



## Two brothers tortured, one of whom died, at the hands of law enforcement officers in Russia

In today's Chamber judgment in the case [Velkhiyev and Others v. Russia](#) (application no. 34085/06), which is not final<sup>1</sup>, the European Court of Human Rights held, unanimously, that there had been:

**Two violations of Article 2 (right to life), two violations of Article 3 (prohibition of inhuman or degrading treatment) and a violation of Article 5 (right to liberty and security)** of the European Convention on Human Rights.

The case concerned the detention and torture of two brothers in Ingushetia by law enforcement officers, the subsequent death of one of the men, and the failure to effectively investigate the events.

### Principal facts

The applicants are Bekhan Velkhiyev, born in 1965, and the wife and five children of Bashir Velkhiyev, born in 1963. They are all Russian nationals, and Bekhan Velkhiyev is the brother of Bashir Velkhiyev. Bekhan Velkhiyev lives in Malgobek and the rest of the applicants live in the village of Barsuki, Ingushetia.

The applicants were all at the house of Bashir Velkhiyev on the morning of 20 July 2004 when a group of servicemen in camouflage uniforms and armed with automatic weapons rushed into the yard. Holding the five children and the two men at gunpoint, they searched the house without producing a warrant. According to the applicants, the servicemen stole several thousand United States dollars from their house. Then they took Bekhan and Bashir and put them into a vehicle which did not have registration numbers and drove away.

The vehicles arrived at the Organised Crime Unit at the Ministry of the Interior of Ingushetia in Nazran and Bekhan and Bashir were taken, handcuffed, to two separate offices. Some officers put over a band over Bekhan's head so he could not see and started interrogating him. As he did not give them any information about an attack by rebel fighters in Ingushetia a month earlier, they beat him with rubber truncheons, threatened him with long imprisonment, kicked his back, and applied electric shocks onto his body, including his genitals. He fainted several times. Later in the day, the officers told Bekhan that his brother was in Vladikavkaz because of his "reputation", put a black plastic bag over his head and took him away in a car. They left him somewhere in the open air threatening to kill him if he took the bag off his head before 10 minutes had passed. He fainted again and was found by some officers of the Nazran Department

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<sup>1</sup> 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](http://www.coe.int/t/dghl/monitoring/execution)

of the Interior who took him to a cell without calling an ambulance and left him there overnight.

At about 8 o'clock the following morning an investigator told Bekhan that his brother Bashir had died as he had not survived being tortured by officers from the Russian Interior Ministry. Bekhan was released and collected his brother's body from the morgue which was examined by forensic specialists. Numerous injuries were recorded and a cardiovascular collapse was found to be the most probable cause of death.

After Bekhan's release, Bashir's relatives applied to the Nazran Prosecutor's Office asking that criminal proceedings be opened into the torture of Bekhan and Bashir and into Bashir's murder, against officers of the Organised Crime Unit. On 21 July, the prosecutor ordered an investigation into Bashir's death. A number of investigative steps were taken promptly, including a forensic examination of Bashir's body and questioning of numerous witnesses. Officers from the Organised Crime Unit made it clear that Bekhan and Bashir had been detained and ill-treated by officers of the federal units of the Ministry of the Interior stationed in Nazran following a rebel attack on 21-22 June 2004. None of the witnesses, however, was able to identify those officers or even to provide information on the exact unit they belonged to. In April 2005, the Nazran Prosecutor's Office confirmed that on 20 July 2004, unidentified Ministry of Interior officers had unlawfully apprehended Bekhan and Bashir Velkhiyevi and had beaten them violently on the premises of the Organised Crime Unit. No inspection of the scene was carried out during the investigation, which was suspended and resumed a number of times.

The Russian Government did not contest the events as presented by the applicants, other than that money had been stolen from the applicants' home during the apprehension.

## Complaints, procedure and composition of the Court

Relying on Articles 2, 3, 5, 8, and 13, the applicants complained about the detention and torture of Bekhan and Bashir, and about Bashir's related death.

The application was lodged with the European Court of Human Rights on 15 August 2006.

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),  
Mirjana **Lazarova Trajkovska** ("the Former Yugoslav Republic of Macedonia"), *Judges*,

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

## Decision of the Court

### [Article 2](#)

#### Bashir's death

The Court accepted the Government's concession that there had been a violation of Article 2 as a result of Bashir Velkhiyev's death, and found a violation of Article 2.

### Investigation into Bashir's death

An investigation had been opened into Bashir's death on the very next day after he had died. A number of investigative steps had been taken during the first year, however, a number of steps had never been carried out. Thus, there had been no inspection of the crime scene and no requests for information had been made as to the individual officers who had been deployed in Nazran at the time of the events. Finally, the investigation had been suspended and resumed a number of times with long periods of inactivity for which no explanation had been provided. The Court concluded that, in cases in which the domestic investigating authorities had established the responsibility of federal agencies, a failure to identify the individuals responsible could only be the result of reluctance on behalf of the prosecuting authorities to pursue the investigation. Accordingly, there had not been an effective investigation into Bashir's death, in violation of Article 2.

### Article 3

#### Torture

The Government had conceded that both Bekhan and Bashir Velkhiyevi had been ill-treated at the hands of the law enforcement authorities. The Court found that, in detention, they had both been in a state of permanent physical pain and anxiety because of the uncertainty of their fate. In addition, throughout the period when they had been detained, they had been subjected to particularly cruel form of violence, which had led to very serious injuries, as shown by the medical reports. Consequently, both Bekhan and Bashir had been tortured, in violation of Article 3.

#### Investigation into torture

The Court held that, for the same reasons as in respect of the investigation into Bashir's death, the investigation into Bekhan's and Bashir's torture had not been effective contrary to the requirements of the Convention, and in violation of Article 3.

#### Suffering of the relatives

While the Court did not doubt that the death of Bashir had caused his wife, children and brother profound suffering, it found that he could not be considered to be a "disappeared person", and held that there was no basis for a separate violation of Article 3.

### Article 5

The Court found that Bekhan and Bashir Velkhiyevi had been held in unacknowledged detention, which had not been recorded in any custody records, in violation of Article 5.

### Other articles

The Court found that the applicants' complaint under Article 8 had been lodged out of time and had to be declared inadmissible. It also found that no separate issue arose under Article 13.

### Just satisfaction (Article 41)

The Court held that Russia was to pay jointly to Bashir's wife and children 15,000 euros (EUR) in respect of pecuniary damage and EUR 60,000 in respect of non-pecuniary damage, to Bekhan EUR 55,000 in respect of non pecuniary damage, and British pounds sterling (GBP) 5,248.55 in respect of 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.