



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

FIRST SECTION

CASE OF GAKAYEVA AND OTHERS v. RUSSIA

*(Applications nos. 51534/08, 4401/10, 25518/10,
28779/10, 33175/10, 47393/10, 54753/10, 58131/10,
62207/10 and 73784/10)*

JUDGMENT

*This version has been rectified on 21 January and 18 March 2014
under Rule 81 of the Rules of the Court.*

STRASBOURG

10 October 2013

FINAL

17/02/2014

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

In the case of Gakayeva 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 Hajiyeu,

Linos-Alexandre Sicilianos,

Erik Møse,

Ksenija Turković,

Dmitry Dedov, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having deliberated in private on 17 September 2013,

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

PROCEDURE

1. The case originated in ten applications (see details in Appendix I) 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 Russian nationals (“the applicants”), on the dates indicated below in Appendix I.

2. The applicants were represented before the Court by Mr D. Itslyayev, a lawyer practising in Grozny, lawyers from the Stichting Russian Justice Initiative (SRJI), an NGO based in the Netherlands with a representative office in Russia, and lawyers from the Memorial Human Rights Centre, an NGO based in Moscow. 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 on various dates between 2000 and 2005 their thirteen relatives had been detained by State servicemen in Chechnya and that no effective investigation into the matter had taken place.

4. On 9 September 2011 the applications were communicated to the Government. It was also decided to rule on the admissibility and merits of the applications at the same time (Article 29 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicants are Russian nationals who live in various districts of the Chechen Republic. They are close relatives of persons who disappeared, allegedly, after having been arrested by servicemen, in various public places in the region. In each of the applications the events took place in areas under the full control of the Russian federal forces. The applicants have had no news of their missing relatives since the alleged arrests.

6. The applicants complained about the circumstances to law-enforcement bodies, and official investigations were opened. The proceedings were repeatedly suspended and resumed, and have remained pending for several years without attaining any tangible results. The investigations consisted mainly of making requests for information and formal requests to their counterparts in various parts of Chechnya and other regions of the North Caucasus to carry out operative search measures. The requests received negative responses or no replies at all.

7. From the documents submitted it appears that the relevant State authorities were unable to identify the State servicemen allegedly involved in the arrests or abductions.

8. In their observations the Government did not challenge the allegations as presented by the applicants. At the same time, they stated that there was no evidence to prove beyond reasonable doubt that State agents had been involved in the abductions.

9. Below are the summaries of the facts relevant to each individual complaint. The personal data of the applicants and their disappeared relatives, and some other key facts, are summarised in the attached table (Appendix I).

A. Application no. 51534/08, *Gakayeva v. Russia*

10. The applicant, Ms Rauzara¹ Gakayeva, was born in 1952 and lives in Avtury, Chechnya. She is represented before the Court by lawyers from the Stichting Russian Justice Initiative.

11. The applicant is the mother of Mr Timerlan Soltakhanov, who was born in 1977.

1. Abduction of Timerlan Soltakhanov

12. According to the applicant, on 7 June 2003 Timerlan Soltakhanov went to Shali with his aunt, Ms R.G., to visit his sister,

¹ Rectified on 18 March 2014: the text was “Ms Zara Gakayeva”

Ms T. Akh. Timerlan and his two female relatives met an acquaintance, Mr Dzh. Abdurzakov, near the central market. The four of them were talking when a grey UAZ minivan (*tabletka*) pulled over and a group of six or seven armed men of Slavic appearance got out of the vehicle. The men, who were in camouflage uniforms and armed with automatic weapons, opened gunfire. Timerlan Soltakhanov was wounded in the leg and fell. The men put him in their vehicle. Meanwhile, two UAZ vehicles from the Shali district department of the interior (“the Shali ROVD”) arrived at the scene. The police officers tried to stop the men from driving away. As a result, two of the men, who had not managed to get into the vehicle, started fighting with the police; they were eventually detained by the police and taken to the Shali ROVD.

13. Shortly after the events the applicant and two other individuals went to the Shali ROVD where the head of the Shali district department of the Federal Security Service (“the Shali FSB”), in the presence of the head of the Shali town administration and the head of the Avtury village administration, explained to them that the man who had been wounded during the arrest was not Timerlan Soltakhanov, but Mr Dzh. Abdurzakov, sought by the authorities as an active member of illegal armed groups. The head of the FSB denied that his servicemen had participated in the arrest but could not explain how he knew about the events.

14. According to the applicant, it was her son, Timerlan Soltakhanov, whom the authorities had wounded and arrested by mistake on 7 June 2003 and not Mr Dzh. Abdurzakov, who remained at large. At a later date she learnt that Mr Dzh. Abdurzakov had been killed resisting arrest in 2005.

15. There has been no news of Timerlan Soltakhanov since 7 June 2003.

2. Official investigation

16. The Government furnished a copy of “the entire criminal case file no. 22099” without specifying the number of pages. The information submitted may be summarised as follows.

(a) Opening of the criminal investigation

17. On 9 June 2003 the applicant complained to the Shali district prosecutor’s office, stating that on 7 June 2003 her son Timerlan Soltakhanov had been abducted in broad daylight at the Shali bus station by military servicemen driving a UAZ minivan.

18. On 25 June 2003 the Shali district prosecutor’s office opened criminal case no. 22099 under Article 126 of the Criminal Code (abduction).

(b) Main witness statements taken by the investigators

19. On 25 June 2003 the applicant's daughter, Ms T. Akh, stated that she had witnessed the abduction of her brother, Timerlan Soltakhanov, by a group of armed servicemen in camouflage uniforms at the Shali bus station. The servicemen had wounded Timerlan, then had forced him into their UAZ minivan, which had had no registration number, and driven away.

20. On 18 May 2004 the applicant stated that at about 12 noon on 7 June 2003, she and her relatives had been at the bus station at the centre of Shali when two military vehicles, a Gazel and a UAZ, had arrived at the scene. Armed men in camouflage uniforms had got out of the vehicles and cordoned off the bus station. She had then seen a man with a gun running away. The armed men had attempted to grab Timerlan and fired several gunshots. Timerlan had fallen to the ground; the men had picked him up and put him in their grey UAZ vehicle. After that both vehicles had driven away. The applicant, together with a number of other individuals present during the incident, had followed the abductors' vehicles on foot and seen them pulling over at the premises of the Shali FSB.

21. On 19 May 2004 Ms Z.M. stated that in the summer of 2003 she had been working as a vendor near the bus station in the centre of Shali. At around 12 noon on an unspecified date that summer, she had heard gunfire at the bus station and had seen armed men in camouflage uniforms running around. She had later learnt that the men had arrested someone.

22. On 5 June 2006 the investigator questioned Mr I.E., a member of a human rights organisation affiliated with the Moscow Helsinki Project Group. The relevant part of his statement reads as follows:

“... At around 12 noon on 7 June 2003 while crossing the centre of Shali near the bus station, I witnessed a group of armed men in camouflage uniforms dragging a wounded young man in civilian clothes to a grey UAZ ... Afterwards, I questioned the eyewitnesses and found out that the armed men had fired at Timerlan Soltakhanov ... I went to the Shali ROVD to inquire about the incident. [Mr M.A., the head of the Shali ROVD] told me that ... this operation had been conducted by officers of [the Shali FSB] ... [Mr M.A.] called [A.K., the head of the Shali FSB] to come to his office. After ten to fifteen minutes, A.K. came over ... and I asked him how they had conducted the operation as a result of which they had killed an innocent man, Timerlan Soltakhanov. Mr A.K. replied that the arrested man had not been killed, but only wounded and that his name was not Timerlan Soltakhanov, but Dzh. Abdurzakov, who was an active member of illegal armed groups ... Mr A.K. also mentioned that the officers of his department had taken part in this operation ... but then added that he did not know who had carried out this operation ... After that I left ... Sometime later I learnt that Dzh. Abdurzakov had been killed in 2005 resisting arrest. Therefore, the man arrested on 7 June 2003 in the centre of Shali was not Dzh. Abdurzakov, but Timerlan Soltakhanov, who had been arrested by mistake ...”

(c) Main investigative steps taken by the authorities

23. On 10 and 11 June 2003 the Shali district prosecutor's office requested that the Shali FSB inform them whether they had arrested and

detained the applicant's son. The letters stated that Timerlan Soltakhanov had been arrested on 7 June 2003 by officers of the Shali FSB in the centre of Shali and that the incident had taken place in the presence of numerous witnesses, including his sister and officers of the Shali ROVD.

24. On 25 June 2003 the applicant's daughter, Ms T. Akh., was granted victim status in the criminal case.

25. On the same date the investigators questioned several witnesses.

26. On 30 June 2003 the Shali FSB informed the investigators that they had not arrested or detained the applicant's son.

27. On 17 July 2003 the investigators again asked the Shali FSB to inform them of the reasons for Timerlan Soltakhanov's arrest, pointing out that the latter had been arrested in the presence of numerous witnesses, including police officers. No reply was given to the request. The investigators also sent requests to various law-enforcement agencies seeking information about the possible carrying out of special operations on the day of the abduction of the applicant's son.

28. On an unspecified date the investigators sent an information request to the Shali ROVD. The relevant parts of the request read as follows:

“The investigation has established that at about 12 noon on 7 June 2003 unidentified armed men in camouflage uniforms, [who] belonged to federal forces and arrived in a UAZ vehicle, wounded [the applicant's son] ... and then arrested [him] in the centre of Shali.

At the above-mentioned time on 7 June 2003 officers of the Shali FSB, Mr M.Ya. and Mr S.T., were beaten and taken to the [police station] by officers of the Shali ROVD. According to the officers of the Shali ROVD, these men were taken there in connection with the abduction of Timerlan Soltakhanov. Mr M.Ya. and Mr S.T. stated that the arrest which had taken place had been that of a certain Mr Abdurzakov, a member of illegal armed groups, and that, therefore, they had been beaten and detained by the police officers without any grounds ...”

29. On 25 August 2003 the investigators questioned the two officers of the Shali ROVD who had been on duty at the police station on 7 June 2003. Both officers denied having seen anyone being brought to the police station on that date.

30. On 25 August 2003 the investigation of the criminal case was suspended for failure to identify the perpetrators.

31. On 16 April 2004 the supervising prosecutor overruled the decision to suspend the investigation as unlawful and premature, and ordered that it be resumed.

32. On 5 May 2004 the investigators examined the crime scene. No evidence was collected.

33. On 18 May 2004 the applicant was granted victim status in the criminal case.

34. The investigation was further suspended and resumed on numerous occasions and is still pending.

3. Proceedings to obtain access to the file

35. On 9 February 2007 the applicant requested that the investigators allow her to access the investigation file.

36. On 21 February 2007 the investigators rejected her request, stating that she had the right of access to the file only following completion of the investigation.

37. On 24 July 2007 the applicant appealed against the refusal to the Shali District Court.

38. On 22 October 2007 the court rejected her complaint.

39. On 20 February 2008 the Chechnya Supreme Court overruled the decision and forwarded the complaint for a fresh examination.

40. On 28 March 2008 the Shali District Court allowed the applicant's complaint.

41. On 18 August 2008 the applicant and her lawyer were allowed to familiarise themselves with the contents of the investigation file.

B. Application no. 4401/10, *Yesiyeva and Others v. Russia*

42. The applicants are:

- 1) Ms Laylya Yesiyeva, born in 1937;
- 2) Ms Zulkahn Dzukayeva, born in 1973;
- 3) Mr Ziaudi Yesiyev, born in 1936;
- 4) Ms Malika Yesiyeva, born in 1996;
- 5) Mr Shamil Yesiyev, born in 1998;
- 6) Mr Shamkhan Yesiyev, born in 1999, and
- 7) Mr Khalid Yesiyev, born in 2002.

43. The applicants live in Grozny, Chechnya. They are represented before the Court by lawyers from the Stichting Russian Justice Initiative.

44. The applicants are close relatives of Mr Aldam Yesiyev (also spelled Yelsiyev), who was born in 1967. The first applicant is his mother, the second applicant is his wife, the third applicant is his father and the fourth, fifth, sixth and seventh applicants are his children.

1. Abduction of Aldam Yesiyev

45. At the material time Aldam Yesiyev was working as a taxi driver of a Gazel minivan, on the route between Grozny and Urus-Martan.

46. According to the applicants, at about 3 p.m. on 19 September 2002 Aldam Yesiyev was in his minivan at a taxi stand located next to a café on Sovetskaya Street in the centre of Urus-Martan. A group of armed masked men in military uniforms arrived at the taxi stand in two khaki-coloured UAZ vehicles, one of which was a minivan (*tabletka*). They jumped out of the vehicles, grabbed Aldam Yesiyev and forced him into one of their vehicles. Speaking unaccented Russian, they threatened to shoot the

bystanders if anyone tried to approach. They then drove away in the direction of Grozny.

47. There has been no news of Aldam Yesiyev ever since.

2. *Official investigation*

48. The Government submitted a copy of the entire content (228 pages) of criminal case file no. 61133 on the abduction of Aldam Yesiyev. The information submitted may be summarised as follows.

(a) **Opening of the criminal investigation**

49. On 20 September 2002 the third applicant complained about the abduction to the Urus-Martan district department of the interior (“the Urus-Martan ROVD”), stating that on 19 September 2002 his son Aldam had been abducted in broad daylight from his vehicle in Urus-Martan by armed masked men in military uniforms who had been driving two UAZ vehicles.

50. On 27 September 2002 the Urus-Martan district prosecutor’s office (“the district prosecutor’s office”) opened criminal case no. 61133 under Article 126 of the Criminal Code (abduction).

(b) **Main witness statements taken by the investigators**

51. On 27 September 2002 Mr M. Sh., a school teacher, informed the investigator that he had been walking home from school along Sovetskaya Street when he had seen a military minivan (*tabletka*) pulling over at the taxi stand. A group of about five armed masked men in military uniforms had got out of their vehicle, surrounded a Gazel minivan and dragged the driver out of the vehicle. After kicking him several times, they had forced him into one of their vehicles and driven away in the direction of Grozny.

52. On the same date the third applicant was questioned. He stated that a taxi driver had arrived at his home and informed him about the abduction of his son.

53. On 19 November 2002 Mr A.V., a taxi driver, stated that he had been sitting in a car with other taxi drivers at the taxi stand when he had seen a UAZ vehicle drive speedily away. He learnt from bystanders that Aldam Yesiyev had just been taken away.

54. On 25 April 2006 the investigators questioned the first and second applicants, who stated that at about 5 p.m. on 19 September 2002 taxi drivers had arrived at their home and informed them about the abduction of Aldam by armed masked men in camouflage uniforms, who had been driving two UAZ vehicles.

55. On 6 May 2009 the investigators questioned the first applicant, who stated that five days prior to her husband’s abduction, on 14 September 2002, she and her husband had been stopped at the checkpoint next to the

railway station in Grozny for an identity check. Having checked their passports, the servicemen told her husband that he was lucky that his surname was not “Yevsiyev”. The first applicant found out that the authorities had been searching for a certain Mr Yevsiyev, the spelling of whose surname was similar to that of Aldam’s.

(c) Main investigative steps taken by the authorities

56. On 27 September 2002 the third applicant was granted victim status in the criminal case and questioned.

57. In October and November 2002 the district prosecutor’s office requested various law-enforcement agencies to provide information about Adam Yesiyev’s arrest and detention. Negative replies were given.

58. On 27 November 2002 the investigation was suspended for failure to identify the perpetrators. No investigative steps were taken between November 2002 and April 2006.

59. On 8 April 2006 the supervising prosecutor overruled the decision to suspend the investigation as unlawful and premature, and ordered that it be resumed.

60. On 10 April 2006 the district prosecutor’s office ordered the ROVD to carry out operative search measures.

61. On 17 April 2006 the second applicant was granted victim status in the criminal case and questioned.

62. On 25 April 2006 the first and second applicants were questioned.

63. On 8 May 2006 the investigation was suspended. It was resumed the next day and then suspended again.

64. On 6 May 2009 the first applicant was granted victim status in the criminal case and questioned.

65. In May 2009 the investigators again sent numerous information requests to various law-enforcement agencies about Aldam’s arrest and detention. Negative replies were given.

66. The criminal proceedings are still pending.

C. Application no. 25518/10, *Alimkhanova and Others v. Russia*

67. The applicants are:

- 1) Ms Madina Alimkhanova, born in 1976;
- 2) Mr Aslanbek¹ Alimkhanov, born in 1970;
- 3) Mr Ibragim Alimkhanov, born in 1994;
- 4) Mr Imam Alimkhanov, born in 1996;
- 5) Mr Rakhman Alimkhanov, born in 1999;
- 6) Mr German Alimkhanov, born in 1997;

¹ Rectified on 21 January 2014, previously the name read Aslambek.

- 7) Mr Rakhim Alimkhanov, born in 2001;
- 8) Mr Turpal Khatulov, born in 2000;
- 9) Ms Linda Khatulova, born in 1998, and
- 10) Ms Khadizhat Khatulova, born in 1995;

68. The applicants live in Argun, Chechnya. They are represented before the Court by Mr D. Itslyayev.

69. The applicants are from two related families. They are close relatives of Mr Khamzat Alimkhanov, who was born in 1972, and Mr Sulim Khatulov, who was born in 1970. The first applicant is the sister of Khamzat Alimkhanov and the wife of Sulim Khatulov; the second applicant is Khamzat Alimkhanov's brother; the third, fourth, fifth, sixth and seventh applicants are his sons. The eighth, ninth and tenth applicants are Sulim Khatulov's children.

1. Abduction of Khamzat Alimkhanov and Sulim Khatulov

70. At the material time the first, eighth, ninth and tenth applicants lived in Komsomolskaya (also spelt Komsomolskoye) village in the Grozny district of Chechnya. It appears that the other applicants, as well as Khamzat Alimkhanov, lived in Argun.

71. On 25 January 2001 Khamzat Alimkhanov went to Komsomolskaya to visit the first applicant.

72. On 26 January 2001 Russian federal forces from the 71st regiment of the Ministry of Defence ("the MO") and the 46th brigade of the Ministry of the Interior ("the MVD") arrived in Komsomolskaya in armoured personnel carriers ("APC"), battle infantry vehicles ("BMP") and military Ural lorries to conduct a special "sweeping" operation. The military servicemen cordoned off the village and ran an identity check of all the residents.

73. According to the applicants, at about 10 a.m. on 26 January 2001 Khamzat Alimkhanov decided to go back to Argun. He and his brother-in-law, Sulim Khatulov, were walking to the bus station when they were stopped by servicemen for an identity check. When they discovered that Khamzat did not reside in Komsomolskaya, the servicemen detained him for a further check. Sulim decided to accompany Khamzat. Having seen Sulim and Khamzat talking to the servicemen, the head of Komsomolskoye village administration, Mr K. B., approached and asked what was going on. The servicemen told him that they were taking Khamzat to the operation's headquarters on the north-eastern outskirts of the village for a further check. The servicemen put Khamzat and Sulim into a Ural vehicle and drove away.

74. At about 11 a.m. Mr K. B. went to the headquarters and spoke with a military colonel, who introduced himself as "Butov" and who confirmed that Sulim Khatulov and Khamzat Alimkhanov had been apprehended by servicemen and then taken somewhere, but not to their premises.

75. The special operation finished in the afternoon of 26 January 2001. The military servicemen split into two groups and drove to Khankala, where

the main base of the federal forces was located, and to the village of Goryacheistochkinskaya in the Grozny district.

76. There has been no news of Khamzat Alimkhanov and Sulim Khatulov ever since.

2. Official investigation

77. The Government submitted a copy of “the entire criminal case file no. 19015” (244 pages) into the abduction of Khamzat Alimkhanov and Sulim Khatulov. The information submitted may be summarised as follows.

(a) Opening of the criminal investigation

78. From the documents submitted it appears that Khamzat Alimkhanov’s father, Mr L.A., reported the abduction of his son and Sulim Khatulov to the authorities at the latest on 5 February 2001 (see paragraphs 80 and 81 below).

79. On 28 February 2001 the Grozny district prosecutor’s office opened criminal case no. 19015 under Article 127 of the Criminal Code (unlawful deprivation of liberty). The relevant parts of the decision read as follows:

“... Between 7 a.m. and 2 p.m. on 26 January 2001 in the village of Komsomolskoye a ‘sweeping’ [operation] was conducted by servicemen from the 71st regiment and 46th brigade ... assisted by officers of the military commander’s office, the FSB and the VOVD [temporary department of the interior] of the Grozny district.

In the course of the operation at about 12 noon Sulim Khatulov ... was arrested near his home. Together with him, his brother-in-law ... Khamzat Alimkhanov was also arrested. Afterwards, they were both put into a KAVZ bus with the registration number 15-61 SA and taken away to an unknown destination ...”

(b) Main witness statements taken by the investigators

80. On 30 January 2001 the investigators questioned an officer of the Grozny district VOVD, Mr O.A., who confirmed that his department had participated in the special operation, but stated that his unit had not detained anyone.

81. On 31 January 2001 the head of the village administration, Mr K.B., informed the investigator that at about 12 noon on 26 January 2001 during the special operation Khamzat Alimkhanov and Sulim Khatulov had been detained following a passport check and had been taken away in a vehicle with the registration number 15-61 SA.

82. On 28 March 2001 the deputy commander of the 71st regiment, Mr V.K., who was responsible for the special operation, told the investigators that on 26 January 2001 he and officers of the 46th brigade of the MVD and the Grozny district VOVD had conducted a special operation in Komsomolskoye. However, his regiment had not arrested any of the local residents and he did not know whether anyone had been arrested by officers of the 46th brigade or the VOVD. Two members of the regiment, Mr Z.O.

and Mr N.N., were also questioned by the investigators and gave statements similar to the one given by their superior, Mr V.K.

83. On 10 April 2004 the first applicant stated that on 25 January 2001 her brother had visited her at her home because she had been ill. At about 1 p.m. the following day, a neighbour had told her that her husband and brother had been taken away by military servicemen. She later found out that they had been taken to the military headquarters located next to a farm. She had gone to their premises, but had not been allowed to enter. Then the head of the village administration, Mr K.B., together with a police officer, Mr H.B., had also gone there and had been let in. They later told her that her relatives had been transferred elsewhere, but did not specify the location.

84. On 12 April 2004 the second applicant stated that on 25 January 2001 his brother, Khamzat Alimkhanov, had gone to Komsomolskaya to visit their sister, Ms M.A., who had been ill. The next day Sulim Khatulov's brother, Mr R.Kh, had arrived at their family house and told them that Khamzat and Sulim had been detained by servicemen of the 71st regiment under the command of Colonel "Butov". Sulim and Khamzat had then been taken to the premises of the 71st regiment, from where they had been transferred to the military base in Khankala in a Ural lorry with the registration number 15-61 SA.

(c) Main investigative steps taken by the authorities

85. On 28 February 2001 the investigator sent requests to various law-enforcement agencies asking for information concerning the whereabouts of the abducted men. No replies were received.

86. On 28 April 2001 the investigation was suspended for failure to identify the perpetrators. No more investigative steps were taken until March 2004.

87. On 10 March 2004 the investigation was resumed. It was further suspended and resumed on several occasions.

88. On 15 March 2004 the father of Khamzat Alimkhanov, Mr L.A., was granted victim status in the criminal case.

89. On 18 March 2004 the Grozny district prosecutor's office ordered the police to carry out operative search measures.

90. On 10 April 2004 the first applicant was granted victim status in the criminal case. On the same date the investigation was suspended. The applicants were not informed thereof.

91. On 10 December 2004 the investigator added photographs of Khamzat Alimkhanov and Sulim Khatulov to the criminal case file.

92. On 29 November 2004 the investigation was resumed and then on 30 December 2004 it was again suspended. The applicants were not informed thereof.

93. On 23 January 2007 the investigation was again resumed and several witnesses were questioned. On 23 February 2007 it was suspended yet again. The applicants were informed thereof.

94. On an unspecified date between February 2007 and March 2008 the applicants requested that the investigation be resumed.

95. On 14 April 2008 the investigation was resumed and then suspended on 14 May 2008. The applicants were informed thereof in writing on 30 May 2008. The letter also stated that in spite of the suspension, operational search measures were being carried out to have the crime resolved.

96. On 1 December 2011 the criminal proceedings were resumed and are currently pending.

D. Application no. 28779/10, *Magamadova v. Russia*

97. The applicant is Ms Kamizat Magamadova, who was born in 1953 and lives in Urus-Martan, Chechnya. She is represented before the Court by Mr D. Itsleyev.

98. The applicant is the mother of Mr Akhmed Gazuyev, who was born in 1976.

1. Special operation in Urus-Martan

99. At about 11 a.m. on 25 December 2000 the federal forces were conducting a special operation in the vicinity of the market in Urus-Martan to arrest members of an illegal armed group. According to operative information, the group was preparing to commit a terrorist attack against the head of the local administration. Two members of illegal armed groups, Mr K.N. and Mr A.D., were shot dead in their vehicles as a result of an exchange of fire. A submachine gun, pistols, cartridges and a grenade launcher (*Шмель*) were found in their vehicles. Mr Kh. Elzh., who had been driving one of the vehicles, was taken to the Chechnya FSB and questioned.

2. Abduction of Akhmed Gazuyev

100. According to the applicant, at about 11 a.m. on 25 December 2000 the servicemen, who had arrived at the market in an APC, a Ural lorry and a VAZ-2121 (“Niva”) car belonging to the head of the local administration, Ms Sh.Ya., detained Akhmed Gazuyev who had been walking to his aunt’s house. The servicemen put him in the Niva car and took him to the centre of Urus-Martan. The applicant later discovered that Mr Kh. Elzh., who had been in the same vehicle as Mr K.N. during the operation, had also been arrested by the servicemen.

101. In the morning of 26 December 2000 the applicant was informed by her cousin, Mr U.G., about her son’s arrest during the special operation.

Mr U.G. told her that he had just seen her son Akhmed sitting in a Niva car between two military servicemen; the car, along with the APC and the Ural lorry, had passed by Mr U.G.'s house.

102. In the evening of 27 December 2000 the Urus-Martan district military commander, Mr G.G., stated in a television programme that his unit had arrested a member of illegal armed groups, and read out identity information on Akhmed Gazuyev.

103. On 28 December 2000 the applicant's cousin, Mr U.G., talked to the head of the local administration, Mr Sh. Ya. The latter confirmed that Akhmed Gazuyev had been arrested by servicemen and was being detained in the Urus-Martan district military commander's office.

104. Several days later the deputy head of the administration, Mr L.M., informed the applicant that her son Akhmed had been transferred from Urus-Martan to the village of Tangi-Chu in the Urus-Martan district.

105. The applicant went to Tangi-Chu, where a soldier told her that her son had been transferred from there to the main military base of the federal forces in Khankala, Chechnya.

106. The applicant visited the Khankala military bases on several occasions, but was unable to obtain any information about her son. There has been no news of Akhmed Gazuyev since his arrest.

107. On 22 March 2001 the bodies of Mr Kh. Elzh. and an unidentified man with traces of torture were found in the tank of an abandoned petrol station next to the main road between Urus-Martan and Alkhan-Yurt. One of the bodies had numerous bone fractures and the skull had been partially destroyed. The other had been beheaded.

3. Official investigation

108. The Government submitted a copy of the entire criminal case file no. 25239 (128 pages) on the abduction of Akhmed Gazuyev. The information submitted may be summarised as follows.

(a) Opening of a criminal investigation into attempted acts of terrorism

109. On 25 December 2000, following a special operation, the Urus-Martan district prosecutor's office ("the district prosecutor's office") opened a criminal investigation (case no. 24094) into attempted acts of terrorism, illegal storage of firearms and participation in illegal armed groups.

110. On 26 December 2000 the investigator from the Urus-Martan FSB questioned Mr Kh. Elzh. The latter stated that he had bought ammunition from soldiers of federal forces and sold them to members of illegal armed groups. At about 10 a.m. on 25 December 2000 he had met Mr K.N., who had climbed into his car and told him that there would be a meeting with leaders of illegal armed groups. Ten minutes later federal servicemen had arrived and forced them to get out of the car. Mr K.N. had attempted to escape, but the servicemen had shot him dead.

111. On 26 January 2001 the Chechnya Prosecutor's office examined the case file and ordered the district prosecutor's office to take investigative steps, stating, amongst other things, the following:

“ ... These orders are to be followed in criminal case no. 24094, opened into the arrest of [Mr Kh. Elzh], [Akhmed Gazuyev] and [Mr A.D.] in Urus-Martan, and their subsequent death ...

In the course of the investigation it is necessary that the investigators: ...

4. Question the FSB investigator who interrogated the detained Mr Kh. Elzh. and find out where [the latter] was subsequently transferred for detention.

5. Request and include in the case file documents confirming the death of Mr Kh. Elzh. and Akhmed Gazuyev...”

112. On 18 January 2001 the investigator requested that the Urus-Martan FSB provide information concerning the whereabouts of Mr Kh. Elzh. On 1 February 2001 the FSB replied:

“On 25 December 2000 Mr Kh. Elzh. was arrested by officers of [the VOVD]. On 26 December 2000 he was questioned by the investigator of [the FSB department]. Upon completion of the investigative steps Mr Kh. Elzh. was released ... At present we have no information concerning Mr Kh. Elzh.'s whereabouts ...”

113. On 25 February 2001 the investigator decided to suspend the investigation for failure to identify the perpetrators. He stated that Mr K.N. and Mr A.D. had been killed during the special operation and that one member of an illegal armed group whose identity was impossible to establish had managed to abscond.

(b) Institution of criminal proceedings in connection with the discovery of bodies

114. Following the discovery of the bodies of Mr Kh. Elzh. and an unidentified man on 22 March 2001, the investigator examined the crime scene. He did not order a forensic examination of the bodies and no attempts were made to establish the identity of the second body.

115. On 28 March 2001 the district prosecutor's office instituted criminal proceedings (case no. 25257) under Article 105 the Criminal Code (murder).

(c) Opening of a criminal investigation into Akhmed Gazuyev's disappearance

116. On 11 March 2001 Mr U.G., the applicant's husband, complained about the disappearance of his son to the Urus-Martan temporary district department of the interior (“the VOVD”).

117. On 21 March 2001 the VOVD opened criminal case no. 25239 under Article 126 of the Criminal Code (abduction).

(d) Main witness statements taken by the investigators and main investigative steps taken by the authorities

118. On 28 December 2000 the investigators questioned the deputy head of the local administration, Mr L.M., who stated that he had participated in the special operation on 25 December 2000 and that he had, amongst other things, personally assisted in the detention of Akhmed Gazuyev:

“... I dragged him out of the car; then I searched the vehicle and I found a bomb prepared for explosion on the back seat. We ... took [Akhmed Gazuyev] to the premises of the local administration ...”

119. On 21 February 2001 the district prosecutor’s office informed the applicant that Akhmed Gazuyev had not been detained in the VOVD and no criminal charges had been brought against him.

120. On 11 March 2001 the applicant’s husband informed the investigator that on 25 December 2000 Akhmed had left home at about 11 a.m. and had not been since since. He further stated that on 27 December 2000 the Urus-Martan district military commander, Mr G.G., had said in a television programme that the authorities had arrested members of illegal armed groups and named among them Akhmed Gazuyev.

121. On 21 March 2001 the applicant’s husband was granted victim status in the criminal case.

122. On 22 March 2001 the applicant was questioned and gave a statement similar to her husband’s statement of 11 March 2001.

123. On 23 March 2001 the investigator examined the crime scene. No evidence was collected.

124. On 28 May 2001 the investigation was suspended for failure to identify the perpetrators and then resumed upon the supervising prosecutor’s orders on 30 October 2001.

125. On 31 October 2001 the investigator joined criminal cases nos. 24094, 25257 and 25239, Akhmed Gazuyev being the subject of all three cases.

126. On 30 November 2001 the investigation was again suspended.

127. On 15 December 2006 and 12 February 2007 the applicant was informed by the Urus-Martan ROVD and the Urus-Martan district prosecutor’s office that the authorities were carrying out operational search measures to establish the whereabouts of her missing son.

128. On 18 November 2009 the investigation was resumed and the applicant was granted victim status in the criminal case. The investigator sent requests to various law-enforcement agencies asking them to provide information about Akhmed Gazuyev’s whereabouts.

129. On 19 November 2009 the investigation was suspended and the applicant was informed thereof.

130. The investigation is currently pending.

4. Proceedings to gain access to the file

131. On 9 December 2009 the applicant appealed to the Achkhoy-Martan District Court against the investigator's refusal to grant her access to investigation file no. 25239.

132. On 21 December 2009 the court granted the request and ordered the investigator to allow the applicant to access the investigation file.

E. Application no. 33175/10, *Arzhiyeva v. Russia*

133. The applicant, Ms Rumi Arzhiyeva, was born in 1958 and lives in Avtury, Chechnya. She is represented before the Court by Mr D. Itslayev.

134. The applicant is the mother of Mr Usman Arzhiyev, who was born in 1978, and of Mr Valid Arzhiyev, who was born in 1986.

1. Abduction of the Arzhiyev brothers

135. According to the applicant, in the morning of 3 May 2005 the applicant's sons, Usman and Valid Arzhiyev, were tending sheep on the south-eastern outskirts of Avtury.

136. At about 7 p.m. on that day the flock of sheep returned home without the shepherds. The applicant and her relatives were worried and went to the pasture to look for the brothers. There they found a piece of Usman's clothing and footprints left by military boots. The applicant's relatives followed the prints for about four or five kilometres and found traces of tyre tracks made by an APC and a Ural lorry.

137. The applicant immediately informed the head of the village administration, Mr I.U., about the brothers' disappearance.

138. Later that evening the head of the administration informed the applicant that her sons had been detained by military servicemen stationed on the premises of the Avturinksiy State farm.

139. At about 10 p.m. the head of the administration again confirmed to the applicant that her sons had been arrested by military servicemen and that they would be released soon.

140. On 4 May 2005 the head of the local administration told the applicant that he would talk to the servicemen about releasing the brothers.

141. In the evening of the same day the applicant managed to gain access to the military unit stationed at the State farm. Through a window of a brick-built storehouse, she saw her sons Usman and Valid standing against the wall with their hands behind their backs. They were alone in an empty room with a concrete floor.

142. Three days later, on 6 or 7 May 2005 the head of the administration told the applicant that her sons had been transferred from the premises of the military unit.

143. According to the applicant, soldiers from the military unit told her that detainees were usually transferred from their premises to the main military base of the federal forces in Khankala.

144. The applicant has had no news of her sons ever since.

2. Official investigation of the abduction

145. The Government submitted a copy of criminal case file no. 46049 (292 pages) on the abduction of Usman and Valid Arzhiyev. The information submitted may be summarised as follows.

(a) Opening of a criminal investigation

146. On 4 May 2005 the uncle of Usman and Valid Arzhiyev, Mr B.A., complained about the abduction to the Shali district prosecutor's office. He stated that his nephews had disappeared while tending sheep on local pasture land, that he and his relatives had subsequently found items of clothing along with traces of APC tyre tracks at the place of the disappearance, and that the family suspected that the Arzhiyev brothers had been abducted by military servicemen.

147. On 8 May 2005 the prosecutor's office opened criminal case no. 46049 under Article 105 of the Criminal Code (murder). The charge was subsequently reclassified, on 13 January 2009, under Article 126 of the Criminal Code (abduction).

(b) Main witness statements taken by the investigators

148. On 4 May 2005 the investigator questioned a number of witnesses, including the applicant, Mr B.A. and Mr M.B. The applicant stated that on 3 May 2005 her sons, Usman and Valid Arzhiyev, had gone to tend sheep on the outskirts of Avtury. By 5 p.m., after their dog and sheep had returned home, she had become worried and had gone to the pasture to search for her sons, but no to avail. She had found some of her sons' clothing near the forest.

149. Mr B.A. gave a similar statement and added that at the place of the disappearance he had also found footprints left by army boots and traces of tyre tracks made by military vehicles such as APCs and Ural lorries leading to a former summer camp.

150. Mr M.B., a local resident, stated that at about 9 a.m. on 3 May 2005 he had seen two APCs and a Ural military lorry at the exit of the village of Avtury. They had been moving in the direction of the former summer camps.

151. On 12 May 2006 the investigators again questioned the applicant. She stated, amongst other things, that at the place of her sons' disappearance, she and her fellow villagers had found footprints left by military boots, which had led them to tyre tracks made by APCs and a Ural

lorry, and that those types of vehicles had been seen near the village on the day before the abduction. The investigation questioned several of the applicant's relatives and neighbours, all of whom gave a similar statement to the effect that traces of the military had been found at the place of the disappearance.

152. On 19 May 2006 the head of the local administration, Mr P.M., told the investigation that on 4 May 2005 he had learnt about the disappearance of the Arzhiyev brothers. He and his colleague, Mr I.U., had decided to search for the applicant's sons at the premises of military unit SSG-1 stationed on the outskirts of the village, where they had met the unit's commander and his deputy. The officers had denied detaining the Arzhiyev brothers.

153. On various dates in June 2005 the investigators questioned a number of local residents whose statements were of a similar nature: they had all seen APCs and a military Ural lorry patrolling the area around the date of the abduction.

154. On 5 June 2006 and again on 11 February 2008, in addition to her initial submissions, the applicant stated that the then head of the local administration, Mr I.U., who had since died, had gone to military unit SSG-1 stationed in Avtury to enquire about her sons' whereabouts. He had then informed her that her sons had been detained at the unit and that they would be released after the check concerning their involvement in illegal armed groups. She further stated that on 5 May 2005 she had gone to the premises of that unit to find out about her sons' fate. A soldier guarding the entrance had asked her whether their dog had returned home on the day of her sons' disappearance. The applicant had found it suspicious that the soldier had known that the family had had a dog.

(c) Main investigative steps taken by the authorities

155. On 4 May 2005 the investigators examined the crime scene. The established traces of vehicle tyre tracks were identified as "similar to those of an APC or a tractor" and photographed. The clothes found at the scene were collected as evidence. No forensic examination was conducted in respect of the tyre tracks and other material evidence.

156. On 12 May 2005 the applicant was granted victim status in the criminal case and questioned.

157. On 26 May 2005 the investigator requested the Shali ROVD to carry out operative search measures.

158. On 8 July 2005 the investigation of the criminal case was suspended for failure to identify the perpetrators and the applicant was informed thereof.

159. On 1 August 2005 and again on 17 February 2006 the applicant wrote to the Chechnya prosecutor stating that her sons had been abducted by military servicemen. She requested that the criminal investigation into the

abduction be conducted by a military prosecutor's office. No replies were given to her requests.

160. On 5 April 2006 the supervising prosecutor held that the investigation had been unlawfully suspended and ordered that it be resumed.

161. On 25 April 2006 the Shali prosecutor instructed the investigators to verify, amongst other things, whether the Arzhiyev brothers had been detained by servicemen of the SSG-1 military unit and to question the unit's superior officers to that end. On 5 May 2006 the Chechnya FSB informed the investigators that "military unit SSG-1" did not exist. On 10 May 2006 the Chechnya MVD informed the investigators that the personnel of SSG-1 (also known as SOG-7) had changed and the current staff of the military unit had no pertinent information.

162. On 20 January 2007 the Shali prosecutor's office asked the FSB to name the officers of the military unit SSG-1 who had been stationed in Avtury in May 2005. No reply was given.

163. On 17 January 2011 the Shali investigations department informed the applicant of the following:

"...Given that the involvement of servicemen of the federal forces in the abduction of [Usman and Valid Arzhiyev]... has been established, it has been decided to transfer the criminal case for further investigation to the [military investigating authority]."

164. On 21 July 2011 the Chechnya investigations department returned the criminal case to the Shali investigations department, stating that there was no evidence proving the involvement of servicemen in the abduction of the applicant's sons:

"... The discovery of traces of APC tracks and footprints made by army-type boots (though no forensic examinations have been conducted in this regard) is not enough to conclude that Usman and Valid Arzhiyev were abducted by servicemen ..."

165. On 1 December 2011 the criminal proceedings were resumed and are currently pending.

F. Application no. 47393/10, *Elikhanova v. Russia*

166. The applicant, Ms Roza Elikhanova, was born in 1949 and lives in Urus-Martan, Chechnya. She is represented before the Court by lawyers from the Memorial Human Rights Centre.

167. The applicant is the mother of Mr Khavazhi Elikhanov, who was born in 1977.

1. Abduction of Khavazhi Elikhanov

168. According to the applicant, at about 3 p.m. on 4 November 2001 Khavazhi Elikhanov and two friends, Mr Sh.S. and Mr A.A., were walking along a street near the crossroads of Soldatskya and Vtoraya Poleyaya Streets in Urus-Martan, about fifty metres from the applicant's house.

169. A group of about fifteen to twenty masked armed servicemen in camouflage uniforms pulled over in a Ural lorry and a VAZ-2121 (“Niva”) car. They opened gunfire and ordered local residents, in unaccented Russian, to stay indoors. Then they arrested the three men, put them in the lorry and took them to the Urus-Martan district military commander’s office (“the military commander’s office”).

170. The abduction was witnessed by the applicant’s husband and a number of local residents. After the servicemen’s departure, the residents found traces of blood on the ground, as the abductors had wounded Mr A.A.

171. Immediately after the abduction the applicant ran to the military commander’s office and asked for information about the three men. The on-duty officers denied having any knowledge of it.

172. In the evening of 4 November 2001 Mr Sh.S. was released from the military commander’s office. He told the applicant that he had been detained at the office with Khavazhi Elikhanov.

173. On 5 November 2001 the applicant’s relatives asked the military commander, Mr G.G., to release Khavazhi Elikhanov. The commander promised that the applicant’s son would be released the following day. However, Khavazhi Elikhanov was never released.

174. On 7 November 2001 the military commander’s office returned the body of Mr A.A., who had been abducted together with the applicant’s son, to his relatives.

2. *Official investigation*

175. The Government submitted a copy of “the entire criminal case file no. 25158” (65 pages) on the abduction of Khavazhi Elikhanov. The information submitted may be summarised as follows.

(a) **Opening of the criminal investigation**

176. On 27 November 2001 the deputy head of the local administration informed the Urus-Martan prosecutor’s office about the numerous complaints submitted by the applicant’s husband concerning Khavazhi Elikhanov’s disappearance and asked for assistance in searching for him.

177. On 5 December 2001 the applicant complained to the Urus-Martan district prosecutor’s office that her son had been abducted by military servicemen who had opened gunfire and forced her son and two other men into their vehicle. She stated that the abductors had been driving a UAZ-model minivan (*tabletka*) and a military Ural lorry, that one of the abducted men had been released later the same day, and that the other man had been killed and his body handed over to his relatives on 6 December 2001 in the courtyard of the VOVD.

178. On 14 December 2001 the Urus-Martan prosecutor’s office opened criminal case no. 25158 under Article 126 of the Criminal Code (abduction).

(b) Main witness statements taken by the investigators

179. On 8 November 2002 the investigator questioned the applicant and her neighbours who had witnessed the abduction. The applicant stated that her son had been stopped on his way home on 4 November 2001 by armed men in camouflage uniforms patrolling in military Ural and UAZ vehicles. They had hit him on the head and put him into one of the vehicles. When she and her neighbours had attempted to approach the scene, the abductors had opened gunfire and then driven away. The applicants' neighbours, Ms S.M. and Ms R.M., gave similar statements.

(c) Main investigative steps taken by the authorities

180. On 7 February 2002 the investigator requested that the VOVD search for Khavazhi Elikhanov.

181. On 10 February 2002 the VOVD informed the investigators that Khavazhi Elikhanov had not been detained on either their premises or those of the military commander's office, and it had not been possible to establish his whereabouts.

182. On 14 February 2002 the investigator suspended the investigation for failure to identify the perpetrators.

183. On 3 January 2003 the applicant was granted victim status in the criminal case and questioned.

184. In April 2004 the applicant complained to the prosecutor's office that the investigation had been ineffective.

185. On 24 June 2005, following the applicant's complaint, the supervising prosecutor ordered that the investigation be resumed and that basic investigative steps be taken.

186. On 24 July 2005 the investigation was again suspended for failure to identify the perpetrators.

187. In 2007 the criminal case was transferred to the Achkhoy-Martan investigations department.

188. The criminal proceedings are currently pending.

3. Proceedings to gain access to the file

189. On 11 January 2010 the applicant requested access to the investigation file.

190. On 12 January 2010 the investigator rejected the applicant's request, stating that she was entitled to access the file only after completion of the criminal proceedings.

191. On 27 January 2010 the applicant appealed to the Achkhoy-Martan District Court against the investigators' refusal to grant her access to the investigation file.

192. On 15 February 2010 the court partially granted the applicant's request and ordered the investigators to grant her access to those parts of the file which did not contain State secrets.

G. Application no. 54753/10, *Temiraliyeva and Others v. Russia*

193. The applicants are:

- 1) Ms Khizhan Temiraliyeva, born in 1959;
- 2) Mr Uzumkhazhi Dzhamalov, born in 1961;
- 3) Ms Dzharadat Dzhamalova, born in 1987;
- 4) Ms Khedi Dzhamalova, born in 1977;
- 5) Ms Satsita Dzhamalova, born in 1989;
- 6) Ms Khadizhat Dzhamalova, born in 1981, and
- 7) Ms Zhaneta Dzhamalova, born in 1993.

194. The applicants live in Berkart-Yurt, Chechnya. They are represented before the Court by lawyers from the Stichting Russian Justice Initiative.

195. The applicants are close relatives of Mr Aslan Dzhamalov, who was born in 1979. The first and second applicants are his parents; the third, fourth, fifth, sixth and seventh applicants are his sisters.

1. Abduction of Aslan Dzhamalov

196. According to the applicants, at about 2 p.m. or 3 p.m. on 9 July 2002 Aslan Dzhamalov and his neighbours, Mr U.O. and Mr A.A., went to the Seda café in Mayakovskogo Street, Grozny.

197. The three men were sitting at a table when a large group of armed masked servicemen in camouflage uniforms arrived at the café in two military UAZ vehicles and a VAZ car. They pulled plastic bags over the heads of the three men, forced them into one of the UAZ vehicles and drove away.

198. About five minutes later the abductors arrived at the premises of the non-operational administration in Zavety Ilicha Street in Grozny. Aslan Dzhamalov and his neighbours were each taken to different cells and subjected to torture and questioning.

199. On 10 July 2002 the two neighbours overheard the guards' conversation to the effect that Aslan Dzhamalov was dying and that it would make sense to call an ambulance. Sometime later they heard the servicemen saying that Aslan had died.

200. On 11 July 2002 Mr U.O. and Mr A.A. were released. They returned home, but the applicants' relative has been missing ever since.

2. *Official investigation*

201. The Government submitted a copy of the entire criminal case file no. 20043 (159 pages) on the abduction of Aslan Dzhamalov. The information submitted may be summarised as follows.

(a) **Opening of the criminal investigation**

202. The criminal case file submitted by the Government does not contain the applicants' initial complaint about the abduction of their relative. The applicants submitted a copy of a letter dated 28 August 2002 whereby the Chechnya prosecutor's office forwarded the first applicant's complaint about the abduction of her son to the Leninskiy district prosecutor's office in Grozny for examination.

203. The criminal case file contains only copies of several complaints made by the first applicant to the Chechnya Government in November 2002. In her complaints the first applicant alleged that at about 4 p.m. on 9 July 2002 her son and his two neighbours had been abducted by servicemen from a café and that the abductors had been driving two UAZ vehicles.

204. On 16 December 2002 the Chechnya Government forwarded the first applicant's complaints to the Grozny prosecutor's office and the Grozny department of the interior ("the Grozny ROVD") for examination.

205. On 5 February 2003 the Grozny prosecutor's office opened criminal case no. 20043 under Article 126 of the Criminal Code (abduction).

(b) **Main witness statements taken by the investigators**

206. On 7 February 2003 the investigator questioned Ms M.M., who had been working in the café. She stated that at about 11 a.m. on 9 July 2002 the three young men had ordered lunch at the café. During their meal seven or eight armed men in camouflage uniforms had burst into the café and taken them away.

207. On 24 April 2003 the first applicant stated that at about 4 p.m. on 9 July 2002 an unknown man had arrived at her home and told her that armed masked men in camouflage uniforms had abducted her son together with Mr U.O. and Mr A.A. from the café. No one knew where they had been taken. The first applicant further stated that Mr U.O. and Mr A.A. had been released three days later, but she had had no news of her son.

208. On the same date, 24 April 2003, Mr A.A. and Mr U.O. were also questioned by the investigators. Mr A.A. stated that on 9 July 2002 he had been in the café with Mr U.O. and Aslan Dzhamalov when several armed men in camouflage uniforms had burst in. The men had beaten them up, pulled plastic bags over their heads, forced them into a UAZ vehicle and taken them to an unidentified place. He had been detained in the same cell as Aslan; Mr U.O. had been taken to another cell. The abductors had

interrogated them about their possible involvement in illegal armed groups. Three days later he and Mr U.O. had been blindfolded, put in a car and thrown out on the outskirts of Grozny. Mr U.O gave a similar statement.

(c) Main investigative steps taken by the authorities

209. On 5 March 2003 the investigator examined the crime scene. No evidence was collected.

210. On the same date the investigator sent information requests about Aslan Dzhamalov's possible detention to various law-enforcement agencies. Negative replies were given.

211. On 20 March 2003 the investigator requested the Leninskiy ROVD to carry out operative search measures.

212. On 24 April 2003 the first applicant was granted victim status in the criminal case.

213. On 25 April 2003 the investigation of the criminal case was suspended for failure to identify the perpetrators. The applicants were not informed thereof.

214. On 31 August 2006 the supervising prosecutor overruled the decision to suspend the investigation as unlawful and ordered that it be resumed and the investigators took a number of basic steps.

215. On 2 October 2006 the investigation was again suspended for failure to identify the perpetrators. The applicants were not informed thereof.

216. On 25 February 2011 the investigation was resumed and again suspended on 3 April 2011 for failure to identify the perpetrators.

217. The proceedings are currently pending.

H. Application no. 58131/10, *Payzulayeva and Others v. Russia*

218. The applicants are:

- 1) Ms Aset Payzulayeva, born in 1960;
- 2) Mr Ayuub (also spelt as Ayub) Cherkasov, born in 1953;
- 3) Ms Zalina Mukulova, born in 1981;
- 4) Mr Said-Khusein Cherkasov, born in 1999;
- 5) Mr Shakhru-Ramazan Cherkasov, born in 2001;
- 6) Ms Khava Eskarova, born in 1959;
- 7) Mr Uvys Istamulov, born in 1951, and
- 8) Ms Raisa Shakhtiyeva, born in 1986.

219. The applicants live in Verkhniy Noyber, in the Gudermes district, Chechnya. They are represented before the Court by lawyers from the Stichting Russian Justice Initiative.

220. The applicants are from two families; they are close relatives of Mr Magomed Cherkasov, who was born in 1979, and Mr Ayub Istamulov, who was born in 1981. The first and second applicants are the parents of

Magomed Cherkasov; the third applicant is his wife and the fourth and fifth applicants are his children. The sixth and seventh applicants are the parents of Ayub Istamulov; the eighth applicant is his wife.

1. Abduction of Magomed Cherkasov and Ayub Istamulov

221. At about 5 p.m. on 30 April 2001 Magomed Cherkasov and Ayub Istamulov were picking mushrooms in a forest near Verkhniy Noyber when they were detained by a group of six or seven armed men in camouflage uniforms who had arrived at the forest in an APC. The men subjected the two men to beatings while leading them away.

222. The abduction of the applicants' relatives was witnessed by three fellow villagers, Mr Sh.M., Mr S.E. and Mr M.D.

223. On the following morning the applicants went to look for their relatives in the forest. Together with their neighbours they followed footprints and found Ayub Istamulov's shoe with traces of blood on it.

224. On 1 May 2001 the applicants complained about the disappearance of their relatives to the head of the village administration.

225. A few days later the applicants found out that Magomed Cherkasov and Ayub Istamulov had been detained in the forest by servicemen from the Main Intelligence Department ("the GRU"), whose unit was stationed fifty metres from the village, in the nearby forest.

226. According to the applicants, on the following day several young shepherds were also detained in the forest by military servicemen, but released for ransom sometime later.

2. Official investigation

227. The Government submitted a copy of the entire criminal case file no. 45108 (182 pages) on the abduction of Magomed Cherkasov and Ayub Istamulov. The information submitted may be summarised as follows.

(a) Opening of the criminal investigation

228. On 4 May 2001 the seventh applicant reported the abduction of Magomed Cherkasov and Ayub Istamulov to local law-enforcement agencies.

229. On 1 September 2001 the Gudermes ROVD refused to initiate a criminal investigation into the applicants' complaints of their relatives' disappearance.

230. On 27 September 2005 the supervising prosecutor from the Gudermes district prosecutor's office overruled the refusal as unlawful and ordered that criminal case no. 45108 be opened under Article 105 of the Criminal Code (murder).

(b) Main witness statements taken by the investigators

231. On 1 November 2005 the first applicant stated that on 30 April 2001 Magomed Cherkasov had gone to Ayub Istamulov's house and had not returned. Ayub lived on the outskirts of the village near the forest, where a military unit was stationed. Afterwards, she had found out that her son had left the house with Ayub and disappeared. The first applicant also noted that there had been rumours that local villagers had seen servicemen leading Magomed and Ayub to the forest.

232. On 6 February 2009 several eyewitnesses to the abduction were questioned by the investigators. Mr Sh. M. told the investigators that at about 5 p.m. on 30 April 2001 he had been in the courtyard of his house when he had seen Magomed Cherkasov and Ayub Istamulov walking near the forest. At some point, seven or eight armed servicemen who were stationed in the nearby forest had appeared from the woods. They had ordered Magomed and Ayub to lie down, arrested them and taken them into the woods. Several hours later, he had gone with other villagers to check the place where the abducted men had been detained. They had seen footprints made by military boots leading into the forest. Mr S.E., who had been cutting down trees when he had seen the applicants' relatives being abducted by the servicemen, gave a similar statement and added that he had seen traces of blood at the place of the abduction. Mr M.O., who had been tending sheep when he had witnessed the abduction, gave a similar statement. According to him, it was not the first time that those servicemen had abducted local residents.

233. On 10 February 2009 the sixth applicant was questioned. The relevant part of her statement reads as follows:

“...At about 5 p.m. my son [Ayub Istamulov], who was born in 1981, together with his friend [Magomed Cherkasov] were picking mushrooms on the outskirts of the village ... Armed men from the federal forces, probably from the GRU, arrested my son and his friend and took them in the direction of the forest. The incident was eyewitnessed by the residents of our village [Mr M.D., Mr Sh.M. and Mr S.E.], who were tending sheep nearby ... Several days later a fellow villager [Ms T.] came to our house and told us that her father had heard ... that two residents of the village of Bachi-Yurt had been released for ransom. During their release those persons had seen two young men who had introduced themselves as Magomed and Ayub ... from the village of Verkhniy Noyber. [Magomed and Ayub] had been blindfolded. One had been wearing a white knitted sweater, the other a blue denim shirt. [Magomed and Ayub] asked [those persons] to pass on the message to their relatives that they had been arrested on the outskirts of the village of Verkhniy Noyber and were being detained on the premises of [the military unit of] the federal forces stationed on the outskirts of Verkhniy Noyber. After that we went to the village of Bachi-Yurt and found the father of one of these young men, who stated that he had managed to get the servicemen stationed in the forest on the outskirts of Verkhniy Noyber to release his son and his friend in exchange for ransom. But he said that his son had not seen anyone and that it had been only rumours ... On the day my son disappeared he was wearing a blue denim shirt ...”

(c) Main investigative steps taken by the authorities

234. On 25 October 2005 Mr S.E., the brother of the disappeared Ayub Istamulov, was granted victim status in the criminal case.

235. On 1 November 2005 the first applicant was granted victim status in the criminal case.

236. On 24 November 2005 the Gudermes district prosecutor instructed the investigation to take a number of steps; in particular, to examine the crime scene and carry out a forensic examination of the collected evidence. His order was not complied with.

237. On the same date the investigator sent information requests about the disappeared persons' possible detention to various law-enforcement agencies. Negative replies were given.

238. On 27 December 2005 the investigation was suspended for failure to identify the perpetrators.

239. On an unspecified date the first applicant complained to the investigators that the investigation had been ineffective and requested that it be resumed. In particular, she pointed out that even though the three eyewitnesses to the abduction lived in the village of Verkhniy Noyber, they had not been questioned by the investigation. She further stated that on the day of her son's disappearance, those witnesses had seen Magomed Cherkasov and Ayub Istamulov being detained by servicemen of the unit stationed in the forest on the outskirts of the village and requested that the investigators question those witnesses. She further pointed out that the servicemen of the above-mentioned unit were notorious for committing robberies and other crimes in their village. She asked the investigators to identify the military unit stationed in the village at the material time and the perpetrators of her son's abduction. From the documents submitted it appears that no steps were taken to this end by the investigation.

240. On 22 January 2009 the investigation was resumed and the investigator questioned the eyewitnesses (see paragraphs 232 and 233 above). The investigation was further suspended and resumed on several occasions.

241. On 10 February 2009 the sixth applicant was granted victim status in the criminal case.

242. The criminal proceedings are currently pending.

I. Application no. 62207/10, *Vakhidova v. Russia*

243. The applicant, Ms Khelipat Vakhidova, was born in 1950 and lives in Urus-Martan, Chechnya. She is represented before the Court by lawyers from the Stichting Russian Justice Initiative.

244. The applicant is the mother of Mr Musa Vakhidov, who was born in 1976.

1. Abduction of Musa Vakhidov

245. At about 3 p.m. on 22 June 2000 Musa Vakhidov, who worked for the Chechnya Ministry of the Interior (“the MVD”), was at the bus station in the Chernorechye settlement in the Zavodskoy district of Grozny.

246. An APC with the registration number “Zavodskoy ROVD-208” pulled over at the bus station. A group of Russian-speaking military servicemen in camouflage uniforms and bandanas were in it. Two of them disembarked from the APC and walked up to Musa Vakhidov. Without introducing themselves they checked his passport, and informed their colleagues that Musa Vakhidov’s papers were in order. Nonetheless, the man on the top of the APC ordered the two servicemen to detain Musa Vakhidov. Mr Vakhidov managed to shout out to a bystander, Ms F., that he was from the Vakhidov family in Urus-Martan. Then the two servicemen pulled a plastic bag over his head, forced him into the APC and drove away in the direction of Grozny.

247. The abduction took place in the presence of numerous witnesses, including the vendors at nearby kiosks. At the time of the abduction a convoy of seven APCs and Ural lorries was seen in the vicinity of the bus station.

248. On 23 June 2000 the Zavodskoy district military commander told the applicant’s relatives to contact a certain Mr Arkadiy, an officer “in charge” of the Zavodskoy district of Grozny.

249. On 25 June 2000 Mr Arkadiy told the applicant’s relatives that Musa Vakhidov had been transferred to Khankala, the main military base of the Russian federal forces in Chechnya, and that if Musa “did not commit anything serious, he would be released on [the following] Monday or Tuesday”.

250. On or around 29 June 2000 Mr Arkadiy told the applicant’s relatives that Musa Vakhidov was still alive and would be released in two weeks.

251. The applicant went to the Khankala military base and various detention centres in the North Caucasus but could not obtain any information about her disappeared son.

2. Official investigation

252. The Government submitted a copy of the entire criminal case file no. 13029 (152 pages) on the abduction of Musa Vakhidov. The information submitted may be summarised as follows.

(a) Opening of the criminal investigation

253. The criminal case file submitted by the Government does not contain the applicant’s initial complaint about the abduction of her son. The applicant submitted a copy of the letter dated 9 August 2000 whereby the

Grozny prosecutor's office forwarded her complaint about the abduction to the Grozny VOVD.

254. On 28 February 2001 the Grozny prosecutor's office opened criminal case no. 13029 under Article 126 of the Criminal Code (abduction).

(b) Main witness statements taken by the investigators

255. On 10 March 2001 the applicant was questioned. She stated that on 22 June 2000 Musa Vakhidov had gone to work and had not returned. She had found out later that a street vendor, Ms Ya., who had been selling sunflower seeds near the bus station in the Chernorechye settlement, had witnessed Mr Vakhidov's abduction by federal forces servicemen.

256. On the same date Ms Ya. was questioned by the investigators. She stated that in the morning of 22 June 2000 she had been selling sunflower seeds near the bus station when she had seen an APC arrive at the bus station. A group of military servicemen in camouflage uniforms had got out of the APC and walked up to Musa Vakhidov. They had checked his passport and then taken him to the APC. Mr Vakhidov had shouted to her that he was from the Vakhidov family in Urus-Martan and asked her to inform his relatives about his detention.

(c) Main investigative steps taken by the authorities

257. On 10 March 2001 the applicant was granted victim status in the criminal case.

258. On 15 April 2001 the investigators sent inquiries to various law-enforcement agencies asking for information concerning Musa Vakhidov's whereabouts. Replies in the negative were received.

259. On 28 April 2001 the investigation was suspended for failure to identify the perpetrators. It is unclear whether the applicant was informed thereof.

260. On 1 August 2002 the applicant's daughter wrote to the supervising prosecutor requesting that the investigation be resumed. On 13 August 2002 the investigation was resumed upon the order of the supervising prosecutor.

261. On 13 September 2002 the investigation of the criminal case was suspended again. The applicant was informed thereof on 8 June 2009. No replies were given to the applicant's requests for information lodged during the period.

262. On 23 June 2009, following a complaint submitted by the applicant, the supervising prosecutor overruled the decision to suspend the investigation as unlawful and premature, and ordered that it be resumed and that the investigators take a number of basic steps.

263. On 15 July 2009 the investigation was suspended and then resumed on 7 July 2011. The applicant was not informed of the suspension.

264. The criminal proceedings are currently pending.

J. Application no. 73784/10, *Musayevy v. Russia*

265. The applicants are:

- 1) Mr Mauldy Musayev, born in 1926;
- 2) Ms Kameta Musayeva, born in 1971, and
- 3) Ms Ayza Musayeva, born in 1963.

266. The applicants live in Ulus-Kert, in the Shatoy district, Chechnya. They are represented before the Court by lawyers from the Stichting Russian Justice Initiative.

267. The applicants are close relatives of Mr Robert Musayev, who was born in 1974. The first applicant is his father, the second and third applicants are his sisters.

1. Abduction of Robert Musayev

268. On 8 May 2001 Robert Musayev arrived in his VAZ-21213 (“Niva”) car at the market in Dachu-Borzoy. He was going to visit a relative who lived in the village.

269. Two APCs, one of them with registration number B503, arrived at the market shortly afterwards and a group of five or six servicemen in military uniforms arrested Robert Musayev and forced him into one of the APCs.

270. Robert Musayev managed to shout out to bystanders that he had a sister living in the village and that she should be informed about the events.

271. One of the servicemen told the crowd that Robert Musayev would be spending the night at the military commander’s office in Chiri-Yurt; then the APCs, along with Mr Musayev’s Niva car, were driven away.

272. In the morning of 9 May 2001 the head of the Ulus-Kert village administration, Ms T.V., complained to the military commander’s office about the abduction. According to the head of the administration, she had seen Robert Musayev on the premises of the military commander’s office from a window of a nearby building. The applicant’s son had been barefoot and had had something pulled over his head.

273. On the same date a number of the applicants’ relatives also saw Robert Musayev in the yard of the military commander’s office through a hole in the fence surrounding the premises. In addition, a military serviceman named Eldar confirmed to them that Mr Musayev was being detained on their premises and that he would be released soon. His Niva car was parked in the yard of the military commander’s office.

274. On the same day Robert Musayev was taken in a convoy of three armoured vehicles, two of which had registration numbers 512 and 522, to the premises of the 34th brigade of the federal forces stationed in Dachu-Borzoy.

275. On 16 May 2001 Mr Musayev's car was returned to the applicants' relatives at the premises of the Chiri-Yurt ROVD. The interior of the car had been completely burnt out.

276. The applicants have had no news of their relative ever since.

2. *Official investigation*

277. The Government did not disclose any documents from the criminal case file on the disappearance of Robert Musayev, in spite of their assertion to the contrary (see paragraph 295 below). On the basis of the copies of some documents from the investigation file submitted by the applicants, the investigation may be summarised as follows.

278. On 17 May 2001 the Chechnya prosecutor's office forwarded the applicants' complaint about Robert Musayev's detention by military servicemen to the Shatoy district prosecutor's officer.

279. On 11 June 2001 the Shali ROVD informed the applicants' relatives that on 8 May 2001 servicemen of the Chiri-Yurt military commander's office had detained Robert Musayev for an identity check and that after completion of the check he had been released and his car had been returned to him.

280. On 13 June 2001 the Shali military commander's office informed the applicants of the following:

"In reply to the request of the head of the administration of Ulus-Kert ... I inform you of the following.

[Robert Musyaev] was detained on 8 May 2001 in [his] Niva car and on the same date taken to [the premises of the military commander's office in] Chiri-Yurt. On 9 May 2001 he was handed over to servicemen of the 34th brigade of the federal forces and taken to the brigade's premises."

281. On 18 March 2002 the Grozny district prosecutor's office opened criminal case no. 56036 (in the documents submitted the number was also referred to as 59271) under Article 126 of the Criminal Code (abduction). The text of the decision stated, amongst other things, that the whereabouts of Robert Musayev's Niva car remained unknown.

282. On 18 May 2002 the investigation of the criminal case was suspended for failure to identify the perpetrators. The applicants were informed thereof on 10 February 2003.

283. On 22 May 2002 one of the applicants' relatives was granted victim status in the criminal case. The text of the decision stated, amongst other things, that the whereabouts of Robert Musayev's Niva car remained unknown.

284. On 30 July 2002 the Shatoy district military commander requested that the Shali district military commander assist in the search for Robert Musayev, who had been detained on 8 May 2001 by servicemen from the GRU.

285. On 28 November 2006 the supervising prosecutor from the Grozny district prosecutor's office overruled the decision to suspend the investigation as unlawful and ordered that it be resumed and a number of basic steps taken.

286. On 28 November 2006 the second applicant was granted victim status in the criminal case.

287. On 6 December 2006 the investigators questioned Robert Musayev's cousin, Mr T.M., who stated that on 8 or 9 May 2001 he had participated in the search for Robert Musayev, who had been detained by military servicemen. According to the witness, Robert's car, along with his passport, had been returned to the applicants' relatives by servicemen on the premises of the military commander's office sometime after the abduction.

288. On 27 December 2006 the investigators questioned the head of the Ulus-Kert administration, Ms T.V. According to her, the abduction had been perpetrated by military servicemen. She stated that Robert Musayev had been arrested by servicemen from the military commander's office and that on 8 May 2001 she had seen Mr Musayev on their premises. On 13 June 2001 she had obtained information from the deputy military commander, Mr Kh.A., about Mr Musayev's transfer on 9 May 2001 from the military commander's office to the premises of the 34th brigade in Dachu-Borzoy.

289. On 29 December 2006 the investigators questioned Mr Kh. A., who had served as deputy military commander at the Shali district military commander's office. Mr Kh. A. stated that on 13 June 2001 he had given an official information statement concerning Robert Musayev's detention at the military commander's office and his transfer to the premises of the 34th brigade in Dachu-Borzoy, but owing to the passage of time he could not recall the details of the events.

290. On 30 December 2006 the investigation was again suspended for failure to identify the perpetrators. The text of the decision stated, amongst other things, that the whereabouts of Robert Musayev's Niva car remained unknown.

291. On 30 March 2010 the applicants asked the investigators to provide them with access to the investigation file. No response was given to their request.

292. On 21 May 2010 the applicants asked the investigators to provide them with an update on the progress in the criminal case.

293. On 1 June 2010 the investigators informed the applicants that the investigation had been suspended on 30 December 2006 and that their relative's whereabouts remained unknown.

294. It follows from the Government's observations that the investigation was resumed on 30 November 2011 and is currently pending.

295. In reply to the Court's request, the Government submitted that "the authorities of the Russian Federation furnish in full the contents of all the

criminal case files opened in connection with the abduction of the applicants' relatives".

II. RELEVANT DOMESTIC LAW AND PRACTICE AND INTERNATIONAL MATERIALS

296. For a summary of the relevant domestic law and practice and for international and domestic reports on disappearances in Chechnya and Ingushetia, see *Aslakhanova and Others v. Russia*, (nos. 2944/06, 8300/07, 50184/07, 332/08 and 42509/10, §§ 43-59 and §§ 69-84, 18 December 2012).

THE LAW

I. JOINDER OF THE APPLICATIONS

297. In accordance with Rule 42 § 1 of the Rules of Court, the Court decides to join the applications, given their similar factual and legal background.

II. THE GOVERNMENT'S PRELIMINARY OBJECTION

A. The parties' submissions

1. Government

298. In their observations in respect of all the applications, the Government submitted that the applicants had not complied with the six-month rule "by failing to exhaust domestic remedies". The Government stated that in all of the applications "the six month time limit starts to run from [the date of] the decision by the cassation court on the applicants' appeal; in the applicants' cases no such final decisions have been taken". They further noted that the criminal investigations into the disappearances were still in progress. It was therefore premature to draw any conclusions concerning the alleged ineffectiveness of the domestic criminal proceedings.

2. The applicants

299. The applicants argued that they had complied with the six-month rule and there had been no excessive and unexplained delays in the submission of their applications to the Court. They pointed out that the applications in the case of *Varnava and Others v. Turkey* [GC], (nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90,

16071/90, 16072/90 and 16073/90, ECHR 2009) had been lodged with the Court within fifteen years of the disappearances, which represented a longer time frame than in their case. In any event, as in the *Varnava* case, the violations alleged by them were ongoing, so the six-month rule did not apply.

300. In particular, the applicants in *Gakayeva* (no. 51534/08), *Yesiyeva* (no. 4401/10), *Timiraliyevy* (no. 54753/07), *Payzulayeva and Others* (no. 58131/10), *Vakhidova* (no. 62207/10) and *Musayevy* (no. 73784/10) submitted that they had complained to the authorities shortly after their relatives' abduction and they had hoped that the criminal investigations initiated thereafter would produce results just like in any other official investigation initiated by the authorities in the Russian Federation. They lodged their application with the Court only after they had realised that the investigation had been ineffective. In addition to their references to the *Varnava* case, the applicants also referred to cases of disappearances in Chechnya, *inter alia*, to the case of *Gerasiyev and Others v. Russia* (no. 28566/07, 7 June 2011), in which the application was lodged with the Court more than seven years after the disappearance, and *Tashukhadzhiyev v. Russia* (no. 33251/04, 25 October 2011), in which the application was lodged with the Court more than eight and half years after the events. Furthermore, the applicants in *Alimkhanova and Others* (no. 25518/10), *Magamadova* (28779/10), *Arzhiyeva* (no. 33175/10), and *Elikhanova* (no. 47393/10) pointed out that the armed conflict in Chechnya had led them to believe that delays in the investigation were inevitable. Moreover, owing to their poor command of Russian, their lack of legal knowledge and the absence of financial means to hire a lawyer, they had been unable to assess the effectiveness of the investigation in the absence of domestic provisions for free legal assistance to victims of enforced disappearances.

301. As for the alleged failure to exhaust domestic remedies, all the applicants, referring to the Court's case-law, submitted that they were not obliged to pursue civil remedies and that lodging complaints against the investigators under Article 125 of the Criminal Procedure Code would not have remedied the investigation's shortcomings. They all submitted that the only effective remedy in their cases – the criminal investigation into the abduction of their relatives – had proved to be ineffective.

B. The Court's assessment

1. Compliance with the six-month rule

(a) General principles

302. The Court will examine the arguments of the parties in the light of the provisions of the Convention and its relevant practice (see *Estamirov and Others v. Russia*, no. 60272/00, §§ 73-74, 12 October 2006).

303. As to the Government's argument concerning the applicants' failure to comply with the six-month time-limit, the Court notes that the time-limit implies that the applicants should have brought their applications to the Court within six months of the final domestic decisions or within six months of the time when they became aware of the ineffectiveness of the domestic remedies (see, for example, *Varnava*, cited above, § 157). The Court notes that the Government acknowledged the absence of a particular date or decision which could serve as a trigger for the calculation of the time-limit. Furthermore, they argued that the applicants' complaints were premature as the criminal investigations were still in progress.

304. The Court reiterates that the purpose of the six-month rule is to promote security of law, to ensure that cases are dealt with within a reasonable time and to protect the parties from uncertainty for a prolonged period of time. The rule also provides the opportunity to ascertain the facts of the case before memory of them fades away with time (see *Abuyeva and Others v. Russia*, no. 27065/05, § 175, 2 December 2010).

305. Normally, the six-month period runs from the final decision in the process of exhaustion of domestic remedies. In its absence, the period runs from the date of the acts or measures complained of. Where an applicant avails himself of an existing remedy and only subsequently becomes aware of circumstances which render the remedy ineffective, the six-month time-limit is calculated from the date when the applicant first became, or ought to have become, aware of those circumstances (see, among others, *Zenin v. Russia* (dec.), no. 15413/03, 24 September 2009).

306. In cases concerning disappearances, unlike in cases concerning ongoing investigations into the deaths of applicants' relatives (see, for example, *Elsanova v. Russia* (dec.) no. 57952/00, 15 November 2005; and *Narin v. Turkey*, no. 18907/02, § 50, 15 December 2009), the Court has held that taking into account the uncertainty and confusion typical of such situations, the nature of the ensuing investigations implies that the relatives of a disappeared person may be justified in waiting lengthy periods of time for the national authorities to conclude their proceedings, even if the latter are sporadic and plagued by problems. However, where more than ten years has elapsed since the incident, the applicants have to justify the delay in lodging their application with the Court (see *Varnava*, cited above, §§ 162-63).

307. Applying the *Varnava* principles, the Court recently found in the case of *Er and Others v. Turkey* (no. 23016/04, §§ 55-58, 31 July 2012) that the applicants, who had waited for a period of almost ten years after the disappearance of their relative before lodging their application, had complied with the six-month rule because an investigation was being conducted at the national level. The Court reached a similar conclusion in another case, where the domestic investigation into the events had been pending for more than eight years and where the applicants were doing all

that could be expected of them to assist the authorities (see *Bozkır and Others v. Turkey*, no. 24589/04, § 49, 26 February 2013).

308. By contrast, the Court has declared inadmissible applications where the applicants waited for more than ten years to lodge their applications with the Court, and where there had been, for a long time, no elements allowing them to believe that the investigation would be effective. For instance, in the case of *Yetişen and Others v. Turkey* ((dec.), no. 21099/06, 10 July 2012), the applicants waited for four years after the disappearance before lodging an official complaint with the competent investigating authorities and for eleven and a half years before bringing their application to Strasbourg; in the case of *Findik and Omer v. Turkey* ((decs.), nos. 33898/11 and 35798/11, 9 October 2012), the applications were brought to Strasbourg more than fifteen years after the events; and in the case of *Taşçı and Duman v. Turkey* ((dec.), no. 40787/10, 9 October 2012), the applicants applied to Strasbourg twenty-three years after the disappearance. In those cases, as in the case of *Açış v. Turkey* (no. 7050/05, §§ 41-42, 1 February 2011), where the applicants complained to Strasbourg more than twelve years after the disappearance, the Court rejected as out of time their complaints under Article 2 of the Convention for failure to demonstrate any concrete advance in the domestic investigation to justify their delay of more than ten years.

(b) Application of the principles to the present case

309. Turning to the circumstances of each of the applications at hand, the Court notes that the criminal investigation in each application was pending when the applicants lodged their complaints with the Court. Further, the Court notes that in three of the applications – that is, *Gakayeva* (no. 51534/08), *Yesiyeva and Others* (no. 4401/10) and *Arzhiyeva* (no. 33175/10) – the applicants complained to the authorities shortly after the abductions and introduced their applications with the Court within periods ranging from five to about seven years after the events. From the documents submitted it appears that they maintained contact with the authorities by providing the investigators with eyewitness evidence, requesting information and asking for permission to access the investigation files.

310. As for the other seven applications, in which the applicants applied to Strasbourg after a longer period of time, ranging from the beginning of the domestic investigation to eight to ten years after the events, the Court notes the following. In *Alimkhanova and Others* (application no. 25518/10) the applicants complained of their relatives' arrest within several days of the incident, in January 2001. In April 2004, the first and second applicants gave witness statements to the investigation and the first applicant was granted victim status. Shortly afterwards, the investigation was suspended but the applicants were informed neither of that suspension nor of the subsequent one in December 2004. They did not learn of the suspension of

the investigation until February 2007 and requested that it be resumed. In May 2008 they were informed that the investigation had again been suspended but that operational search measures were being carried out to have the crime resolved. On 5 April 2010, nine years and two months after the abduction, the applicants lodged their application with the Court.

311. In *Magamadova* (application no. 28779/10) the applicant's son was abducted in December 2000; the applicant lodged an official complaint with the domestic authorities within several weeks and her application with the Court in April 2010, that is, nine years and four months later. From the documents submitted it transpires that between 30 November 2001 and 19 November 2009 – for eight years – no investigative steps were taken in the criminal case and the proceedings were suspended but the applicant was not informed thereof. Moreover, on two occasions – in December 2006 and February 2007 – the investigating authorities informed the applicant that their search for her son was in progress (see paragraph 127 above). Only on 19 November 2009 was she informed for the first time of the suspension of the criminal proceedings (see paragraph 129 above).

312. In *Elikhanova* (application no. 47393/10) the applicant complained of her son's abduction to the authorities at least three weeks after the events in December 2001 and introduced her application with the Court eight years and nine months later, in August 2010. From the documents submitted it transpires that between August 2005 and January 2010 no investigative steps were taken in the criminal case, until in February 2010 the applicant requested permission to access the investigation file and was allowed to familiarise herself with its contents in March 2010 (see paragraph 189 above).

313. In *Temiraliyeva and Others* (application no. 54753/10), the applicants complained of their relative's abduction several weeks after the events, in August 2002; they lodged their application with the Court eight years and two months after the events, in September 2010. In April 2003, the first applicant gave her witness statement to the authorities and was granted victim status in the criminal case. From the documents submitted it appears that in August 2006 the investigation was instructed to take a number of steps, that subsequently it was suspended in October 2006 (see paragraph 215 above) and that the applicants were not informed of the suspensions of the criminal proceedings.

314. In *Payzulayeva and Others* (application no. 58131/10) the applicants complained of their relatives' abduction in April 2001, within a few days of the incident. They lodged their application with the Court almost nine and half years after the events, in September 2010, and five years after the beginning of the criminal investigation, which was not initiated until more than four years after the events, in September 2005 (see paragraph 230 above). From the documents submitted it appears that the applicants maintained reasonable contact with the authorities by providing

them with witness statements, asking to be granted victim status in the criminal case and requesting information on the progress of the proceedings.

315. In *Vakhidova* (application no. 62207/10) the applicant lodged an official complaint of her son's abduction within a month and a half of the incident, in August 2000. She lodged her application with the Court about ten years later, in October 2010. From the documents submitted it appears that in March 2001 the applicant was granted victim status and questioned by the investigators. Between September 2002 and June 2009 the investigation was suspended; during that period her information requests remained unanswered. She was not informed of the suspension of the proceedings until June 2009 (see paragraph 261 above). Following her complaint, the proceedings were resumed in June 2009 (see paragraph 262 above) and then suspended again in July 2009.

316. In *Musayevy* (application no. 73784/10) the applicants complained of their relative's abduction shortly after the incident, in May 2001. They lodged their application with the Court nine and a half years later, in November 2010. From the documents submitted it appears that the applicants maintained contact with the authorities by providing them with witness statements, asking to be granted victim status in the criminal case and requesting information on the progress of the proceedings.

317. Having examined the applications of *Alimkhanova and Others* (no. 25518/10), *Magamadova* (no. 28779/10), *Elikhanova* (no. 47393/10), *Temiraliyeva and Others* (no. 54753/10), *Payzulayeva and Others* (no. 58131/10), *Vakhidova* (no. 62207/10) and *Musayevy* (no. 73784/10), the Court finds that the conduct of each of the applicants in respect of the investigation was determined not by their perception of the remedy as ineffective, but rather by their expectation that the authorities would, of their own motion, provide them with an adequate response in the face of their serious complaints. On their part, they furnished the investigating authorities with timely and sufficiently detailed accounts of their relatives' abductions, assisted them with finding witnesses and other evidence, and fully cooperated in other ways. It was thus reasonable for them to expect further substantive developments from the investigations. It could not be said that they failed to show the requisite diligence by waiting for the pending investigations to yield results (see, by contrast, *Açıs*, cited above, §§ 41-42).

318. To sum-up, all of the applicants maintained reasonable contact with the authorities, cooperated with the investigation and, where appropriate, took steps to inform themselves of the progress of the proceedings and to speed them up, in the hopes of a more effective outcome.

319. The Court considers that investigations were being conducted, albeit sporadically, during the periods in question and that the applicants did all that could be expected of them to assist the authorities (see *Varnava and Others*, cited above, § 166, and *Er and Others*, cited above, § 60). In the

light of the foregoing, the Court dismisses the Government's objection as to the admissibility of these complaints based on the six-month time-limit.

2. *Exhaustion of domestic remedies*

320. As regards a civil action to obtain redress for damage sustained as a result of the alleged illegal acts or unlawful conduct of State agents, the Court has already found in a number of similar cases that this procedure alone cannot be regarded as an effective remedy in the context of claims brought under Article 2 of the Convention (see *Khashiyev and Akayeva v. Russia*, nos. 57942/00 and 57945/00, §§ 119-21, 24 February 2005, and *Estamirov and Others*, cited above, § 77). Accordingly, the Court confirms that the applicants were not obliged to pursue civil remedies. The preliminary objection in this regard is thus dismissed.

321. As regards criminal-law remedies, the Court observes that in a recent judgment it concluded that the ineffective investigation of disappearances that occurred in Chechnya between 2000 and 2006 constitutes a systemic problem and that criminal investigations are not an effective remedy in this respect (see *Aslakhanova and Others*, cited above, § 217).

322. In such circumstances, and noting the absence over the years of tangible progress in any of the criminal investigations into the abductions of the applicants' relatives, the Court concludes that this objection must be dismissed, since the remedy relied on by the Government was not effective in the circumstances.

III. THE COURT'S ASSESSMENT OF THE EVIDENCE AND THE ESTABLISHMENT OF THE FACTS

A. **The parties' submissions**

1. *The Government*

323. The Government did not contest the essential facts of each application as presented by the applicants. At the same time, they claimed that none of the investigations had obtained information proving that the applicants' relatives had been apprehended and detained by State agents. According to them, there was no evidence proving beyond reasonable doubt that State agents had been involved in the abductions and deaths. The mere fact that the abductors had been armed and/or had driven a certain type of vehicle was not enough to presume the contrary.

2. *The applicants*

324. The applicants submitted that it had been established "beyond reasonable doubt" that the men who had taken away their relatives had been

State agents. In support of that assertion they referred to the ample evidence contained in their submissions and the criminal investigation files, in so far as they had been disclosed by the Government. They also submitted that they had each made a *prima facie* case that their relatives had been abducted by State agents and that the essential facts underlying their complaints had not been challenged by the Government. In view of the absence of any news of their relatives for a long time and the life-threatening nature of unacknowledged detention in Chechnya at the relevant time, they asked the Court to consider their relatives dead.

B. General principles

325. The Court will examine each of the applications in the light of the general principles applicable in cases where the factual circumstances are in dispute between the parties (see *El Masri v. "the former Yugoslav Republic of Macedonia"* [GC], no. 39630/09, §§ 151-53, ECHR-2012).

326. The Court has addressed a whole series of cases concerning allegations of disappearances in the Chechen Republic. Applying the above-mentioned principles, it has concluded that it would be sufficient for the applicants to make a *prima facie* case of abduction by servicemen, thus falling within the control of the authorities, and it would then be for the Government to discharge their burden of proof either by disclosing the documents in their exclusive possession or by providing a satisfactory and convincing explanation of how the events in question occurred (see, among many examples, *Kosumova and Others v. Russia*, no. 27441/07, § 67, 7 June 2011, and *Aslakhanova and Others*, cited above, § 99). If the Government failed to rebut that presumption, this would entail a violation of Article 2 in its substantive part. Conversely, where the applicants failed to make a *prima facie* case, the burden of proof could not be reversed (see, for example, *Tovsultanova v. Russia*, no. 26974/06, §§ 77-81, 17 June 2010; *Movsayevy v. Russia*, no. 20303/07, § 76, 14 June 2011; and *Shafiyeva v. Russia*, no. 49379/09, § 71, 3 May 2012).

327. The Court has also found in many cases concerning disappearances in Chechnya that a missing person could be presumed dead. Having regard to the numerous cases of disappearances in the region which have come before it, the Court has found that in the particular context of the conflict, when a person was detained by unidentified State agents without any subsequent acknowledgment of the detention, this could be regarded as life-threatening (see, among many others, *Bazorkina v. Russia*, no. 69481/01, 27 July 2006; *Imakayeva v. Russia*, no. 7615/02, ECHR 2006-XIII (extracts); *Luluyev and Others v. Russia*, no. 69480/01, ECHR 2006-VIII (extracts); *Baysayeva v. Russia*, no. 74237/01, 5 April 2007; *Akhmadova and Sadulayeva v. Russia*, no. 40464/02, 10 May 2007;

Alikhadzhiyeva v. Russia, no. 68007/01, 5 July 2007; and *Dubayev and Bersnukayeva v. Russia*, nos. 30613/05 and 30615/05, 11 February 2010).

328. The Court has made findings of presumptions of deaths in the absence of any reliable news about the disappeared persons for periods ranging from four years (see *Askhabova v. Russia*, no. 54765/09, § 137, 18 April 2013) to more than ten years.

C. Application of the principles to the present case

1. Application no. 51534/08, Gakayeva v. Russia

329. Several witness statements collected by the applicant, along with the documents from the investigation file furnished by the Government (see, for example, paragraphs 17 and 28 above) demonstrate that the applicant's son, Timerlan Soltakhanov, was abducted on 7 June 2003 by a group of armed servicemen in Shali. In view of all the materials in its possession, the Court finds that the applicant has presented a *prima facie* case that her son was abducted by State agents in the circumstances as set out by her.

330. The Government did not provide a satisfactory and convincing explanation for the events in question. Therefore, they failed to discharge their burden of proof.

331. Bearing in mind the general principles enumerated above, the Court finds that Timerlan Soltakhanov was taken into custody by State agents on 7 June 2003. In view of the absence of any news of him since that date and the life-threatening nature of such detention (see paragraph 327 above), the Court also finds that Timerlan Soltakhanov may be presumed dead following his unacknowledged detention.

2. Application no. 4401/10, Yesiyeva and Others v. Russia

332. Several witness statements collected by the applicants, along with the documents from the investigation file furnished by the Government (see, for example, paragraphs 49, 51, 54 and 55 above) demonstrate that the applicants' relative, Adam Yesiyev, was abducted on 19 September 2002 by a group of armed servicemen in Urus-Martan. In view of all the materials in its possession, the Court finds that the applicants have presented a *prima facie* case that their relative was abducted by State agents in the circumstances as set out by them.

333. The Government did not provide a satisfactory and convincing explanation for the events in question. Therefore, they failed to discharge their burden of proof.

334. Bearing in mind the general principles enumerated above, the Court finds that Adam Yesiyev was taken into custody by State agents on 19 September 2002 in Urus-Martan. In view of the absence of any news of him since that date and the life-threatening nature of such detention (see

paragraph 327 above), the Court also finds that Adam Yesiyev may be presumed dead following his unacknowledged detention.

3. *Application no. 25518/10, Alimkhanova and Others v. Russia*

335. A number of witness statements collected by the applicants, along with the documents from the investigation file furnished by the Government (see, for example, paragraphs 79 and 81 above) demonstrate that the applicants' relatives, Khamzat Alimkhanov and Sulim Khatulov, were abducted on 26 January 2001 by a group of armed servicemen during a special operation in Komsomolskoye. In view of all the materials in its possession, the Court finds that the applicants have presented a *prima facie* case that their relatives were abducted by State agents in the circumstances as set out by them.

336. The Government did not provide a satisfactory and convincing explanation for the events in question. Therefore, they failed to discharge their burden of proof.

337. Bearing in mind the general principles enumerated above, the Court finds that Khamzat Alimkhanov and Sulim Khatulov were taken into custody by State agents on 26 January 2001. In view of the absence of any news of them since that date and the life-threatening nature of such detention (see paragraph 327 above), the Court also finds that the applicants' relatives may be presumed dead following their unacknowledged detention.

4. *Application no. 28779/10, Magamadova v. Russia*

338. Several witness statements collected by the applicant, along with the documents from the investigation file furnished by the Government (see, for example, paragraphs 118 and 120 above) demonstrate that the applicant's son, Akhmed Gazuyev, was abducted on 25 December 2000 by a group of armed servicemen during a security operation in Urus-Martan. In view of all the materials in its possession, the Court finds that the applicant has presented a *prima facie* case that her son was abducted by State agents in the circumstances as set out by her.

339. The Government did not provide a satisfactory and convincing explanation for the events in question. Therefore, they failed to discharge their burden of proof.

340. Bearing in mind the general principles enumerated above, the Court finds that Akhmed Gazuyev was taken into custody by State agents on 25 December 2000 in Urus-Martan. In view of the absence of any news of him since that date and the life-threatening nature of such detention (see paragraph 327 above), the Court also finds that Akhmed Gazuyev may be presumed dead following his unacknowledged detention.

5. *Application no. 33175/10, Arzhiyeva v. Russia*

341. From the documents submitted it appears that the applicant did not witness her sons' abduction on 3 May 2005 and that there were no direct witnesses to the incident. In addition, it does not appear that the applicant's allegation that following her sons' disappearance she saw them on the premises of the military unit was brought to the attention of the domestic authorities. At the same time the documents submitted demonstrate that from the outset the applicant and the numerous witnesses questioned by the investigation consistently alleged the involvement of military servicemen in the abduction (see, for example, paragraphs 146, 149, 151, 152 and 154 above) and that the applicant's version of the events was the only one pursued by the investigating authorities (see paragraphs 162 and 163 above). In view of all the materials in its possession, the Court finds that the applicant has presented a *prima facie* case that her sons were abducted by State agents in the circumstances as set out by her.

342. The Government did not provide a satisfactory and convincing explanation for the events in question. Therefore, they failed to discharge their burden of proof.

343. Bearing in mind the general principles enumerated above, the Court finds that Usman and Valid Arzhiyev were taken into custody by State agents on 3 May 2005 near Avtury. In view of the absence of any news of them since that date and the life-threatening nature of such detention (see paragraph 327 above), the Court also finds that Usman and Valid Arzhiyev may be presumed dead following their unacknowledged detention.

6. *Application no. 47393/10, Elikhanova v. Russia*

344. Several witness statements collected by the applicant, along with the documents from the investigation file furnished by the Government (see, for example, paragraphs 177 and 179 above) demonstrate that the applicant's son, Khavazhi Elikhanov, was abducted on 4 November 2001 by a group of armed servicemen during a security operation in Urus-Martan. In view of all the materials in its possession, the Court finds that the applicant has presented a *prima facie* case that her son was abducted by State agents in the circumstances as set out by her.

345. The Government did not provide a satisfactory and convincing explanation for the events in question. Therefore, they failed to discharge their burden of proof.

346. Bearing in mind the general principles enumerated above, the Court finds that Khavazhi Elikhanov was taken into custody by State agents on 4 November 2001 in Urus-Martan. In view of the absence of any news of him since that date and the life-threatening nature of such detention (see paragraph 327 above), the Court also finds that Khavazhi Elikhanov may be presumed dead following his unacknowledged detention.

7. *Application no. 54753/10, Temiraliyeva and Others v. Russia*

347. Several witness statements collected by the applicants, along with the documents from the investigation file furnished by the Government (see, for example, paragraphs 203, 206 and 208 above) demonstrate that the applicants' relative, Aslan Dzhamalov, was abducted on 9 July 2002 by a group of armed servicemen in Grozny. In view of all the materials in its possession, the Court finds that the applicants have presented a *prima facie* case that their relative was abducted by State agents in the circumstances as set out by them.

348. The Government did not provide a satisfactory and convincing explanation for the events in question. Therefore, they failed to discharge their burden of proof.

349. Bearing in mind the general principles enumerated above, the Court finds that Aslan Dzhamalov was taken into custody by State agents on 9 July 2002 in Grozny. In view of the absence of any news of him since that date and the life-threatening nature of such detention (see paragraph 327 above), the Court also finds that Aslan Dzhamalov may be presumed dead following his unacknowledged detention.

8. *Application no. 58131/10, Payzulayeva and Others v. Russia*

350. A number of witness statements collected by the applicants, along with the documents from the investigation file furnished by the Government (see, for example, paragraphs 231, 232 and 233 above) demonstrate that the applicants' relatives, Magomed Cherkasov and Ayub Istamulov, were abducted on 30 April 2001 by a group of armed servicemen near Verkhniy Noyber. In view of all the materials in its possession, the Court finds that the applicants have presented a *prima facie* case that their relatives were abducted by State agents in the circumstances as set out by them.

351. The Government did not provide a satisfactory and convincing explanation for the events in question. Therefore, they failed to discharge their burden of proof.

352. Bearing in mind the general principles enumerated above, the Court finds that Magomed Cherkasov and Ayub Istamulov were taken into custody by State agents on 30 April 2001. In view of the absence of any news of them since that date and the life-threatening nature of such detention (see paragraph 327 above), the Court also finds that the applicants' relatives may be presumed dead following their unacknowledged detention.

9. *Application no. 62207/10, Vakhidova v. Russia*

353. Several witness statements collected by the applicant along with the documents from the investigation file furnished by the Government (see, for example, paragraphs 246 and 256 above) demonstrate that the applicant's

son, Musa Vakhidov, was abducted on 22 June 2000 by a group of armed servicemen in Chernorechye. In view of all the materials in its possession, the Court finds that the applicant has presented a *prima facie* case that her son was abducted by State agents in the circumstances as set out by her.

354. The Government did not provide a satisfactory and convincing explanation for the events in question. Therefore, they failed to discharge their burden of proof.

355. Bearing in mind the general principles enumerated above, the Court finds that Musa Vakhidov was taken into custody by State agents on 22 June 2000 in Chernorechye in the Grozny district. In view of the absence of any news of him since that date and the life-threatening nature of such detention (see paragraph 327 above), the Court also finds that Musa Vakhidov may be presumed dead following his unacknowledged detention.

10. Application no. 73784/10, Musayevy v. Russia

356. Several witness statements collected by the applicants, along with copies of documents from the investigation file furnished by them (see, for example, paragraphs 269, 279, 280 and 288 above) demonstrate that the applicants' relative, Robert Musayev, was abducted on 8 May 2001 by a group of armed servicemen in Dachu-Borzoy. In view of all the materials in its possession, the Court finds that the applicants have presented a *prima facie* case that their relative was abducted by State agents in the circumstances as set out by them.

357. The Government did not provide a satisfactory and convincing explanation for the events in question. Therefore, they failed to discharge their burden of proof.

358. Bearing in mind the general principles enumerated above, the Court finds that Robert Musayev was taken into custody by State agents on 8 May 2001 in Dachu-Borzoy. In view of the absence of any news of him since that date and the life-threatening nature of such detention (see paragraph 327 above), the Court also finds that Robert Musayev may be presumed dead following his unacknowledged detention.

D. Conclusions

359. The Court finds that in all cases the applicants' relatives were abducted by armed men in uniforms, displaying behaviour characteristic of security operations. Their behaviour and appearance, their ability to pass through roadblocks and to cordon off areas, along with their use of vehicles, in all probability, lead the Court to conclude that they could be none other than State servicemen. The applicants' allegations are supported by the witness statements collected by them and by the investigations. In their submissions to the authorities the applicants consistently maintained that their relatives had been abducted by State agents. The domestic

investigations accepted as fact the version of events as presented by the applicants and took steps to check whether State servicemen had been involved in the abductions. As it appears from the documents, the investigations regarded the possibility of abduction by servicemen as the only, or at least the main, plausible explanation of the events.

360. In summary, the facts of all the applications contain sufficient elements to enable the Court to make findings about the carrying out of security operations and thus about the State's exclusive control over the detainees (see, among many others, *Aslakhanova and Others*, cited above, § 114). The Government's arguments are limited to references to the unfinished criminal investigations, or are of a speculative nature and stand in contradiction to the evidence reviewed by the Court. In any case, they are insufficient to discharge them of the burden of proof which has been shifted to them in such cases.

361. The detention in life-threatening circumstances of Timerlan Soltakhanov, Aldam Yesiyev, Khamzat Alimkhanov, Sulim Khatulov, Akhmed Gazuyev, Usman Arzhiyev, Valid Arzhiyev, Khavazhi Elikhanov, Aslan Dzhamalov, Magomed Cherkasov, Ayub Istamulov, Musa Vakhidov and Robert Musayev, together with the long absence of any news of them, lead the Court to conclude that they may be presumed dead.

IV. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

362. The applicants complained, under Article 2 of the Convention, that their relatives had disappeared after having been detained by State agents and that the domestic authorities had failed to carry out an effective investigation into the matter. Article 2 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.”

A. The parties' submissions

363. The Government contended that the domestic investigations had obtained no evidence that the applicants' relatives had been held under State control or that they were dead. They further noted that the mere fact that the investigative measures had not produced any specific results, or had given

only limited ones, did not mean that there were any omissions on the part of the investigative authorities. They claimed that all necessary steps were being taken to comply with the obligation to conduct an effective investigation.

364. The applicants reiterated their complaints.

B. The Court's assessment

1. Admissibility

365. The Court considers, in the light of the parties' submissions, that the complaints raise serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The complaint under Article 2 of the Convention must therefore be declared admissible.

2. Merits

(a) Alleged violation of the right to life of the applicants' relatives

366. The Court has already found that in all of the applications under examination, the applicants' relatives may be presumed dead, following their unacknowledged detention by State agents. In the absence of any justification put forward by the Government, the Court finds that their deaths can be attributed to the State and that there has been a violation of the substantive aspect of Article 2 of the Convention in respect of Timerlan Soltakhanov, Aldam Yesiyev, Khamzat Alimkhanov, Sulim Khatulov, Akhmed Gazuyev, Usman Arzhiyev, Valid Arzhiyev, Khavazhi Elikhanov, Aslan Dzhamalov, Magomed Cherkasov, Ayub Istamulov, Musa Vakhidov and Robert Musayev.

(b) Alleged inadequacy of the investigations into the abductions

367. The Court has already found that a criminal investigation does not constitute an effective remedy in respect of disappearances which have occurred, in particular, in Chechnya between 1999 and 2006, and that such a situation constitutes a systemic problem under the Convention (see *Aslakhanova and Others*, cited above, § 217). In the case at hand, as in many previous similar cases reviewed by the Court, the investigations have been pending for many years without bringing about any significant developments as to the identities of the perpetrators or the fate of the applicants' missing relatives. While the obligation to investigate effectively is one of means and not of results, the Court notes that each set of criminal proceedings has been plagued by a combination of the same defects as those enumerated in the *Aslakhanova and Others* judgment (cited above, §§ 123-25). Each was subjected to several decisions to suspend the

investigation, followed by periods of inactivity, which further diminished the prospects of solving the crimes. No meaningful steps have been taken to identify and question the servicemen who could have witnessed, registered or participated in the operations.

368. In the light of the foregoing, the Court finds that the authorities failed to carry out effective criminal investigations into the circumstances of the disappearance and death of Timerlan Soltakhanov, Aldam Yesiyev, Khamzat Alimkhanov, Sulim Khatulov, Akhmed Gazuyev, Usman Arzhiyev, Valid Arzhiyev, Khavazhi Elikhanov, Aslan Dzhamalov, Magomed Cherkasov, Ayub Istamulov, Musa Vakhidov and Robert Musayev. Accordingly, there has been a violation of Article 2 of the Convention in its procedural aspect.

V. ALLEGED VIOLATIONS OF ARTICLES 3, 5 AND 13 OF THE CONVENTION

369. The applicants complained of a violation of Articles 3 and 5 of the Convention on account of the mental suffering caused to them by the disappearance of their relatives and the unlawfulness of their relatives' detention. They also argued that, contrary to Article 13 of the Convention, they had no available domestic remedies against the alleged violations, in particular those under Articles 2 and 3. These Articles read, in so far as relevant:

Article 3

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

Article 5

“1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

...

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

...

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.”

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

370. The Government contested the applicants’ claims.

371. The applicants reiterated their complaints.

B. The Court’s assessment

1. Admissibility

372. 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

373. The Court has found on many occasions that a situation of enforced disappearance gives rise to a violation of Article 3 in respect of the close relatives of the victim. The essence of such a violation does not lie mainly in the fact of the “disappearance” of the family member, but rather concerns the authorities’ reactions and attitudes to the situation when it is brought to their attention (see *Orhan v. Turkey*, no. 25656/94, § 358, 18 June 2002, and *Imakayeva*, cited above, § 164). Where the news about the missing person’s death was preceded by a sufficiently long period when he or she had been deemed disappeared, there exists a distinct period during which the applicants sustained uncertainty, anguish and distress characteristic to the specific phenomenon of disappearances (see *Luluyev and Others*, cited above, § 115).

374. Equally, the Court has found on many occasions that unacknowledged detention is a complete negation of the guarantees contained in Article 5 and discloses a particularly grave violation of its provisions (see *Çiçek v. Turkey*, no. 25704/94, § 164, 27 February 2001, and *Luluyev*, cited above, § 122).

375. The Court reiterates its findings regarding the State’s responsibility for the abductions and the failure to carry out a meaningful investigation

into the fates of the disappeared persons. It finds that the applicants, who are close relatives of the disappeared, must be considered victims of a violation of Article 3 of the Convention on account of the distress and anguish which they suffered, and continue to suffer, as a result of their inability to ascertain the fate of their family members and of the manner in which their complaints have been dealt with.

376. The Court furthermore confirms that since it has been established that the applicants' relatives were detained by State agents, apparently without any legal grounds or acknowledgement of such detention, this constitutes a particularly grave violation of the right to liberty and security of persons enshrined in Article 5 of the Convention.

377. The Court reiterates its findings of the general ineffectiveness of the criminal investigations in cases such as those under examination. In the absence of the results of the criminal investigation, any other possible remedy becomes inaccessible in practice.

378. The Court thus finds that the applicants in these cases did not dispose of an effective domestic remedy for their grievances under Articles 2 and 3, in breach of Article 13 of the Convention.

VI. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

379. The applicants in *Musayevy* (application no. 73784/10) complained of the unlawful seizure and destruction of Robert Musayev's car by the abductors. They relied on Article 1 of Protocol No. 1 to the Convention, which provides as follows:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. The parties' submissions

380. The Government contended that the applicants had failed to exhaust domestic remedies in respect of their complaint under this heading by failing to claim damages through either the law-enforcement authorities or the domestic courts.

381. The applicants reiterated the complaint.

B. The Court's assessment

1. Admissibility

382. The Court has already found that the Government's objection concerning the alleged non-exhaustion of domestic remedies should be dismissed (see paragraphs 320-22 above). The Court further 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.

2. Merits

383. From the documents submitted by the applicants it appears that their complaint concerning the seizure of Robert Musayev's car was communicated promptly to the domestic law-enforcement authorities (see, for example, paragraphs 279, 281 and 283 above). However, the latter failed to take any measures to examine it (for a similar situation see, amongst others, *Karimov and Others v. Russia*, no. 29851/05, § 139, 16 July 2009). Taking into account that the Government did not call into question Robert Musayev's ownership of the impugned vehicle and the fact that the Court has already found that the persons who detained Robert Musayev were State agents, the Court finds that the seizure and destruction of the car was imputable to the respondent State.

384. Accordingly, there was an interference with the right to the protection of property. In the absence of any reference on the part of the Government to the lawfulness and proportionality of that action, the Court finds that there has been a violation of the right to protection of property guaranteed by Article 1 of Protocol No. 1 to the Convention.

VII. ALLEGED VIOLATION OF ARTICLE 38 OF THE CONVENTION

385. The applicants in *Musayevy* (application no. 73784/10) alleged that the Government had failed to disclose any of the documents from the investigation file on the abduction of Robert Musayev. Therefore, they invited the Court to find a violation of Article 38 of the Convention, which reads:

"The Court shall examine the case together with the representatives of the parties and, if need be, undertake an investigation, for the effective conduct of which the High Contracting Parties concerned shall furnish all necessary facilities."

386. The Court reiterates that it is of utmost importance for the effective operation of the system of individual petition instituted by Article 34 that States should furnish all necessary facilities to make possible a proper and effective examination of applications (see *Tanrikulu v. Turkey* [GC], no. 23763/94, § 70, ECHR 1999-IV, and *Velikova v. Bulgaria*,

no. 41488/98, § 77, ECHR 2000-VI). This obligation requires the Contracting States to furnish all necessary facilities to the Court, whether it is conducting a fact-finding investigation or performing its general duties as regards the examination of applications. A failure on a Government's part to submit such information which is in their hands without a satisfactory explanation may not only give rise to the drawing of inferences as to the well-foundedness of the applicants' allegations, but may also reflect negatively on the level of compliance by a respondent State with its obligations under Article 38 of the Convention (see *Medova v. Russia*, no. 25385/04, § 76, 15 January 2009, and *Timurtaş v. Turkey*, no. 23531/94, § 66 and 70, ECHR 2000-VI).

387. Turning to the circumstances of the present case, the Court notes that the Government alleged that the entire criminal investigation file had been produced (see paragraph 295 above). In any event, the Court asked the Government to produce such relevant documents from the investigation file which were capable of rebutting the applicants' allegations that their missing relative had been abducted by State servicemen, including witness statements. The Court also notes that the applicants furnished numerous copies of documents reflecting the contents of the criminal case file (see paragraphs 281-93 above).

388. Having regard to the above, and to the conclusions as to the State's responsibility for the abduction (see paragraph 366 above), the Court finds that the allegedly incomplete nature of certain documents and information did not prevent it from examining the application (see *Khatsiyeva and Others v. Russia*, no. 5108/02, § 168, 17 January 2008, and *Giuliani and Gaggio v. Italy* [GC], no. 23458/02, § 234, ECHR 2011 (extracts)).

389. There has accordingly been no failure to comply with Article 38 of the Convention.

VIII. APPLICATION OF ARTICLE 41 OF THE CONVENTION

390. 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

391. The applicants' just satisfaction claims can be summarised as follows.

1. Damages

(a) Application no. 51534/08, *Gakayeva v. Russia*

392. The applicant claimed 996,603 Russian roubles (RUB) (approximately 24,573 euros (EUR)) in respect of pecuniary damage for the loss of financial support by the breadwinner. She based her calculations on the subsistence level provided for by domestic law and the Ogden Actuary Tables.

393. She also claimed EUR 100,000 in respect of non-pecuniary damage.

394. The Government submitted that the applicant's claim for pecuniary damage was unsubstantiated as she had failed to provide official documents proving the amount of her son's salary. As for her claim for non-pecuniary damage, the Government stated that it was excessive and that finding a violation of the Convention would in itself comprise adequate compensation.

(b) Application no. 4401/10, *Yesiyeva and Others v. Russia*

395. The applicants jointly claimed RUB 1,464,497 (approximately EUR 36,110) in respect of pecuniary damage for the loss of financial support by the breadwinner. They based their calculations on the subsistence level provided for by domestic law and the Ogden Actuary Tables.

396. The applicants also jointly claimed EUR 100,000 in respect of non-pecuniary damage.

397. The Government submitted that the applicants' claim for pecuniary damage was unsubstantiated. As for the claim for non-pecuniary damage, it was excessive and the finding of a violation of the Convention would in itself comprise adequate compensation.

(c) Application no. 25518/10, *Alimkhanova and Others v. Russia*

398. In respect of pecuniary damage, the first, third, fourth, fifth, sixth, seventh, eighth, ninth and tenth applicants claimed EUR 29,700, EUR 24,479, EUR 25,373, EUR 34,895, EUR 26,290, EUR 33,216, EUR 32,400 EUR 28,440 and EUR 23,220 respectively for loss of financial support by the breadwinners. The applicants based their calculations on the official minimum subsistence level in Chechnya.

399. As for non-pecuniary damage, the applicants asked to be awarded an amount which the Court would find reasonable in the circumstances of the case.

400. The Government stated that the applicants' claim for pecuniary damages was unsubstantiated and that the applicants had failed to claim non-pecuniary damages.

(d) Application no. 28779/10, *Magamadova v. Russia*

401. The applicant claimed EUR 500,000 in respect of non-pecuniary damage.

402. The Government submitted that the applicant's claim was excessive and that finding a violation of the Convention would in itself comprise adequate compensation.

(e) Application no. 33175/10, *Arzhiyeva v. Russia*

403. In respect of non-pecuniary damage, the applicant asked the Court to award her an amount that the Court would find appropriate and reasonable in the circumstances of the case.

404. The Government stated that the applicant had failed to claim non-pecuniary damages.

(f) Application no. 47393/10, *Elikhanova v. Russia*

405. The applicant claimed EUR 500,000 in respect of non-pecuniary damage.

406. The Government submitted that the applicant's claim was excessive and that finding a violation of the Convention would in itself comprise adequate compensation.

(g) Application no. 54753/10, *Temiraliyeva and Others v. Russia*

407. In respect of pecuniary damage, the first, second, third, fifth and seventh applicants claimed RUB 474,810 (approximately EUR 11,705), RUB 474,810 (approximately EUR 11,705), RUB 3,925 (approximately EUR 100), RUB 9,415 (approximately EUR 232), and RUB 20,876 (approximately EUR 515) respectively for the loss of financial support by the breadwinner. The fourth and sixth applicants did not claim pecuniary damages. The applicants based their calculations on the subsistence level provided for by domestic law and the Ogden Actuary Tables.

408. In respect of non-pecuniary damage, the applicants jointly claimed EUR 245,000.

409. The Government submitted that the applicants' claim for pecuniary damage was unsubstantiated. As for non-pecuniary damage, their claim was excessive and the finding of a violation of the Convention would in itself comprise adequate compensation.

(h) Application no. 58131/10, *Payzulayeva and Others v. Russia*

410. The first, second, third, fourth, fifth, sixth, seventh and eighth applicants claimed RUB 351,739 (approximately EUR 8,673), RUB 335,908 (approximately EUR 8,282), RUB 703,478 (approximately EUR 17,346), RUB 276,707 (approximately EUR 6,825), RUB 337,617 (approximately EUR 8,327), RUB 560,618 (approximately EUR 13,827),

RUB 488,368 (approximately EUR 12,045) and RUB 934,363 (approximately EUR 23,044) respectively in respect of pecuniary damage for the loss of financial support by the breadwinners. The applicants based their calculations on the subsistence level provided for by domestic law and the Ogden Actuary Tables.

411. In respect of non-pecuniary damage, the applicants jointly claimed EUR 280,000.

412. The Government submitted that the applicants' claim for pecuniary damage was unsubstantiated. As for non-pecuniary damage, their claim was excessive and the finding of a violation of the Convention would in itself comprise adequate compensation.

(i) Application no. 62207/10, *Vakhidova v. Russia*

413. The applicant claimed RUB 971,002 (approximately EUR 23,948) in respect of pecuniary damage for the loss of financial support by the breadwinner. She based her calculations on the subsistence level provided for by domestic law and the Ogden Actuary Tables.

414. The applicant further claimed EUR 100,000 in respect of non-pecuniary damage.

415. The Government submitted that the applicant's claim for pecuniary damage was unsubstantiated as she had failed to provide official documents proving the amount of her son's salary. As for her claim for non-pecuniary damage, they stated that it was excessive and that finding a violation of the Convention would in itself comprise adequate compensation.

(j) Application no. 73784/10, *Musayevy v. Russia*

416. In respect of pecuniary damage, the first applicant claimed RUB 211,425 (approximately EUR 5,214), for the loss of financial support by the breadwinner. He based his calculations on the subsistence level provided for by domestic law and the Ogden Actuary Tables.

417. In respect of non-pecuniary damages, the applicants jointly claimed EUR 75,000.

418. The Government submitted that the first applicant's claim for pecuniary damage was unsubstantiated as she had failed to provide official documents proving the amount of Robert Musayev's salary. As for the applicants' joint claim for non-pecuniary damage, the Government stated that it was excessive and that finding a violation of the Convention would in itself comprise adequate compensation.

2. Costs and expenses

419. The applicants in *Gakayeva* (no. 51534/08), *Yesiyeva and Others* (no. 4401/10), *Temiraliyeva and Others* (no. 54753/10), *Payzulayeva and Others* (no. 58131/10), *Vakhidova* (no. 62207/10) and *Musayevy*

(no. 73784/10) were represented by the Stichting Russian Justice Initiative. The aggregate claim in respect of costs and expenses related to the applicants' legal representation amounted to EUR 4,633, EUR 4,459, EUR 4,459, EUR 4,043, EUR 5,419 and EUR 4,027 respectively. Each claim included the drafting of legal documents submitted to the Court, and administrative and postal expenses. The applicants submitted copies of their legal representation contracts and invoices with a breakdown of the costs incurred.

420. The applicants in *Alimkhanova and Others* (no. 25518/10), *Magamadova* (no. 28779/10), and *Arzhiyeva* (no. 33175/10) were represented by Mr D. Itslyayev, a lawyer practising in Grozny. The aggregate claim in respect of costs and expenses related to the applicants' legal representation amounted to EUR 6,407, EUR 6,343 and EUR 6,551 respectively, which included the drafting of legal documents submitted to the Court, and administrative and translation expenses. The applicants submitted copies of their legal representation contracts and invoices for translation services.

421. The applicant in *Elikhanova* (no. 47393/10) was represented by the Memorial Human Rights Centre. The aggregate claim in respect of costs and expenses related to her legal representation amounted to 2,815 British pounds (GBP), which included the drafting of legal documents submitted to the Court, and administrative and translation costs. She submitted copies of invoices with a breakdown of the costs incurred.

422. The Government submitted in respect of each application that the applicants' claims for costs and expenses were unsubstantiated as it had not been shown that the expenses claimed had actually been incurred.

B. The Court's assessment

423. The Court reiterates that there must be a clear causal connection between the damages claimed by the applicants and the violation of the Convention, and that this may, where appropriate, include compensation in respect of loss of earnings. The Court further finds that the loss of earnings applies to close relatives of the disappeared persons, including spouses, elderly parents and minor children (see, among other authorities, *Imakayeva*, cited above, § 213).

424. Wherever the Court finds a violation of the Convention, it may accept that the applicants have suffered non-pecuniary damage which cannot be compensated for solely by the findings of violations, and make a financial award.

425. As to costs and expenses, the Court has to establish first whether the costs and expenses indicated by the applicants' representatives were actually incurred and, second, whether they were necessary (see *McCann*

and Others v. the United Kingdom, 27 September 1995, § 220, Series A no. 324, and *Fadeyeva v. Russia*, no. 55723/00, § 147, ECHR 2005–IV).

426. Having regard to its above conclusions, the principles enumerated above and the parties' submissions, the Court awards the amounts to the applicants as detailed in Appendix II, plus any tax that may be chargeable to the applicants on those amounts. The awards in respect of costs and expenses are to be paid into the representatives' bank accounts, as identified by the applicants.

C. Default interest

427. 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. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that there has been a substantive violation of Article 2 of the Convention in respect of the applicants' relatives: Timerlan Soltakhanov, Aldam Yesiyev, Khamzat Alimkhanov, Sulim Khatulov, Akhmed Gazuyev, Usman Arzhiyev, Valid Arzhiyev, Khavazhi Elikhanov, Aslan Dzhamaalov, Magomed Cherkasov, Ayub Istamulov, Musa Vakhidov and Robert Musayev;
4. *Holds* that there has been a procedural violation of Article 2 of the Convention in respect of the failure to investigate effectively the disappearance of the applicants' relatives;
5. *Holds* that there has been a violation of Article 3 of the Convention in respect of the applicants, on account of their relatives' disappearance and the authorities' response to their suffering;
6. *Holds* that there has been a violation of Article 5 of the Convention in respect of the applicants' relatives on account of their unlawful detention;
7. *Holds* there has been a violation of Article 13 of the Convention in conjunction with Articles 2 and 3 of the Convention;

8. *Holds* that there has been a violation of Article 1 of Protocol 1 to the Convention in application no. 73784/10;
9. *Holds* that there has been no failure to comply with Article 38 of the Convention;
10. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the amounts as indicated in Appendix II, plus any tax that may be chargeable to the applicants. The amounts are to be converted into Russian roubles, at the rate applicable at the date of settlement. As for the payments in respect of costs and expenses to the applicants' representatives, they are to be made to the representatives' bank accounts as indicated by the applicants; the payments are to be made in euros to the applicants represented by the SRJI, to be converted into Russian roubles to the applicants represented by Mr D. Itslayev and to be made in British pounds to the applicant represented by the Memorial Human Rights Centre;
 - (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;
11. *Dismisses* unanimously the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 10 October 2013, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach
Deputy Registrar

Isabelle Berro-Lefèvre
President

APPENDIX IDetails of the applications

	Application no., date of introduction	Represented by	Applicants	Persons disappeared, date and place of abduction	Investigation
1.	No. 51534/08, 30 September 2008	SRJI	Ms Rauzara ¹ Gakayeva, born in 1952, mother of Timerlan Soltakhanov. The applicant lives in Avtury, Chechnya	Timerlan Soltakhanov, born in 1977; 7 June 2003, Shali, Chechnya	On 25 June 2003 the Shali district prosecutor's office opened criminal case no. 22099. The Government submitted a copy of the entire criminal case file no. 22099 (a list of the contents with the number of pages is not attached). It appears that the investigation is still pending.
2.	No. 4401/10, 30 December 2009	SRJI	1) Ms Zulkahn Dzukayeva, born in 1973; 2) Ms Laylya Yesiyeva, born in 1937; 3) Mr Ziaudi Yesiyev, born in 1936; 4) Ms Malika Yesiyeva, born in 1996;	Aldam Yesiyev, born in 1967; 19 September 2002, Urus-Martan, Chechnya.	On 27 September 2002 the Urus- Martan district prosecutor's office opened criminal case no. 61133. The Government submitted a copy of the entire criminal case file (228 pages). It appears that the investigation is still pending.

¹ Rectified on 18 March 2014: the text was: "Ms Zara Gakayeva"

			<p>5) Mr Shamil Yesiyev, born in 1998; 6) Mr Shamkhan Yesiyev, born in 1999; 7) Mr Khalid Yesiyev, born in 2002.</p> <p>The first applicant is Aldam Yesiyev's wife, the second and third applicants are his parents and the fourth, fifth, sixth and seventh applicants are his children.</p> <p>The applicants live in Grozny, Chechnya</p>		
3.	No. 25518/10, 5 April 2010	D. Itslyayev	<p>1) Ms Madina Alimkhanova, born in 1976; 2) Mr Aslanbek¹ Alimkhanov, born in 1970; 3) Mr Ibragim Alimkhanov, born in 1994; 4) Mr Imam Alimkhanov, born in 1996; 5) Mr Rakhman Alimkhanov,</p>	<p>1) Khamzat Alimkhanov, born in 1972 2) Sulim Khatulov, born in 1970 26 January 2001, Komsomolskaya, Grozny district, Chechnya</p>	<p>On 28 February 2001 the Grozny district prosecutor's office opened criminal case no. 19015. The Government submitted a copy of the entire criminal case-file (244 pages). It appears that the investigation is still pending.</p>

¹ Rectified on 21 January 2014, previously the name read Aslambek.

		<p>born in 1999; 6) Mr German Alimkhanov, born in 1997; 7) Mr Rakhim Alimkhanov, born in 2001; 8) Mr Turpal Khatulov, born in 2000; 9) Ms Linda Khatulova, born in 1998; 10) Ms Khadizhat Khatulova, born in 1995.</p> <p>The first applicant is the sister of Khamzat Alimkhanov and the wife of Sulim Khatulov, the second applicant is Khamzat Alimkhanov's brother, the third, fourth, fifth, sixth and seventh applicants are his sons. The eighth, ninth and tenth applicants are the children of Sulim Khatulov. The applicants live in Argun, Chechnya.</p>		
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4.	No. 28779/10, 29 April 2010	D. Itslayev	Ms Kamizat Magamadova, born in 1953, mother of Mr Akhmed Gazuyev. The applicant lives in Urus-Martan, Chechnya.	Akhmed Gazuyev, born in 1976; 25 December 2000, Urus-Martan, Chechnya	On 21 March 2001 the Urus-Martan temporary district department of the interior opened criminal case no. 25239. The Government submitted a copy of the entire criminal case file (128 pages). It appears that the investigation is still pending.
5.	No. 33175/10, 21 May 2010	D. Itslayev	Ms Rumi Arzhiyeva, born in 1958, mother of Usman Arzhiyev and Valid Arzhiyev. The applicant lives in Avtury, Chechnya.	1) Usman Arzhiyev, born in 1978; 2) Valid Arzhiyev, born in 1986; 3 May 2005, Avtury, Chechnya	On 8 May 2005 the prosecutor's office opened criminal case no. 46049. The Government submitted a copy of the entire criminal case file (292 pages). It appears that the investigation is still pending.
6.	No. 47393/10, 13 August 2010	Memorial	Ms Roza Elikhanova, born in 1949, mother of Khavazhi Elikhanov. The applicant lives in Urus-Martan, Chechnya.	Khavazhi Elikhanov, born in 1977; 4 November 2001, Urus-Martan, Chechnya	On 14 December 2001 the Urus-Martan prosecutor's office opened criminal case no. 25158. The Government submitted a copy of the entire criminal case file (65 pages). It appears that the investigation is still pending.
7.	No. 54753/10, 13 September	SRJI	1) Ms Khizhan Temiraliyeva, born in 1959; 2) Mr Uzumkhazhi Dzhamalov,	Aslan Dzhamalov, born in 1979;	On 5 February 2003 the Grozny prosecutor's office opened criminal case no. 20043. The

	2010		<p>born in 1961; 3) Ms Dzhara dat Dzhamalova, born in 1987; 4) Ms Khedi Dzhamalova, born in 1977; 5) Ms Satsita Dzhamalova, born in 1989; 6) Ms Khadizhat Dzhamalova, born in 1981 7) Ms Zhaneta Dzhamalova, born in 1993. The first and second applicants are Aslan Dzhamalov's parents; the third, fourth, fifth, sixth and seventh applicants are his sisters. The applicants live in Berkart-Yurt, Chechnya</p>	9 July 2002, Grozny, Chechnya	Government submitted a copy of the entire criminal case file (159 pages). It appears that the investigation is still pending.
8.	No. 58131/10, 27 September 2010	SRJI	<p>1) Ms Aset Payzulayeva, born in 1960; 2) Mr Ayuub Cherkasov, born in 1953; 3) Ms Zalina Mukulova, born in 1981; 4) Mr Said-Khusein Cherkasov, born in 1999;</p>	<p>1) Mr Magomed Cherkasov, born in 1979; 2) Mr Ayub Istamulov, born in 1981; 30 Apr 2001, Verkhniy Noyber, in the Gudermes district, Chechnya.</p>	<p>On 27 September 2005 the Gudermes district prosecutor's office opened criminal case no. 45108. The Government submitted a copy of the entire criminal case file (182 pages). It appears that the investigation is still pending.</p>

			<p>5) Mr Shakhru-Ramazan Cherkasov, born in 2001; 6) Ms Khava Eskarova, born in 1959; 7) Mr Uvys Istamulov, born in 1951; 8) Ms Raisa Shakhtiyeva, born in 1986.</p> <p>The first and second applicants are the parents of Magomed Cherkasov; the third applicant is his wife and the fourth and fifth applicants are his children. The sixth and seventh applicants are the parents of Ayub Istamulov; the eighth applicant is his wife.</p> <p>The applicants live in Verkhniy Noyber, in the Gudermes district, Chechnya.</p>		
9.	No. 62207/10, 15 October 2010	SRJI	<p>Ms Khelipat Vakhidova, born in 1950, mother of Musa Vakhidov.</p> <p>The applicant lives in Urus-Martan, Chechnya.</p>	<p>Musa Vakhidov, born in 1976; 22 June 2000, Zavodskoy district, Grozny, Chechnya</p>	<p>On 28 February 2001 the Grozny prosecutor's office opened criminal case no. 13029. The Government submitted a copy of the entire criminal case file (152 pages). It appears that</p>

					the investigation is still pending.
10.	No. 73784/10, 29 November 2010	SRJI	<p>1) Mr Mauldy Musayev, born in 1926; 2) Ms Kameta Musayeva, born in 1971 3) Ms Ayza Musayeva, born in 1963.</p> <p>The first applicant is Robert Musayev's father, the second and third applicants are his sisters. The applicants live in Ulus-Kert, in the Shatoy district, Chechnya</p>	Mr Robert Musayev, born in 1974; 8 May 2001, Dachu-Borzoy, Grozny district, Chechnya	On 18 March 2002 the Grozny district prosecutor's office opened criminal case no. 56036. The Government failed to disclose any documents from the case file. It follows from the Government's observations that the investigation was resumed on 30 November 2011 and is currently pending.

APPENDIX II

Awards made by the Court under Article 41 of the Convention

	Application number and name	Represented by	Pecuniary damage	Non-pecuniary damage	Costs and expenses
1.	No. 51534/08 <i>Gakayeva v. Russia</i>	SRJI	EUR 15,000	EUR 60,000	EUR 3,500
2.	No. 4401/10 <i>Yesiyeva and Others v. Russia</i>	SRJI	EUR 25,000, jointly	EUR 60,000, jointly	EUR 3,500
3.	No. 25518/10 <i>Alimkhanova and Others v. Russia</i>	D. Itslyayev	EUR 20,000 to the first applicant; EUR 1,000 to the second applicant; EUR 10,000 to the third, fourth, fifth, sixth and seventh applicants each; EUR 10,000 to the eighth, ninth and tenth applicant each	EUR 120,000, jointly	EUR 4,500

4.	No. 28779/10 <i>Magamadova v. Russia</i>	D. Itslayev	-	EUR 60,000	EUR 3,500
5.	No. 33175/10 <i>Arzhiyeva v. Russia</i>	D. Itslayev	-	EUR 120,000	EUR 4,000
6.	No.47393/10 <i>Elikhanova v. Russia</i>	Memorial	-	EUR 60,000	EUR 3,500
7.	No. 54753/10 <i>Temiraliyeva and Others v. Russia</i>	SRJI	EUR 10,000 to the first and second applicants each	EUR 60,000, jointly	EUR 3,500
8.	No. 58131/10 <i>Payzulayeva and Others v. Russia</i>	SRJI	EUR 12,000 to the first and second applicants jointly; EUR 25,000 to the third, fourth and fifth applicants jointly; EUR 12,000 to the sixth and seventh applicants jointly; EUR15,000 to the eighth applicant	EUR 60,000, jointly to the first, second, third, fourth and fifth applicants; EUR 60,000, jointly to the sixth, seventh and eighth applicants	EUR 4,000
9.	No. 62207/10 <i>Vakhidova</i>	SRJI	EUR 15,000	EUR 60,000	EUR 3,500

	<i>v. Russia</i>				
10.	No. 73784/10 <i>Musayevy</i> <i>v. Russia</i>	SRJI	EUR 3,000 to the first applicant	EUR 60,000, jointly	EUR 3,500