



Court could not hold Russian servicemen responsible for a father's disappearance in Dagestan due to lack of evidence

In today's Chamber judgment in the case [Shafiyeva v. Russia](#) (application no. 49379/09), which is not final¹, the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 2 (right to life) of the European Convention on Human Rights as concerned Sirazhudin Shafiyev; but,

a violation of Article 2 of the Convention as concerned the authorities' failure to conduct an effective investigation into the circumstances in which Sirazhudin Shafiyev had disappeared.

Principal facts

The applicant, Khadizhat Shafiyeva, is a Russian national who was born in 1978 and lives in Derbent (the Republic of Dagestan).

The case concerned the abduction on 8 September 2009 of her husband, Sirazhudin Shafiyev, born in 1971, by a group of men when he was driving back home from dropping off his children at the kindergarten in Derbent. A number of local residents witnessed the men blocking his car in the road and, after hitting his head with a bludgeon, jumping in the car and driving off with him. He has not been seen since. The investigation into his disappearance, still in progress, has so far failed to identify those responsible.

Complaints, procedure and composition of the Court

Relying in particular on Article 2 (right to life and effective investigation) and Article 13 (right to an effective remedy), Ms Shafiyeva alleged that Russian servicemen were responsible for her husband's disappearance and presumed subsequent death and that the investigation into her allegations was inadequate.

The application was lodged with the European Court of Human Rights on 14 September 2009.

Judgment was given by a Chamber of seven, composed as follows:

Nina **Vajić** (Croatia), *President*,
Anatoly **Kovler** (Russia),

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

Peer **Lorenzen** (Denmark),
 Elisabeth **Steiner** (Austria),
 Khanlar **Hajiyev** (Azerbaijan),
 Mirjana **Lazarova Trajkovska** ("the Former Yugoslav Republic of Macedonia"),
 Julia **Laffranque** (Estonia), *Judges*,

and also André **Wampach**, *Deputy Section Registrar*.

Decision of the Court

Article 2 (right to life and investigation)

In a number of previous judgments, the Court had already found the Russian authorities responsible for a number of extra-judicial executions or disappearances of civilians in the Chechen Republic in the late 1990s and in early 2000. However, Sirazhudin Shafiyev had not disappeared in Chechnya, but in Dagestan in 2009, where there was no curfew or restrictions on driving around in civilian vehicles at the time. Furthermore, Ms Shafiyeva based her allegations on statements from her relatives who had not actually witnessed the abduction themselves. Indeed, it was not clear whether her relatives had video footage of the abduction as claimed, whether the abductors had been in camouflage uniforms or black t-shirts or whether their vehicles had had official registration numbers. Nor had the domestic investigation come up with any tangible result as to the identities of those responsible for Sirazhudin Shafiyev's abduction. The Court could not therefore conclude "beyond reasonable doubt" that the Russian military had been involved in Sirazhudin Shafiyev's disappearance or that they had been responsible for his subsequent presumed death. There had therefore been no violation of Article 2.

The Court found, however, that there had been a violation of Article 2 concerning the authorities' failure to conduct an effective investigation into the circumstances in which Sirazhudin Shafiyev had disappeared. Notably, numerous essential steps had not been taken such as: identifying and questioning the actual eye-witnesses to the abduction; obtaining a recording of the abduction allegedly filmed on a mobile phone; and, identifying a certain officer Magomed who might, according to the applicant, have been involved in the abduction of her husband as the officer had information which only Sirazhudin could have given him following his abduction. Moreover, the investigation had been suspended on four occasions without these crucial investigative steps having been taken and, each time, resumed upon the criticism of the supervising prosecutors. Such premature suspension of the proceedings at vital stages of the investigation had undermined the investigators' very ability to identify and punish those responsible for the abduction.

The Court further held that no separate issue arose under Article 13 in conjunction with Article 2.

Article 41 (just satisfaction)

The Court held that Russia was to pay Ms Shafiyeva 30,000 euros (EUR) in respect of non-pecuniary damage.

The judgment is available only in English.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe to the [Court's RSS feeds](#).

Press contacts

echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Kristina Pencheva-Malinowski (tel: + 33 3 88 41 35 70)

Céline Menu-Lange (tel: + 33 3 90 21 58 77)

Nina Salomon (tel: + 33 3 90 21 49 79)

Denis Lambert (tel: + 33 3 90 21 41 09)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.