



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

1959 · 50 · 2009

FIRST SECTION

CASE OF REZVANOV AND REZVANOVA v. RUSSIA

(Application no. 12457/05)

JUDGMENT

STRASBOURG

24 September 2009

FINAL

01/03/2010

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

In the case of Rezvanov and Rezvanova v. Russia,

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

Christos Rozakis, *President*,

Anatoly Kovler,

Elisabeth Steiner,

Dean Spielmann,

Sverre Erik Jebens,

Giorgio Malinverni,

George Nicolaou, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 3 September 2009,

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

PROCEDURE

1. The case originated in an application (no. 12457/05) 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 two Russian nationals, Mr Sultan Rezvanov and Ms Shamsbanu Rezvanova (“the applicants”), on 25 March 2005.

2. The applicants, who had been granted legal aid, were represented by Ms L. Khamzayeva, a lawyer practising in Moscow. The Russian Government (“the Government”) were represented by Ms V. Milinchuk, former Representative of the Russian Federation at the European Court of Human Rights.

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

4. On 28 September 2007 the Court decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

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 were born in 1941 and 1947 respectively and live in the town of Urus-Martan, in the Chechen Republic.

7. The applicants are husband and wife. They are the parents of Mr Akhmed Rezvanov, born in 1984.

A. Disappearance of Akhmed Rezvanov

1. The applicants' account

8. At about 7.15 a.m. on 10 December 2002 six armoured personnel carriers (“APCs”) and two UAZ vehicles arrived at the applicants' house at 6 Mayakovskiy Street, Urus-Martan. A group of armed men in camouflage uniforms got off the vehicles and burst into the house. The applicants assumed that they were federal servicemen.

9. Some of the servicemen levelled machine guns at the second applicant and asked her in unaccented Russian where the men of the house were. The others searched the house and its annexes without producing any warrant. Later the applicants discovered that the men had messed everything up, broken some crockery, ripped bed-linen and scattered flour all over the floor.

10. In the meantime Akhmed Rezvanov was hiding in a wash-house annexed to the house. At some point the servicemen threatened to blow up the house. The first applicant asked them to wait, went to the wash-house and convinced his son to come out of it. Akhmed Rezvanov went to the courtyard; the armed men apprehended him and placed him in a light-blue UAZ all-terrain vehicle («таблетка») with registration number 276-95-RUS. Then they seized some of the applicants' belongings, including a leather jacket, a video appliance, a pair of running shoes and a few more items. It appears that at some point the men told the applicants that they were servicemen of the department of the interior of the Zavodskoy District. Then they got into the vehicles and drove away.

11. On the same day the armed men apprehended two of the first applicant's nephews, Abdula and Artur; they were released a few hours later and returned home. Abdula and Artur told the applicants that following their arrest they had been brought to the premises of the military commander's office of the Urus-Martan District.

2. Information submitted by the Government

12. On the morning of 10 December 2002 unidentified persons wearing camouflage uniforms and armed with machine guns took Akhmed Rezvanov away from the first applicant's house at 6 Mayakovskiy Street, Urus-Martan. The same persons robbed the first applicant and took a video appliance, a leather jacket, running shoes and some other items.

B. Investigation into Akhmed Rezvanov's disappearance

1. The applicants' account

13. On 10 December 2002 the first applicant complained about his son's abduction to the Urus-Martan Town Court and to the prosecutor's office of the Urus-Martan District ("the district prosecutor's office"). In his complaint the first applicant mentioned that the armed men had told him that they belonged to the department of the interior of the Zavodskoy District. He also requested information on his son's whereabouts from the local administration and the military commander's office of the Urus-Martan District ("the military commander's office"), but to no avail.

14. On 27 December 2002 the prosecutor's office of the Chechen Republic forwarded the first applicant's complaint to the district prosecutor's office.

15. On 16 January 2003 the Ministry of Justice of Ingushetia informed the prosecutor's office of the Chechen Republic that they had received a complaint from the first applicant and his brother. The letter read as follows:

"According to the complainants, those who apprehended A. Rezvanov identified themselves as the FSB [Federal Security Service] officers and were [travelling] in two or three APCs and an Ural vehicle. The convoy with the arrestee went to Grozny. The detainee's relatives' complaints [lodged with] many authorities have brought no positive results."

16. By decision of 16 January 2003 the district prosecutor's office admitted the first applicant as a victim to the criminal proceedings in case no. 34003 instituted on 31 January 2003 in relation to Akhmed Rezvanov's kidnapping.

17. On 31 January 2003 the district prosecutor's office instituted an investigation into Akhmed Rezvanov's kidnapping under Article 126 § 2 ("aggravated kidnapping") and the theft of the Rezvanovs' belongings under Article 162 § 2 ("aggravated robbery") of the Russian Criminal Code. The case was assigned the number 34003.

18. On 31 March 2003 the district prosecutor's office suspended the investigation in case no. 34003 for failure to identify those responsible. On 1 April 2003 they notified the first applicant of the decision and commented

that, despite the suspension of the proceedings, they had instructed the police to search for Akhmed Rezvanov more vigorously.

19. On 7 April 2003 the first applicant requested the district prosecutor's office to vigorously pursue the search for his son and reported that one hour after the abduction an FSB officer had told him that Akhmed Rezvanov had been taken to the Khankala military base by servicemen of the Main Intelligence Department of the Ministry of Defence («ГПВ»).

20. On 28 April 2003 the first applicant requested the prosecutor's office of the Chechen Republic to help him to establish his son's whereabouts.

21. On 26 May 2003 the military prosecutor's office of military unit no. 20102 ("the unit prosecutor's office") informed the first applicant that they had carried out an inquiry, which had not established any traces of military personnel implication in his son's kidnapping.

22. On 10 July 2003 the military prosecutor's office of the United Group Alignment ("the UGA prosecutor's office") forwarded the first applicant's complaint to the unit prosecutor's office and ordered that an inquiry be conducted into the possible implication of military servicemen in Akhmed Rezvanov's kidnapping.

23. On 24 November 2003 the first applicant requested assistance in the search for his son from the Administration of the Chechen Republic.

24. On 22 April 2004 the district prosecutor's office resumed the investigation into Akhmed Rezvanov's kidnapping and notified the first applicant accordingly.

25. On 11 May 2004 the Ministry of the Interior of the Chechen Republic informed the second applicant that the search for her son was under way.

2. Information submitted by the Government

26. On 31 January 2003 the district prosecutor's office instituted an investigation in case no. 34003 under Articles 126 § 2 and 161 § 2 of the Russian Criminal Code.

27. On unspecified dates the applicants were granted victim status in case no. 34003.

28. On an unspecified date the first applicant was questioned and stated that at about 7 a.m. on 10 December 2002 he had been awakened by knocking at his door. He had opened the door and seen around eighty or ninety men in camouflage uniforms armed with machine guns; some of them had worn masks. He had also noticed six APCs and two UAZ vehicles. One of the armed men had demanded the first applicant's identity papers, checked them out and returned them. Another man had said that someone had been hiding in a wash-house in the courtyard. The armed men had surrounded the house and told the first applicant that they would shoot unless the person in the wash-house surrendered. The first applicant had replied that it was his son. Having obtained permission, the first applicant

had entered the wash-house and seen his son armed with a Makarov pistol and a grenade. Akhmed Rezvanov had said that he had been planning to blow himself up. The first applicant had convinced his son to give him the pistol and the grenade and had stepped outside. He had given the arms to the men. Then they had searched Akhmed Rezvanov, put a plastic bag on his head and taken him away. The first applicant had not seen his son since then. On the same day two of the first applicant's nephews had been arrested and then released two hours later. During the arrest of Akhmed Rezvanov the armed men had searched the house, ruined some furniture, crockery and clothing and stolen a video appliance, a leather jacket, running shoes and other items. The first applicant also stated that he did not wish to study the case-file upon its completion.

29. The second applicant was questioned on an unspecified date and made a deposition identical to that of her husband.

30. On unspecified dates the first applicant's nephews, Abdula and Artur, were questioned as witnesses. They stated that at about 7 a.m. on 10 December 2002 around twenty masked men in camouflage uniforms and armed with machine guns had entered Abdula and Artur's house, demanded their identity papers and taken them to the courtyard. The armed men had tied Abdula and Artur's arms, blindfolded them and put them in a car. The witnesses did not know the make of the car. After a journey of some twenty minutes the armed men had taken Abdula and Artur out of the car and led them downstairs. The detained men had been questioned about Akhmed Rezvanov. Then they had again been placed in the car and driven for forty minutes. The armed men had taken Abdula and Artur out of the car, untied their arms and ordered them to sit still for twenty minutes. When the car drove off, the two men took the blindfolds off their eyes and realised that they were in a farm near Urus-Martan. Then they returned home and learned of Akhmed Rezvanov's abduction.

31. On an unspecified date Mr G., the applicants' neighbour, was questioned as a witness and stated that at 7.20 a.m. on 10 December 2002, while at home, he had heard voices coming from the outside. He had looked out of the window and seen armed men in masks and camouflage uniforms. Mr G. had tried to step outside but the armed men had told him not to do so. Later Mr G. had found out that those men had taken Akhmed Rezvanov away.

32. On an unspecified date Mr Sh. was questioned as a witness and stated that on 29 January 2003 he had been arrested for storage of explosive materials and weapons that he had obtained from Akhmed Rezvanov.

33. The investigators questioned fifteen residents of Mayakovskiy Street in Urus-Martan who stated that they had no information on Akhmed Rezvanov's abduction.

34. Law-enforcement agencies of the Chechen Republic reported to the district prosecutor's office that Akhmed Rezvanov had not been arrested or

kept in detention facilities in the Chechen Republic and that no charges had been brought against him. They also pointed out that federal forces had not carried out any special operations in the Urus-Martan District on 10 December 2002.

35. An UAZ vehicle with registration number 276-95 was not listed in the register of the State Traffic Inspection of the Ministry of the Interior of the Chechen Republic.

36. On 31 March 2003 the investigation in case no. 34003 was suspended for failure to identify those responsible. The second applicant was served with the decision on 3 June 2003.

37. On 22 April 2004 the district prosecutor's office quashed the decision of 31 March 2003 and resumed the investigation.

38. On an unspecified date the investigation was suspended and then resumed on 10 June 2004. On 10 July 2004 it was again suspended.

39. The investigation in case no. 34003 was repeatedly suspended and then resumed following the quashing of decisions on suspension by higher prosecutors.

40. On 25 October 2007 the Investigating Committee of the Russian Prosecutor's Office in the Chechen Republic resumed the investigation in case no. 34003.

41. The Government submitted that the investigation had failed to establish the perpetrators and was still in progress. Involvement of the federal military in the crime had not been proven.

42. Despite specific requests by the Court, the Government did not disclose most of the documents from the investigation file in case no. 34003, providing only a few copies of the district prosecutor's office's decisions and notifications to the applicants. They stated that the investigation was in progress and that disclosure of the documents would be in violation of Article 161 of the Code of Criminal Procedure since the files contained information of a military nature and personal data concerning witnesses or other participants in criminal proceedings.

II. RELEVANT DOMESTIC LAW

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

THE LAW

I. THE GOVERNMENT'S OBJECTION REGARDING NON-EXHAUSTION OF DOMESTIC REMEDIES

A. The parties' submissions

44. The Government contended that the complaint should be declared inadmissible for non-exhaustion of domestic remedies. They submitted that the investigation into the disappearance of Akhmed Rezvanov had not yet been completed. It was also open to the applicants to complain of the inactivity of the investigators to courts or higher prosecutors' offices or to lodge civil claims for damages, which they had failed to do.

45. The applicants contested that objection. They stated that the criminal investigation had proved to be ineffective.

B. The Court's assessment

46. The Court reiterates that the rule of exhaustion of domestic remedies under Article 35 § 1 of the Convention obliges applicants to use first the remedies which are available and sufficient in the domestic legal system to enable them to obtain redress for the breaches alleged. The existence of the remedies must be sufficiently certain both in theory and in practice, failing which they will lack the requisite accessibility and effectiveness. Article 35 § 1 also requires that complaints intended to be brought subsequently before the Court should have been made to the appropriate domestic body, at least in substance and in compliance with the formal requirements and time-limits laid down in domestic law and further that any procedural means that might prevent a breach of the Convention should have been used. However, there is no obligation to have recourse to remedies which are inadequate or ineffective (see *Aksoy v. Turkey*, 18 December 1996, §§ 51-52, *Reports of Judgments and Decisions* 1996-VI, and *Cennet Ayhan and Mehmet Salih Ayhan v. Turkey*, no. 41964/98, § 64, 27 June 2006).

47. It is incumbent on the respondent Government claiming non-exhaustion to indicate to the Court with sufficient clarity the remedies to which the applicants have not had recourse and to satisfy the Court that the remedies were effective and available in theory and in practice at the relevant time, that is to say that they were accessible, were capable of providing redress in respect of the applicant's complaints and offered reasonable prospects of success (see *Cennet Ayhan and Mehmet Salih Ayhan*, cited above, § 65).

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

49. As regards a civil action to obtain redress for damage sustained through alleged illegal acts or unlawful conduct on the part of State agents, the Court has already found in a number of similar cases that this procedure alone cannot be regarded as an effective remedy in the context of claims brought under Article 2 of the Convention. A civil court is unable to pursue any independent investigation and is incapable, without the benefit of the conclusions of a criminal investigation, of making any meaningful findings regarding the identity of the perpetrators of fatal assaults or disappearances, still less of establishing their responsibility (see *Khashiyev and Akayeva v. Russia*, nos. 57942/00 and 57945/00, §§ 119-21, 24 February 2005). In the light of the above, the Court confirms that the applicants were not obliged to pursue civil remedies.

50. As regards criminal law remedies provided for by the Russian legal system, the Court observes that the applicants complained to the law enforcement agencies immediately after the disappearance of Akhmed Rezvanov. The investigation into his kidnapping has been under way since 31 January 2003. The applicants and the Government dispute the effectiveness of this investigation.

51. The Court considers that this part of the Government's objection raises issues concerning the effectiveness of the investigation which are closely linked to the merits of the applicants' complaints. Thus, it decides to join this objection to the merits of the case and considers that the issue falls to be examined below under Article 2 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

52. The applicants complained that Akhmed Rezvanov had disappeared following his arrest by Russian servicemen and that the domestic authorities had failed to carry out an effective investigation into the kidnapping. They relied on Article 2 of the Convention, which reads:

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

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

(a) in defence of any person from unlawful violence;

(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(c) in action lawfully taken for the purpose of quelling a riot or insurrection.”

A. Arguments of the parties

53. The Government argued that there was no convincing evidence that Akhmed Rezvanov was dead. Neither was it proven that he had been arrested by State servicemen. None of the witnesses had claimed to have noticed any insignia on the camouflage uniforms of the armed men, which proved that they could not be members of the military.

54. The letters by the Deputy Prosecutor of the Chechen Republic and the Ministry of Justice of Ingushetia submitted by the applicants did not prove military implication in the crime but merely restated the wording of the applicants' complaints without reaching any conclusions as to the perpetrators' identities.

55. The applicants' allegations that Akhmed Rezvanov had been arrested by FSB servicemen and brought to the military commander's office were speculative. The Government also pointed out that Abdula and Artur had not claimed before the domestic authorities that they had been kept in the military commander's office. Furthermore, the first applicant had initially claimed that the armed men had identified themselves as servicemen of the department of the interior of the Zavodskoy District but later alleged that they had been FSB servicemen, which proved the unreliability of his statements.

56. The Government further pointed out that various groups of Ukrainian mercenaries had committed crimes in the territory of the Chechen Republic and emphasised that the fact that the perpetrators had Slavic features and spoke Russian did not prove their attachment to the Russian military. They also observed that a considerable quantity of weaponry and military vehicles, including APCs, had been stolen by illegal armed groups from Russian depots in the 1990s and that anyone could purchase camouflage uniforms.

57. The Government emphasised that Akhmed Rezvanov had been armed and inferred from his intention to blow himself up that he had been afraid of members of illegal armed groups to whom he had been supplying firearms. They referred to Mr Sh.'s deposition that he had obtained weapons from the applicants' son. The Government also asserted that State agents had had no reasons to abduct Akhmed Rezvanov as they would rather use him as a prosecution witness to convict insurgents.

58. In sum, the Government insisted that the involvement of State agents in Akhmed Rezvanov's kidnapping had not been proven beyond reasonable doubt.

59. The Government further argued that the investigation into the kidnapping had been effective and was pending before an independent State agency. The applicants had been informed of progress in the investigation in

due course. Repeated suspensions and resumptions of the investigation only showed that the proceedings were ongoing and the requisite investigative measures had been taken.

60. The applicants maintained that it was beyond reasonable doubt that the men who had arrested Akhmed Rezvanov had been State agents because the perpetrators had been travelling in APCs, which could only be used by State agencies. They further complained that the investigation into the kidnapping of their son had been protracted and ineffective.

B. The Court's assessment

1. Admissibility

61. The Court considers, in the light of the parties' submissions, that the complaint raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court has already found that the Government's objection concerning the alleged non-exhaustion of criminal domestic remedies should be joined to the merits of the complaint (see paragraph 51 above). The complaint under Article 2 of the Convention must therefore be declared admissible.

2. Merits

(a) The alleged violation of the right to life of Akhmed Rezvanov

i. Establishment of the facts

62. 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. Detained persons are in a vulnerable position and the obligation on the authorities to account for the treatment of a detained individual is particularly stringent where that individual dies or disappears thereafter (see *Orhan v. Turkey*, no. 25656/94, § 326, 18 June 2002). Where the events in question lie wholly or in large part within the exclusive knowledge of the authorities, as in the case of persons under 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).

63. The Court observes that it has developed a number of general principles relating to the establishment of disputed facts, in particular when

faced with allegations of disappearance under Article 2 of the Convention (for a summary of these, see *Bazorkina v. Russia*, no. 69481/01, §§ 103-09, 27 July 2006). The Court also notes that the conduct of the parties when evidence is being obtained has to be taken into account (see *Ireland v. the United Kingdom*, 18 January 1978, § 161, Series A no. 25).

64. The Court notes that, despite its requests for a copy of the entire investigation file into the kidnapping of Akhmed Rezvanov, the Government refused to produce the majority of the case materials on the grounds that they were precluded from providing them by Article 161 of the Code of Criminal Procedure. The Court observes that in previous cases it has found this explanation insufficient to justify the withholding of key information requested by the Court (see *Imakayeva v. Russia*, no. 7615/02, § 123, ECHR 2006-... (extracts)).

65. In view of the foregoing and bearing in mind the principles referred to above, the Court finds that it can draw inferences from the Government's conduct in this respect.

66. The applicants alleged that the persons who had taken Akhmed Rezvanov away on 10 December 2002 were State agents.

67. Their hypothesis is confirmed by witness statements of the first applicant's nephews who had been taken away by a group of armed men and questioned about Akhmed Rezvanov (see paragraph 30 above), as well as by the statement of Mr G., who had seen the armed men in front of the applicants' house on 10 December 2002 (see paragraph 31 above).

68. The Government suggested that Akhmed Rezvanov's kidnappers could be insurgents or mercenaries. However, this allegation was not specific and they did not submit any material to support it. The Court would stress in this regard that the evaluation of the evidence and the establishment of the facts is a matter for the Court, and it is incumbent on it to decide on the evidentiary value of the documents submitted to it (see *Çelikbilek v. Turkey*, no. 27693/95, § 71, 31 May 2005). The Court considers that the fact that Akhmed Rezvanov had been armed at the time of his arrest does not in itself prove that he had supplied weapons to illegal armed groups. Furthermore, according to the Government, no criminal proceedings had been instituted against Akhmed Rezvanov by the time of his abduction (see paragraph 34 above).

69. In the Court's view the fact that immediately after the abduction the first applicant asserted that the armed men had identified themselves as servicemen of the department of the interior of the Zavodskoy District and later reportedly stated that those men had said they belonged to the FSB does not render his account of events less plausible.

70. The Court also emphasises that APCs, unlike regular civilian vehicles, could not normally be owned by private individuals. It takes note of the Government's allegation that the APCs, as well as weaponry and camouflage uniforms, were probably stolen by insurgents from Russian

arsenals in the 1990s. Nonetheless it considers it very unlikely that several stolen armoured military vehicles carrying a considerable number of armed men in camouflage uniforms could have passed through Russian military checkpoints to enter Urus-Martan and then moved freely about the town without being noticed.

71. It is noteworthy that the domestic investigators accepted factual assumptions as presented by the applicants and looked at the possibility of military implication in the crime (see paragraphs 21 and 22 above).

72. The Court further takes note of the Government's assertion that Abdula and Artur, the first applicant's nephews, did not inform the investigators that they had been kept in premises used by the military commander's office. However, it is unable to verify whether the two men indeed omitted to inform the domestic authorities of it because the Government failed to provide a transcript of their interviews with the investigators. In any event, the Court does not deem it necessary to establish whether Akhmed Rezvanov was brought to the military commander's office upon his abduction, since it considers that the fact that a large group of armed men in uniform equipped with military vehicles was able to move freely through Urus-Martan and to arrest Akhmed Rezvanov at his home strongly supports the applicants' version of State servicemen's involvement in their son's kidnapping.

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

74. Taking into account the above elements, the Court is satisfied that the applicants have made a *prima facie* case that Akhmed Rezvanov was taken away by State servicemen. The Government's statement that the investigation did not find any evidence pointing to the involvement of the special forces in the kidnapping is insufficient to discharge them from the above-mentioned burden of proof. Drawing inferences from the Government's failure to submit the documents which were in their exclusive possession or to provide another plausible explanation of the events in question, the Court considers that Akhmed Rezvanov was abducted from his family home by State servicemen during an unacknowledged security operation.

75. There has been no reliable news of Akhmed Rezvanov since 10 December 2002. His name has not been found in any official detention

facilities' records. The Government did not submit any explanation as to what had happened to him after that day.

76. Having regard to the previous cases concerning disappearances of people in the Chechen Republic which have come before the Court (see, for example, *Luluyev and Others v. Russia*, no. 69480/01, ECHR 2006-...), it considers that, in the context of the conflict in the Chechen Republic, when a person is detained by unidentified servicemen without any subsequent acknowledgement of the detention, this can be regarded as life-threatening. The absence of Akhmed Rezvanov or any news of him for more than six years corroborates this assumption.

77. Accordingly, the Court finds it established that on 10 December 2002 Akhmed Rezvanov was abducted by State servicemen and that he must be presumed dead following his abduction.

ii. The State's compliance with Article 2

78. The Court reiterates that Article 2, which safeguards the right to life and sets out the circumstances when deprivation of life may be justified, ranks as one of the most fundamental provisions in the Convention, from which no derogation is permitted (see *McCann and Others v. the United Kingdom*, 27 September 1995, § 147, Series A no. 324).

79. The Court has already found it established that Akhmed Rezvanov must be dead (see paragraph 77 above). Noting that the authorities do not rely on any ground of justification in respect of use of lethal force by State servicemen, it considers that responsibility for his death lies with the respondent Government.

80. Accordingly, the Court finds that there has been a violation of Article 2 of the Convention in respect of Akhmed Rezvanov.

(b) The alleged inadequacy of the investigation

81. 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", also requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force (see *Kaya v. Turkey*, 19 February 1998, § 86, *Reports* 1998-I). The essential purpose of such an investigation is to secure the effective implementation of the domestic laws which protect the right to life and, in those cases involving State agents or bodies, to ensure their accountability for deaths occurring under their responsibility. This investigation should be independent, be accessible to the victim's family, be carried out with reasonable promptness and expedition, be effective in the sense that it is capable of leading to a determination of whether or not the force used in such cases was lawful and justified in the circumstances, and

afford a sufficient element of public scrutiny of the investigation or its results (see *Hugh Jordan v. the United Kingdom*, no. 24746/94, §§ 105-09, ECHR 2001-III (extracts), and *Douglas-Williams v. the United Kingdom* (dec.), no. 56413/00, 8 January 2002).

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

83. The Court notes at the outset that the majority of the documents from the investigation remain undisclosed by the Government. It therefore has to assess the effectiveness of the investigation on the basis of the few documents submitted by the parties and the sparse information on its progress presented by the Government.

84. The Court first notes that the authorities were immediately made aware of the kidnapping of Akhmed Rezvanov through the applicants' submissions (see paragraph 13 above). However, the investigation into the murder was instituted on 31 January 2003, that is, more than six weeks after the abduction. Such a lengthy delay was in itself liable to affect the investigation of the kidnapping in life-threatening circumstances, where crucial action has to be taken in the first days after the event.

85. The Court further points out that the information on the course of the investigation into the kidnapping of Akhmed Rezvanov at its disposal is highly inadequate. It observes that the applicants, who themselves were not updated on progress in the case, could not provide it with a list of investigative measures taken by the domestic authorities.

86. The Government, in their turn, vaguely referred to investigative steps taken to solve the kidnapping of Akhmed Rezvanov. In particular, they stated that a number of witnesses were questioned (see paragraphs 28 – 33 above). However, they did not mention when those interviews had taken place and did not provide any further details enabling the Court to assess their effectiveness.

87. Furthermore, a number of important investigative steps were never conducted. For instance, it does not appear that such a basic measure as the inspection of the crime scene has ever been taken. Moreover, nothing in the materials at the Court's disposal warrants the conclusion that the investigators tried to question servicemen of the military commander's office, the FSB or the department of the interior of the Zavodskoy District. They made no attempts to find the APCs described by the applicants or to identify their owners.

88. Accordingly, the Court considers that the domestic investigative authorities demonstrably failed to act of their own motion and breached their obligation to act with exemplary diligence and promptness in dealing with such a serious crime as kidnapping (see *Öneryıldız v. Turkey* [GC], no. 48939/99, § 94, ECHR 2004-XII).

89. The Court also notes that the applicants were not promptly informed of significant developments in the investigation and considers therefore that the investigators failed to ensure that the investigation received the required level of public scrutiny, or to safeguard the interests of the next of kin in the proceedings (see *Oğur v. Turkey* [GC], no. 21594/93, § 92, ECHR 1999-III).

90. Lastly, the Court notes that the investigation into the kidnapping of Akhmed Rezvanov was repeatedly suspended and then resumed, which led to lengthy periods of inactivity on the part of the investigators when no proceedings were pending. Owing to the Government's failure to submit the entire case-file, the Court is unable to establish the exact time-line of the investigation. However, it is clear that no proceedings were pending between 31 March 2003 and 22 April 2004, that is, for more than a year. Such handling of the investigation could only have had a negative impact on the prospects of identifying the perpetrators and establishing the fate of the applicants' son.

91. Having regard to the limb of the Government's objection that was joined to the merits of the application, in so far as it concerns the fact that the domestic investigation is still pending, the Court notes that the investigation, having been repeatedly suspended and resumed and plagued by inexplicable delays, has been ongoing for more than six years and has produced no tangible results. Accordingly, the Court finds that the remedy relied on by the Government was ineffective in the circumstances and rejects their objection in this part.

92. The Government also mentioned that the applicants had the opportunity to apply for judicial review of the decisions of the investigating authorities in the context of exhaustion of domestic remedies and to complain to higher prosecutors. The Court observes that, owing to the time that had elapsed since the events complained of, certain investigative steps that ought to have been carried out much earlier could no longer be usefully conducted. The Court finds therefore that it is highly doubtful that the remedies relied on by the Government would have had any prospects of success and considers that they were ineffective in the circumstances of the case. It thus rejects the Government's objection in this part as well.

93. In the light of the foregoing, the Court finds that the authorities failed to carry out an effective criminal investigation into the circumstances surrounding the disappearance of Akhmed Rezvanov, in breach of Article 2 of the Convention in its procedural aspect.

III. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

94. The applicants complained that the armed men who searched their house on 10 December 2002 had treated them rudely and inconsiderately. They further submitted that, as a result of their son's disappearance and the

State's failure to investigate it properly, they had endured severe mental suffering. The applicants relied on Article 3 of the Convention, which reads:

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

A. The parties' submissions

95. The Government disagreed with these allegations and argued that the applicants had not been subjected to inhuman or degrading treatment prohibited by Article 3 of the Convention.

96. The applicants maintained their complaints.

B. The Court's assessment

1. Admissibility

(a) The complaint concerning the armed men's behaviour during the search

97. The Court reiterates at the outset that in order to fall under Article 3 of the Convention ill-treatment must be at least marginally severe (see *Ireland v. the United Kingdom*, cited above § 162). It considers that the way the applicants were treated by the State servicemen who came to their home on 10 December 2002 could indeed have been disagreeable and inconsiderate. However, the Court is not persuaded that it amounted to treatment exceeding the minimum level of severity to be in breach of Article 3 of the Convention.

98. It follows that this part of the complaint under Article 3 of the Convention is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

(b) The complaint concerning the applicants' mental suffering

99. The Court notes that this part of the complaint under Article 3 of the Convention 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

100. The Court observes that the question whether a member of the family of a “disappeared person” is a victim of treatment contrary to Article 3 will depend on the existence of special factors which give the suffering of the applicants a dimension and character distinct from the emotional distress which may be regarded as inevitably caused to relatives

of a victim of a serious human rights violation. Relevant elements will include the proximity of the family tie, the particular circumstances of the relationship, the extent to which the family member witnessed the events in question, the involvement of the family member in the attempts to obtain information about the disappeared person and the way in which the authorities responded to those enquiries. The Court would further emphasise that the essence of such a violation does not mainly lie in the fact of the “disappearance” of the family member but rather concerns the authorities' reactions and attitudes to the situation when it is brought to their attention. It is especially in respect of the latter that a relative may claim directly to be a victim of the authorities' conduct (see *Orhan v. Turkey*, no. 25656/94, § 358, 18 June 2002).

101. The Court notes that the applicants have not had any reliable information on the fate of their son for more than six years. During this period the applicants have applied to various official bodies with enquiries about Akhmed Rezvanov, both in writing and in person. Despite these attempts, they have never received any plausible explanation or information as to what became of him. The Court's findings under the procedural aspect of Article 2 of the Convention are also of direct relevance here.

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

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

IV. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION

104. The applicants complained that Akhmed Rezvanov had been detained in violation of the guarantees of Article 5 of the Convention, which reads, in so far as relevant:

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

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

...

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

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

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

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

A. The parties' submissions

105. The Government submitted that no evidence had been obtained by the investigators to confirm that Akhmed Rezvanov was deprived of liberty in breach of the guarantees set out in Article 5 of the Convention.

106. The applicants reiterated the complaint.

B. The Court's assessment

1. Admissibility

107. 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 the complaint is not inadmissible on any other grounds and must therefore be declared admissible.

2. Merits

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

109. The Court has found it established that Akhmed Rezvanov was abducted by State servicemen on 10 December 2002. His detention was not acknowledged, was not logged in any custody records and there exists no official trace of his subsequent whereabouts or fate. In accordance with the Court's practice, this fact in itself must be considered a most serious failing, since it enables those responsible for an act of deprivation of liberty to conceal their involvement in a crime, to cover their tracks and to escape accountability for the fate of a detainee. Furthermore, the absence of records noting such matters as the name of the detainee, the date, time and location

of detention, reasons for it and the name of the person effecting it must be seen as incompatible with the very purpose of Article 5 of the Convention (see *Orhan*, cited above, § 371).

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

V. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

111. The applicants complained that following his disappearance Akhmed Rezvanov would not have had a fair trial should any criminal charges have been brought against him. They invoked Article 6 of the Convention, which, in so far as relevant, reads as follows:

“In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...”

112. The Court finds that Akhmed Rezvanov can not be considered a “victim” of the alleged violation of the right to fair trial since there is no evidence to suggest that any criminal charges have been brought against him.

113. It follows that this complaint is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected in accordance with Article 35 § 4 thereof.

VI. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

114. The applicants claimed that the intrusion by the Russian military into their house on 10 December 2002 and the ensuing search had been unlawful and had infringed their right to respect for their home, private and family life, as guaranteed by Article 8 of the Convention. The applicants further complained that the seizure of their belongings during the search on 10 December 2002 had not been justified under Article 1 of Protocol No. 1 to the Convention. Those Articles, in so far as relevant, read as follows:

Article 8

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

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

Article 1 of Protocol No. 1

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

A. The parties' submissions

115. The Government denied that the State was responsible for the alleged breaches of Article 8 and Article 1 of Protocol No. 1 and insisted that the unidentified armed men who had broken into the applicants' house were not State agents. They further claimed that the actions of those men had been qualified as robbery under national laws and that criminal proceedings had been brought in this connection.

116. The applicants maintained their complaints under Article 8 of the Convention and Article 1 of Protocol No. 1.

B. The Court's assessment*1. Admissibility*

117. The Court notes that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that the complaints are not inadmissible on any other grounds and must therefore be declared admissible.

2. Merits

118. The Court has found above that the men who took Akhmed Rezvanov away on 10 December 2002 were State agents (see paragraph 74 above). It observes that although the Government denied their responsibility for the alleged violations of the applicants' rights under Article 8 and Article 1 of Protocol No. 1, they conceded that the men who had abducted Akhmed Rezvanov had entered the applicants' house and taken away the video appliance, the leather jacket, the running shoes and other items.

119. The Government did not call into question the applicants' ownership of the property in issue, nor dispute the argument that the persons referred to had entered the house against the applicants' will. The Court is therefore satisfied that the actions of the aforementioned men constituted an

interference with the applicants' right to respect for their home secured by Article 8 of the Convention and their property rights under Article 1 of Protocol No. 1. The Court further notes the absence of any justification on the part of the State for its agents' actions in that regard. It accordingly finds that there has been a violation of the applicants' right to respect for their home under Article 8 of the Convention and their property rights under Article 1 of Protocol No. 1.

VIII. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

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

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

A. The parties' submissions

121. The Government contended that the applicants had had effective remedies at their disposal as required by Article 13 of the Convention and that the authorities had not prevented them from using them. The applicants could also have complained to courts or higher prosecutors or claimed civil damages, but had failed to do so. In sum, the Government submitted that there had been no violation of Article 13.

122. The applicants reiterated the complaint.

B. The Court's assessment

1. Admissibility

123. In so far as the complaint under Article 13 concerns the existence of a domestic remedy in respect of the complaints under Article 3 concerning the inconsiderate behaviour of the State servicemen towards the applicants and under Article 6, the Court notes that they have been declared inadmissible in paragraphs 98 and 113 above, respectively. Accordingly, the applicants did not have “arguable claims” of a violation of substantive Convention provisions in this respect and, therefore, Article 13 of the Convention is inapplicable.

124. It follows that these parts of the complaint under Article 13 of the Convention are incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected in accordance with Article 35 § 4 thereof.

125. The Court notes that the remaining complaints under Article 13 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 and must therefore be declared admissible.

2. Merits

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

127. As regards the complaint of the lack of effective remedies in respect of the complaint under Article 2, the Court emphasises that, given the fundamental importance of the right to protection of life, Article 13 requires, in addition to the payment of compensation where appropriate, a thorough and effective investigation capable of leading to the identification and punishment of those responsible for the deprivation of life, including effective access for the complainant to the investigation procedure leading to the identification and punishment of those responsible (see *Angelova v. Bulgaria*, no. 38361/97, §§ 161-62, ECHR 2002-IV). The Court further reiterates that the requirements of Article 13 are broader than a Contracting State's obligation under Article 2 to conduct an effective investigation (see *Khashiyev and Akayeva*, cited above, § 183).

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

129. It follows that in circumstances where, as here, the criminal investigation into the disappearance of the applicants' son has been ineffective and the effectiveness of any other remedy that may have existed, including civil remedies suggested by the Government, has consequently been undermined, the State has failed in its obligation under Article 13 of the Convention.

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

131. In so far as the complaint under Article 13 concerns the existence of a domestic remedy in respect of the complaint concerning the applicants' mental suffering, the Court notes that it has found a violation of Article 3 on this account. However, the Court has already found a violation of Article 13 of the Convention in conjunction with Article 2 of the Convention on account of the authorities' conduct that led to the suffering endured by the applicants. The Court considers that, in the circumstances, no separate issue arises in respect of Article 13 in conjunction with Article 3 of the Convention.

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

133. Lastly, as to the applicants' complaint under Article 13 in conjunction with Article 8 and Article 1 of Protocol No. 1, the Court considers that in a situation where the authorities denied their involvement in the alleged intrusion into the applicants' house and the taking of their belongings and where the domestic investigation does not appear to have made any meaningful findings on this matter, the applicants did not have any effective domestic remedies in respect of the alleged violations of their rights secured by Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention. Accordingly, there has been a violation on that account.

IX. APPLICATION OF ARTICLE 41 OF THE CONVENTION

134. Article 41 of the Convention provides:

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

A. Pecuniary damage

135. The applicants claimed damages in respect of the lost wages of their son. Although he had been unemployed, the applicants assumed that eventually he would have earned at least the minimum monthly wage. The first applicant claimed in total 69,000 Russian roubles (RUB) (1,865 euros

(EUR)) and the second applicant claimed RUB 103,500 (EUR 2,797). Moreover, the applicants claimed EUR 10,000 as compensation for the damage caused by the search of 10 December 2002. They did not provide any documents or calculations to substantiate their claims in this regard.

136. The Government regarded these claims as unfounded and unsubstantiated.

137. The Court reiterates that there must be a clear causal connection between the damage claimed by the applicants and the violation of the Convention. Furthermore, under Rule 60 of the Rules of Court any claim for just satisfaction must be itemised and submitted in writing together with the relevant supporting documents or vouchers, “failing which the Chamber may reject the claim in whole or in part”.

138. The Court first notes that compensation for pecuniary damage may be awarded in respect of loss of earnings. The Court considers that there is a direct causal link between the violation of Article 2 in respect of the applicants' son and the loss by the applicants of the financial support which he could have provided. The Court finds it reasonable to assume that Akhmed Rezvanov would eventually have had some earnings. Having regard to the applicants' submissions and the fact that Akhmed Rezvanov was not employed at the time of his disappearance, the Court finds it appropriate to award EUR 1,500 to the applicants jointly in respect of pecuniary damage, plus any tax that may be chargeable thereon.

139. The Court further notes that the applicants failed to substantiate their claims as regards the damage caused by the search of their house and thus makes no award in this respect.

B. Non-pecuniary damage

140. The applicants claimed compensation in respect of non-pecuniary damage for the suffering they endured as a result of the loss of their son and the indifference shown by the authorities towards them. The applicants claimed EUR 100,000 each under this head.

141. The Government found the amounts claimed exaggerated.

142. The Court has found a violation of Articles 2, 5 and 13 of the Convention on account of the disappearance of the applicants' son. The applicants themselves have been found to have been victims of violations of Articles 3 and 8 of the Convention, as well as of Article 1 of Protocol No. 1. The Court thus accepts that they have suffered non-pecuniary damage which cannot be compensated for solely by the findings of violations. It thus awards the applicants EUR 40,000 jointly in respect of non-pecuniary damage, plus any tax that may be chargeable thereon.

C. Costs and expenses

143. The applicants also claimed a total of EUR 4,800 to be paid to their lawyer who had prepared their application form and observations on the admissibility and merits of the case. They failed to produce any documents or invoices to confirm that the amounts claimed had been paid to the representative.

144. The Government indicated that the applicants had not shown that the expenses claimed for legal representation had actually been incurred.

145. The Court may make an award in respect of costs and expenses in so far as they were actually and necessarily incurred (see *Bottazzi v. Italy* [GC], no. 34884/97, § 30, ECHR 1999-V). Given that the applicants failed to submit any evidence to justify their costs and expenses related to the legal representation, it makes no award under this head.

D. Default interest

146. 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 join to the merits the Government's objection as to non-exhaustion of criminal domestic remedies and rejects it;
2. *Declares* admissible the complaints under Articles 2, 5 and 8 of the Convention, the complaint under Article 3 concerning the applicants' mental suffering, the complaint under Article 1 of Protocol No. 1, the complaints under Article 13 in conjunction with Articles 2, 5 and 8, as well as the complaint under Article 13 in conjunction with the complaint concerning the applicants' mental suffering and in conjunction with Article 1 of Protocol No. 1, and the remainder of the application inadmissible;
3. *Holds* that there has been a violation of Article 2 of the Convention in respect of Akhmed Rezvanov;
4. *Holds* that there has been a violation of Article 2 of the Convention in respect of the failure to conduct an effective investigation into the circumstances in which Akhmed Rezvanov had disappeared;

5. *Holds* that there has been a violation of Article 3 in respect of the applicants on account of their mental suffering;
6. *Holds* that there has been a violation of Article 5 of the Convention in respect of Akhmed Rezvanov;
7. *Holds* that there has been a violation of Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention in respect of the applicants;
8. *Holds* that there has been a violation of Article 13 of the Convention in conjunction with Article 2 of the Convention;
9. *Holds* that there has been a violation of Article 13 in conjunction with Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention in respect of the applicants;
10. *Holds* that no separate issues arise under Article 13 of the Convention in respect of the alleged violation of Article 3 on account of the applicants' mental suffering and in respect of the alleged violation of Article 5 of the Convention;
11. *Holds*
 - (a) that the respondent State is to pay, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
 - (i) EUR 1,500 (one thousand five hundred euros) to the applicants jointly in respect of pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of settlement, plus any tax that may be chargeable thereon;
 - (ii) EUR 40,000 (forty thousand euros) to the applicants jointly in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of settlement, plus any tax that may be chargeable thereon;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
12. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 24 September 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President