of multiple gunshot entry wounds to the heads and bodies of the applicants' deceased relatives and to the extremities of some of them, and state that any of those wounds could have been lethal and that the death of each of the applicants' relatives occurred in the period from one to five days prior to the date on which the corpses were examined, namely 9 April 2004. The report drawn up in respect of Sharip Elmurzayev also states that the left eye is missing, that both jaws are broken and that the lower teeth are missing as a result of gunshot wounds to the head. The report drawn up in respect of Isa Khadzhimuratov attests “the traumatic amputation” of the teeth on the right side of both jaws but does not specify what the cause of that amputation was, and when it occurred. The reports also state that it is impossible to answer the other questions regarding the corpses without carrying out a full forensic medical examination of them.

2. Domestic courts' decisions

67. The Government also submitted a judgment of Prikubanskiy District Court of the Republic of Karachayevo-Cherkessia, dated 8 September 2004, and a decision of the Supreme Court of the Republic of Karachayevo-Cherkessia, dated 19 October 2004, by which a plaintiff had been awarded a certain amount in respect of non-pecuniary damage inflicted by the unlawful actions of a prosecutor's office.

II. RELEVANT DOMESTIC LAW

68. For a summary of the relevant domestic law see *Kukayev v. Russia*, no. 29361/02, §§ 67-69, 15 November 2007.

THE LAW

I. STRIKING OUT OF THE LIST

69. In a letter of 12 October 2005 the applicants informed the Court of the death of the thirty-fourth applicant. They submitted, in particular, that he had been abducted by unknown armed men from his home on 2 April 2005 and that his dead body had been found in a river on 8 May 2005. They did not provide any further information concerning the abduction and death of the thirty-fourth applicant, either in their letter of 12 October 2005 or in their observations of 7 May 2008. They also did not indicate whether the aforementioned incident should form part of the present application.

70. In their observations of 7 May 2008 the applicants further informed the Court that the twenty-eighth applicant wished to withdraw from the case. They did not provide any further explanations.

71. The Court does not consider that the alleged abduction and death of the thirty-fourth applicant forms part of the present application, given the absence of any indication to that effect or more detailed information and documentary evidence from the applicants.

72. It further observes that the twenty-eighth and thirty-fourth applicants brought their complaints, referring to the abduction and death of Zelimkhan Osmayev and Idris Elmurzayev respectively, along with several other relatives of the said two men. Accordingly, the fact that the aforementioned two applicants can no longer be listed among the applicants does not affect the examination of the present application in so far as it concerns the complaints in respect of Zelimkhan Osmayev and Idris Elmurzayev. Against this background, the Court, in so far as the twenty-eighth and thirty-fourth applicants' complaints are concerned, considers it appropriate to strike the application out of its list, in accordance with Article 37 § 1 (c) of the Convention (see, *mutatis mutandis*, *Kutepov and Anikeyenko v. Russia*, no. 68029/01, § 39, 25 October 2005).

II. THE GOVERNMENT'S OBJECTION

73. The Government argued that the investigation into the abduction and murder of the applicants' eight relatives had not been completed, and that

therefore the domestic remedies had not been exhausted in respect of the applicants' complaints.

74. The applicants called into question the effectiveness of the investigation. They argued that the authorities had failed to keep them informed about the progress in the investigation, thus making it difficult in practice to challenge the course of the investigation.

75. The Court considers that the Government's objection as to the exhaustion of domestic remedies raises issues which are closely linked to the question of the effectiveness of the investigation. It therefore decides to join this objection to the merits of the applicant's complaint under the procedural limb of Article 2 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

76. The applicants complained that their eight relatives had been killed by federal servicemen and that no effective investigation had been conducted into the deaths of the eight men. They relied on Article 2 of the Convention, which provides:

“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. Admissibility

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

B. Merits

1. Alleged failure to protect the right to life

(a) Submissions by the parties

78. The applicants argued that it was beyond reasonable doubt that their eight relatives had been detained by federal servicemen. They submitted that in March 2004 the village of Duba-Yurt had been under the firm control of the Russian armed forces, and that these forces had established a military commander's office, a police office and check-points at all roads leading to and from the village. The applicants further submitted that the perpetrators, who spoke unaccented Russian, had arrived during the night in armoured personnel carriers, this latter fact having been confirmed by a number of eye-witnesses during their interviews with the investigating authorities and in their statements submitted to the Court, and acknowledged by the Government. The applicants argued that heavy military vehicles, such as armoured personnel carriers, could only have belonged to the federal forces. The applicants also submitted that three out of the eleven residents of Duba-Yurt apprehended on 27 March 2004 had subsequently been released in another village, that is, after the perpetrators had passed a check-point when leaving Duba-Yurt without impediment. Lastly, the applicants referred to the report of the military commander of Duba-Yurt, dated 30 March 2004, in which he had stated that on 27 March 2004 federal forces had carried out a special operation in the village of Duba-Yurt during which the applicants' eight relatives had been apprehended and delivered to the federal military base in Khankala. In the applicants' opinion, the military commander would never have based his report on information which he doubted.

79. The Government acknowledged that the applicants' eight relatives had been abducted from their homes and later found dead. They argued, however, that the Russian authorities were not responsible for the actions of the unidentified persons who had abducted the applicants' eight relatives and that the investigation had not obtained any evidence to the effect that representatives of the federal armed forces or law-enforcement agencies had been involved in the imputed offence. They submitted that the applicants' relatives could have been abducted and killed by members of illegal armed groups, since some of them, for example Apti Murtazov, had cooperated with authorities during the armed conflict in Chechnya in 1996. The Government argued therefore that there were no grounds to claim that the right to life of the applicants' eight relatives secured by Article 2 of the Convention had been breached by the State.

(b) The Court's assessment

80. The Court reiterates that, in the light of the importance of the protection afforded by Article 2, it must subject deprivations of life to the most careful scrutiny, taking into consideration not only the actions of State agents but also all the surrounding circumstances. It has held on many occasions that, where an individual is taken into police custody in good health and is found to be injured on release, it is incumbent on the State to provide a plausible explanation of how those injuries were caused. The obligation on the authorities to account for the treatment of an individual within their control is particularly stringent where that individual dies or disappears thereafter (see, among other authorities, *Orhan v. Turkey*, no. 25656/94, § 326, 18 June 2002, and the authorities cited therein). Where the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities, as in the case of persons within their control in detention, strong presumptions of fact will arise in respect of injuries and death occurring during that detention. Indeed, the burden of proof may be regarded as resting on the authorities to provide a satisfactory and convincing explanation (see *Salman v. Turkey* [GC], no. 21986/93, § 100, ECHR 2000-VII, and *Çakıcı v. Turkey* [GC], no. 23657/94, § 85, ECHR 1999-IV).

81. In the present case, the Court observes that the Government conceded that the applicants' eight relatives had been abducted from their homes during the night of 27 March 2004 by men in camouflage uniforms armed with automatic firearms and equipped with armoured personnel carriers, but denied that those had been State agents. In this connection, the Court cannot but accept the applicants' argument that heavy military vehicles such as armoured personnel carriers were presumably in the exclusive possession of the State. It further notes the applicants' argument that during the period under examination the village of Duba-Yurt had been under the firm control of the federal forces, that check-points had been established at all roads leading to and from the village, and that the perpetrators must have passed through those check-points, none of these facts having been disputed by the Government. In a situation where a group of armed men was able to move freely in heavy military vehicles during night hours in a village secured by federal check-points and to apprehend village residents at their homes, the Court cannot but reach the conclusion that those were State agents. The Court therefore finds it established beyond reasonable doubt that the applicants' relatives were apprehended and taken away on 27 March 2004 by State agents.

82. The parties further agreed that nine dead bodies were found in the Shali District on 9 April 2004. Eight of the bodies were identified as those of the applicants' relatives. The identity of the deceased and the violent nature of their deaths were acknowledged by the domestic authorities, who had instituted criminal proceedings into the murder, and were never

disputed by the Government. The Court also notes the finding of the reports on the examination of the corpses to the effect that the deaths had occurred one to five days prior to the date on which the bodies were found (see paragraph 66 above).

83. On the facts of the case, it is therefore clear that the applicants' relatives were taken into custody and their bodies were later found with multiple gunshot wounds. The Court notes that it was never alleged by the Government, or suggested by the evidence adduced, that the applicants' relatives had been released at any moment after being apprehended. In such circumstances the Court is not convinced by the Government's argument that the applicants' relatives might have been killed by members of illegal armed groups and is bound to conclude that the applicants' relatives died whilst being detained by State agents. In the absence of any plausible explanation on the part of the Government as to the circumstances of the deaths of the applicants' eight relatives, it further finds that the Government have not accounted for these deaths and that the respondent State's responsibility for this death is therefore engaged.

84. Accordingly, there has been a violation of Article 2 of the Convention in this respect.

2. Alleged inadequacy of the investigation

(a) Submissions by the parties

85. The applicants submitted that the investigation in the present case had fallen short of the requirements of Convention standards. They pointed out at the outset that the Government had withheld information regarding the investigation by refusing to provide the file of the criminal investigation. They further insisted that the investigation had been superficial, even though it had been promptly commenced and certain investigative actions had been taken at the beginning. In particular, the investigating authorities had questioned Messrs Suliman and Ibragim Elmurzayev, two of the three men who had been detained and then released on 27 March 2004, whereas Mr Umar Elmurzayev, the third man released, did not seem ever to have been questioned, although he could be considered as a very important witness in the case. Moreover, the questioning of Messrs Suliman and Ibragim Elmurzayev appeared to have been superficial and had not gone into any details. Similarly, it does not appear that the authorities attempted to find out from the local residents whether there had been any insignia on the military uniforms of the perpetrators, or whether they had had any distinctive marks. Furthermore, the authorities do not seem to have questioned servicemen who had been on duty on the check-points on the night of the incident. The applicants also submitted that the authorities had carried out only a preliminary medical examination of the bodies found, failing to perform an in-depth forensic examination, to extract bullets from

the corpses and to send them for ballistic tests. The authorities also did not seem to have made efforts to establish exactly where the applicants' relatives had been killed. The applicants further pointed out that, as could be ascertained from the Government's observations, the latest investigative action had been taken in April 2004 and the Government had not submitted any information regarding further developments in the investigation.

86. The Government argued that the investigation into the disappearance and murder of the applicants' relatives met the Convention requirement of effectiveness, as all measures envisaged in national law were being taken to identify those responsible. They submitted that the investigation was being carried out in full compliance with the domestic law and that a large number of investigative actions had been taken, including inspection of the crime scenes at the houses from which the applicants' relatives had been abducted, medical examination of the corpses and the sending of numerous enquiries to the federal military and security agencies to verify the possible involvement of federal servicemen in the imputed offence. The Government thus insisted that they had fulfilled their procedural obligation under Article 2 of the Convention.

(b) The Court's assessment

87. The Court reiterates that the obligation to protect the right to life under Article 2 of the Convention, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention", 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, in particular by agents of the State. The investigation must be effective in the sense that it is capable of leading to the identification and punishment of those responsible (see *Oğur v. Turkey* [GC], no. 21594/93, § 88, ECHR 1999-III). In particular, there is an implicit requirement of promptness and reasonable expedition (see *Yaşa v. Turkey*, 2 September 1998, § 102-04, *Reports of Judgments and Decisions* 1998-VI, and *Mahmut Kaya v. Turkey*, no. 22535/93, §§ 106-07, ECHR 2000-III). It must be accepted that there may be obstacles or difficulties which prevent progress in an investigation in a particular situation. However, a prompt response by the authorities in investigating the use of lethal force may generally be regarded as essential in maintaining public confidence in the maintenance of the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts. For the same reasons, there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory. The degree of public scrutiny required may well vary from case to case. In all cases, however, the next of kin of the victim must be involved in the procedure to the extent

necessary to safeguard his or her legitimate interests (see *Shanaghan v. the United Kingdom*, no. 37715/97, §§ 91-92, 4 May 2001).

88. In the instant case, the Court observes that some degree of investigation was carried out into the abduction and killing of the applicants' family members. It must assess whether that investigation met the requirements of Article 2 of the Convention. In this respect the Court notes that its knowledge of the criminal proceedings at issue is limited to the materials from the investigation file selected by the respondent Government (see paragraphs 64-65 above). Drawing inferences from the respondent Government's conduct when evidence is being obtained (see *Ireland v. the United Kingdom*, 18 January 1978, § 161, Series A no. 25), the Court assumes that the materials made available to it have been selected so as to demonstrate to the maximum extent possible the effectiveness of the investigation in question. It will therefore assess the merits of this complaint on the basis of the existing elements in the file and in the light of these inferences.

89. The Court observes that the authorities were made aware of the incident of 27 March 2004 on that same day (see paragraphs 36 and 47 above). It appears that initially the authorities took certain steps to investigate the events in question. In particular, on 29 March 2004 they inspected the crime scene at the houses from which Bayali Elmurzayev, Sharip Elmurzayev, Khusin and Isa Khadzhimuradov, Apti Murtazov and Idris Elmurzayev had been taken (see paragraph 65 above). According to the Government, the authorities also inspected the houses from which Lechi Shaipov and Zelimkhan Osmayev had been taken (see paragraph 45 above). On the same date the district prosecutor's office sent the materials concerning the abduction of the applicants' relatives to the district office of the interior (see paragraph 65 above), and, in the Government's submission, on 31 March 2004 criminal proceedings were instituted in that connection. During the investigation the authorities seem to have questioned a number of residents of Duba-Yurt, including some of the applicants and other relatives of those went missing and two men who had been taken away and then released, with regard to the events of 27 March 2004.

90. Also, as alleged by the Government, the criminal proceedings in connection with the murder of the applicants' eight relatives had been instituted on 9 April 2004, the date on which their corpses were found. On the same date the investigators examined the bodies and showed them to the relatives of those killed for identification. They also appear to have inspected the crime scene and performed a number of other expert examinations (see paragraphs 52 and 53 above).

91. On the other hand, a number of essential steps were taken with some delay, or not at all. In particular, despite the fact that the military commander of the Shali District reported on 30 March 2004 that the applicants' relatives had been apprehended on 27 March 2004 in the course

of a special operation conducted by the federal forces and delivered in the federal military base in Khankala, it does not appear that the investigating authorities took any measures to verify this information in a situation where prompt action was vital. They neither inspected the territory of the military base nor questioned the officers in command there. Moreover, the military commander of the Shali District was not interviewed in connection with the incident of 27 March 2004 and his report of 30 March 2004 until 7 May 2004, that is, several weeks after the incident.

92. Further, the Court cannot but agree with the applicants that the authorities do not appear to have attempted to question Mr Umar Elmurzayev, one of the three men who was apprehended and then released on 27 March 2004, or the servicemen from the check-points in Duba-Yurt who had been on duty on the night of the abduction. Moreover, despite the fact that the residents of Duba-Yurt consistently stated that the applicants' relatives had been taken away by federal servicemen, it does not appear that any military officers were questioned during the first two weeks following the abduction, when the applicants' relatives remained missing.

93. The Court also observes that the authorities carried out only an initial examination of the bodies of the applicants' eight relatives on the day when they were found, but did not proceed with an autopsy, with the result that the forensic expert was unable to answer all the questions on the circumstances of the deaths of the applicants' relatives (see paragraph 66 above).

94. Furthermore, even assuming that the relatives of the eight killed men were at some point granted the status of victims, as alleged by the Government, it does not appear that they were properly informed of the course of the investigation. The letters sent to them by the authorities did not even indicate the dates on which the criminal proceedings had been instituted or suspended, let alone provided any details concerning the investigation (see paragraphs 39-41 above). Further, it does not appear, and the Government did not submit any arguments or documents in this respect, that the applicants received any information regarding the investigation after June 2004.

95. Lastly, the Court notes that it is unclear, since the Government provided no information on this point, whether any investigative actions were taken in the period from 7 May 2004, the latest date indicated by the Government on which, as they claim, an investigative action was taken, when, namely the military commander of the Shali District was questioned (see paragraph 47 above), to 16 June 2008, the date of the Government's latest submissions.

96. In the light of the foregoing, and with regard to the inferences drawn from the respondent Government's submission of evidence, the Court is bound to conclude that the authorities failed to carry out a thorough and effective investigation into the circumstances surrounding the disappearance

and deaths of the applicants' eight relatives. It accordingly dismisses the Government's objection as regards the applicants' failure to exhaust domestic remedies within the context of the criminal proceedings, and holds that there has been a violation of Article 2 of the Convention on that account.

IV. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

97. The applicants complained that their relatives had been ill-treated by State agents, and that no investigation had been carried out into the matter. They also complained that during a fortnight when their relatives remained missing they had suffered severe mental distress and anguish in connection with their relatives' disappearance. The applicants referred to Article 3 of the Convention, which reads as follows:

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

A. Alleged ill-treatment of the applicants' relatives

98. The applicants submitted that some of the killed men had had gunshot wounds to their extremities, which in the applicants' opinion confirmed that they had been subjected to inhuman treatment.

99. The Government contended that the investigation had obtained no evidence confirming that the applicants' eight relatives had been subjected to treatment in breach of Article 3 of the Convention. They argued that the reports on the forensic medical examination of 12 April 2004 did not attest the presence on the corpses of any injuries other than multiple gunshot wounds.

1. Admissibility

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

2. Merits

101. The Court observes that the expert reports of 12 April 2004 attest the presence on the bodies of the applicants' relatives of multiple gunshot wounds, or injuries caused by gunshots (see paragraph 66 above) and state that the applicants' relatives died as a result of those injuries. The Court further observes that, according to the expert reports, some of the corpses, indeed, had gunshot wounds to the extremities, as alleged by the applicants. Also, the report drawn up in respect of Isa Khadzhimuradov attests the

traumatic amputation of the teeth on the right side of the jaw. On the other hand, this latter report does not specify the cause of the traumatic amputation of his teeth, or the time when that injury could have been inflicted. Moreover, the reports do not indicate that the other dead bodies had any signs of violence, which might have raised a suspicion that the applicants' relatives were ill-treated before their death. As regards multiple gunshot wounds, or injuries caused by gunshots, found on the bodies, the findings of the reports of 12 April 2004 do not enable the Court to conclude that those were inflicted on the applicants' relatives in the course of ill-treatment, which might have brought Article 3 of the Convention into play, rather than in a series of lethal shots, which raises an issue under Article 2.

102. Against this background, the Court is unable to find that, in the circumstances of the present case, any issue arises separate from the above conclusions that there has been a violation of Article 2 of the Convention, in its substantive and procedural aspects (see paragraphs 84 and 96 above).

B. Alleged mental suffering of the applicants

103. The applicants stated that they had been close relatives of the men who had been abducted and killed. They insisted that they had incurred severe mental suffering during the fortnight between 27 March 2004, the date on which their family members had been taken away, and 9 April 2004, the date on which their relatives had been found dead, and that they had never received any information regarding the identity of the perpetrators.

104. The Government, whilst not denying that the abduction of the applicants' eight relatives and their deaths must have caused considerable emotional distress to the applicants, submitted that there was no causal link between the authorities' actions and the applicants' moral suffering, in the absence of any findings by the domestic investigation confirming the involvement of State agents in the aforementioned offences.

105. The Court reiterates that while a family member of a "disappeared person" can claim to be a victim of treatment contrary to Article 3 (see *Kurt v. Turkey*, 25 May 1998, § 130-134, *Reports* 1998-III), the same principle would not usually apply to situations where the person taken into custody has later been found dead (see, for example, *Tanlı v. Turkey*, no. 26129/95, § 159, ECHR 2001-III (extracts)). In such cases the Court would normally limit its findings to Article 2. However, if a period of initial disappearance is long it may in certain circumstances give rise to a separate issue under Article 3 (see *Luluyev and Others v. Russia*, no. 69480/01, § 114, ECHR 2006-... (extracts), or *Kukayev*, cited above, § 107). The Court further reiterates that the question whether a member of the family of a "disappeared person" is a victim of treatment contrary to Article 3 will depend on the existence of special factors which give the suffering of the applicant a dimension and character distinct from the emotional distress

which may be regarded as inevitably caused to relatives of a victim of a serious human-rights violation. The Court would further emphasise that the essence of such a violation does not mainly lie in the fact of the “disappearance” of the family member but rather concerns the authorities' reactions and attitudes to the situation when it is brought to their attention. It is especially in respect of the latter that a relative may claim directly to be a victim of the authorities' conduct (see *Orhan*, cited above, § 358).

106. In the present case, the applicants' relatives remained missing from 27 March until 9 April 2004, that is, for two weeks, which period, in itself, does not appear long (see, by contrast, *Luluyev and Others*, cited above, where the applicants' relative remained missing for ten months, or *Kukayev*, cited above, where the applicant's son was deemed disappeared for five months). The Court also notes its above finding that at least some investigative actions were taken at the early stage of the investigation, which the applicants have acknowledged (see paragraphs 85 and 89 above). It cannot therefore conclude that during the period under consideration the authorities remained totally passive. Overall, while having no doubt of the profound suffering caused to the applicants by the abduction and deaths of their relatives, the Court does not consider that the present complaint raises an issue under Article 3 of the Convention in the circumstances of the instant case.

107. It follows that this part of the application should be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

V. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION

108. The applicants complained that the provisions of Article 5 as a whole, relating to the lawfulness of detention and guarantees against arbitrary detention, had been violated in respect of their eight relatives. Article 5, in its relevant parts, provides:

“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.”

109. The applicants maintained their complaint.

110. In the Government's submission, the investigation had obtained no evidence to confirm that the applicants' relatives had been detained by State agents in breach of the guarantees set out in Article 5 of the Convention.

A. Admissibility

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

B. Merits

112. The Court has frequently emphasised the fundamental importance of the guarantees contained in Article 5 for securing the rights of individuals in a democracy to be free from arbitrary detention at the hands of the authorities. In that context, it has repeatedly stressed that any deprivation of liberty must not only have been effected in conformity with the substantive and procedural rules of national law but must equally be in keeping with the very purpose of Article 5, namely to protect the individual from arbitrary detention. To minimise the risks of arbitrary detention, Article 5 provides a corpus of substantive rights intended to ensure that the act of deprivation of liberty is amenable to independent judicial scrutiny and secures the accountability of the authorities for that measure. The unacknowledged detention of an individual is a complete negation of these guarantees and discloses a most grave violation of Article 5 (see, among other authorities, *Çakıcı*, cited above, § 104).

113. It has been established above that the applicants' relatives were apprehended on 27 March 2004 by State agents and were not seen until 9 April 2004, when their corpses were found. The Government produced no formal acknowledgement of or justification for the detention of the applicants' relatives during the period in question. The Court thus concludes

that the applicants' eight relatives were victims of unacknowledged detention in complete disregard of the safeguards enshrined in Article 5, and that this constitutes a particularly grave violation of their right to liberty and security enshrined in Article 5 of the Convention.

VI. ALLEGED VIOLATION OF ARTICLES 6 § 1 AND 8 OF THE CONVENTION

114. The applicants complained that they were unable to claim damages in respect of their relatives' deaths before completion of the investigation and thus had no access to court, contrary to Article 6 § 1 of the Convention. The applicants further complained under Article 8 of the Convention about unlawful searches of their homes, carried out by Russian servicemen on the night of their relatives' abduction. In so far as relevant, the respective Convention provisions provide:

Article 6

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

Article 8

“1. Everyone has the right to respect for his ...home...

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

115. As regards the applicants' complaint under Article 6 § 1 of the Convention, the Court observes that the applicants submitted no information which would prove their alleged intention to apply to a domestic court with a claim for compensation. Accordingly, this part of the application is manifestly ill-founded and should be rejected in accordance with Article 35 §§ 3 and 4 of the Convention (see, among other authorities, *Atabayeva and Others v. Russia* (dec.), no. 26064/02, 7 June 2007, or *Musikhanova and Others v. Russia* (dec.), no. 27243/03, 10 July 2007).

116. As to the applicants' complaint under Article 8 of the Convention, the Court reiterates that while, in accordance with Article 35 § 1 of the Convention, those seeking to bring their case against the State before the Court are required to use first the remedies provided by the national legal system, there is no obligation under the said provision to have recourse to remedies which are inadequate or ineffective. If no remedies are available or if they are judged to be ineffective, the six-month period in principle runs

from the date of the act complained of (see *Hazar and Others v. Turkey* (dec.), no. 62566/000 et seq., 10 January 2002).

117. In the instant case, the Court notes that it has not been furnished with any evidence confirming that the applicants attempted to bring their complaint, as raised before the Court, to the attention of the national authorities. Assuming that in the circumstances of the present case no remedies were available to the applicants, the events complained of took place on 27 March 2004, whereas the present application was lodged on 6 October 2004, more than six months later. The applicants, who had eye-witnessed the events complained of, did not submit any evidence that they had been in any way precluded from lodging their complaint in time. It follows that this part of the application was lodged out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention (see *Musayeva and Others v. Russia* (dec.), no. 74239/01, 1 June 2006; *Aziyev and Aziyeva v. Russia* (dec.), no. 77626/01, 21 September 2006; or *Ruslan Umarov v. Russia* (dec.), no. 12712/02, 8 February 2007).

VII. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

118. Lastly, the applicants complained of the lack of effective remedies in respect of the violations of their rights secured by Articles 2, 3, 5, 6 and 8 of the Convention, 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.”

119. The applicants insisted that they had no effective remedies at their disposal in the absence of any conclusions from the investigation into the abduction and killing of their relatives.

120. The Government contended that the applicants had had effective domestic remedies, as required by Article 13 of the Convention, but had been unwilling to make use of them. They submitted that the first, fifth and twenty-third applicants had been granted victim status and therefore had been afforded procedural rights in the criminal proceedings, and in particular, the right to give oral and other evidence, to file motions, to receive copies of procedural decision, and to access the case file and make copies of the materials of the file on completion of the investigation. The Government further argued that if the applicants had considered that any action or omission of public officials had caused them damage, they could have sought compensation for that damage in court by virtue of the relevant provisions of the Russian Civil Code. In support of this argument, the Government referred to decisions by the domestic courts, which they submitted to the Court (see paragraph 67 above).

A. Admissibility

121. The Court reiterates that, according to its case-law, Article 13 applies only where an individual has an “arguable claim” to be the victim of a violation of a Convention right. In view of the Court's findings above with regard to Articles 2 and 5 as well as in respect of the applicants' complaint concerning the alleged ill-treatment of their relatives under Article 3 of the Convention, the applicants clearly had an arguable claim for the purposes of Article 13 (see *Boyle and Rice v. the United Kingdom*, 27 April 1988, § 52, Series A no. 131). The Court therefore notes that the applicants' complaints under Article 13 in conjunction with Articles 2, 3, in so far as the alleged ill-treatment of the applicants' relatives was concerned, and Article 5 of the Convention are not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

122. As regards the applicants' complaints under Article 13 in conjunction with Article 3, in so far as it concerned the applicants' mental suffering, and Article 6 § 1 of the Convention, the Court notes that in paragraphs 107 and 115 above it has declared inadmissible the applicants' relevant complaints under Article 3 and 6 § 1 of the Convention, which have not been substantiated. Accordingly, the applicants did not have an “arguable claim” of a violation of substantive Convention provisions and, therefore, Article 13 of the Convention is inapplicable to this part of the application. It follows that this aspect of the applicants' complaint under Article 13 must be rejected as incompatible *ratione materiae* with the Convention provisions, in accordance with Article 35 §§ 3 and 4 of the Convention.

123. In so far as the applicants relied on Article 13 in conjunction with Article 8 of the Convention, the Court has noted above that the applicants did not attempt to lodge any complaints regarding the alleged searches before the domestic authorities. On the assumption that the applicants considered that there had been no effective domestic remedies to exhaust, the Court finds that they should have lodged this complaint within six months from the date on which the searches took place. In view of its above finding that the applicants' complaint under Article 8 was lodged out of time (see paragraph 117 above), the Court further finds that the applicants' complaint under Article 13 in conjunction with Article 8 is also time barred. It follows that this part of the application must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

B. Merits

124. The Court reiterates that Article 13 of the Convention guarantees the availability at the national level of a remedy to enforce the substance of

the Convention rights and freedoms in whatever form they might happen to be secured in the domestic legal order. The effect of Article 13 is thus to require the provision of a domestic remedy to deal with the substance of an “arguable complaint” under the Convention and to grant appropriate relief, although Contracting States are afforded some discretion as to the manner in which they comply with their Convention obligations under this provision. The scope of the obligation under Article 13 varies depending on the nature of the applicant's complaint under the Convention. Nevertheless, the remedy required by Article 13 must be “effective” in practice as well as in law, in particular in the sense that its exercise must not be unjustifiably hindered by acts or omissions by the authorities of the respondent State (see *Aksoy v. Turkey*, 18 December 1996, § 95, *Reports* 1996-VI).

125. Given the fundamental importance of the right to protection of life, Article 13 requires, in addition to the payment of compensation where appropriate, a thorough and effective investigation capable of leading to the identification and punishment of those responsible for the deprivation of life, including effective access for the complainant to the investigation procedure leading to the identification and punishment of those responsible (see *Anguelova v. Bulgaria*, no. 38361/97, §§ 161-162, ECHR 2002-IV; *Assenov and Others v. Bulgaria*, 28 October 1998, § 117, *Reports* 1998-VIII; and *Süheyla Aydın v. Turkey*, no. 25660/94, § 208, 24 May 2005). The Court further reiterates that the requirements of Article 13 are broader than a Contracting State's obligation under Article 2 to conduct an effective investigation (see *Orhan*, cited above, § 384).

126. The Court has found above that the applicants had an “arguable claim” in respect of their complaint under Article 2 for the purposes of Article 13 of the Convention. The applicants should accordingly have been able to avail themselves of effective and practical remedies capable of leading to the identification and punishment of those responsible and to an award of compensation.

127. The Court has held in a number of similar cases that in circumstances where, as in the present case, the criminal investigation into the death was ineffective and the effectiveness of any other remedy that may have existed, including the civil remedies, was consequently undermined, the State has failed in its obligation under Article 13 of the Convention (see, among other authorities, *Musayeva and Others v. Russia*, no. 74239/01, § 118, 26 July 2007, or *Kukayev*, cited above, § 117). It therefore rejects the Government's argument that the applicants had effective remedies afforded them by criminal or civil law and finds that there has been a violation of Article 13 of the Convention in connection with Article 2 of the Convention.

128. As regards the applicants' reference to Article 13 in conjunction with Article 3 of the Convention, in so far as the alleged ill-treatment of their relatives was concerned, the Court notes that it has found above that in

the light of its findings under Article 2 of the Convention, the relevant complaint under Article 3 of the Convention raises no separate issue. Having regard to these findings, the Court is of the opinion that the applicants' complaint under Article 13 in conjunction with Article 3, in so far as the alleged ill-treatment of their relatives was concerned, is subsumed by those under Article 13 in conjunction with Article 2 of the Convention. It therefore does not consider it necessary to examine the complaint under Article 13 in connection with Article 3 of the Convention.

129. As regards the applicants' reference to Article 5 of the Convention, the Court refers to its findings of a violation of this provision set out above. It considers that no separate issue arises in respect of Article 13 read in conjunction with Article 5 of the Convention, which itself contains a number of procedural guarantees related to the lawfulness of detention.

VIII. APPLICATION OF ARTICLE 41 OF THE CONVENTION

130. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

1. *Pecuniary damage*

(a) **The applicants**

131. Some of the applicants claimed compensation in respect of the loss of the financial support which their deceased relatives would have provided for them. They submitted that, although not officially employed, their relatives had worked as builders and cab drivers and that their earnings at the material time had been no less than the allowance of an unemployed person having the same qualifications. The applicants based their method of calculation on the actuarial tables for use in personal injury and fatal accident cases published by the United Kingdom Government Actuary's Department in 2004 (“the Ogden tables”), with reference to the absence of any equivalent methods of calculation in Russia. The applicants claimed the following amounts under this head.

132. The first to fourth applicants, the wife and three children of Bayali Elmurzayev, claimed 237,377.79 Russian roubles (RUB), (approximately 6,900 euros (EUR), RUB 67,240.28 (approximately EUR 1,900),

RUB 83,495.04 (approximately EUR 2,400) and RUB 114,854.46 (approximately EUR 3,300) respectively.

133. The sixth to eighth applicants, the wife and two minor children of Sharip Elmurzayev, claimed RUB 267,433.76 (approximately EUR 7,700), RUB 82,574.96 (approximately EUR 2,400) and RUB 121,525.05 (approximately EUR 3,500) respectively.

134. The tenth to twelfth applicants, the wife and two minor children of Khusin Khadzhimuradov, claimed RUB 310,122 (approximately EUR 8,900), RUB 113,786.46 (approximately EUR 3,300) and RUB 126,642.80 (approximately EUR 3,700) respectively.

135. The thirteenth to seventeenth applicants, the wife and four children of Isa Khadzhimuradov, claimed RUB 207,526.28 (approximately EUR 6,000), RUB 3,154.65 (approximately EUR 90), RUB 8,988.22 (approximately EUR 260), RUB 61,183.08 (approximately EUR 1,750) and RUB 71,380.64 (approximately EUR 2,000) respectively.

136. The nineteenth to twenty-first applicants, the wife and two minor children of Lechi Shaipov, claimed RUB 158,046.37 (approximately EUR 4,600), RUB 87,328.71 (approximately EUR 2,500) and RUB 104,963.59 (approximately EUR 3,000) respectively.

137. The twenty-third and twenty-fourth applicants, the parents of Apti Murtazov, claimed RUB 78,768.07 (approximately EUR 2,300) and RUB 65,017.97 (approximately EUR 1,900) respectively.

138. The twenty-ninth and thirtieth applicants, two minor children of Zelimkhan Osmayev, claimed RUB 118,278.43 (approximately EUR 3,400) and 111,850.26 (approximately EUR 3,200) respectively.

139. The thirty-sixth to thirty-eighth applicants, the wife and two minor children of Idris Elmurzayev, claimed RUB 279,387.50 (approximately EUR 8,000), RUB 130,495.84 (approximately EUR 3,800) and RUB 117,077.99 (approximately EUR 3,400) respectively.

(b) The Government

140. The Government submitted that the applicants could obtain compensation for the loss of their breadwinners at the domestic level.

(c) The Court's assessment

141. The Court reiterates that there must be a clear causal connection between the damage claimed by the applicant and the violation of the Convention, and that this may, in appropriate cases, include compensation in respect of loss of earnings (see, among other authorities, *Çakıcı*, cited above, § 127). It finds that there is a direct causal link between the violation of Article 2 in respect of the applicants' relatives and the loss by them of the financial support which their relatives could have provided. The Court further finds that the loss of earnings applies to dependants and considers it reasonable to assume that the eight deceased men would have had some

earnings and that the applicants would have benefited from these. Having regard to the applicants' submissions, the Court does not consider the amounts sought by them excessive, and finds it appropriate to grant the applicants' claims under this head in full. It therefore awards the following amounts, plus any tax that may be chargeable to the applicants:

- (a) EUR 14,500 to the first to fourth applicants jointly;
- (b) EUR 13,600 to the sixth to eighth applicants jointly;
- (c) EUR 15,900 to the tenth to twelfth applicants jointly;
- (d) EUR 10,100 to the thirteenth to seventeenth applicants jointly;
- (e) EUR 10,100 to the nineteenth to twenty-first applicants jointly;
- (f) EUR 4,200 to the twenty-third and twenty-fourth applicants jointly;
- (g) EUR 6,600 to the twenty-ninth and thirtieth applicants jointly, and
- (h) EUR 15,200 to the thirty-sixth to thirty-eighth applicants jointly.

2. Non-pecuniary damage

142. As regards non-pecuniary damage, the applicants each sought EUR 50,000, stating that they had suffered severe emotional distress, anxiety and trauma as a result of the abduction and killing of their close relatives and on account of the indifference demonstrated by the Russian authorities during the investigation into these events.

143. The Government disputed the applicants' claim under this head as excessive. In the Government submission, should the Court find any violations of the Convention, a finding of a violation would constitute sufficient just satisfaction in the present case.

144. The Court observes that it has found a violation of Articles 2, 5 and 13 of the Convention on account of the unlawful detention and killing of the applicants' relatives, the ineffective investigation into the matter and the absence of effective remedies to secure domestic redress for those violations. The applicants must have suffered anguish and distress as a result of all these circumstances, which cannot be compensated by a mere finding of a violation. Having regard to these considerations, the Court awards, on an equitable basis, the following amounts under this head, plus any tax that may be chargeable to the applicants:

- (a) EUR 35,000 to the first to fourth applicants jointly in respect of non-pecuniary damage caused by the loss of Bayali Elmurzayev;
- (b) EUR 35,000 to the fifth to ninth applicants jointly in respect of non-pecuniary damage caused by the loss of Sharip Elmurzayev;
- (c) EUR 35,000 to the tenth to twelfth applicants jointly in respect of non-pecuniary damage caused by the loss of Khusin Khadzhimuradov;
- (d) EUR 35,000 to the thirteenth to seventeenth applicants jointly in respect of non-pecuniary damage caused by the loss of Isa Khadzhimuradov;
- (e) EUR 35,000 to the eighteenth to twenty-first applicants jointly in respect of non-pecuniary damage caused by the loss of Lechi Shaipov;

(f) EUR 35,000 to the twenty-second to twenty-sixth applicants jointly in respect of non-pecuniary damage caused by the loss of Apti Murtazov;

(g) EUR 35,000 to the twenty-seventh and twenty-ninth to thirty-third applicants jointly in respect of non-pecuniary damage caused by the loss of Zelimkhan Osmayev, and

(h) EUR 35,000 to the thirty-fifth to thirty-eighth applicants jointly in respect of non-pecuniary damage caused by the loss of Idris Elmurzayev.

B. Costs and expenses

145. The applicants were represented by lawyers from the SRJI. They submitted a schedule of costs and expenses that included research and interviews in Ingushetia and Moscow, at a rate of EUR 50 per hour, and the drafting of legal documents submitted to the Court and the domestic authorities, at a rate of EUR 50 per hour for the SRJI lawyers and EUR 150 per hour for the SRJI senior staff. The aggregate claim in respect of costs and expenses related to the applicants' legal representation thus amounted to EUR 8,608.45, comprising EUR 7,162 for 65 hours spent by the SRJI staff on preparing and representing the applicants' case, EUR 928.93 for translation expenses, EUR 17.18 for international courier post to the Court and EUR 501.34 for administrative costs (7% of legal fees).

146. The Government pointed out that the applicants were only entitled to reimbursement of costs and expenses that had actually been incurred and were reasonable. They also noted that three of the SRJI's lawyers who had signed the applicants' observations and claims for just satisfaction had not been named in the powers of attorney. The Government further argued that the applicants could have sent their correspondence through the Russian postal system rather than using international courier post.

147. The Court notes that the applicants issued a power of attorney in respect of the SRJI. It is satisfied that the lawyers indicated in their claim formed part of the SRJI staff. Accordingly, the objection must be dismissed.

148. The Court further reiterates that costs and expenses will not be awarded under Article 41 unless it is established that they were actually and necessarily incurred, and were also reasonable as to quantum (see *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 54, ECHR 2000-XI).

149. It notes that the SRJI acted as the applicants' representative throughout the proceedings. The applicants also submitted documents in support of their claims for translation and postal expenses. Having regard to these documents and the rates for the work of the SRJI lawyers and senior staff, the Court is satisfied that these rates are reasonable and reflect the expenses actually incurred by the applicants' representatives. It further notes that this case has been rather complex and has required a certain amount of research work. Having regard to the amount of research and preparation

carried out by the applicant's representatives, the Court does not find that part of the claim excessive.

150. In these circumstances, having regard to the details of the claims submitted by the applicants, the Court awards them the full amount of EUR 8,608.45, as claimed, together with any tax that may be chargeable to the applicants. The amount awarded shall be payable to the representative organisation directly.

C. Default interest

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

FOR THESE REASONS, THE COURT UNANIMOUSLY:

1. *Decides* to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention in so far as the twenty-eighth and thirty-fourth applicants' complaints are concerned;
2. *Joins to the merits* the Government's objection concerning the exhaustion of domestic remedies and *rejects* it;
3. *Declares* the complaints under Articles 2 and 3, in so far as the alleged ill-treatment of the applicants' relatives was concerned, and Article 5 of the Convention and the complaints under Article 13, in conjunction with Articles 2 and 3, in so far as the alleged ill-treatment of the applicants' relatives was concerned, and in conjunction with Article 5 of the Convention admissible and the remainder of the application inadmissible;
4. *Holds* that there has been a violation of Article 2 of the Convention as regards the deaths of Bayali Elmurzayev, Sharip Elmurzayev, Khusin Khadzhimuradov, Isa Khadzhimuradov, Lechi Shaipov, Apti Murtazov, Zelimkhan Osmayev and Idris Elmurzayev;
5. *Holds* that there has been a violation of Article 2 of the Convention on account of the authorities' failure to carry out an adequate and effective investigation into the circumstances surrounding the deaths of Bayali Elmurzayev, Sharip Elmurzayev, Khusin Khadzhimuradov, Isa Khadzhimuradov, Lechi Shaipov, Apti Murtazov, Zelimkhan Osmayev and Idris Elmurzayev;

6. *Holds* that no separate issue arises under Article 3 of the Convention as regards the alleged ill-treatment of Bayali Elmurzayev, Sharip Elmurzayev, Khusin Khadzhimuradov, Isa Khadzhimuradov, Lechi Shaipov, Apti Murtazov, Zelimkhan Osmayev and Idris Elmurzayev;
7. *Holds* that there has been a violation of Article 5 of the Convention in respect of Bayali Elmurzayev, Sharip Elmurzayev, Khusin Khadzhimuradov, Isa Khadzhimuradov, Lechi Shaipov, Apti Murtazov, Zelimkhan Osmayev and Idris Elmurzayev;
8. *Holds* that there has been a violation of Article 13, taken in conjunction with Article 2 of the Convention;
9. *Holds* that no separate issues arise under Article 13 of the Convention in respect of the alleged violation of Article 3, in so far as the alleged ill-treatment of the applicants' relatives was concerned, and in respect of the alleged violation of Article 5 of the Convention;
10. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, all of which, save for those payable into the bank in the Netherlands, are to be converted into Russian roubles at the rate applicable at the date of settlement:
 - (i) in respect of pecuniary damage:
 - EUR 14,500 (fourteen thousand five hundred euros) to the first to fourth applicants jointly;
 - EUR 13,600 (thirteen thousand six hundred euros) to the sixth to eighth applicants jointly;
 - EUR 15,900 (fifteen thousand nine hundred euros) to the tenth to twelfth applicants jointly;
 - EUR 10,100 (ten thousand one hundred euros) to the thirteenth to seventeenth applicants jointly;
 - EUR 10,100 (ten thousand one hundred euros) to the nineteenth to twenty-first applicants jointly;
 - EUR 4,200 (four thousand two hundred euros) to the twenty-third and twenty-fourth applicants jointly;
 - EUR 6,600 (six thousand six hundred euros) to the twenty-ninth and thirtieth applicants jointly;
 - EUR 15,200 (fifteen thousand two hundred) to the thirty-sixth to thirty-eighth applicants jointly;
 - (ii) in respect of non-pecuniary damage:

EUR 35,000 (thirty-five thousand euros) to the first to fourth applicants jointly;

EUR 35,000 (thirty-five thousand euros) to the fifth to ninth applicants jointly;

EUR 35,000 (thirty-five thousand euros) to the tenth to twelfth applicants jointly;

EUR 35,000 (thirty-five thousand euros) to the thirteenth to seventeenth applicants jointly;

EUR 35,000 (thirty-five thousand euros) to the eighteenth to twenty-first applicants jointly;

EUR 35,000 (thirty-five thousand euros) to the twenty-second to twenty-sixth applicants jointly;

EUR 35,000 (thirty-five thousand euros) to the twenty-seventh and twenty-ninth to thirty-third applicants jointly;

EUR 35,000 (thirty-five thousand euros) to the thirty-fifth to thirty-eighth applicants jointly;

(iii) EUR 8,608.45 (eight thousand six hundred and eight euros and forty-five cents) in respect of costs and expenses, to be paid in euros into the bank account in the Netherlands indicated by the applicants' representative;

(iv) any tax, including value-added tax, that may be chargeable to the applicants on the above amounts;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount[s] at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 23 April 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President

ANNEX

No	Title	First name	Patronymic	Last name	Year of birth	Deceased relative
1.	Ms	Larisa	Moldiyevna	Bitiyeva	1976	Mr Bayali Elmurzayev
2.	Ms	Layla	Bayaliyevna	Elmurzayeva	1995	
3.	Mr	Turpal-Ali	Bayaliyevich	Elmurzayev	1998	
4.	Ms	Maryam	Bayaliyevna	Elmurzayeva	2002	
5.	Mr	Danilbek	Khamidovich	Elmurzayev	1957	Mr Sharip Elmurzayev
6.	Ms	Ayna	Baudinovna	Shuaipova	1973	
7.	Mr	Ramzan	Sharipovich	Elmurzayev	1998	
8.	Mr	Magomed-Sali	Sharipovich	Elmurzayev	2003	
9.	Ms	Ayant	Dzhalavdiyevna	Satayeva	1933	
10.	Ms	Petimat	Abdulayevna	Khadzhimuradova	1983	Mr Khusin Khadzhimuradov
11.	Mr	Islam	Khusinovich	Khadzhimuradov	2001	
12.	Mr	Ibragim	Khusinovich	Khadzhimuradov	2003	
13.	Ms	Luiza	Movladiyevna	Khadzhimuradova	1966	Mr Isa Khadzhimuradov
14.	Mr	Adam	Isayevich	Khadzhimuradov	1986	
15.	Ms	Khava	Isayevna	Khadzhimuradova	1988	
16.	Mr	Alman	Isayevich	Khadzhimuradov	1995	
17.	Ms	Zargan	Isayevna	Khadzhimuradova	1996	
18.	Mr	Musa	Abuyazitovich	Shaipov	1960	Mr Lechi Shaipov
19.	Ms	Larisa	Vakhayevna	Chankayeva	1978	
20.	Mr	Dzhambulats	Lechiyevich	Chankayev	1998	
21.	Ms	Madina	Lechiyevna	Shaipova	2000	
22.	Mr	Lom-Ali	Atsyeyevich	Murtazov	1957	Mr Apti Murtazov
23.	Ms	Taybat	-	Murtazova	1932	
24.	Mr	Atsi	-	Murtazov	1930	
25.	Mr	Khavazh	Atsyeyevich	Murtazov	1960	
26.	Ms	Sila	Atsiyevna	Murtazova	1970	
27.	Mr	Khavazh-Baudi	Umiyevich	Osmayev	1977	Mr Zelimkhan Osmayev
28.	Ms	Eset	Vakhayevna	Saydayeva	1981	
29.	Ms	Zharadat	Zelimkhanovna	Osmayeva	2002	
30.	Ms	Liana	Zelimkhanovna	Osmayeva	2001	
31.	Ms	Zulpat	Kharonovna	Osmayeva	1948	
32.	Mr	Adam	Umiyevich	Osmayev	1971	
33.	Ms	Birlant	Umiyevna	Gaziyeva	1965	

34.	Mr	Said-Khusin	Magomedovich	Elmurzayev	1944	Mr Idris Elmurzayev
35.	Ms	Minga	Said-Aliyevna	Khamidova ¹	1950	
36.	Ms	Ayshat	Usamovna	Aydamirova	1984	
37.	Ms	Aminat	Idrisovna	Elmurzayeva	2004	
38.	Ms	Tanzila	Idrisovna	Elmurzayeva	2002	

1. Rectified on 20 January 2010: the text was “Elmurzayeva”.