



Applicant tortured by State agents in Chechnya because of sexual orientation

In today's **Chamber** judgment¹ in the case of [Lapunov v. Russia](#) (application no. 28834/19) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 3 (prohibition of torture) of the European Convention on Human Rights both as regards the treatment suffered and the investigation into that treatment,

a violation of Article 14 (prohibition of discrimination) in conjunction with Article 3, and

a violation of Article 5 (right to liberty and security).

The case concerned the alleged taking of Mr Lapunov from his place of work in Grozny to the local police headquarters, where he had been, along with other men, badly beaten and threatened seriously by police officers because of his sexual orientation. Those allegations were against a background of a reported “purge” of homosexual or presumed homosexual people in the Chechen Republic by the authorities there.

The Court found in particular that Mr Lapunov had provided a compelling account of ill-treatment by State agents – which the Court qualified as torture – which the Government had failed to refute; the investigation into these allegations had been seriously defective and had lacked independence; and the authorities had failed to take into account a possible homophobic motivation to the actions of the State agents in torturing Mr Lapunov.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicant, Maksim Grigoryevich Lapunov, is a Russian national who was born in 1987 and lives in Sargatskoye (Omsk Region, Russia). He is an openly gay man.

A few days following an incident involving a friend of his being seized by the police, Mr Lapunov was selling balloons near Grand Park in Grozny on 16 March 2017 when he was dragged into a car by a police officer, despite the presence of some 50 people at the scene. Other police officers arrived to investigate, and took the details of Mr Lapunov and of the car number plates before leaving.

Mr Lapunov's phone was taken and he was told he was a murder suspect. He was taken to the Chechen police headquarters and hooded. He was questioned by a senior officer in his office, while the officer read Mr Lapunov's text messages from his mobile telephone. He was accused of having come to Chechnya “to seduce Chechen boys”. When he refused to answer questions, he was beaten up.

Officers made Mr Lapunov arrange to meet an acquaintance (Mr T.) who was then too detained. They were put in neighbouring cells in the basement of the building; Mr Lapunov's cell was covered in blood. He later saw Mr T. being beaten with a piece of PVC piping. On about the fourth day Mr

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.

Lapunov was told that Mr T. had been “sent to France”, a euphemism for being killed, and presumed that he had been killed by his captors.

An attempt was made to sexually assault Mr Lapunov to “punish him” for his homosexuality. He resisted, but was badly beaten with PVC piping by two officers. His blood stained the walls of the cell.

On 28 March 2017, Mr Lapunov was again threatened along with his family by the earlier senior police officer. The officers there put a gun in his hand so that it would have his fingerprints on it, and forced him to sign some documents that the applicant could not read. He was then forced to read out his personal details and information about his sexual encounters while being filmed on a mobile-phone camera by Officer M.B., and to give information about his friends’ addresses. One of the investigators present in the room, Mr S., was subsequently put in charge of the inquiry into Mr Lapunov’s disappearance.

Mr Lapunov was taken to the train station and given a ticket to Pyatigorsk. Instead of boarding, he told some people of his detention, informed the relatives of another man detained in the basement because of his sexual orientation, and then travelled to Sochi. He took photographs of his injuries, but did not go to a doctor out of fear. In April 2017 he moved to the house of a relative near Perm.

Pre-investigation inquiry and court proceedings

Following pressure from Mr Lapunov and certain non-governmental organisations in the summer of 2017, a pre-investigation inquiry (*проверка по заявлению о преступлении*) was started by the Russian Investigative Committee in the North Caucasus Region. The Chechen police participated from the outset.

Mr Lapunov was denied legal representation of his choosing several times. He was interviewed by the authorities, and gave a detailed account of the events, and other inquiry steps were taken, including his being examined by a doctor. In October 2017 investigators refused to open a fully-fledged investigation, but that decision was overruled by the investigators’ superiors. Police officers were interviewed in November of that year, but claimed that Mr Lapunov had not been in detention, and claimed that there were no CCTV cameras at the police headquarters. Other witnesses also denied contact with Mr Lapunov. Decisions refusing to open a fully-fledged investigation were delivered in November and December 2017, and February and March 2018. Investigators twice refused to take protective measures in respect of Mr Lapunov, despite his being the subject of threats.

Mr Lapunov appealed to the courts against the decisions refusing to open a fully-fledged investigation, arguing that investigators had failed to, among other steps, include the photographs of his injuries in the case file; question witnesses who’d seen those injuries; and verifying his mobile-phone location for the period. He stressed that only opening of a criminal case would allow other essential steps to be taken. That appeal was dismissed in August 2018. Mr Lapunov appealed to the Stavropol Regional Court, which upheld the lower court’s decision.

Other information

Mr Lapunov left Russia soon after the events in question, later undergoing psychological treatment, with a report concluding that he was suffering from post-traumatic stress disorder (PTSD).

Background situation in Chechnya

International and Russian media and several non-governmental organisations have reported extensively that between December 2016 and May 2017 several “waves” of “purges” of people on the basis of their perceived or actual sexual orientation had occurred in the Chechen Republic. This persecution included a pattern of arbitrary and unlawful arrests, detentions, torture, enforced disappearances and extrajudicial executions.

Several international human rights organisations, including Amnesty International, Human Rights Watch and Freedom House, as well as the Russian LGBT Network and Novaya Gazeta, had called for an effective investigation, but no investigation had been launched. This was the case until Mr Lapunov, a man of Russian rather than Chechen ethnicity, lodged a formal complaint.

Complaints, procedure and composition of the Court

Relying on Articles 3 (prohibition of torture), 14 (prohibition of discrimination) and 5 (right to liberty and security) the applicant alleged he had been tortured and unlawful detained by Chechen police officers on account of his sexual orientation, and that the investigation into this matter had not been effective.

The application was lodged with the European Court of Human Rights on 24 May 2019.

The following third parties were given leave to make submissions: the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe); the Advice on Individual Rights in Europe Centre (AIRE Centre); the International Federation for Human Rights (FIDH); the International Commission of Jurists (ICJ); REDRESS; the World Organisation against Torture (OMCT); the Equal Rights Trust; the European Human Rights Advocacy Centre (EHRAC); and Human Rights Watch (HRW).

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

Pere **Pastor Vilanova** (Andorra), *President*,
Jolien **Schukking** (the Netherlands),
Yonko **Grozev** (Bulgaria),
Georgios A. **Serghides** (Cyprus),
Peeter **Roosma** (Estonia),
Andreas **Zünd** (Switzerland),
Oddný Mjöll **Arnardóttir** (Iceland),

and also Olga **Chernishova**, *Deputy Section Registrar*.

Decision of the Court

The Court established that it had jurisdiction to deal with the case, as the facts giving rise to the alleged violations of the Convention had taken place before 16 September 2022, the date on which Russia had ceased to be a Party to the European Convention.

Article 3

Treatment of Mr Lapunov

Although Mr Lapunov provided detailed submissions as to the treatment he had suffered while in custody, which were consistent with statements he had given in the past, the Government neither advanced any argument refuting those allegations nor provided an alternative plausible account of where he had been during that time. The Court noted, among other facts, that his statements had been seen as credible by various non-governmental organisations, and Russian and foreign experts; his sister had raised the alarm early into his disappearance; medical evidence was consistent with having been beaten with PVC piping; and he was confirmed as having PTSD in a psychological report. His statements overall were corroborated by the widespread reporting of an “anti-gay purge” which had been taking place in Chechnya at the time.

Concerning the severity of the ill-treatment, the Court also bore in mind Mr Lapunov’s vulnerability when being held incommunicado for 12 days and being kicked and severely beaten with PVC piping.

This had been aggravated by the psychological violence, including, being threatened with rape, being forced to give details of his sexual encounters on film, and being forced to reveal the names of other gay men and witnessing the beating of one of them. The Court concluded that this treatment had amounted to torture.

Given Mr Lapunov's plausible allegations, and the Government's failure to refute those allegations, the Court held that he had been detained and tortured by State agents, in violation of Article 3.

Investigation

Pursuant to the Convention, States had an obligation to take special care to uncover suspected discriminatory attitudes played a part in violent incidents. In cases of credible allegations of ill-treatment, a pre-investigation inquiry alone was not adequate; it was incumbent on the authorities to open a criminal case and conduct a fully-fledged criminal investigation.

The Court noted that the Russian authorities had failed to take basic investigative steps in the case, including interviewing relevant police officers, such as the senior officer, and determining the location of Mr Lapunov's mobile phone during the relevant period. The Chechen police had been involved directly involved in the investigation throughout, despite the allegations that they had been involved in the torture of Mr Lapunov, compromising the investigation's independence.

The Court held that the investigation into the treatment of Mr Lapunov had been ineffective, in violation of Article 3.

[Article 14 in conjunction with Article 3](#)

The Court held that there did not appear to have been reasonable steps to investigate the role Mr Lapunov's sexual orientation might have had in his ill-treatment. Indeed, the refusals to open a criminal case contained no assessment of the possible motives. The Court concluded that there had been a violation of Article 14 in conjunction with Article 3.

[Article 5](#)

The Court had already established that Mr Lapunov had been detained by agents of the State without any legal grounds. It therefore found a violation of Article 5 of the Convention.

[Just satisfaction \(Article 41\)](#)

The Court held that Russia was to pay the applicant 52,000 euros in respect of non-pecuniary damage.

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 www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR_CEDH](https://twitter.com/ECHR_CEDH).

Press contacts

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

We would encourage journalists to send their enquiries via email.

Neil Connolly (tel.: + 33 3 90 21 48 05)

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

Denis Lambert (tel.: + 33 3 90 21 41 09)

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Jane Swift (tel.: + 33 3 88 41 29 04)

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.