



Abduction and presumed death of two men in Chechnya

In today's Chamber judgment in the case [Khakiyeva, Temergeriyeva and Others v. Russia](#) (application nos. 45081/06 and 7820/07), which is not final¹, the European Court of Human Rights held, unanimously, that there had been:

Violation of Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment), 5 (right to liberty and security), and 13 (right to an effective remedy) of the European Convention on Human Rights.

The case concerned the abduction and disappearance of two men from their homes in Chechnya and the authorities' failure to conduct an effective investigation into that.

Principal facts

The 14 applicants in this case belong to two families and all live/lived in the Chechen Republic (Russia). Their two male relatives, Lema Khakiyev, born in 1960, and Musa Temergeriyev, born in 1952, were detained in 2002 in two separate incidents in the Oktyabrskiy District of Grozny, Chechnya, and subsequently disappeared.

According to the applicants, who live in the same street, their relatives were abducted from their homes by armed masked men who wore camouflage uniforms and spoke unaccented Russian. Lema Khakiyev was told that, if he did not follow the intruders, his two-year old son would be killed, and Musa Temergeriyev was caught by the soldiers after returning home from the train station. The two men were both put on an armoured vehicle and driven away. Lema's relatives learned from neighbours that their son had been taken in the direction of Oktyabrskiy district military commander's office, and Musa's relatives - who followed the armoured vehicle - saw it enter a military unit in the east end of Grozny. The applicants brought the fact of the abductions to the knowledge of the authorities immediately and criminal investigations were opened several days later into both cases. The investigations were suspended and resumed numerous times over a number of years for failure to identify the perpetrators. Despite specific requests by the Court, the Russian Government did not disclose the entire contents of the criminal investigation files; however, they submitted information about the investigative step undertaken in search for the two abducted men.

Complaints, procedure and composition of the Court

The applicants alleged that their relatives were abducted in 2002 and were then detained and killed by State agents carrying out a special operation in their village. They further complained that the domestic authorities had failed to carry out an effective investigation into their allegations which, added to the fact of their relatives'

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

disappearance, had caused them mental suffering. They relied in particular on Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment), 5 (right to liberty and security) and 13 (right to an effective remedy).

The applications were lodged with the European Court of Human Rights on 10 November 2006 and 30 January 2007 respectively. Given the applications' similar factual and legal background, the Court joined them and examined them together.

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

Christos **Rozakis** (Greece), *President*,
Nina **Vajić** (Croatia),
Anatoly **Kovler** (Russia),
Dean **Spielmann** (Luxembourg),
Sverre Erik **Jebens** (Norway),
Giorgio **Malinverni** (Switzerland),
George **Nicolaou** (Cyprus), *Judges*,

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

Decision of the Court

Article 2

The Court considered that the applicants in both cases had presented a coherent, convincing and consistent account of their relatives' abduction, which had been supported by witness statements. While the Government had contested it, it had not provided any feasible explanation about it. In addition, there had been a striking similarity between both cases which had occurred in the same street albeit with a four-month difference in time. The fact that a group of armed men in uniforms, driving in a convoy of military vehicles on both occasions, had driven around undisturbed, and had arrested the applicants' relatives in a manner similar to that of State agents, had strongly supported the applicants' allegations that those had been State military servicemen conducting special security operations during the time when their relatives were abducted. Given that there had been no news of the two men since their abduction, no record of any detention and no explanation from the Russian Government concerning what had happened to him after they arrest, the Court concluded that they had to be presumed dead following unacknowledged detention by State agent, in violation of Article 2.

The Court also found that there had been a further violation of Article 2 in both cases on account of the authorities' failure to carry out effective criminal investigations into the circumstances of the two men's disappearance.

Article 3

The Court noted that the applicants were close relatives of people who had disappeared or had been killed by State servicemen. The replies they had received to their incessant inquiries about the fate of their loved ones had mostly denied State responsibility or simply informed them that the investigation was ongoing. Consequently, in view of the authorities' attitude displayed in these cases, there had been a violation of Article 3.

Article 5

The Court found that both men had been held in unacknowledged detention without any of the safeguards contained in Article 5, in a particularly serious violation of Article 5 in both cases.

Article 13

The Court held that there had been a violation of Article 13 in conjunction with Article 2 in both cases, because the criminal investigations had been ineffective and the effectiveness of any other remedy that might have existed had consequently been undermined.

Article 41

Under Article 41 (just satisfaction) of the Convention, the Court held that Russia was to pay the applicants sums ranging between 2,800 and 60,000 euros (EUR), individually or jointly, in respect of pecuniary and non-pecuniary damage, and EUR 7,500 jointly for costs and expenses.

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.