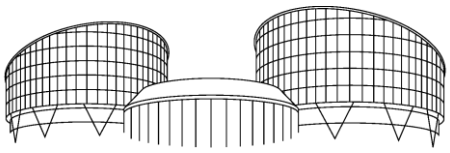

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF ABDULKHANOV AND OTHERS v. RUSSIA

(Application no. 22782/06)

JUDGMENT

STRASBOURG

3 October 2013

FINAL

20/01/2014

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Abdulkhanov and Others v. Russia,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Isabelle Berro-Lefèvre, *President,*
Elisabeth Steiner,
Khanlar Hajiyev,
Linos-Alexandre Sicilianos,
Erik Møse,
Ksenija Turković,
Dmitry Dedov, *judges,*

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 10 September 2013,

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

PROCEDURE

1. The case originated in an application (no. 22782/06) 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") by the thirteen Russian nationals listed in the annex ("the applicants"), on 15 May 2006.

2. The applicants were represented by Mr I.Y. Timishev, a lawyer practising in Nalchik, Kabardino-Balkariya, Russia. The Russian Government ("the Government") were represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

3. The applicants alleged that in 2000 their relatives had been killed, and some of the applicants had been injured, as a result of air and artillery strikes by the Russian military forces. They relied upon Articles 2, 6 and 13 of the Convention.

4. On 17 November 2009 the application was communicated to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1) and to grant priority to the application (Rule 41 of the Rules of Court).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicants are natives or residents of the village of Aslanbek-Sheripovo, Shatoy district, situated in the Chechen Republic (Chechnya). The village is situated in a mountainous area about 60 kilometres to the south of Grozny.

A. The attack on Aslanbek-Sheripovo on 17-20 February 2000

6. The second military operation in Chechnya started in autumn of 1999. The applicants submitted that in the first months of the hostilities they had not been affected by the fighting. A large number of refugees from Grozny and other places had come to stay in the village, as it was considered "safe". According to the applicants, in the beginning of 2000 the elders of the village had gone to meet with the commanders of the Russian army in the village of Day and had received assurances that there would be no strikes on the village if no armed fighters were present there. According to the applicants, no fighters had come to Aslanbek-Sheripovo.

7. The applicants thus submitted that the strikes that occurred at about 2 p.m. on 17 February 2000 had come as a surprise to the residents. As a result, on that day thirty people were killed and twenty-five wounded. After that, the villagers remained in their cellars during the day. Nevertheless, two people were killed on 19 and 20 February 2000, as the strikes continued. Those wounded on the first day of the attack could not receive medical assistance until some days later, and a number of them died.

8. Eighteen of the applicants' relatives died as a result of the attack; other relatives and three of the applicants themselves were wounded. According to the medical certificates presented to the Court, some injuries sustained as a result of the attack necessitated complex and prolonged treatment. The list of the injured and dead is contained in the annexed table (see Annex).

9. The applicants submitted that once the strikes had ended they made a video recording and numerous photos of parts of rockets and missiles which had fallen on the village, some of which they identified as cluster bombs.

10. Most of the death certificates for their relatives were issued in summer 2000 by the Shatoy district civil registration office. The reasons for the deaths were recorded as "fatal injuries", and some certificates indicated that the injuries were received during a "bombing/missile attack" at Aslanbek-Sheripovo.

11. The applicants submitted three statements by eyewitnesses to the attack, taken in March 2009, and a number of photographs.

B. The criminal investigation

12. The applicants submitted that they had applied to the domestic law-enforcement authorities sometime in 2001. However, for a long period there had been no reply to their complaints. The applicants had not kept any copies of this correspondence. The applicants submitted that no one from the law-enforcement authorities had ever come to the village to question them or to examine the site of the attack.

13. On 13 May 2002 an investigator from the military prosecutor's office of military unit no. 20119 ("the military prosecutor's office") decided not to open a criminal investigation into the attack on Aslanbek-Sheripovo. The decision stated that on 17, 19 and 20 February 2000 troops of the Northern Caucasus United Group Alignment (UGA) had carried out bombing/missile strikes in the area of Aslanbek-Sheripovo. The decision listed sixteen people who had died as a result of the strike and eleven persons who had been injured, including some of the applicants and their relatives. The decision also recorded damage caused to houses and other property. It stated that the actions of the military servicemen who had carried out the attack contained the elements of the crimes of manslaughter, involuntary causing of injuries and destruction of property. However, "the servicemen had been forced to cause the damage to the civilians and they had operated within reasonable risk [limits]". The strikes had been aimed at suppressing terrorism and the village had been located in the area of a counter-terrorist operation. Under section 21 of the Suppression of Terrorism Act 1998 the servicemen were absolved of criminal liability. The military prosecutor concluded that there had been no *corpus delicti* in the servicemen's actions.

14. Letters sent to the second, eighth and eleventh applicants on 13 and 21 May 2002 informed them of the decision. A copy of it had been sent to the administration of Shatoy district, which was instructed to inform all interested parties. Furthermore, the letters informed the applicants of the possibility of appealing to the military courts or seeking civil compensation from the State Treasury under the Suppression of Terrorism Act.

15. Following the letters, the applicants sought compensation through civil proceedings. However, they were ultimately unsuccessful (see paragraphs 35-40 below) and in 2007 they renewed their efforts to have a criminal investigation into the events of 17-20 February 2000 opened.

16. On 7 June 2007 Mr Timishev, the applicants' representative, submitted a complaint to the Grozny Military Court on behalf of eleven of the applicants. He challenged the conclusions of the military prosecutor of 13 May 2002 as erroneous, asserting that on 17-20 February 2000 there had been no fighters in the village and therefore the bombing had not been justified. He referred to the applicants' failure to obtain redress in civil proceedings.

17. On 18 June 2007 the Grozny Military Court quashed the decision of 13 May 2002. On 16 August 2007 the North Caucasus Circuit Military Court confirmed the ruling of 18 June 2007. The courts concluded that the military prosecutors had failed to investigate the events properly, that they had failed to identify the military units involved or to state the justification for the air and rocket strikes. The investigation by the military prosecutor was considered to be "superficial", "not supported by the documents in the case file and based on suppositions".

18. On 25 December 2007 the military prosecutor's office informed Mr Timishev that it had been unaware of the results of the appeal against the decision of the Grozny Military Court.

19. On 7 January 2008 all thirteen applicants, represented by Mr Timishev, submitted a new complaint to the Grozny Military Court. They noted that the military prosecutor's office had failed to comply with the previous court decisions or to reopen the investigation. They also complained of a lack of any communication with that office.

20. On 28 January 2008 Mr Timishev asked the Grozny Military Court to forward a copy of the decision of 16 August 2007 to the military prosecutor's office.

21. On 3 March 2008 Mr Timishev asked the Grozny Military Court to update him on the status of its examination of the applicants' complaint of 7 January 2008.

22. On 2 June 2008 an investigator from the military prosecutor's office again refused to open a criminal investigation. It appears that the applicants were not informed of this decision and did not receive a copy of it.

23. On 24 June 2008 Mr Timishev asked the military prosecutor's office to inform the applicants of any new decisions in their case.

24. On 25 July 2008 the military prosecutor's office informed Mr Timishev that they could not send him any documents as the case file was under examination.

25. On 10 March 2009 Mr Timishev, on behalf of the thirteen applicants, again wrote to the military prosecutor's office. He noted that they had still not been informed whether a criminal investigation into the attack had been opened. He asked the military prosecutor to open an investigation, to question the applicants and other witnesses, to examine the site of the attack, to establish the exact number and names of those who had been killed and wounded during the attack and to inform the applicants about the progress of the proceedings.

26. On 24 March 2009 the military prosecutor quashed the investigator's decision of 2 June 2008 not to open criminal proceedings. The latter decision was considered to have been premature and taken without proper investigation. The prosecutor noted that the investigator had failed to obtain any information and documents relating to the attack on Aslanbek-Sheripovo; to identify the military units involved and to question their

commanders; to collect medical documents; and to carry out the necessary expert reports.

27. Also on 24 March 2009 the Grozny Military Court refused to consider the applicants' complaint about the military prosecutor's office's failure to act in view of the prosecutor's decision of the same date. The applicants appealed to the North Caucasus Circuit Military Court, which on 21 May 2009 upheld the decision of 24 March 2009.

28. On 2 April 2009 the military prosecutor concluded that the actions of the unknown servicemen of 17-20 February 2000 contained elements of crimes of low or medium seriousness, as classified under the Criminal Code. The prescription periods for such crimes had constituted, accordingly, six and two years. Thus, criminal proceedings could not be opened. It does not appear that the applicants were informed of this decision.

29. On 20 April 2009 the applicants, represented by Mr Timishev, again brought a complaint before the Grozny Military Court about failure to act by the military prosecutor's office. The military prosecutor's office submitted that it had sent copies of the decision of 2 April 2009 to each applicant and that the latest round of proceedings had complied with the procedural rules established by national law. The applicants argued that they had never received the decision, and that in any event the prosecutor had failed to comply with the previous directions. On 8 May 2009 the Grozny Military Court rejected the applicants' complaint.

30. Upon the applicants' appeal, on 18 June 2009 the North Caucasus Circuit Military Court quashed and remitted the decision of 8 May 2009. The appeal court found that the military prosecutor's office had failed to take any of the steps enumerated in their decision of 24 March 2009. In particular, it stressed the need to obtain additional information about the attack prior to drawing any conclusions about the qualification of the servicemen's actions and the application of prescription periods.

31. On 28 August 2009 the Grozny Military Court reviewed and rejected another complaint brought by the applicants. The military prosecutor informed the court that on 27 August 2009 the decision of 2 April 2009 had been quashed and the matter had been returned to the investigator. The military prosecutor also submitted that in spring 2009 a number of actions had been taken and that further directions had been issued to the investigator. The court concluded that it was now for the military prosecutor's office to carry out the necessary actions, and that the court was not empowered to instruct them as to the exact steps to take.

32. It appears that on 7 September 2009 the investigator resolved not to open a criminal investigation. It also appears that the applicants were not informed of this decision.

33. On 12 January 2010, the Grozny Military Court granted Mr Timishev's complaint and found that the military prosecutor's office had failed to comply with the directions contained in the supervising

prosecutor's decision of 27 August 2009. By the time of the review, the military prosecutor had failed to establish the military units involved in the operation, to find out the reasons for the attack, to record the damage caused, to examine the site and to collect the fragments of shells and projectiles which had fallen. The military prosecutor had explained in court that the military archives had not contained any information relevant to the investigation, and that the examination of the site and collection of fragments had been impossible due to the difficult security situation in the district. The court found that the failure to carry out any of the enumerated steps could not be explained by these factors. It also noted that the applicants had not been formally informed of this latest decision, in breach of domestic procedural rules. For this reason, the court refused to rule on the lawfulness of the military prosecutor's decision of 7 September 2009, since it had not been brought to the applicants' attention and they could not have appealed against it.

34. According to the Government's submissions of 17 March 2010, the examination of the case by the military prosecutor's office was ongoing. The Government noted that the preliminary qualification of the acts as falling under Articles 109, 118 and 168 of the Criminal Code (involuntary causing of death, injuries and harm to property) precluded the opening of criminal investigations after the expiration of the relevant prescription periods.

C. The applicants' civil claims

35. On 22 December 2004 the first twelve applicants lodged civil complaints against the Ministry of Defence with the Moscow Presnensky District Court. They sought compensation for non-pecuniary damage because their relatives had been killed as a result of the attack, and because they and their relatives had been wounded. The applicants argued that the strikes on Aslanbek-Sheripovo had been carried out by detachments under the direction of the Ministry of Defence. They submitted copies of death and medical certificates, letters from the military prosecutor's office, and the video recording and photos made by them after the attack.

36. In April 2005 the military prosecutor's office informed Mr Timishev that their office had no information about the provenance of the planes that had bombed the village on 17-20 February 2000.

37. On 10 August 2005 the Presnenskiy District Court rejected the claims. It found that the claimants had failed to establish the exact provenance of the planes and artillery units and to attribute the damage to the Ministry of Defence, given that various federal agencies had taken part in the counter-terrorist operation in Chechnya. The court remarked that the legal basis for the attack on Aslanbek-Sheripovo had been the Suppression

of Terrorism Act, which absolved the servicemen involved in the operation from liability for damage caused to the third parties.

38. The applicants appealed. They argued that the military prosecutor's office had established that an airstrike on Aslanbek-Sheripovo had been carried out on 17-20 February 2000. As no other agency in the Russian Federation could have possessed fighter planes capable of carrying out such operations, the responsibility of the Ministry of Defence could not be questioned. They further argued that compensation for non-pecuniary damage inflicted by a "source of increased danger" was not limited to unlawful actions, and therefore the lower court's reference to the Suppression of Terrorism Act had been irrelevant.

39. On 14 July 2005 the legal service of the Northern Caucasus Military Circuit informed the legal service of the Ministry of Defence in Moscow that under the Suppression of Terrorism Act they could not disclose any details about the strikes of 17-20 February 2000.

40. On 15 December 2005 the Moscow City Court confirmed the decision of the Presnenskiy District Court. The court referred to Article 1069 of the Civil Code of Russia which made the State liable only for damage caused by its agents' unlawful actions. It further found that the actions of the Russian federal troops in Chechnya had been lawful, as the military operation in Chechnya had been launched in compliance with Presidential Decree no. 2166 of 30 November 1994 and Governmental Decree no. 1360 of 9 December 1994, both of which had been found to be constitutional by the Constitutional Court of Russia on 31 July 1995. The court further stated that the applicants had submitted no evidence proving a causal link between the defendants' unlawful actions and the damage sustained by them.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Criminal proceedings

41. Until 1 July 2002 criminal-law matters were governed by the 1960 Code of Criminal Procedure of the RSFSR. On 1 July 2002 the old Code was replaced by the Code of Criminal Procedure of the Russian Federation.

42. Article 125 of the new Code provides that the decision of an investigator or prosecutor to dispense with criminal proceedings or to terminate criminal proceedings, and other decisions and acts or omissions which are liable to infringe the constitutional rights and freedoms of the parties to criminal proceedings or to impede citizens' access to justice may be appealed against to a district court, which is empowered to review the lawfulness and grounds of the impugned decisions.

B. Civil proceedings

43. Article 1069 of the Civil Code of Russia stipulates that a State agency or a State official will be liable towards a citizen for damage caused by their unlawful actions or failure to act. Compensation for such damage will be awarded at the cost of the federal or regional treasury.

44. Under Article 1079 of the same Code, damage inflicted by a "source of increased danger" (*источник повышенной опасности*) is to be compensated for by the person or entity using that source, unless it is proven that the damage was caused by *force majeure* or through the fault of the affected person.

C. The Suppression of Terrorism Act

45. The 1998 Suppression of Terrorism Act (*Федеральный закон от 25 июля 1998 г. № 130-ФЗ «О борьбе с терроризмом»*), in force until 2006, provided as follows:

Section 3. Basic Concepts

"For purposes of the present Federal Law the following basic concepts shall be applied:

...'suppression of terrorism' shall refer to activities aimed at the prevention, detection, suppression and minimisation of the consequences of terrorist activities;

'counter-terrorist operation' shall refer to special activities aimed at the prevention of terrorist acts, ensuring the security of individuals, neutralising terrorists and minimising the consequences of terrorist acts;

'zone of a counter-terrorist operation' shall refer to an individual terrain or water surface, means of transport, building, structure or premises with adjacent territory where a counter-terrorist operation is conducted; ..."

Section 15. Informing the public about terrorist acts

"... 2. Information that cannot be released to the public includes:

(1) information disclosing the special methods, techniques and tactics of an antiterrorist operation; ...

(4) information on members of special units, officers of the operational centre managing an antiterrorist operation and persons assisting in carrying out such operation.

Section 21. Exemption from liability for damage

In accordance with the legislation and within the limits established by it, damage may be caused to the life, health and property of terrorists, as well as to other legally-protected interests, in the course of conducting an anti-terrorist operation. However, servicemen, experts and other persons engaged in the suppression of terrorism shall be exempted from liability for such damage, in accordance with the legislation of the Russian Federation."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

46. The applicants complained that their right to life, as well as the right to life of their deceased and injured relatives, had been violated under both the substantive and procedural aspects of Article 2 of the Convention. That provision reads as follows:

> "1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
>
> 2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:
>
> (a) in defence of any person from unlawful violence;
>
> (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
>
> (c) in action lawfully taken for the purpose of quelling a riot or insurrection."

47. The Government accepted that there had been a violation of the applicants' rights under Article 2, both in respect of the use of force and in respect of the investigation into the lethal attack.

A. Admissibility

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

B. Merits

49. The applicants reiterated their complaints.

50. The Government highlighted that "the situation that existed in Chechnya at the relevant time called for exceptional measures on behalf of the State in order to regain control over the Republic and to suppress the illegal armed insurgency. These measures could presumably include employment of military aviation equipped with heavy combat weapons" (see *Isayeva and Others v. Russia*, nos. 57947/00, 57948/00 and 57949/00, § 178, 24 February 2005). However, in the case at hand there had been no proper examination of the question of the application of lethal force. They therefore accepted that there had been a breach of the applicants' and their

deceased relatives' right to life, in both its substantive and procedural aspects.

51. The Court reiterates that Article 2 of the Convention, which safeguards the right to life and sets out the circumstances in which deprivation of life may be justified, ranks as one of the most fundamental provisions in the Convention, from which no derogation is permitted. Together with Article 3 of the Convention, it also enshrines one of the basic values of the democratic societies making up the Council of Europe. The circumstances in which deprivation of life may be justified must therefore be strictly construed (see *Salman v. Turkey* [GC], no. 21986/93, § 97, ECHR 2000-VII). The same principles apply to an attack where the victim survives but which, because of the lethal force used, amounts to attempted murder (see *Isayeva and Others*, cited above, §§ 171 and 196).

52. The Court further reiterates that Article 2 contains a positive obligation of a procedural character: it requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force by the authorities (see *Finogenov and Others v. Russia*, nos. 18299/03 and 27311/03, §§ 268 et seq., ECHR 2011 (extracts), with further references).

53. The parties do not dispute that the applicants and their close relatives were victims of the use of lethal force, as described above, as a result of which eighteen of the applicants' family members died and three of the applicants were injured. It is further accepted by both parties that no investigation capable of establishing the circumstances of the application of lethal force has taken place.

54. The foregoing considerations are sufficient to enable the Court to conclude that there has been a violation of Article 2 of the Convention, in both its substantive and procedural aspects.

II. ALLEGED VIOLATIONS OF ARTICLES 6 AND 13 OF THE CONVENTION

55. The applicants complained of a violation of their right to a fair hearing and to have effective remedies against the violations under Article 2. They relied on Articles 6 and 13 of the Convention, which in their relevant parts read as follows:

Article 6

"In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

Article 13

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

A. The parties' submissions

56. The Government were of the opinion that the courts' decisions in the applicants' civil case had been fully consistent with the requirements of fairness under Article 6. Under national law, the applicants had to rely on the conclusions that the actions in question had been unlawful, or required to indicate the person or entity using the source of increased danger (Articles 1069 and 1079 of the Civil Code). As the applicants had failed to comply with either of these requirements, their complaints had rightly been dismissed by the domestic courts. Furthermore, their complaint under Article 13 was manifestly ill-founded, as they had had effective remedies within the national legal system, as demonstrated, for example, by the decision of 12 January 2010 by the Grozny Military Court.

57. The applicants considered that the court proceedings in which their civil claims had been examined had not been fair. In particular, they noted that the courts had arbitrarily dismissed their well-founded allegations that only the Ministry of Defence could have employed the planes and artillery used to carry out the attack; that the burden of proof of the exact circumstances of the tort had been shifted to them, in breach of national law; and that the courts had blocked the civil liability of the Ministry of Defence by substituting it with the individual liability of servicemen, which itself had been excluded under the Suppression of Terrorism Act. The applicants further pointed out that, in breach of Article 13, they had had no effective remedies for the violations alleged under Article 2, since the directions of the courts given in proceedings under Article 125 of the Criminal Procedural Code had been ignored by the investigators.

B. The Court's assessment

1. Admissibility

58. The Court notes that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

2. Merits

59. The Court considers that it should first address the applicants' complaint under Article 13 of the Convention, since, when an individual

formulates an arguable claim in respect of killing, torture or destruction of property involving the responsibility of the State, the notion of an "effective remedy", in the sense of Article 13 of the Convention, entails, in addition to the payment of compensation where appropriate, a thorough and effective investigation capable of leading to the identification and punishment of those responsible and including effective access by the complainant to the investigative procedure (see *Esmukhambetov and Others v. Russia*, no. 23445/03, § 159, 29 March 2011, with further references).

60. In the present case it is particularly clear that the civil remedies were futile in the absence of an effective criminal investigation. Even though the essential facts underlying the applicants' civil claim – the occurrence of the airstrikes and the deaths and injuries caused by them – were not put in question, the courts still refused to attribute responsibility to the Ministry of Defence as the most obvious defendant, given that the personal identity of the tortfeasor had not been established. Moreover, the Moscow City Court was of the opinion that in the circumstances of an anti-terrorist operation only unlawful actions on the part of the State could give rise to a claim for compensation. However, under the applicable legal framework, the liability for the actions which resulted in deaths, personal injuries and damage to property should normally be determined in criminal proceedings.

61. The essence of the applicants' complaint thus lies in the ambit of Article 13: namely, that in the consideration of the civil claim for damages the civil courts were unable to overcome the absence of conclusions which should have been reached in the course of a criminal investigation and, thus, to make any meaningful findings as to the perpetrators of the fatal attack, let alone establish their liability (see, in a similar context, *Khashiyev and Akayeva v. Russia*, nos. 57942/00 and 57945/00, § 121, 24 February 2005).

62. As the Court has held on many occasions, in circumstances where, as in the present case, a criminal investigation into the application of lethal force was ineffective, the effectiveness of any other remedy was consequently undermined (see *Khashiyev and Akayeva*, cited above, § 185; *Isayeva and Others*, cited above, §§ 147-149; and *Aslakhanova and Others v. Russia*, nos. 2944/06, 8300/07, 50184/07, 332/08 and 42509/10, § 156, 18 December 2012). In such circumstances, the State has failed in its obligation under Article 13 of the Convention.

63. In view of the above conclusion, the Court does not find it necessary to examine separately the applicants' complaint under Article 6.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

64. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. The applicants' claims

65. The applicants claimed sums ranging from 40,000 to 200,000 euros (EUR) in respect of non-pecuniary damage. Those applicants who had lost their relatives also claimed sums ranging from EUR 1,000 to 4,000 for the cost of burial and traditional commemoration ceremonies held for their deceased relatives.

66. The Government left the determination of the amounts of non-pecuniary awards to the consideration of the Court; as to pecuniary damages, they noted the absence of any proof of such expenses.

67. Having regard to the violations found under Articles 2 and 13 of the Convention, the Court finds it reasonable to award to the applicants the amounts in respect of non-pecuniary damage as detailed in the attached table.

68. As to the claims in respect of funeral expenses, such sums do not, owing to their nature, require substantiation (see *Bektaş and Özalp v. Turkey*, no. 10036/03, § 74, 20 April 2010). The Court considers it reasonable to assume that some costs were borne by the applicants in respect of their relatives' deaths and, in the absence of any reliable information as to the exact amount of those expenses, the Court considers it appropriate to award the applicants the amounts as stipulated in the attached table.

69. The applicants submitted no claim for reimbursement of costs and expenses. Therefore, the Court makes no award in this respect.

B. Default interest

70. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT,UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 2 of the Convention in respect of the applicants and their relatives, as regards the use of lethal force and as regards the obligation to investigate;

3. *Holds* that there has been a violation of Article 13 of the Convention;

4. *Holds* that there is no need to examine the complaint under Article 6 of the Convention;

5. *Holds*
   (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the amounts as designated in the attached table, plus any tax that may be chargeable on these amounts, to be converted into Russian roubles 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 amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 3 October 2013, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen Registrar	Isabelle Berro-Lefèvre President

	Applicant's name and year of birth	Relatives killed	Applicants injured	Awards under Article 41
1.	Sultan Abdulkhanov, born in 1953.	Khasan Abdulkhanov, born in 1977, the applicant's son.	The applicant lost his right leg and has been recognised as permanently (category 3) disabled.	Non-pecuniary award: EUR 100,000 (one hundred thousand euros); Pecuniary award: EUR 300 (three hundred euros)
2.	Adym Dakhayev, born in 1958.	Zula Dudayeva, born in 1961, the applicant's wife; Mayrbek Dakhayev, born in 1971, the applicant's brother.		Non-pecuniary award: EUR 120,000 (one hundred twenty thousand euros); Pecuniary award: EUR 600 (six hundred euros)
3.	Tama Musayeva, born in 1939.	Madina Musayeva, born in 1974, the applicant's daughter.		Non-pecuniary award: EUR 60,000 (sixty thousand euros); Pecuniary award: EUR 300 (three hundred euros)
4.	Zhanetta Khalidova, born in 1979.	The applicant's sisters Zalina Makhmurzayeva, aged 20, and Zaira Makhmurzayeva, aged 19; Lidiya Timisheva, born in 1946, the applicant's mother.		Non-pecuniary award: EUR 150,000 (one hundred and fifty thousand euros); Pecuniary award: EUR 900 (nine hundred euros)

5.	Roza Minazova, born in 1969.	Shumisat Minazova, born in 1936, the applicant's mother.		Non-pecuniary award: EUR 60,000 (sixty thousand euros); Pecuniary award: EUR 300 (three hundred euros)
6.	Taisa Elabayeva, born in 1962.		The applicant was wounded in the abdomen, as a result of which she has been recognised as permanently (category 3) disabled.	Non-pecuniary award: EUR 40,000 (forty thousand euros)
7.	Luiza Minazova, born in 1963.	Khalid Minazov, born in 1958, the applicant's husband.		Non-pecuniary award: EUR 60,000 (sixty thousand euros); Pecuniary award: EUR 300 (three hundred euros)
8.	Vakhid Ulubayev, born in 1955.	Valid Ulubayev, born in 1980, the applicant's son.		Non-pecuniary award: EUR 60,000 (sixty thousand euros); Pecuniary award: EUR 300 (three hundred euros)

9.	Shamsudi Eltiyev, born in 1958.	Rumisa Umkhanova (Eltiyeva), born in 1965, the applicant's wife.		Non-pecuniary award: EUR 60,000 (sixty thousand euros); Pecuniary award: EUR 300 (three hundred euros)
10.	Ayzdy Elabayev, born in 1949.	The applicant's daughters Kheda Elabayeva, born in 1974, and Eliza Elabayeva, born in 1976.		Non-pecuniary award: EUR 120,000 (one hundred and twenty thousand euros); Pecuniary award: EUR 600 (six hundred euros)
11.	Lema Mezhiyev, born in 1960.	Lom-Ali Mezhiyev, born in 1970, the applicant's brother; Supyan Mezhiyev, born in 1925, the applicant's father; Medinat Mezhiyeva, born in 1937, the applicant's mother.	The applicant received splinter wounds.	Non-pecuniary award: EUR 210,000 (two hundred and ten thousand euros); Pecuniary award: EUR 900 (nine hundred euros)
12.	Baudin Tagirov, born in 1948.	Mukhadin Tagirov, born in 1980, the applicant's son.		Non-pecuniary award: EUR 60,000 (sixty thousand euros); Pecuniary award: EUR 300 (three hundred euros)

13.	Idris Khamzatov, born in 1982.	Vakha Khamzatov, born in 1956, the applicant's father.		Non-pecuniary award: EUR 60,000 (sixty thousand euros) Pecuniary award: EUR 300 (three hundred euros