

Disappearance and murder of a Chechen man not investigated effectively

In today's Chamber judgment in the case [Movsayevy v. Russia](#) (application no. 20303/07), which is 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.

The case concerned the alleged kidnapping and subsequent murder of a Chechen man and the lack of an effective investigation.

Principal facts

The applicants, Kisa Movsayeva and Khozh-Magomed Movsayev, are Russian nationals who were born in 1965 and 1946 respectively and live in Chechen-Aul in the Grozny district in Chechnya. They are the wife and brother of Salambek Movsayev, who was born in 1966 and was found dead in 2006.

On 24 February 2006, Salambek Movsayev, together with his wife and 12-year-old son, travelled from Ingushetia where they lived at the time, to Chechen-Aul to visit his brother. In the early afternoon, upon leaving a repair shop in which they had left a radio to be fixed, their car was stopped by two men in uniform. As soon as they heard his name, they grabbed Salambek by the collar and dragged him out of the car. Without providing any explanations or asking for documents, they pushed him into one of two cars parked nearby. Several armed men got out of the two cars. When Salambek's wife ran after him, one of the men pointed his gun at her and told her in Chechen to get out of the way.

The abductors left with Salambek in the car in the direction of Grozny. While the applicants submitted that several people witnessed the events, they did not provide to the Court any related witness statements.

On the following morning, the applicants complained about the abduction to the Grozny prosecution and police departments. Between 25 February 2006 and 13 March 2006, they complained also to many different law-enforcement agencies in Chechnya and asked for information about Salambek.

On 13 March 2006, local boys found the dead body of Salambek in the Oktyabrskiy district of Grozny, on a busy street near the police department. His watch, ring and money were missing, while his passport was laid on his body. His clothes, although torn, were dry, and so was his body despite that it had rained since the time he had been abducted. According to the applicants, Salambek's body was covered with bruises from which they concluded that he had

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

been tortured. However, they did not take pictures nor did they submit the body for a forensic examination.

On 29 March, the Chechen-Aul village hospital issued a certificate confirming Salambek's death and singling out a gunshot wound to his head as the cause of death.

The Russian Government did not dispute the circumstances of Salambek's abduction and the discovery of his corpse. However, they pointed to some inconsistencies in the applicants' submissions, and the fact that they had not complained at national level about the abductors being of Slavic origin.

On 13 March 2006, an investigation into Salambek Movsayev's abduction was opened. On the same day, a separate investigation was opened into his murder. A month later, the investigation into the abduction was suspended. Salambek's wife and son, as well as an employee of the repair shop, were questioned and the crime scene was inspected. Salambek's wife was granted victim status at the end of March 2006. In June 2006 the investigation was suspended for failure to establish the perpetrators. In February 2007, Salambek's wife complained that the investigation was ineffective but received no reply.

At the request of the Court, the Government disclosed the full contents of the criminal case into Salambek Movsayev's murder.

Complaints, procedure and composition of the Court

Relying on Articles 2, 5 and 13, the applicants complained that Salambek had been abducted and then killed by State agents and that the Russian authorities had failed to carry out an effective investigation into the murder.

The application was lodged with the European Court of Human Rights on 23 April 2007.

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

Nina **Vajić** (Croatia), *President*,
Anatoly **Kovler** (Russia),
Peer **Lorenzen** (Denmark),
Elisabeth **Steiner** (Austria),
Khanlar **Hajiyev** (Azerbaijan),
George **Nicolaou** (Cyprus),
Julia **Laffranque** (Estonia), *Judges*,

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

Decision of the Court

Establishment of facts

The Court recalled that while it had found in previous cases the Russian State authorities responsible for extra-judicial executions or disappearances of civilians in Chechnya, it could not draw the same conclusion this time for the following reasons: the account of events presented by the applicants had only been based on the statement of Salambek Movsayev's wife; the applicants had not complained before the domestic investigative authorities about the possible involvement of State agents into Salambek's disappearance and death but had raised the issue for the first time before the Court; no evidence had been presented showing that the abductors could have been State agents or that they had driven police or military vehicles. Consequently, the Court could not establish that the perpetrators had belonged to the security forces or that a security operation had been carried out in respect of Salambek Movsayev.

Right to life (Article 2)

The Court observed that the investigation had failed to produce any tangible results about the people responsible for the alleged kidnapping. In addition, the applicants had not submitted persuasive evidence to support their allegations that State agents had abducted and killed Salambek. Consequently, Russia had not been responsible for his abduction and murder, and there had been no violation of Article 2.

As regards the investigation carried out into Salambek's murder, the Court noted that it had been opened as late as 17 days after his abduction. That delay in itself was liable to affect it negatively. In addition, a number of crucial steps had never been taken. Salambek's wife had only been informed about the suspension and reopening of the investigation and not of other substantial developments. Prosecutorial instructions to carry out specific investigative steps had not been acted upon. Given the time that had lapsed, some investigative steps could no longer usefully be taken at all. In conclusion, the Court held that the authorities had failed to carry out an effective criminal investigation into the abduction and death of Salambek Movsayev, in breach of Article 2.

Other articles

The Court dismissed the applicants' complaints under Article 5 as it found that it had not been established with certainty that Salambek Movsayev had ever been held in unacknowledged detention by State agents.

It also held that there was no need to examine their complaint under Article 13 as it had been examined already under Article 2.

Article 41 (just satisfaction)

The Court held that Russia was to pay 15,000 euros (EUR) to Salambek Movsayev's wife and EUR 9,000 to his brother in respect of non-pecuniary damage, and EUR 2,000 for costs and expenses.

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 its [Internet site](#). To receive the Court's press releases, please subscribe to the [Court's RSS feeds](#).

Press contacts

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

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

Emma Hellyer (tel: + 33 3 90 21 42 15)

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

Frédéric Dolt (tel: + 33 3 90 21 53 39)

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

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.