



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

FIRST SECTION

CASE OF AKHMATOV AND OTHERS v. RUSSIA

*(Applications nos. 38828/10, 2543/11, 2650/11, 2685/11, 7409/11,
14321/11 and 26277/11)*

JUDGMENT

*This version was rectified on 7 March 2014
under Rule 81 of the Rules of the Court*

STRASBOURG

16 January 2014

FINAL

02/06/2014

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

In the case of Akhmatov and Others v. Russia,

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

Isabelle Berro-Lefèvre, *President*,

Mirjana Lazarova Trajkovska,

Julia Laffranque,

Linos-Alexandre Sicilianos,

Erik Møse,

Ksenija Turković,

Dmitry Dedov, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 17 December 2013,

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

PROCEDURE

1. The case originated in seven 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. Itsleyev, a lawyer practising in Grozny, lawyers from the NGO Stichting Russian Justice Initiative (in partnership with NGO Astreya), and lawyers from the NGO Materi Chechni. 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 2001 and 2005 their fourteen relatives had been abducted by State servicemen in Chechnya and that no effective investigation of the matter had taken place.

4. On 21 October 2011 the applications were communicated to the Government.

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 after allegedly being arrested at home by servicemen. In each of the

applications the events took place in areas under the full control of the Russian federal forces. The alleged abductions were primarily carried out during curfew hours, at night or early in the morning. In some of the cases the applicants submitted that at the material time a special operation was being conducted by Russian servicemen in the area, which was subsequently confirmed by the investigation.

6. The applicants complained to law-enforcement bodies, and official investigations were opened. The proceedings were repeatedly suspended and resumed, and have remained pending for several years without achieving any tangible results. The investigations consisted mainly of the authorities 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 operational 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 38828/10, *Akhmatov v. Russia*

10. The applicant, Mr Pakhrudin (also spelt as Pakhruddin and Bakhrudin) Akhmatov, was born in 1950 and lives in Noybera (in the documents submitted also referred to as Melchikhi and Nizhniy Noyber), Gudermes district, in the Chechen Republic. He is represented before the Court by Mr D. Itslyayev.

11. The applicant is the father of Mr Lom-Ali Akhmatov, who was born in 1978.

1. Abduction of Lom-Ali Akhmatov

12. Between 1 and 5 January 2005 the applicant's son Lom-Ali Akhmatov was celebrating his wedding and staying at the applicant's house.

13. At around 4 p.m. on 6 January 2005 three armed men in military uniforms arrived at the applicant's house in a silver VAZ-21099 car without official registration numbers, and asked to speak to Lom-Ali outside. Once in the street they put him in their car and drove away towards Gudermes. The abduction took place in the presence of the applicant's fellow villagers.

14. The applicant has not seen Mr Lom-Ali Akhmatov since 6 January 2005.

2. Official investigation of the abduction

(a) Main investigative steps taken by the authorities

15. On 8 January 2005 the applicant complained to the Gudermes district prosecutor's office (the investigators) and the Gudermes district department of the interior (the ROVD) that his son had been arrested by unidentified military men who had arrived in a civilian VAZ-2199 car without registration numbers.

16. On 5 March 2005 the Gudermes ROVD informed the investigators that the abduction of the applicant's son had been perpetrated under the pretext of an "informal inquiry" by the police and that it could have been connected to the arrest of Lom-Ali's acquaintance who was a member of an illegal armed group, Mr U.-M. D.

17. On 15 March 2005 the applicant wrote to the the prosecutor's office asking for a criminal case not to be opened as his son Lom-Ali "has not been abducted".

18. On the same date the prosecutor's office refused to initiate a criminal investigation.

19. On 12 August 2005 the applicant stated to the investigators from the prosecutor's office that his son had indeed been abducted in January 2005 and that he had written the request of 15 March 2005 asking for a criminal case not to be opened while under pressure from officers of the Gudermes ROVD. The applicant insisted that the prosecutor's office must investigate his son's abduction and open a criminal case in connection with it.

20. On 26 September 2005 the Gudermes district interim prosecutor overruled the refusal to open a criminal case. On the same date an investigation of the abduction (in the documents submitted it was also described as the murder) of the applicant's son was initiated and the criminal case file was given the number 45107.

21. On 13 December 2005 the investigators examined the crime scene.

22. On 26 December 2005 the investigation was suspended for failure to establish the identity of the culprits. The applicant was informed thereof on 9 November 2007 when he enquired on 8 November 2007 about the progress of the investigation.

23. On 17 February 2010 the investigation was resumed and the investigators were instructed, amongst other things, to question a number of witnesses.

24. On 1 May 2010 the investigation was suspended again. The applicant was informed thereof.

25. From the documents submitted it appears that on an unidentified date in the spring of 2010 the applicant complained to a local court that the

investigation was ineffective. On 5 May 2010 the domestic court examined the complaint. The outcome of the examination is unknown.

26. On 23 January 2012 the investigation was resumed again.

27. The proceedings are currently pending.

(b) Main witness statements taken during the investigation

28. On 12 October 2005 the applicant was granted victim status and questioned. He described the circumstances of the abduction and provided names of witnesses to the abduction, Mr I.A. and Mr I.V.

29. On 6 or 8 December 2005 the investigators questioned the applicant's neighbour Mr V.A., who stated that before the abduction the abductors had pulled over at his house and inquired about Lom-Ali. They had said that they were from Tsentoroy, Chechnya.

30. On 13 December 2005 and 6 January 2006 the investigators questioned Mr I.A., who described the circumstances of the abduction. During the first questioning he stated, amongst other things, that he had thought that the abductors were law-enforcement officers, but he could not recall their appearance.

31. On 6 January 2006 the investigators questioned Mr I.V., whose statement was similar to the one given by Mr I.A.

32. On 18 April 2010 the investigators again questioned the applicant, who confirmed his previous statement of 12 October 2005.

33. On 20 April 2010 the investigators questioned the applicant's relatives, Ms Z.Sh. and Ms B.M., whose statements about the abduction were similar to that of the applicant.

B. Application no. 2543/11, *Mukhtarova and Others v. Russia*

34. The applicants are:

- 1) Ms Zargan Mukhtarova, born in 1958;
- 2) Mr Rizvan Shakhgareyev, born in 1978;
- 3) Ms Tamara Kagiroya, born in 1956;
- 4) Mr Zhamalayla Kagiroy, born in 1952;
- 5) Mr Surkho Kagiroy, born in 1985;
- 6) Mr Turpal Kagiroy, born in 1988;
- 7) Mr Abdula Kagiroy, born in 2002;
- 8) Ms Malika Latayeva, born in 1964;
- 9) Ms Berlant Aliyeva, born in 1962.

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

36. The first applicant is the mother of Mr Rustam Shakhgareyev, who was born in 1978, and the second applicant is his brother. The third and fourth applicants are the parents of Mr Zelimkhan Kagiroy, who was born in

1977; the fifth and six applicants are his brothers and the seventh applicant is his son. The eighth applicant is the mother of Mr Zelimkhan Latayev, who was born in 1984. The ninth applicant is the mother of Mr Khavazhi Aliyev, who was born in 1984.

1. Abduction of the applicants' relatives

37. Early in the morning of 16 July 2003 about 100 military servicemen conducted a sweeping operation in Chernorechye, in the Zavodskoy district of Grozny. They cordoned off the area between Pyatigorskaya and Vyborskaya Streets with armoured personnel carriers (APCs), Ural lorries and UAZ cars. The servicemen randomly broke into blocks of flats situated in the area, searched them and checked the residents' identity documents. During the check they fired weapons and detonated explosives.

38. At the relevant time Mr Rustam Shakhgareyev, Mr Zelimkhan Kagiroy and their respective families, including the first, second, and seventh applicants were living in two separate flats in the area. Mr Zelimkhan Latayev and Mr Khavazhi Aliyev were staying at a flat also situated in the neighbourhood.

39. Between 4 a.m. and 5 a.m. on 16 July 2003 groups of up to ten servicemen in camouflage uniforms armed with machine guns broke into Mr Rustam Shakhgareyev's and Mr Zelimkhan Kagiroy's flats. Some of the servicemen were not wearing masks and were of Slavic appearance. After brief questioning and a search of the premises the servicemen took the two men outside, put them in their vehicles, whose registration numbers were obscured, and drove away. The servicemen told the second applicant to look for his brother Rustam at the Ministry of the Interior.

40. Meanwhile, Mr Zelimkhan Latayev and Mr Khavazhi Aliyev noticed that their building was surrounded by servicemen and tried to escape through the window. However, once in the street they were arrested by the servicemen, who drove them away.

41. According to the applicants, ten other residents were arrested by the servicemen on the same day. A convoy of several vehicles freely passed through checkpoint no. 4 situated on an exit road from Chernorechye.

42. The applicants have not seen their four relatives since 16 July 2003.

2. Official investigation of the abduction

(a) Main investigative steps taken by the authorities

43. On 16 and 17 July 2003 the applicants and other relatives of Zelimkhan Kagiroy, Rustam Shakhgareyev and Zelimkhan Latayev complained to the law-enforcement authorities about the abduction. On the same day, 16 July 2003, officers of the Zavodskoy district prosecutor's office and the Zavodskoy ROVD visited the applicants. The officers

questioned them and their neighbours, examined the crime scene and collected a number of spent cartridges and explosives.

44. On 26 July 2003 the Zavodskoy district prosecutor's office opened criminal case no. 30125 in connection with Mr Zelimkhan Kagiroy's abduction, criminal case no. 30126 in connection with the abduction of Rustam Shakhgareyev, and criminal case no. 30127 in connection with Zelimkhan Latayev's abduction. Subsequently, on 13 March 2005 the three criminal cases were joined under the number 30125.

45. On 30 July 2003 the first applicant was granted victim status.

46. On 4 October 2003 the Chechnya FSB informed the investigators that their servicemen had not arrested Mr Shakhgareyev and that they did not suspect him of criminal activities. On 31 December 2003, 30 June 2005 and 16 May 2006 the military prosecutor's office of the United Group Alignment (the UGA), in interviews with the investigators, denied any involvement of their servicemen in the abduction.

47. On 22 December 2005 the investigators ordered a ballistic expert evaluation of a bullet cartridge found at the crime scene. According to the expert's report, the latter belonged to a special kind of bullet used for a certain type of sniper rifle.

48. According to the Government, on 21 January 2006 the relatives of Khavazhi Aliyev made an official complaint about his abduction. Subsequently, on 23 January 2006 the Zavodskoy district prosecutor's office opened criminal case no. 51007, which was joined with criminal case no. 30125 under the common number 30125.

49. On 9 September 2008 the investigators ordered an expert assessment of the remains of the explosive device found at the crime scene. According to the expert's report, the device was part of a tear gas grenade.

50. On 15 September and 6 November 2008 the Grozny Zavodskoy District Court dismissed the applicants' complaints concerning ineffective investigation of the abductions as premature and unsubstantiated.

51. The investigation has been suspended and resumed on several occasions since. For instance, it was resumed on 30 November 2011 and then suspended again on 30 December 2011.

52. The proceedings are currently pending.

(b) Main witness statements taken by the investigation

53. On 16 July 2003 the applicants' neighbour Ms T.S. provided the investigators with a detailed description of the incident. She stated, amongst other things, that the abductors had used military vehicles such as two APCs and two UAZ cars, and that they had checked the residents' identity documents and ordered everyone to stay inside.

54. On 28 July 2003 the investigators questioned the third applicant, who had not been present during the abduction but had learned from her relatives of the abduction of her son, Mr Zelimkhan Kagiroy, by men in

camouflage uniforms who had arrived for an identity check in APCs and UAZ vehicles.

55. On 29 and 31 July 2003 the investigators questioned Ms E.D. and the fourth applicant, who stated that Zelimkhan Kagirot's abductors had used APCs and had arrived to run an identity check.

56. On 28 and 29 July 2003 the investigators questioned the second and first applicants respectively. Their statement about the abduction of their relative Rustam Shakhgareyev was similar to the one given by their neighbour Ms T.S. on 16 July 2003. In addition, they stated that during the abduction they had heard gunfire next to their house.

57. On 30 July 2003 the investigators questioned Zelimkhan Latayev's grandfather, Mr Kh.L., who stated that he had learned of his grandson's abduction by servicemen in APCs from his relatives.

58. On 15 August 2003 the investigators questioned officers Mr V.P., Mr O.Ya and Mr M.G., all of whom had been on duty at the checkpoint on the night of the abduction. They stated that early in the morning on 16 July 2003 two APCs and two UAZ vehicles packed with armed men in camouflage uniforms had crossed the checkpoint without stopping either on the way to Chernorechye or on the way back an hour later.

59. On 16 and 20 January 2004 the investigators again questioned the first and second applicants, who reiterated the statements they had given previously and stated that they would not be able to identify the abductors.

60. On 13 February, 31 May and 10 June 2004 the investigators again questioned the third applicant, who stated that on the day of her son's abduction two young women, Malika and Fatima, had also been abducted and taken to the police, where for some time they had been detained with her son Zelimkhan Kagirot.

61. On 27 July 2004 and again on 27 March 2005 the investigators questioned the second applicant, who stated that along with his brother Rustam Shakhgareyev, three other men had been abducted by the same group, namely Zelimkhan Kagirot, Zelimkhan Latayev and Khavazhi Aliyev, and that the abductors had used three APCs, six UAZ vehicles and two Ural lorries.

62. On 3 March 2005 the investigators again questioned Mr Kh.L., who stated that as well as his grandson Zelimkhan Latayev, three other men and two young women had been abducted by the same group. He had learned from these two women that they and the abducted men had been detained in a basement situated a few minutes' drive from the place of the abduction. On 15 March 2005 the witness stated to the investigators that he was not aware of the current whereabouts of the two young women.

63. On 16 March 2005 the investigators again questioned the third applicant, who stated that she and her husband had met the two young women who had been detained with her son on 19 July 2003, but that she was not aware of their current whereabouts.

64. On 20 January 2006 the investigators questioned Ms Malika Z., who stated that early in the morning on 16 July 2003 she and her sister Fatima had been taken from their flat by armed men in uniform and placed in a UAZ vehicle which was parked next to an APC, a tank and another UAZ. Both of them, with some men who had also been detained, had been taken to an abandoned two-storey building, where their hands had been bound, plastic sacks had been pulled over their heads and they had been forced to lie on the floor. After that they had been questioned about a member of an illegal armed group and shown photographs of some young men. On the same morning, at about 10 a.m., she and her sister had been put into a Gazel minivan and then released in Grozny. According to the witness, she had been detained with a man named Ramzan, with Zelimkhan Latayev and a man named Shakhgareyev.

65. On 23 January 2006 the investigators questioned Khavazhi Aliyev's father, Mr L.A., who stated that his son had been abducted on 16 July 2003 and then detained together with Zelimkhan Latayev and Zelimkhan Kagiroy.

66. On 16 July 2006 the investigators again questioned Mr L.A., who stated that his son Khavazhi Aliyev was a friend of Rustam Shakhgareyev and that in the evening of 15 July 2003 he had left the house to spend the night at Rustam's flat. In the morning of 16 July 2003 he had learned from his neighbours that his son had been arrested and taken away with Shakhgareyev, Latayev and Kagiroy.

C. Application no. 2650/11, *Mazhiyeva and Others v. Russia*

67. The applicants are:

- 1) Ms Ayshat Mazhiyeva, born in 1953;
- 2) Ms Luiza Reshiyeva, born in 1977;
- 3) Mr Khamzat Mazhiyev, born in 2001;
- 4) Ms Anzhelika Bagayeva, born in 1975;
- 5) Ms Iman Mazhiyeva, born in 2003;
- 6) Ms Petimat Mazhiyeva, born in 1999;
- 7) Ms Madina Mazhiyeva, born in 2001.

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

69. The applicants are relatives. The first applicant is the wife of Mr Alik Mazhiyev, who was born in 1948, and the mother of Mr Khasan, Mr Khuseyn and Mr Arbi Mazhiyev, who were born in 1974, 1975 and 1983 respectively. The second applicant is the wife of Mr Khuseyn Mazhiyev and the third applicant is his son. The fourth applicant is the wife of Mr Khasan Mazhiyev and the fifth, sixth and seventh applicants are his daughters.

1. Abduction of the applicants' relatives

70. At the material time the applicants and their four male relatives were living in the same block of flats in Grozny. The first applicant, Mr Alik Mazhiyev and Mr Arbi Mazhiyev occupied one flat. Mr Khasan Mazhiyev and Mr Khuseyn Mazhiyev resided in two separate flats with their families. The city of Grozny was under curfew. A military commander's office was located in the vicinity of the applicants' neighbourhood.

71. At around 4 a.m. on 4 January 2003 a group of armed men in camouflage uniforms cordoned off the applicants' block of flats. The men arrived in two APCs, two UAZ (*tabletki*) vehicles and a Ural lorry. They broke into the applicants' flats, saying that they were conducting an identity check. Some of them were wearing masks and helmets with torches. Those without masks were of Slavic appearance. They asked the applicants and their relatives in unaccented Russian for their identity documents, firearms, money and valuables, and ordered them to lie down on the floor. Then the men tied Alik's, Arbi's, Khasan's and Khuseyn's hands, gagged them and sealed their mouths with duct tape, checked their identity documents and took them outside. They put the men into their vehicles and drove away.

72. The applicants have not seen their four relatives since 4 January 2003.

2. Official investigation of the abduction

(a) Main investigative steps taken by the authorities

73. On 4 January 2003 the Grozny town prosecutor's office opened criminal case no. 50002. On the same day the crime scene was examined.

74. On 6 March 2003 the first applicant was granted victim status.

75. On an unspecified date the investigators were informed by the Federal Security Service that the abducted men had been actively involved in illegal armed groups.

76. The investigation has been suspended and resumed on several occasions. The last suspension took place on 18 October 2009.

77. The proceedings are currently pending.

(b) Main witness statements taken by the investigation

78. On 4 January 2003 the investigators questioned the fourth applicant, who provided a detailed account of the abduction. She also stated that after checking identity documents the abductors had spent about an hour searching the house. They had left with her four male relatives and the passport of their relative Mr Yu. A., who had been staying in their flat that night.

79. On 6 March 2003, 27 July and 10 November 2004 the investigators questioned the first applicant, who provided a detailed description of the

events. In particular, she stated that the abductors had broken down the entrance door and said that they had arrived for an identity check. The abductors had arrived in APCs, Ural lorries and UAZ vehicles.

80. On 23 July 2004 the investigators questioned the applicants' neighbour Mr U.S., who stated that the abductors had arrived in two APCs.

81. On 25 July 2004 the investigators questioned the applicants' relative Mr Yu. A., who stated that the abductors, who had arrived in military vehicles, had tied his hands and then taken away four male relatives of the Mazhiyev family.

82. On 26 July 2004 the investigators questioned the second applicant, whose statement about the abduction was similar to the one given by the fourth applicant.

83. On 16 October 2008 the investigators questioned the applicants' neighbour Ms S. G., who stated that the abductors had arrived in APCs and that one of them had threatened to shoot her if she kept looking out of the window.

D. Application no. 2685/11, *Baymuradova and Others v. Russia*

84. The applicants are:

- 1) Ms Birlant Baymuradova, born in 1954;
- 2) Mr Bislan Bedigov, born in 1986;
- 3) Ms Rukiyat Magomadova, born in 1989.

85. The first and second applicants live in Serzhen-Yurt and the third applicant lives in Germenchuk, Chechnya. They are represented before the Court by lawyers from Materi Chechni.

86. The first applicant is the wife of Mr Sobur-Ali Bedigov, who was born in 1956; the second and third applicants are his children.

1. Abduction of the applicants' relative

87. At around 3 a.m. on 14 July 2001 a group of about thirty masked men in camouflage uniforms, armed with machine guns, broke into the applicants' house in Serzhen-Yurt. They beat up Mr Sobur-Ali Bedigov and his son, the second applicant, put white cloths over their heads and dragged them into the back yard. The men continued beating the men outside. Then they tied Sobur-Ali's arms and legs and sealed the two men's mouths with duct tape. Then one of them, acting on an order received through his portable radio, locked the second applicant in the basement and mined the door.

88. Meanwhile, the other group of intruders locked the first and third applicants in one of the rooms in the house. Then they searched the house and took away a number of valuables, leaving the house in disorder.

89. After that the men put Sobur-Ali in an APC and, accompanied by a convoy of another APC and two Ural lorries, drove away. The vehicles' registration numbers were obscured with mud.

90. The applicants have not seen Mr Sobur-Ali Bedigov since 14 July 2001.

2. Official investigation of the abduction

(a) Main investigative steps taken by the authorities

91. On 16 July 2001 the first applicant and her relatives complained to the Shali district prosecutor's office about Sobur-Ali Bedigov's abduction by military servicemen. In their complaint they stated that after the abduction Sobur-Ali Bedigov was in detention at the DON-2 (*подразделение Дон-2*) military unit special group, stationed between Serzhen-Yurt and Shali.

92. On 12 August 2001 the Shali district prosecutor's office opened criminal case no. 23178 in connection with the abduction of Sobur-Ali Bedigov "by a special forces unit during a special operation".

93. On 21 August 2001 the first applicant was granted victim status.

94. On 12 October 2001 the investigation was suspended. The applicants were not informed of this.

95. On 21 February 2002 the investigators issued a statement to the effect that the abduction had taken place during a special operation in Serzhen-Yurt conducted by a special forces unit.

96. On various dates between 2002 and 2008 the applicants and their relatives complained to law-enforcement authorities, including the investigators, about their relative's abduction by military servicemen. These complaints either went unanswered or replies were received denying involvement of State representatives in the events.

97. On 10 June 2010 the first applicant requested that the investigators allow her access to the criminal case file. On 12 June 2010 permission was granted.

98. On 21 July 2010 the investigation was resumed.

99. On an unspecified date in 2010 the first applicant complained to a domestic court that the investigation was ineffective. In particular, she pointed out that the investigation had failed to establish whether the DON-2 military unit, which at the material time had been stationed in the vicinity of Serzhen-Yurt, had been involved in the abduction. On 1 September 2010 the Supreme Court of Chechnya dismissed her complaint as unsubstantiated.

100. On 18 November 2011 the investigation was suspended again.

101. The criminal proceedings were subsequently resumed and are still pending.

(b) Main witness statements taken by the investigation

102. On 21 August 2001 the investigators questioned the applicants' neighbour Mr S.S., who stated that a large group of men, about forty of them, who had abducted Sobur-Ali Bedigov, had also broken into his house on the same night and beaten him and his son.

103. On 21 and 22 August 2001 the investigators questioned the first applicant, who described the circumstances of the abduction and provided a list of the valuables taken away by the culprits. She also added that prior to the abduction her husband Sobur-Ali Bedigov had been detained by the FSB (Federal Security Service) on a number of occasions, but had been released each time after several days.

104. On 21 August 2001 the investigators also questioned the second applicant, who provided a description of the events. His statement was similar to the ones given by the first applicant.

105. On 22 August 2001 the investigators questioned the applicants' neighbour, Ms M.V., who stated that the large group of men who had abducted Sobur-Ali Bedigov had also broken into her house on the same night.

106. On 30 August 2001 the investigators questioned Colonel E.P., the commander of military unit no. 64684 (or no. 64634), which was stationed near the village. The officer denied any knowledge of either a special operation in Serzhen-Yurt or Sobur-Ali Bedigov's arrest.

107. On 6 August 2010 and 28 October 2011 the investigators again questioned the first applicant, who reiterated the statements she had given previously, asserting that her husband had been abducted by servicemen from the DON-2 military unit.

E. Application no. 7409/11, *Salmurzayeva v. Russia*

108. The applicant, Ms Ayznat Salmurzayeva, was born in 1955 and lives in Goy-Chu, Urus-Martan District, in the Chechen Republic. She is represented before the Court by Mr D. Itsleyev.

109. The applicant is the mother of Mr Alkhazur Salmurzayev, who was born in 1973.

1. Abduction of the applicant's son

110. At the material time the applicant and her family were living in Goy-Chu. The settlement was under curfew and surrounded by a number of military checkpoints.

111. At about 2.30 a.m. on 21 July 2002 ten to fifteen men in camouflage uniforms armed with machine guns broke into the applicant's family house. All but one were masked. The intruders locked the applicant and her husband in a room, searched the house, then searched Alkhazur and

his brother and checked their passports. Then they took Alkhazur outside and walked away with him towards the Urus-Martan-Alkhazurovo road, where a military checkpoint manned by servicemen from the Special Task Police Unit (*OMOH*) from the Yaroslavl Region was situated. Shortly afterwards the applicant heard engines starting up. Other witnesses saw an APC and three UAZ vehicles in the vicinity.

112. On the same night the servicemen also went into the applicant's neighbour's house.

113. The applicant has not seen Mr Alkhazur Salmurzayev since 21 July 2002.

2. Official investigation of the abduction

(a) Main investigative steps taken by the authorities

114. According to the applicant, since the day after Alkhazur's abduction she has been complaining to various law-enforcement agencies about her son's abduction by State servicemen. According to the Government, the applicant officially complained about the abduction on 22 March 2003.

115. On 10 April 2003 the Urus-Martan district prosecutor's office opened criminal case no. 34042.

116. On 11 April 2003 the applicant was granted victim status in the criminal case.

117. On 10 July 2003 the investigation was suspended.

118. On 15 September 2003 the supervising prosecutor ordered that the investigation be resumed.

119. On 16 September 2003 the investigators examined the crime scene.

120. On 15 October 2003 the investigation was suspended again.

121. On 9 December 2003 the supervising prosecutor again ordered that the investigation be resumed on the same date. On 9 January 2004 the investigation was suspended again.

122. On an unspecified date in 2004 the applicant complained to the Urus-Martan District Court that the investigation was ineffective. On 20 September 2004 her complaint was rejected as unsubstantiated.

123. On 15 October 2004 the investigation was suspended again.

124. On 24 November 2005 the applicant requested the investigators to provide her with information on the progress of the criminal proceedings. On 30 November 2005 she was informed that the investigation was in progress.

125. On 31 March 2010 the applicant complained to the Head of the Investigations Committee that the investigation of her son's abduction was ineffective. Following her complaint, on an unspecified date the investigation was resumed.

126. On 23 February 2012 the investigation was suspended again.

127. The proceedings were subsequently resumed and are still pending.

(b) Main witness statements taken by the investigation

128. On 10 July 2003 the investigators questioned two of the applicant's neighbours, Mr Sh.A. and Ms R.A., both of whom stated that they had learned of Alkhazur Salmurzayev's abduction from local residents.

129. On 20 September 2003 the investigators questioned the applicant's husband, Mr V.S., and the applicant's daughter, Ms R.A., both of whom provided a detailed account of the abduction similar to the one submitted before the Court.

130. On 20 September and then on 15 December 2003 the investigators also questioned the applicant. The contents of her statement was not disclosed by the Government.

F. Application no. 14321/11, *Musliyevy v. Russia*

131. The applicants are:

- 1) Ms Rukiyat Musliyeva, born in 1956;
- 2) Mr Ramzan Musliyev, born in 1976;
- 3) Ms Zalikhan Musliyeva, born in 1980.

132. The applicants live in Shali, Chechnya. They are represented before the Court by lawyers from Materi Chechni.

133. The first applicant is the mother of Mr Rizvan Musliyev, who was born in 1977, and Mr Bislan Musliyev, who was born in 1981. The second and third applicants are their siblings.

1. Abduction of the applicants' relatives

134. At about 6 a.m. on 8 June 2002 (in the documents submitted the date was also given as 7 June 2002) an APC with the registration number 023 and a UAZ vehicle without registration plates arrived at the applicants' house in Shali. A group of at least fifteen masked men in camouflage uniforms carrying shields and machine guns got out of the vehicles. Some of them cordoned off the house, while the others entered into the building. After searching the premises, the servicemen took Rizvan and Bislan outside and pushed them to the ground. They told the applicants in unaccented Russian that they would check whether the two brothers were involved in illegal activities and, if not, would release them.

135. The men were shown a certificate issued by the Shali district prosecutor's office to the effect that on 7 February 2002 the brothers had already been arrested by Shali law-enforcement officers during an identity check and subsequently released when the brothers' involvement in illegal armed groups could not be confirmed; however, the servicemen took no notice of the certificate.

136. Then the men put Rizvan and Bislan in the APC and drove away.

137. The applicants have not seen Rizvan and Bislan Musliyev since 8 June 2002.

2. Official investigation of the abduction

(a) Main investigative steps taken by the authorities

138. On 14 June 2002 the Shali district prosecutor's office opened criminal case no. 59123.

139. From the documents submitted it appears that on a number of occasions the applicants complained to various State authorities about their relatives' abduction and requested assistance in their search. For instance, in August 2004, March 2008 and June and September 2009 they forwarded complaints to various law-enforcement agencies, alleging that Rizvan and Bislan Musliyev had been unlawfully "detained", and requested the authorities to investigate the matter. In response to their complaints they were informed that an investigation of the abduction was in progress.

140. On 30 May 2008 the UGA military prosecutor's office replied to the investigators that their servicemen and/or special services had not conducted special operations in the area, nor had they arrested the applicants' relatives.

141. On 17 May 2010 (in the documents submitted the date was also referred to as 5 May 2006) the first applicant was granted victim status.

142. On 20 May 2010 the investigators examined the crime scene.

143. The investigation has been suspended and resumed on several occasions. In particular, it remained suspended between August 2002 and April 2006 and between May 2006 and May 2010. On 26 September 2009 the Shali district prosecutor criticised the progress of the proceedings, indicating that the investigative measures were inadequate. As a result, the investigation was resumed on 11 May 2010 but further suspended on 11 June 2010.

144. On 21 December 2010 the Shali District Court dismissed as unsubstantiated the first applicant's complaint that the investigation was ineffective.

145. The criminal proceedings are still pending.

(b) Main witness statements taken by the investigation

146. On 17 June 2002 the investigators questioned the first applicant, who provided a detailed description of the events, described the abductors' appearance, and stated that her sons had been taken away in an APC with the hull number 023.

147. On 18 June 2002 the investigators questioned the third applicant, who stated that her brothers had been abducted by the same servicemen who

had previously arrested and detained them in February 2002. She provided a detailed description of the events and of the abductors' appearance and their uniforms.

148. On 19 June 2002 the investigators questioned the father of Rizvan and Bislan Musliyev, Mr M. M., who stated that in February 2002 his sons had been taken from their home by law-enforcement officers to the temporary detention unit (the IVS) of the Shali ROVD. During their ten-day detention there his sons were repeatedly questioned. On 8 June 2002 his sons had been abducted by the same police officers from the Shali ROVD who had arrived in APC no. 023. The witness provided a detailed description of the officer in charge of the abductors, who had not been wearing a mask.

149. On 5 May 2006 the investigators questioned the wife of Bilan Musliyev, Ms R. P., whose statement concerning the abduction was similar to those given by the first and third applicants.

150. On 5 May 2006 the investigators again questioned the first applicant, who stated that her sons Rizvan and Bislan Musliyev had been abducted by servicemen who had arrived in APC no. 023; she provided a detailed description of the perpetrators.

151. On 13 May 2010 the investigators questioned the applicants' neighbour Ms S. K., who stated that in 2002 she had witnessed Rizvan and Bislan Musliyev's abduction by servicemen who had arrived in an APC.

152. On 17 May 2010 the investigators again questioned the first applicant, who stated that her sons Rizvan and Bislan Musliyev had been abducted by servicemen during an identity check and taken away in an APC with the number 023. She provided a detailed description of the appearance of the servicemen who had arrested her sons, and stated that in spite of the passage of time she would be able to identify them.

153. On 20 May 2010 the investigators questioned the aunt of Rizvan and Bislan Musliyev, Ms T. M., whose statement concerning the abduction was similar to the one given by the first applicant.

154. On various dates in May and June 2010 the investigators questioned several of the applicants' neighbours, all of whom stated that they had not witnessed the abduction and had learned about it from the applicants. During the same period of time the investigators also questioned several police officers who had served at the Shali ROVD at the material time, but none of them could recall any pertinent information, owing to the passage of time since the abduction.

G. Application no. 26277/11, *Dokuyevy v. Russia*

155. The applicants are:

- (1) Ms Malika Dokuyeva, born in 1953;
- (2) Ms Birlant Dokuyeva, born in 1975;

(3) Ms Baret Dokuyeva, born in 1977.

156. The first and third applicants live in Serzhen-Yurt, Shali District, and the second applicant in Grozny, Chechnya. The applicants are represented before the Court by lawyers from Materi Chechni.

157. The first applicant is the wife of Mr Uvays Dokuyev, who was born in 1950; the second and third applicants are his daughters.

1. Abduction of the applicants' relative

158. At about 4 a.m. on 11 August 2002 a group of about thirty masked men in camouflage uniforms armed with machine guns broke into the applicants' house in the Avtury settlement, Shali District. They arrived in two grey APCs and a UAZ vehicle without registration plates. The men threatened the applicants with firearms and took Uvays Dokuyev away. They told the applicants that they intended to check his identity through a computerised database at the Shali district military commander's office. The men stopped the applicants from following them by throwing smoke grenades.

159. The Shali district military commander's office denied to the applicants that Uvays had ever been brought there.

160. The applicants have not seen Uvays Dokuyev since 11 August 2002.

2. Official investigation of the abduction

(a) Main investigative steps taken by the authorities

161. On 19 August 2002 the Shali district prosecutor's office opened criminal case no. 59210.

162. On 23 August 2002 the first applicant was granted victim status.

163. On 12 July 2005 the Shali ROVD replied to the applicants that the investigation was in progress.

164. On 29 March 2006 the military prosecutor's office of the UGA replied to the applicants that their servicemen's involvement in the abduction could not be confirmed.

165. On 26 March 2009 the investigators examined the crime scene.

166. The investigation has been suspended and resumed on several occasions. The last suspension took place on 10 April 2009. The applicants were not duly informed of these procedural decisions.

167. On an unspecified date in 2010 the first applicant complained to the Shali District Court that the investigation was ineffective. This complaint was dismissed on 17 December 2010 as unsubstantiated.

168. The criminal proceedings are still pending.

(b) Main witness statements taken by the investigation

169. On 19 August 2002 and then on 10 February 2007 the investigators questioned the applicants' relative, Mr L.-A.-D., who provided a detailed description of the events and stated that the abductors had arrived in APCs and checked the identity documents of the family members.

170. On 21 August 2002, 8 February 2007 and 3 April 2009 the investigators questioned the first applicant, who stated that her husband had been taken away by armed men in camouflage uniforms who had checked his identity documents and then taken him away "to run a computer check of his passport".

171. On 16 and 19 March 2009 the investigators questioned police officers Mr R.S. and Mr S.A., both of whom stated that they did not recall the circumstances of the events and therefore they had no pertinent information.

II. RELEVANT DOMESTIC LAW AND PRACTICE AND INTERNATIONAL MATERIALS

172. 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

173. 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

174. In their observations in respect of all the applications, the Government submitted that the applicants had failed to exhaust domestic remedies, either by failing to appeal against the actions of the investigative authorities or by failing to claim civil damages. They further noted that criminal investigations of the incidents were still in progress. It was therefore premature to draw any conclusions about the effectiveness or otherwise of the domestic criminal proceedings.

175. At the same time, the Government stated that the applicants in five of the applications had failed to comply with the six-month requirement. In particular, in respect of *Akhmatov* (no. 38828/10) and *Baymuradova and Others* (no. 2685/11), the Government submitted that the applicants in these two cases had complied with the six-month time-limit, as the applicants had lodged their applications within six months of the date of the delivery of the domestic courts' decisions in respect of their complaints against the investigating authorities. As regards the other five applications, namely *Mukhtarova and Others* (no. 2543/11), *Mazhiyeva and Others* (no. 2650/11), *Salmurzayeva* (no. 7409/11), *Musliyevy* (no. 14321/11), and *Dokuyevy* (no. 26277/11), the applicants had failed to comply with the six-month rule "by failing to exhaust domestic remedies".

2. The applicants

176. As regards the alleged failure to exhaust domestic remedies, the applicants in *Mukhtarova and Others* (no. 2543/11), *Mazhiyeva and Others* (no. 2650/11), and *Salmurzayeva* (no. 7409/11), 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. The applicants in all seven applications submitted that the only potentially effective remedy in their cases – the criminal investigation of the abduction of their relatives – had proved to be ineffective.

177. The applicants in *Mukhtarova and Others* (no. 2543/11), *Mazhiyeva and Others* (no. 2650/11), *Salmurzayeva* (no. 7409/11), *Musliyevy* (no. 14321/11) and *Dokuyevy* (no. 26277/11), argued that they had complied with the six-month rule and that there had been no excessive and unexplained delays in the submission of their applications to the Court.

178. In particular, the applicants in *Mukhtarova and Others* (no. 2543/11), *Mazhiyeva and Others* (no. 2650/11) and *Salmurzayeva* (no. 7409/11), 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 fifteen years after the disappearances in those cases, which represented a longer time frame than in their own cases. In any event, as in the *Varnava* case, the violations alleged by them were ongoing, so the six-month rule did not apply.

179. In particular, the applicants 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 as they would 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.

180. In addition to their references to the *Varnava* case, the applicants also referred to cases of abductions and killings in Chechnya, such as *Amuyeva and Others v. Russia*, no. 17321/06, § 69, 25 November 2010, *Tsechoyev v. Russia*, no. 39358/05, § 123, 15 March 2011, and *Tashukhadzhiyev v. Russia* (no. 33251/04, 25 October 2011), in which the Court found that the applicants, in spite of significant periods of inactivity of the domestic investigation, had still complied with the six-month period, taking into account that in those cases they had lodged their complaints with the Court less than ten years after the incidents. Furthermore, the applicants pointed out that the armed conflict in Chechnya had led them to believe that delays in the investigation were inevitable. Moreover, owing to their lack of legal knowledge and of the Convention standards, they had been unable to assess the effectiveness of the investigation.

B. The Court's assessment

1. Compliance with the six-month rule

(a) General principles

181. 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).

182. As regards the Government's argument concerning the failure of the applicants in *Mukhtarova and Others* (no. 2543/11), *Mazhiyeva and Others* (no. 2650/11), *Salmurzayeva* (no. 7409/11), *Musliyevy* (no. 14321/11) and *Dokuyevy* (no. 26277/11) 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.

183. 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 parties from prolonged periods of uncertainty. 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).

184. 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 later 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).

185. In cases concerning disappearances, unlike in cases concerning ongoing investigations of 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 for 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 have elapsed since the incident applicants must justify delays in lodging their application with the Court (see *Varnava*, cited above, §§ 162-63).

186. Applying the *Varnava* principles, the Court has 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 of 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).

187. By contrast, the Court has declared inadmissible applications where the applicants have waited for more than ten years to lodge their applications with the Court, and where there have been, for a long time, no factors 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 *Taşçi 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 a delay of more than ten years.

(b) Application of the principles to the present case

188. Turning to the circumstances of *Mukhtarova and Others* (application no. 2543/11), the Court notes that the criminal investigation was pending when the applicants lodged this application with the Court. Further, the Court notes that in the application the applicants complained to the authorities shortly after the abduction and introduced their application with the Court 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 have access to the investigation files.

189. As regards the other four 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 nine years after the events, the Court notes the following. In *Mazhiyeva and Others* (application no. 2650/11), the applicants complained of their relatives' arrest on the same date. In 2003, 2004 and 2008 the applicants gave witness statements to the investigation and the first applicant was granted victim status. The investigation was suspended shortly afterwards, but the applicants were not informed, either of that suspension or of the subsequent ones. On 27 December 2010, seven years and eleven months after the abduction, the applicants lodged their application with the Court.

190. In *Salmurzayeva* (application no. 7409/11), the applicant's son was abducted in July 2002; the applicant lodged her application with the Court in December 2010, eight years and five months later. From the documents

submitted it appears that in October 2004 the investigation was suspended but the applicant was not informed. Moreover, in November 2005 the investigating authorities informed the applicant that a search for her son was in progress (see paragraph 124 above). In March 2010, four years and three months later, in the absence of information on the progress of the proceedings, she complained of an ineffective investigation; this complaint spurred a resumption of the investigation (see paragraph 125 above).

191. In *Musliyevy* (application no. 14321/11), the applicants complained to the authorities about their relatives' abduction a few days after the events in June 2002, and introduced their application with the Court eight years and eight months later, in November 2010. From the documents submitted it appears that between July 2002 and May 2006 no investigative steps were taken in the criminal case, although in response to their complaints the applicants were informed that the investigation was in progress (see paragraph 139 above). The applicants gave witness statements to the investigation and the first applicant was granted victim status. From the documents submitted it appears that the applicants complained about an ineffective investigation as soon as the first applicant had been given access to the case file (see paragraphs 141 and 144 above).

192. In *Dokuyevy* (application no. 26277/11), the applicants complained about their relative's abduction shortly after the events, in August 2002; they lodged their application with the Court eight years and eight months after the events, in April 2011. On several occasions the first applicant gave a witness statement to the authorities and was granted victim status in the criminal case. From the documents submitted it appears that the applicants contacted the authorities concerning the progress of the search for their relative (see paragraphs 163 and 164 above) and that they were not duly informed of the suspensions of the criminal proceedings (see paragraph 166 above).

193. Having examined the above five applications, the Court finds that the conduct 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, *Açış v. Turkey*, no. 7050/05, §§ 41-42, 1 February 2011).

194. To sum up, all 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 hope of a more effective outcome.

195. 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

196. As regards a civil action to obtain redress for damage sustained as a result of allegedly illegal acts or unlawful conduct on the part 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 v. Russia*, no. 60272/00, § 77, 12 October 2006). Accordingly, the Court confirms that the applicants were not obliged to pursue civil remedies. The preliminary objection in this regard is thus dismissed.

197. As regards criminal-law remedies, the Court observes that in a recent judgment it concluded that 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).

198. In such circumstances, and noting the absence over the years of tangible progress in any of the criminal investigations of 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

199. 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. They asserted that there was no evidence proving beyond reasonable doubt that State agents had been involved in the abductions. The mere fact that the abductors had been armed and/or had been driving a certain type of vehicle was not enough to allow assumptions of this kind.

2. *The applicants*

200. The applicants submitted that it had been established “beyond reasonable doubt” that the men who had taken away their relatives were 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

201. 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).

202. 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, and *Movsayevy v. Russia*, no. 20303/07, § 76, 14 June 2011).

203. The Court has also found in many cases concerning disappearances in Chechnya that a missing person may 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 is detained by unidentified State agents without any subsequent acknowledgment of the detention, this may 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).

204. The Court has made findings of presumptions of death in the absence of any reliable news of 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. 38828/10, Akhmatov v Russia

205. Several witness statements collected by the applicant, along with the documents from the investigation file furnished by the Government (see, for example, paragraphs 15, 16 and 30 above) demonstrate that the applicant's son, Lom-Ali Akhmatov, was abducted on 6 January 2005 by a group of armed servicemen in Nobeyra. In view of all the materials in its possession, the Court finds that the applicant has presented a prima facie case that his son was abducted by State agents in the circumstances set out by him.

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

207. Bearing in mind the general principles enumerated above, the Court finds that Lom-Ali Akhmatov was taken into custody by State agents on 6 January 2005. In view of the absence of any news of him since that date and the life-threatening nature of such detention (see paragraph 203 above), the Court also finds that Lom-Ali Akhmatov may be presumed dead following his unacknowledged detention.

2. Application no. 2543/11, Mukhtarova and Others v Russia

208. Several witness statements collected by the applicants, along with the documents from the investigation file furnished by the Government (see, for example, paragraphs 53, 54, 56, 62, and 64 above) demonstrate that the applicants' relatives Rustam Shakhgareyev, Zelimkhan Kagiroy, Zelimkhan Latayev and Khavazhi Aliyev were abducted on 16 July 2003 by a group of

armed servicemen in Chernorechye. In view of all the materials in its possession, the Court finds that the applicants have presented a prima facie case that their four relatives were abducted by State agents in the circumstances set out by them.

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

210. Bearing in mind the general principles enumerated above, the Court finds that Rustam Shakhgareyev, Zelimkhan Kagiroy, Zelimkhan Latayev and Khavazhi Aliyev were taken into custody by State agents on 16 July 2003. In view of the absence of any news of them since that date and the life-threatening nature of such detention (see paragraph 203 above), the Court also finds that Rustam Shakhgareyev, Zelimkhan Kagiroy, Zelimkhan Latayev and Khavazhi Aliyev may be presumed dead following their unacknowledged detention.

3. Application no. 2650/11, Mazhiyeva and Others v Russia

211. 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 78, 79 and 81 above) demonstrate that the applicants' relatives Alik Mazhiyev, Khasan Mazhiyev, Khuseyn Mazhiyev and Arbi Mazhiyev were abducted on 4 January 2003 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 four relatives were abducted by State agents in the circumstances as set out by them.

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

213. Bearing in mind the general principles enumerated above, the Court finds that the applicants' relatives Alik Mazhiyev, Khasan Mazhiyev, Khuseyn Mazhiyev and Arbi Mazhiyev were taken into custody by State agents on 4 January 2003. In view of the absence of any news of them since that date and the life-threatening nature of such detention (see paragraph 203 above), the Court also finds that Alik Mazhiyev, Khasan Mazhiyev, Khuseyn Mazhiyev and Arbi Mazhiyev may be presumed dead following their unacknowledged detention.

4. Application no. 2685/11, Baymuradova and Others v Russia

214. Several witness statements collected by the applicant, along with the documents from the investigation file furnished by the Government (see, for example, paragraphs 89, 91, 99, 103 and 105 above) demonstrate that the applicants' relative, Sobur-Ali Bedigov, was abducted on 14 July 2001

by a group of armed servicemen in Serzhen-Yurt. 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.

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

216. Bearing in mind the general principles enumerated above, the Court finds that Sobur-Ali Bedigov was taken into custody by State agents on 14 July 2001. In view of the absence of any news of him since that date and the life-threatening nature of such detention (see paragraph 203 above), the Court also finds that Sobur-Ali Bedigov may be presumed dead following his unacknowledged detention.

5. Application no. 7409/11, Salmurzayeva v Russia

217. Several witness statements collected by the applicant, along with the documents from the investigation file furnished by the Government (see, for example, paragraph 129 above) demonstrate that the applicant's son, Alkhazur Salmurzayev, was abducted on 21 July 2002 by a group of armed servicemen in Goy-Chu. 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.

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

219. Bearing in mind the general principles enumerated above, the Court finds that Alkhazur Salmurzayev was taken into custody by State agents on 21 July 2002. In view of the absence of any news of him since that date and the life-threatening nature of such detention (see paragraph 203 above), the Court also finds that Alkhazur Salmurzayev may be presumed dead following his unacknowledged detention.

6. Application no. 14321/11, Musliyevy v Russia

220. Several witness statements collected by the applicants, along with the documents from the investigation file furnished by the Government (see, for example, paragraphs 146-53 above) demonstrate that the applicants' relatives Rizvan Musliyev and Bislan Musliyev were abducted on 8 June 2002 by a group of armed men in uniform in Shali. In view of all the materials in its possession, the Court finds that the applicants have presented a prima facie case that their two relatives were abducted by State agents in the circumstances as set out by them.

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

222. Bearing in mind the general principles enumerated above, the Court finds that the applicants' relatives Rizvan Musliyev and Bislan Musliyev were taken into custody by State agents on 8 June 2002. In view of the absence of any news of them since that date and the life-threatening nature of such detention (see paragraph 203 above), the Court also finds that Rizvan Musliyev and Bislan Musliyev may be presumed dead following their unacknowledged detention.

7. Application no. 26277/11, Dokuyevy v Russia

223. Several witness statements collected by the applicants, along with the documents from the investigation file furnished by the Government (see, for example, paragraphs 169 and 170 above) demonstrate that the applicants' relative Uvays Dokuyev was abducted on 11 August 2002 by a group of armed servicemen in Avtury. 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.

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

225. Bearing in mind the general principles enumerated above, the Court finds that the applicants' relative Uvays Dokuyev was taken into custody by State agents on 11 August 2002. In view of the absence of any news of him since that date and the life-threatening nature of such detention (see paragraph 203 above), the Court also finds that Uvays Dokuyev may be presumed dead following his unacknowledged detention.

D. Conclusions

226. The Court finds that in all cases the applicants' relatives were abducted by armed men in uniform, 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, all lead the Court to conclude that in all probability they must be 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. It appears from the documents in the file that the investigations regarded the

possibility of abduction by servicemen as the only, or at least the main, plausible explanation of the events.

227. 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 shifts to them in such cases.

228. The detention in life-threatening circumstances of Lom-Ali Akhmatov, Rustam Shakhgareyev, Zelimkhan Kagirov, Zelimkhan Latayev, Khavazhi Aliyev, Alik Mazhiyev, Khasan Mazhiyev, Khuseyn Mazhiyev, Arbi Mazhiyev, Sobur-Ali Bedigov, Alkhazur Salmurzayev, Rizvan Musliyev, Bislan Musliyev and Uvays Dokuyev, 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

229. The applicants complained, under Article 2 of the Convention, that their relatives had disappeared after being detained by State agents, and that the domestic authorities had failed to carry out an effective investigation of 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

230. 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.

231. The applicants reiterated their complaints.

B. The Court's assessment

1. Admissibility

232. 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

233. The Court has already found that in all 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 Lom-Ali Akhmatov, Rustam Shakhgareyev, Zelimkhan Kagiroy, Zelimkhan Latayev, Khavazhi Aliyev, Alik Mazhiyev, Khasan Mazhiyev, Khuseyn Mazhiyev, Arbi Mazhiyev, Sobur-Ali Bedigov, Alkhazur Salmurzayev, Rizvan Musliyev, Bislan Musliyev and Uvays Dokuyev.

(b) Alleged inadequacy of the investigations of the abductions

234. 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 defects such 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.

235. In the light of the foregoing, the Court finds that the authorities failed to carry out effective criminal investigations of the circumstances of the disappearance and death of Lom-Ali Akhmatov, Rustam Shakhgareyev, Zelimkhan Kagiroy, Zelimkhan Latayev, Khavazhi Aliyev, Alik Mazhiyev, Khasan Mazhiyev, Khuseyn Mazhiyev, Arbi Mazhiyev, Sobur-Ali Bedigov, Alkhazur Salmurzayev, Rizvan Musliyev, Bislan Musliyev and Uvays Dokuyev. 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

236. 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

237. The Government contested the applicants’ claims.

238. The applicants reiterated their complaints.

B. The Court’s assessment

1. Admissibility

239. 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

240. 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 is preceded by a sufficiently long period when he or she is deemed to have disappeared, there exists a distinct period during which applicants experience uncertainty, anguish and distress characteristic of the specific phenomenon of disappearances (see *Luluyev and Others*, cited above, § 115).

241. 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).

242. The Court reiterates its findings regarding the State's responsibility for the abductions and the failure to carry out a meaningful investigation of 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 discover the fate of their family members and the manner in which their complaints have been dealt with.

243. 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.

244. 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.

245. 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 (*Aslakhanova and Others*, cited above § 157).

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

246. 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

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

I. Damages

(a) Application 38828/10, *Akhmatov v. Russia*

248. The applicant asked to be awarded an amount of compensation for non-pecuniary damage which the Court would find reasonable in the circumstances of the case.

249. The Government submitted that finding a violation of the Convention would in itself comprise adequate compensation.

(b) Application no. 2543/11, *Mukhtarova and Others v. Russia*

250. The applicants claimed the following amounts in respect of pecuniary damage for the loss of financial support of breadwinners: the first applicant claimed 1,043,635 Russian roubles (RUB, approximately 24,430 euros (EUR)), the third applicant claimed RUB 1,009,481 (approximately EUR 23,630), the fourth applicant claimed RUB 996,586 (approximately EUR 23,330), the seventh applicant claimed RUB 416,771 (approximately EUR 9,760), the eighth applicant claimed RUB 1,248,911 (approximately EUR 29,230) and the ninth applicant claimed RUB 1,248,911 (approximately EUR 29,225). The applicants based their calculations on the subsistence level provided for by domestic law and the Ogden Actuary Tables.

251. The applicants also jointly claimed EUR 400,000 in respect of non-pecuniary damage.

252. The Government submitted that the applicants' claim for compensation for pecuniary damage was unsubstantiated. They described the claim for compensation for non-pecuniary damage as excessive.

(c) Application no. 2650/11, *Mazhiyeva and Others v. Russia*

253. In respect of pecuniary damage, the applicants claimed the following amounts for loss of financial support of breadwinners: the first applicant claimed RUB 532,674 (approximately EUR 12,466), the second applicant claimed RUB 723,782 (approximately EUR 16,940), the third applicant claimed RUB 332,747 (approximately EUR 7,786), the fourth applicant claimed RUB 751,960 (approximately EUR 17,600), the fifth applicant claimed RUB 225,525 (approximately EUR 5,278), the sixth applicant claimed RUB 153,587 (approximately EUR 3,595) and the seventh applicant claimed RUB 195,335 (approximately EUR 4,572). The applicants based their calculations on the subsistence level provided for by domestic law and the Ogden Actuary Tables.

254. The applicants also jointly claimed EUR 245,000 in respect of non-pecuniary damage.

255. The Government submitted that the applicants' claim for compensation for pecuniary damage was unsubstantiated. They described the claim for compensation for non-pecuniary damage as excessive.

(d) Application no. 2685/11, *Baymuradova and Others v. Russia*

256. The applicants claimed EUR 60,000 in respect of non-pecuniary damage.

257. The Government submitted that the applicant's claim was excessive.

(e) Application no. 7409/11, *Salmurzayeva v. Russia*

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

259. The Government submitted that the applicants' claim was excessive.

(f) Application no. 14321/11, *Musliyev v. Russia*

260. In respect of non-pecuniary damage, the applicants jointly claimed EUR 80,000.

261. The Government submitted that the applicants' claim for non-pecuniary damage was excessive.

(g) Application no. 26277/11, *Dokuyev v. Russia*

262. In respect of non-pecuniary damage, the applicants jointly claimed EUR 60,000.

263. The Government submitted that the applicants' claim was excessive.

2. Costs and expenses

264. The applicants in *Mukhtarova and Others* (no. 2543/11) and *Mazhiyeva and Others* (no. 2650/11) were represented by the Stichting Russian Justice Initiative/Astreya. The aggregate claim in respect of costs and expenses related to the applicants' legal representation amounted to EUR 4,192 and EUR 4,553 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.

265. The applicants in *Akhmatov* (no. 38828/10) and *Salmurzayeva* (no. 7409/11) were represented by Mr D. Itsleyev, a lawyer practising in Grozny. The aggregate claim in respect of costs and expenses related to the applicants' legal representation amounted to EUR 3,494 and EUR 6,294 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.

266. The applicants in *Baymuradova and Others* (no. 2685/11), *Musliyevy* (no. 14321/11) and *Dokuyevy* (no. 26277/11) were represented by Materi Chechni. The aggregate claim in respect of costs and expenses related to the applicants' legal representation amounted to EUR 8,050, EUR 7,800 and EUR 8,050 respectively. Each claim indicated the overall amount to be paid for drafting of the legal submissions to the Court by the organisation's lawyers at the rate of EUR 150 per hour.

267. 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

268. 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 for 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).

269. 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.

270. 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).

271. 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

272. 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: Lom-Ali Akhmatov, Rustam Shakhgareyev, Zelimkhan Kagiroy, Zelimkhan Latayev, Khavazhi Aliyev, Alik Mazhiyev, Khasan Mazhiyev, Khuseyn Mazhiyev, Arbi Mazhiyev, Sobur-Ali Bedigov, Alkhazur Salmurzayev, Rizvan Musliyev, Bislan Musliyev and Uvays Dokuyev.
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*
 - (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. The payments in respect of costs and expenses to the applicants' representatives 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, and to be converted into Russian roubles to the applicants represented by Mr D. Itsleyev and by lawyers of Materi Chechni;
 - (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;

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

Done in English, and notified in writing on 16 January 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Isabelle Berro-Lefèvre
President

APPENDIX I

Details of the applications

No.	Application no., date of introduction	Applicant's details	Represented by	Persons disappeared, date and place of abduction	Investigation
1.	38828/10 Akhmatov v. Russia 16/06/2010	(1) Mr Pakhrudin¹ AKHMATOV (1950), father, Noybera, the Chechen Republic	Mr D. Itslayev	Mr Lom-Ali AKHMATOV (1978), abducted from home on 6 January 2005 at 4 p.m., Nizhniy Noyber, Gudermes District	On 15 March 2005 the prosecutor's office refused to initiate criminal proceedings upon the applicant's complaint of his son's abduction. On 26 September 2005 the prosecutor's office overruled the above decision and opened criminal case no. 45107. On 12 October 2005 the applicant was granted victim status in the criminal case. The investigation has been suspended and resumed on several occasions, without achieving any tangible result. The criminal proceedings are currently pending.
2.	2543/11 Mukhtarova and Others v. Russia 27/12/2010	(1) Ms Zargan MUKHTAROVA (1958), Mr Rustam Shakhgareyev's mother, Grozny, the Chechen Republic (2) Mr Rizvan SHAKHGAREYEV (1978), Mr Rustam Shakhgareyev's brother, ider	Stichting Russian Justice Initiative	Four men abducted from their flats on 16 July 2003, between 4 a.m. and 5 a.m., Grozny: (1) Mr Rustam SHAKHGAREYEV (1978), (2) Mr Zelimkhan KAGIROV (1977),	On 16 July 2003 officers of the Zavodskoy district prosecutor's office and the ROVD visited the applicants. The officers questioned them and their neighbours and examined the crime scene. On 26 July 2003 the district prosecutor's office opened criminal case no. 30126 on account of Mr Rustam Shakhgareyev's abduction and criminal case no. 30125 on account of the abduction of the three other men. Subsequently, in 2005, the criminal cases were joined under no. 30125. On 30 July 2003 the first applicant was granted victim status. The investigation has been suspended and resumed on several occasions, without achieving any tangible result. The criminal proceedings are currently pending.

¹ Rectified on 7 March 2014: the text was " Mr Bakhrudin AKHMATOV ".

		<p>(3) Ms Tamara KAGIROVA (1956), Mr Zelimkhan Kagirot's mother, idem</p> <p>(4) Mr Zhamalayla KAGIROV (1952), Mr Zelimkhan Kagirot's father, idem</p> <p>(5) Mr Surkho KAGIROV (1985), Mr Zelimkhan Kagirot's brother, idem</p> <p>(6) Mr Turpal KAGIROV (1988), Mr Zelimkhan Kagirot's brother, idem</p> <p>(7) Mr Abdula KAGIROV (2002), Mr Zelimkhan Kagirot's son, idem</p> <p>(8) Ms Malika LATAYEVA (1964), Mr Zelimkhan Latayev's mother, idem</p> <p>(9) Ms Berlant ALIYEVA (1962), Mr Khavazhi Aliyev's mother, idem</p>		<p>(3) Mr Zelimkhan LATAYEV (1984), and</p> <p>(4) Mr Khavazhi ALIYEV (1984)</p>	
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3.	<p>2650/11 Mazhiyeva and Others v. Russia 27/12/2010</p>	<p>(1) Ms Ayshat MAZHIYEVA (1953), Mr Alik Mazhiyev's wife and Mr Khasan, Khuseyn and Arbi Mazhiyev's mother, Grozny, the Chechen Republic</p> <p>(2) Ms Luiza RESHIYEVA (1977), Mr Khuseyn Mazhiyev's wife, idem</p> <p>(3) Mr Khamzat MAZHIYEV (2001), Mr Khuseyn Mazhiyev's son, idem</p> <p>(4) Ms Anzhelika BAGAYEVA (1975), Mr Khasan Mazhiyev's wife, idem</p> <p>(5) Ms Iman MAZHIYEVA (2003), Mr Khasan Mazhiyev's daughter, idem</p> <p>(6) Ms Petimat MAZHIYEVA (1999),</p>	<p>Stichting Russian Justice Initiative</p>	<p>Four men abducted from their flats on 4 January 2003 at 4 a.m., Grozny:</p> <p>(1) Mr Alik MAZHIYEV (1948),</p> <p>(2) Mr Khasan MAZHIYEV (1974),</p> <p>(3) Mr Khuseyn MAZHIYEV (1975), and</p> <p>(4) Mr Arbi MAZHIYEV (1983)</p>	<p>On 4 January 2003 the Grozny town prosecutor's office opened criminal case no. 50002. On 6 March 2003 the first applicant was granted victim status.</p> <p>The investigation has been suspended and resumed on several occasions, without achieving any tangible result. The criminal proceedings are currently pending.</p>

		Mr Khasan Mazhiyev's daughter, idem (7) Ms Madina MAZHIYEVA (2001), Mr Khasan Mazhiyev's daughter, idem			
4.	2685/11 Baymuradova and Others v. Russia 03/12/2010	(1) Ms Birlant BAYMURADOVA (1954), wife, Serzhen-Yurt, Shali District, the Chechen Republic (2) Mr Bislan BEDIGOV (1986), son, idem (3) Ms Rukiyat MAGOMADOVA (1989), daughter, Gernenchuk, the Chechen Republic	Materi Chechni	(1) Mr Sobur-Ali BEDIGOV (1956), abducted from home on 14 July 2001 at around 3 a.m., Serzhen-Yurt, Shali District	On 12 August 2001 the Shali district prosecutor's office opened criminal case no. 23178. On 22 August 2001 the first applicant was granted victim status. According to the investigators' statement of 21 February 2002, the abduction took place during a special operation in Serzhen-Yurt conducted by a special forces unit. The investigation has been suspended and resumed on several occasions, without achieving any tangible result. The criminal proceedings are currently pending.
5.	7409/11 Salmurzayeva v. Russia 29/12/2010	(1) Ms Ayznat SALMURZAYEVA (1955), mother, Goy-Chu, Urus-Martani District, the Chechen Republic	Mr D. Itslyayev	(1) Mr Alkhazur SALMURZAYEV (1973), abducted from home on 21 July 2002 at 2.30 a.m., Goy-Chu, Urus-Martani District	On 10 April 2003 the Urus-Martani district prosecutor's office opened criminal case no. 34042. On 11 April 2003 the applicant was granted victim status in the criminal case. The investigation has been suspended and resumed on several occasions, without achieving any tangible result. The criminal proceedings are currently pending.
6.	14321/11 Musliyevy v. Russia 11/02/2011	(1) Ms Rukiyat MUSLIYEVA (1956), mother, Shali, Shali District, the Chechen Republic	Materi Chechni	Two brothers abducted from home on 8 June 2002 at 6 a.m., Shali, Shali District:	On 14 June 2002 the Shali district prosecutor's office opened criminal case no. 59123. On 17 May 2010 that the first applicant was granted victim status. The investigation has been suspended and resumed on several

		<p>Republic</p> <p>(2) Mr Ramzan MUSLIYEV (1976), brother, idem</p> <p>(3) Ms Zalikhan MUSLIYEVA (1980), sister, idem</p>		<p>(1) Mr Rizvan MUSLIYEV (1977) and</p> <p>(2) Mr Bislan MUSLIYEV (1981)</p>	<p>occasions, without achieving any tangible result. The criminal proceedings are currently pending.</p>
7.	<p>26277/11 Dokuyevy v. Russia 07/04/2011</p>	<p>(1) Ms Malika DOKUYEVA (1953), wife, Serzhen-Yurt, Shali District, the Chechen Republic</p> <p>(2) Ms Birlant DOKUYEVA (1975), daughter, Grozny, the Chechen Republic</p> <p>(3) Ms Baret DOKUYEVA (1977), daughter, Serzhen-Yurt</p>	<p>Materi Chechni</p>	<p>(1) Mr Uvays DOKUYEV (1950), abducted from home on 11 August 2002 at around 4 a.m., Avtury, Shali District</p>	<p>On 19 August 2002 the Shali district prosecutor's office opened criminal case no. 59210. On 23 August 2002 the first applicant was granted victim status. The investigation has been suspended and resumed on several occasions, without achieving any tangible result. The criminal proceedings are currently pending.</p>

APPENDIX II

Awards made by the Court under Article 41 of the Convention

	Application number and name	Represent ed by	Pecuniary damage	Non-pecuniary damage	Costs and expenses
1	No. 38828/10 Akhmatov v Russia	D. Itslayev	-	EUR 60,000 (sixty thousand euros)	EUR 2,150 (two thousand one hundred and fifty euros)
2	No. 2543/11 Mukhtarova and Others v. Russia	SRJI	To the first, third and fourth applicants EUR 14,000 (fourteen thousand euros) each To the seventh applicant EUR 6,000 (six thousand euros) To the eighth and ninth applicants EUR 17,000 (seventeen thousand euros) each	EUR 240,000, jointly (two hundred forty thousand euros)	EUR 3,000 (three thousand euros)
3	No. 2650/11 Mazhiyeva and Others v. Russia	SRJI	To the first applicant EUR 8,000 (eight thousand euros) To the second and fourth applicants EUR 12,000 (twelve thousand euros) each To the third applicant EUR 5,000 (five thousand euros) To the fifth applicant EUR 3,500 (three thousand five hundred euros) To the sixth applicant EUR 2,500 (two thousand five hundred euros) To the seventh applicant EUR 3,000 (three thousand euros)	EUR 240,000 jointly (two hundred forty thousand euros)	EUR 3,000 (three thousand euros)
4	No. 2685/11 Baymuradova and Others v. Russia	Materi Chechni	-	EUR 60,000 jointly (sixty thousand euros)	EUR 3,000 (three thousand euros)

5	No. 7409/11 Salmurzayeva v. Russia	D. Itslayev	-	EUR 60,000 (sixty thousand euros)	EUR 3,000 (three thousand euros)
6	No. 14321/11 Musluyevy v. Russia	Materi Chechni	-	EUR 80,000 jointly (eighty thousand euros)	EUR 3,000 (three thousand euros)
7	No. 26277/11 Dokuyevy v. Russia	Materi Chechni	-	EUR 60,000, jointly (sixty thousand euros)	EUR 3,000 (three thousand euros)