

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF BISULTANOVY v. RUSSIA

(Application no. 48608/19)

JUDGMENT

STRASBOURG

21 June 2022

This judgment is final but it may be subject to editorial revision.



In the case of Bisultanovy v. Russia,

The European Court of Human Rights (Third Section), sitting as a Committee composed of:

Georgios A. Serghides, *President,*
Anja Seibert-Fohr,
Peeter Roosma, *judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 48608/19) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 29 August 2019 by two Russian nationals, Ms Seda Bisultanova and Ms Fatima Bisultanova, born in 1956 and 1983 respectively and living in Argun and Grozny ("the applicants") who were represented by NGO Materi Chechni in Grozny;

the decision to give notice of the application to the Russian Government ("the Government"), initially represented by Mr G. Matyushkin and Mr M. Galperin, former Representatives of the Russian Federation to the European Court of Human Rights, and later by their successor in this office, Mr M. Vinogradov;

the parties' observations;

Having deliberated in private on 31 May 2022,

Delivers the following judgment, which was adopted on that date:

SUBJECT-MATTER OF THE CASE

1. The case concerns the abduction and subsequent disappearance of the applicants' relative Mr Abu Bisultanov in Khasavyurt, Dagestan in 2009 and the ineffectiveness of the ensuing investigation into the matter.

2. On 1 September 2009 a group of armed men abducted Mr Bisultanov, who was born in 1982, and his colleague Mr Timur Chaplayev from a street in Khasavyurt, Dagestan. The Court examined the abduction of Mr Chaplayev in the case of *Indirbayeva and Others v. Russia* [Committee], no. 54931/18, §§ 5-8, 9 March 2021, and the relevant factual circumstances are outlined therein.

3. On 8 September 2009, upon the applicants' complaint of the abduction lodged on 2 September 2009, the Khasavyurt Department of the Investigative Committee opened criminal case no. 910347. For details of the investigation see *Indirbayeva and Others,* cited above, §§ 12-25. In addition, on at least four occasions between May 2015 and June 2019, the applicants complained to the Khasavyurt Town Court about unjustified suspensions of the investigation in the criminal case and the lack of information about its progress. Each of their complaints was left without examination as the investigators had just resumed the proceedings.

4. It appears that the investigation is still pending. The whereabouts of Mr Bisultanov have not been established to date.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

5. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

6. The relevant principles concerning the substantive and procedural obligations under Article 2 of the Convention have been summarized in *Sultygov and Others v. Russia*, nos. 42575/07 and 11 others, §§ 393-96 and § 444, 9 October 2014.

7. The Court was unable to conclude in *Indirbayeva and Others,* cited above, § 44, that State agents were responsible for Mr Chaplayev's abduction and subsequent disappearance. Considering that Mr Bisultanov was abducted together with Mr Chaplayev by the same group of perpetrators under the same circumstances, the Court cannot but come to the same conclusion in respect of Mr Bisultanov.

8. In such circumstances the Court finds no violation of the substantive limb of Article 2 of the Convention in respect of Mr Abu Bisultanov.

9. As to the investigation into the disappearance of Mr Bisultanov, it was carried out within the framework of the same criminal case as that of Mr Chaplayev (see *Indirbayeva and Others,* cited above, §§ 46-48). Therefore, the Court's findings concerning ineffectiveness of the investigation in that case apply equally to the case at hand.

10. There has therefore been a violation of Article 2 of the Convention in its procedural aspect.

II. REMAINING COMPLAINTS

11. The applicants also raised complaints under Articles 3 and 5 of the Convention. The Court has examined that part of the application and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints do not meet the admissibility criteria set out in Article 35 of the Convention.

12. It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention

APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. The applicants claimed 98,149 euros (EUR) in respect of pecuniary damage, EUR 300,000 in respect of non-pecuniary damage and EUR 5,477 in respect of costs and expenses.

14. According to the Government, the claims were unsubstantiated.

15. Having regard to the parties' submissions, the Court awards the applicants jointly EUR 20,000 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

16. The Court rejects the claim for pecuniary damage for the lack of the causal link between the violation found and the alleged damage. It rejects the claim for costs and expenses, given that the applicants failed to show that they had paid or were under a legal obligation to pay the fees billed by their representatives or the expenses incurred by them (see *Merabishvili v. Georgia* [GC], no. 72508/13, § 327, 28 November 2017).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Article 2 of Convention admissible and the remainder of the application inadmissible;

2. *Holds* that there has been no violation of Article 2 of the Convention under its substantive limb in respect of Mr Abu Bisultanov;

3. *Holds* that there has been a violation of Article 2 of the Convention under its procedural limb for the failure to conduct an effective investigation into the circumstances in which Mr Abu Bisultanov disappeared;

4. *Holds*
   (a) that the respondent State is to pay the applicants jointly, within three months, EUR 20,000 (twenty thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 21 June 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	Georgios A. Serghides President