



Russia failed to account for disappearance of three young men in Dagestan and Chechnya

In today's Chamber judgments in the cases [Umarov v. Russia](#) (application no. 2546/08) and [Umayev v. Russia](#) (application no. 47354/07) which are not final¹, the European Court of Human Rights held, unanimously, that there had been a:

Violation of Article 2 (right to life) of the European Convention on Human Rights concerning the disappearances of Ramazan Umarov, Vidzha Umayev and Timur Mezhidov;

Violation of Article 2 of the Convention concerning the inadequate investigations into those events;

Violation of Article 3 (prohibition of inhuman or degrading treatment) concerning the mental suffering of the relatives of the disappeared;

Violation of Article 5 (right to liberty and security) concerning the unacknowledged detention of Ramazan Umarov, Vidzha Umayev and Timur Mezhidov; and a

Violation of Article 13 (right to an effective remedy) in conjunction with Article 2 in both cases.

Both cases concerned alleged disappearances of civilians, in Dagestan and the Chechen Republic respectively.

Principal facts

The applicants in the first case, Zhamalat Umarov and Aysarat Umarova, are Russian nationals who were born in 1936 and 1972, respectively, and live in Makhachkala (Dagestan). They are the father and sister of Ramazan Umarov, born in 1974, who they alleged went into hiding in 2006 as he was being harassed by the police following his acquittal of illegal possession of firearms. In hiding at a flat in Makhachkala, he was arrested again by the police on 28 April 2007 along with two other men. Those two men were subsequently released and had criminal proceedings brought against them for illegal possession of firearms. The applicants, however, have had no further news of their relative since May 2007 when Zhamalat Umarov managed to have telephone contact with his son – who was apparently been held in Gudermes (Chechnya) – as well as with a number of individuals who requested money in exchange for information about his whereabouts. Nine days after the applicants reported the disappearance of Ramazan Umarov to the authorities, on 19 May 2007, an official investigation was initiated. It was subsequently suspended and reopened on six occasions without having identified the perpetrators.

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

The applicants in the second case, Raisa Umayeva and Akhmed Umayev, are Russian nationals who were born in 1960 and 1957 respectively and live in the village of Prigorodnoye (the Chechen Republic). They alleged that their son, Vidzha Umayev, born in 1982, and Ms Umayeva's brother, Timur Mezhidov, born in 1972, were abducted by three Chechen servicemen on 14 July 2006 when stopped at a bridge at the entrance to the village, Yarash-Mardy. Ms Umayeva, who was travelling with her son and brother, claimed that they were all ordered out of the car, then her son and brother were ordered back in and were joined by the three servicemen who drove off. She tried to run after the car but had to stop at a barrier. The applicants reported the abduction to the authorities on the day it occurred and subsequently complained to a number of State bodies. An official investigation was instituted 11 days after the events. It was subsequently suspended and reopened and remains pending without having identified the perpetrators. The applicants have had no news of their relatives since 14 July 2006.

Complaints, procedure and composition of the Court

All the applicants alleged that representatives of law-enforcement agencies/servicemen were responsible for their relatives' disappearances and presumed subsequent death and that the investigations into their allegations had been inadequate. They relied in particular on Article 2 (right to life), Article 3 (prohibition of inhuman or degrading treatment), Article 5 (right to liberty and security) and Article 13 (right to an effective remedy).

The application in the case *Umarovy v. Russia* was lodged with the European Court of Human Rights on 18 December 2007 and the application in the case *Umayevy v. Russia* was lodged on 23 October 2007.

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

Nina **Vajić** (Croatia), *President*,
Anatoly **Kovler** (Russia),
Elisabeth **Steiner** (Austria),
Khanlar **Hajiyev** (Azerbaijan),
Julia **Laffranque** (Estonia),
Linos-Alexandre **Sicilianos** (Greece),
Erik **Møse** (Norway), *Judges*,

and also Søren **Nielsen**, *Section Registrar*.

Decision of the Court

Article 2 (disappearances)

In both cases, the Court came to the conclusion that the applicants' relatives had to be presumed dead following their unacknowledged detention by State agents. In the absence of any justification in respect of the use of lethal force there had been a violation of Article 2 in respect of Ramazan Umarov, Vidzha Umayev and Timur Mezhidov.

Despite the Court's request for a copy of the entire case file, the Russian Government had only provided some documents in the case of *Umarovy* and had refused to produce any documents from the file in the case of *Umayevy*. The Court found that it could draw inferences from that conduct in respect of the well-foundedness of the applicants' allegations.

The applicants' allegation in the case of *Umarovy* was supported by numerous witness statements and the Government had neither disputed their account of the events nor provided any other explanation other than stating that there had been no "reliable information concerning the arrest of Ramazan Umarov by representatives of the authorities". The Court found that when a person was detained by unidentified policemen without any subsequent acknowledgment of the detention and was then missing for several years, that situation could be regarded as life-threatening. The absence of Ramazan Umarov or any news of him for more than four years supported this assumption.

The Russian Government had not disputed any of the applicants' factual submissions in the case of *Umayevy* but had claimed that one of the servicemen could have abducted the applicants' relatives for financial reasons. There was, however, no evidence to support that claim. Furthermore, it was noteworthy that the applicants' vehicle had been stopped in broad daylight by men wearing camouflage uniforms and carrying weapons. The names of the applicants' relatives had not been found in any official detention facility records and the Government had not submitted any explanation as to what happened to them after their arrest.

Article 2 (investigation)

In both cases, the Court found that the authorities had failed to carry out an effective criminal investigation into the circumstances surrounding the disappearances of the applicants' relatives, in violation of Article 2 in its procedural aspect.

In particular, the official investigations had been launched more than a week after the applicants had reported the disappearances of their respective relatives to the authorities. Moreover, a number of important investigative steps, such as conducting an identification parade and interviewing key witnesses, had never been taken, and orders by the prosecutors to remedy some of the investigations' failures had not been followed.

Article 3

The Court found a violation of Article 3 in respect of the mental suffering endured by the applicants as a result of their respective relatives' disappearance and the State's failure to investigate it properly. The applicants in the case of *Umarovy* had not had any news of their relative for more than four years and the applicants in the case of *Umayevy* had not had any news of their relatives for more than five years. Despite their attempts, neither of the applicants had ever received any plausible explanation or information about the fate of their respective relatives.

Article 5

Furthermore, the Court found that the applicants' relatives had been held in unacknowledged detention without any of the safeguards contained in Article 5, which represented a particularly grave violation of the right to liberty and security.

Article 13 in conjunction with Article 2

The criminal investigations into the disappearance and killing of the applicants' relatives had been ineffective, and the effectiveness of any other remedy that might have existed had consequently been undermined. The State had therefore failed in its obligation under Article 13. As a result, there had been a violation of Article 13 in conjunction with Article 2 in both cases.

Article 41

Under Article 41 (just satisfaction) of the Convention, the Court held that Russia was to pay 60,000 euros (EUR) to Zhamalat Umarov and Aysarat Umarova jointly in respect of non-pecuniary damage and EUR 1,260 in respect of costs and expenses to the applicants' representative. Furthermore, Russia was to pay 120,000 to Raisa Umayeva and Akhmed Umayev jointly in respect of non-pecuniary damage and EUR 4,566.86 in respect of costs and expenses to the applicants' representative.

The judgment is available only in English.

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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.