



## No State involvement in Estemirova assassination, but failure to properly investigate the crime

In today's Chamber judgment<sup>1</sup> in the case of [Estemirova v. Russia](#) (application no. 42705/11) the European Court of Human Rights held, that there had been:

unanimously, **no violation of Article 2 (right to life)** of the European Convention on Human Rights, by 5 votes to 2, **a violation of Article 2 (investigation)**, and

unanimously, **a failure by the Government to comply with their obligations under Article 38 (obligation to furnish necessary facilities for the examination of a case)**.

The case concerned the abduction and murder of a well-known human-rights activist, Natalia Estemirova, and the effectiveness of the ensuing investigation.

The Court found that the Government's failure to provide a full copy of the criminal case file had undermined its ability to assess the quality of the investigation.

Given the above failure the Court was unable to conclude that the investigation had been carried out thoroughly, particularly taking into account the material in the Court's possession and that certain contradictions in the expert evidence remained unsolved led it to doubt that the investigation had been effective. Taking into account that the criminal investigation is still open, the Court indicated that the authorities should, in so far possible, attempt to ascertain the circumstances of Ms Estemirova's abduction and murder, identifying the perpetrators, and punishing those responsible, where appropriate.

Lastly, the Court found that the applicant had not made out a case that Natalia Estemirova, had been abducted by State agents, and the evidence did not support the State involvement in her murder.

### Principal facts

The applicant, Svetlana Khusainovna Estemirova, is a Russian national who was born in 1962 and lives in Yekaterinburg (Russia). She is the sister of Natalia Estemirova, who was a Russian well-known human rights activist and board member of Memorial HRC.

In the late 2000s, Natalia Estemirova denounced specific crimes allegedly committed by insurgents and law-enforcement personnel in the Republic of Chechnya.

On the morning of 15 July 2009 she left her home in Grozny (Chechnya, Russia). She was abducted on her way to the bus stop. Her body was found at 4.30 p.m. in a field adjacent to the Kavkaz federal motorway in the neighbouring Republic of Ingushetia. She had been shot in the head and chest.

An investigation was opened, which was transferred to the Prosecutor General's Office. A large number of witnesses were interviewed, along with many other investigative steps being carried out.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

Prosecutors ultimately proposed that the most likely guilty party was Alkhazur Bashayev, a member of Shalazhi jamaat (an illegal armed group), as revenge for murder accusations Ms Estemirova had levelled against him. His arrest was ordered but his whereabouts were unknown.

The investigation included a crime-scene examination, a post-mortem, a reconstruction of the perpetrator's itinerary, seizure of firearms and their examination, witness interviews, and a search of Mr Bashayev's home and a car linked to the crime scene.

The investigation appears to be ongoing.

## Complaints, procedure and composition of the Court

Relying on Articles 2 (right to life) and 13 (right to an effective remedy), the applicant complained of the murder of her sister and the failure to speedily and thoroughly investigate her death.

The application was lodged with the European Court of Human Rights on 21 June 2011.

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

Paul Lemmens (Belgium), *President*,  
Georgios A. Serghides (Cyprus),  
Dmitry Dedov (Russia),  
Georges Ravarani (Luxembourg),  
Darian Pavli (Albania),  
Anja Seibert-Fohr (Germany),  
Andreas Zünd (Switzerland),

and also Milan Blaško, *Section Registrar*.

## Decision of the Court

### [Article 2](#)

#### *Abduction and murder*

The Court did draw parallels with similar well-known cases such as those of Anna Politkovskaya and Oleg Orlov in Russia. However, it was unable to accept the applicant's argument that this was a prima facie case of abduction by State agents. It did not switch the burden of proof to the Government. In particular it noted that much of her evidence was hearsay, and there had been no signs of the involvement of State agents (the abduction had not been a part of special operation, no military vehicles had been used, it had not been perpetrated in the presence of police officers, and so forth).

Given the evidence available and the standard of proof needed, the Court concluded that there had been no violation of Article 2 with regard to the alleged State responsibility for Ms Estemirova's abduction and murder.

#### *Effectiveness of the investigation*

At the outset, the Court noted that the Government had not provided most of the material from the case file.

The Court was satisfied that the authorities had opened the investigation promptly and carried out investigative steps within days of the crime. A suspect had been identified and charged.

However, taking into account that the Court had not been provided with a significant part of the investigation file, it was not in a position to conclude that the investigation had been thorough. In particular certain contradictions in the expert evidence remained unsolved. It also pointed out that

the investigators had not explained why no traces of the DNA of the person who had been charged with the murder or no traces of the DNA of people from his illegal armed group had been found. More generally, the Court had doubts as to whether the investigators had made a genuine attempt to identify all the members of that group.

There had been a violation of Article 2 under its procedural limb because of the failure to demonstrate that the investigation in Ms Estemirova's abduction and murder had complied with the Convention standards.

### Article 38

The Government had refused to submit the full criminal case file to the Court, denying a full and undistorted picture of the investigation in question. There had therefore been a violation of Article 38.

### Article 46 (binding force and implementation)

Given that the criminal investigation was still open, the Court indicated to the Government that they should continue in so far as possible to determine the circumstances of Ms Estemirova's abduction and murder, identifying the perpetrators, and punishing those responsible, where appropriate.

### Just satisfaction (Article 41)

The Court held that Russia was to pay the applicant 20,000 euros (EUR) in respect of non-pecuniary damage.

## Separate opinions

Judges Dedov and Zünd expressed a joint dissenting opinion, which is annexed to the judgment.

*The judgment is available only in English.*

---

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on [www.echr.coe.int](http://www.echr.coe.int). To receive the Court's press releases, please subscribe here: [www.echr.coe.int/RSS/en](http://www.echr.coe.int/RSS/en) or follow us on Twitter [@ECHR\\_CEDH](https://twitter.com/ECHR_CEDH).

### Press contacts

[echrpess@echr.coe.int](mailto:echrpess@echr.coe.int) | tel.: +33 3 90 21 42 08

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

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

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

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

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

**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.