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Communication from the government of the Russian Federation in the Khashiyev group of cases against Russian Federation (Application No. 57942/00).

Information made available under Rule 8.2.a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Référence du point : 1144e réunion DH (juin 2012)

Communication du gouvernement de la Fédération de Russie dans le groupe d'affaires Khashiyev contre Fédération de Russie (Requête n° 57942/00) - bilan complémentaire (**anglais uniquement**).

Informations mises à disposition en vertu de la Règle 8.2.a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

* In the application of Article 21.b of the rules of procedure of the Committee of Ministers, it is understood that distribution of documents at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers (CM/Del/Dec(2001)772/1.4). / Dans le cadre de l'application de l'article 21.b du Règlement intérieur du Comité des Ministres, il est entendu que la distribution de documents à la demande d'un représentant se fait sous la seule responsabilité dudit représentant, sans préjuger de la position juridique ou politique du Comité des Ministres CM/Del/Dec(2001)772/1.4).

ADDITIONAL REPORT
concerning general measures taken by the Russian authorities on enforcement of
the judgments of the European Court of Human Rights in the cases related to
violation of citizens rights during settlement of the crisis in the
Chechen Republic (*Khashiev group of cases*)

The authorities of the Russian Federation have taken complex general measures for elimination and prevention in future of the violations of the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – “the Convention”), established by the European Court of Human Rights (hereinafter – “the European Court”) in the framework of execution of the European Court judgments in the cases related to violation of the citizens' rights in the Chechen Republic.

The authorities of the Russian Federation have repeatedly informed the Committee of Ministers of the Council of Europe (hereinafter – “the CMCE”) on the measures taken, e.g. by reports nos. 14-1189-11 of 25 February 2011 and 14-6303-11 of 1 November 2011. Additional information is hereby submitted on measures in the said group of cases, taken in view of the conclusions and recommendations stated in the Interim Resolution of the CMCE no. ResDH(2011)292.

1. Measures aimed at search and discovery of the fate of missing persons

The work is continued for improvement of the practice of carrying out molecular genetic examinations of close relatives of the persons who have been abducted (whose whereabouts have not been established till the present moment). Such examinations are made in order to define their genotype and to create a database for further comparison with unidentified corpses found in the territory of the Chechen Republic. To date more than 70 examination have been ordered, the results are obtained for 47 of them.

The draft Federal Law *On Amendments to Article 178 of the Code of Criminal Procedure of the Russian Federation* had been prepared. The said draft contains provisions on the necessity of taking photos and fingerprints of unidentified corpses. The said draft law was approved by the State Duma of the Federal Assembly of the Russian Federation in the first reading on 23 March 2012. Finalizing the work on the draft law and introduction of amendments to the Code of Criminal Procedure of the Russian Federation is scheduled in 2012.

At present moment the law enforcement authorities of the North Caucasian Federal District are implementing the program for fighting abductions of people and searching for the missing persons for 2011-2014. In the course of fulfillment of this program, among other measures, the recording is ensured (including record by computerized information systems) of abducted and missing persons as well as of the persons detained by law enforcement officers.

Thus, the Ministry of the Interior for the Chechen Republic (hereinafter – “the MVD for the Chechen Republic”) has created the “Forpost” joint database of all the abducted and missing persons. The information on such persons is also forwarded to

the Federal Security Service of Russia (hereinafter – “the FSB of Russia”) and to the Directorate of the Federal Penal Service for the Chechen Republic (hereinafter – “the UFSIN of Russia for the Chechen Republic”).

In 2012 it is planned to finalize the works on modernization of the automated informational database “Opozvaniye” (“Identity”) on the basis of which centralized records of missing persons and discovered unidentified corpses are formed.

For the purposes of improvement of the work on locating abducted citizens and missing persons the Ministry of the Interior of the Russian Federation (hereinafter – “the MVD of Russia”) has developed and forwarded to the police emergency call centers of the territorial bodies of the MVD of Russia the reference document on the procedure of reception, registration and examination of reports of missing persons and unidentified corpses.

In order to increase the effectiveness of departmental control in criminal cases initiated upon the facts of abduction and missing of persons, as well as control in operational record cases, the Prosecutor's Office of the Chechen Republic in February 2012 communicated information letters to district prosecutors' offices of the Chechen Republic, the Investigative Department of the Investigation Committee of the Russian Federation and the Ministry of the Interior of the Chechen Republic, ordering to take additional measures for improvement of the quality of departmental control.

The authorities of the Russian Federation are taking measures for a detailed study by investigators of the case-law of the European Court, including that with the help of bilateral consultations with the CMCE Secretariat, roundtables and study visits.

For example, in February 2012 the Ministry of Justice of the Russian Federation together with the Council of Europe Department for the Execution of Judgments of the European Court of Human Rights held in Moscow a training seminar with participation of the representatives of the Investigation Committee of the Russian Federation. The participants of the seminar were familiarized with Conventional provisions, international standards, regulatory documents of the Council of Europe, other countries' experience for enforcement of the European Court judgments with regard to violations of the rights of citizens in the course of counter-terrorist operations.

A seminar focusing on the issues related to search of missing persons with participation of representatives of the Investigation Committee of the Russian Federation, bodies of the Prosecutor's Office of the Russian Federation, the bodies of the Ministry of the Interior of the Russian Federation and judges, as well as the European Court officials and experts from the Council of Europe, is planned to be held on 20-21 June 2012 in Paris.

At present, effective cooperation has been established among the investigative authorities, the bodies of the Prosecutor's Office of the Chechen Republic and the Ombudsman in the Chechen Republic, including the issue of cooperation for search of missing and abducted persons. Information on abducted and missing persons is placed on the web-site of the Ombudsman in the Chechen Republic. The web-site

also contains the contact details of the Ombudsman's Office which can be used by the citizens to report of any information related to the abductions.

For the purposes of further improvement of the said cooperation, as well as further ensuring of the defence of procedural rights and freedoms of the citizens, the Agreement "On the Means of Cooperation of the Investigative Department of the Investigation Committee of the Russian Federation in the Chechen Republic and the Ombudsman in the Chechen Republic in Order to Provide Procedural Guarantees for Defence of the Citizens' Rights in the Course of Preliminary Investigation" was signed in March 2012.

The Prosecutor's Office of the Chechen Republic and the Ombudsman in the Chechen Republic also signed the Agreement on Cooperation on the Issues of Protection of the Rights and Freedoms of Persons and Citizens on 25 April 2012. This Agreement stipulates the exchange of information on violation of human rights and the measures taken for prevention thereof. Participation of the Ombudsman in inter-departmental meeting sessions of the law-enforcement bodies of the Republic and working groups related to human rights protection is envisaged. The Prosecutor's Office of the Republic organizes regular working meetings with the Ombudsman and his representatives.

Regular contacts and cooperation of the Republic's law enforcement authorities with representatives of human rights organizations, including International Committee of the Red Cross, NGO "Committee against Torture", "Memorial" Human Rights Centre, etc., are being practised as well. The framework of the cooperation includes meetings for obtaining information on the known facts of abduction of people with the purposes of organizing the respective inspections; certain specific measures for prevention of abductions and missing of citizens are elaborated.

2. Measures aimed on further improvement of domestic remedies

On 13-14 February 2012 the Ministry of Justice of Russia, together with CMCE Secretariat, organized and held in Moscow a roundtable on the issues of effectiveness of domestic remedies at the stage of examination of reports about crimes and investigation of criminal cases, including those related to violation of the citizens' rights in the course of prevention of terrorist acts and carrying out counter-terrorist activities.

The event was attended by Russian judges, prosecutors and investigators, including those executing their powers in the Chechen Republic, as well as representatives of the European Court and international experts.

At the seminar were discussed prospective measures for protection of the citizens' rights in connection with carrying out counter-terrorist operations, as well as other countries' experience for creating similar domestic remedies. The participants were greatly interested by the relevant experience of Turkey with regard to adoption and implementation of the *Law On Compensation of the Damage Caused with Relation to Terrorist Acts and Counter-Terrorist Measures* which was recognized by the European Court as an effective domestic remedy.

Currently, the work for introducing the necessary amendments to the law enforcement practice, taken into consideration the other countries' relevant experience, is being carried out.

At the same time, realization of complex of measures aimed at protection of the victims' rights and provision to them of the maximum information on the course of the investigation is under way (earlier the Russian authorities have informed the CMCE in detail on the measures taken in this direction). Currently, the victims have been provided with the possibility to familiarize themselves with the full case-files in all investigated cases, as well as to realize their right to appeal against unlawful or ill-founded (from their point of view) actions and decisions taken by the investigative bodies. This is a crucial element both for increasing the effectiveness of investigations and for more effective and successful use of domestic legal remedies by the victims.

The CMCE will be duly and timely informed on the development of the situation.

**Report on the course and the results of the investigation
in the case *Trapeznikova v. Russia***

The judgment of the European Court of Human Rights (hereinafter – “the European Court”) of 10 December 2008, final on 10 March 2009 (application no. 21539/02).

1) Background:

a) The circumstances of the case and the state of the investigation as described in the judgment of the European Court

On 4 January 2000, the apartment block located at Revolyutsii Prospekt, 4 in the city of Grozniy was hit by a missile fired by the Russian armed forces during an attack on Grozniy. The applicant’s flat and all her belongings were destroyed, but the applicant did not witness the destruction.

On 6 January 2000, the applicant, her husband and other residents were hiding from a bombardment in the basement of their apartment block. About 10 p.m. a drunk man with a machine gun came down to the basement and started shooting. As the result of it the applicant’s husband and three other persons were killed. The applicant managed to escape. She stated that the name of the man who shot her husband was Khalid. He had lived for some time in their apartment block and during the bombings she several times had met him in the basement.

On the next day the applicant buried her husband’s body and the bodies of the others killed during the shooting in the courtyard. No autopsy was performed and no photographs were taken.

On 27 February 2000, a criminal case was instituted under elements of the crime provided for by § 2 Article 105 of the Criminal Code of the Russian Federation in relation to the event.

b) The main deficiencies of the investigation found by the European Court

Apart from the delays in the exhumation of the bodies and forensic medical examinations, the European Court noted that no efforts were made to organise a search for the person named Khalid who had committed the crime.

2) State of the investigation following the European Court’s judgment

The delay in performance of the exhumation of the bodies and forensic medical examinations took place because at the relevant time there was carried out the active phase of the counter-terrorism operation in the Chechen Republic.

The efforts made to investigate the offence have been intensified since the European Court’s admittance of the application for consideration.

In order to be effectively investigated, the criminal case has been forwarded to a special investigative unit of the Investigation Department for the Chechen Republic – the Third Division for investigation of particularly important cases.

The investigation considered as a primary one the version that the crime had been committed by a person named Khalid, who was an officer of an unidentified security agency or a member of an illegal armed group.

Thus, it follows from the applicant's statements that when the military operation began in December 1999, she and her husband and their neighbours moved to the basement of the apartment block, which was used as a bomb shelter. A man of Chechen nationality named Khalid, who was a member of illegal armed groups and always carried an assault rifle, lived in the neighbourhood. On 6 January 2000, he came down to the basement in a drunken state and shot her husband V.A. Trapeznikov and her neighbours L.P. Tonkonogova, P.A. Shkurupiy and N.P. Vasilyeva. She ran out of the basement to the courtyard of the apartment blocks, where guerilla fighters had their hospital, and asked them for help. They had taken Khalid out of the basement and beaten him with the butts of their assault rifles and promised her that they would commit him for trial. However, after a few days she again saw him at large; he was armed with the assault rifle. Her husband and neighbours were buried in the courtyard of their apartment block.

In order to identify witnesses and eye-witnesses to the crime, the investigators questioned Trapeznikova's neighbours who reported the same information as her, having explained that they were not eye-witnesses to the crime and heard that information from the victim.

A photofit image of the alleged perpetrator was compiled based on the applicant's statements. In order to identify the perpetrator and conduct a search for him, the investigators sent the image to the competent law-enforcement authorities which provided operational information that the murder of the applicant's husband and other victims had been committed by Khalid Islamov.

In addition, according to the operational data, the information about the occupation of the alleged perpetrator proved to be true. Between 1996 and the end of 1999 Khalid Islamov had been an officer of a security service which had operated when Maskhadov, the former President of the self-proclaimed Republic of Ichkeriya, had been in power and at the date the crime had been committed he had been a member of an illegal armed group.

In order to establish the whereabouts of Khalid Islamov, the investigators undertook a considerable number of investigative and search measures, including the interrogation of persons with the last name of Islamov, as the result of which they identified A.A. – the cousin of Khalid Islamov.

As a result of the right tactics chosen by the investigator during the interrogation of A.A., the latter made incriminating statements against his cousin Khalid Islamov in respect of the above crime.

It follows from his statements that since 1992 he had been living in the same apartment blocks with the families of Tonkonogovy and Trapeznikovy. After the military operation began, he sent his family to his relatives and lived in Grozny at his place of residence. At that time, he met his cousin, Khalid Islamov, who had already been a member of an illegal armed group opposing federal troops by that time. In January 2000 Khalid told him that in early January 2000 he had killed four civilians among the Russian population of Grozny in a basement of an apartment block at Prospekt Revolyutsii in Grozny, having shot them with his machine gun. After federal

troops took Grozny, Khalid left for the Republic of Ingushetia with refugees and later went back to his village of Sernovodsk where he died from an illness in 2003.

As a result of the measures taken, his photo was found and seized from T.A., Khalid Islamov's sister. After it was submitted to the victim for identification, Trapeznikova identified him as a person who had killed her husband and the family of Tonkonogovy in January 2000.

The investigating authorities therefore obtained sufficient evidence that gave grounds for charging Khalid Islamov with the crime.

In order to verify whether Khalid Islamov had actually died and had been buried, the investigators identified the persons who had taken part in the ablution and burial of his body; when questioned, they confirmed that those events had actually taken place.

In order to prove that Khalid Islamov had indeed died, the remains of his body were exhumed from the burial place indicated by Islamov's relatives and then samples of the bone tissue of the corpse and of T.A. Islamova's blood were taken in order to establish the genotype of the remains.

A forensic genetic examination established that the exhumed remains indeed belonged to Khalid Islamov.

Having obtained that information, on 21 April 2010, the investigators decided to terminate the criminal proceedings on account of the death of suspect Kh.A.Islamov.

c) The participation of the victim in the investigation

- contacts with the victim

On 27 February 2000, Trapeznikova was recognized as a victim in the criminal case. The victim was not provided with a progress report on the investigation because she died in April, 2009.

However, prior to her death the victim expressed her gratitude to the investigators for the work they had performed to identify the criminal who had killed her husband.

- use of legal remedies by the victim

After the admission of her application by the European Court the victim has lodged no complaints with domestic courts under Article 125 of the Code of Criminal Procedure of the Russian Federation about ineffectiveness of the investigation.

Main Procedural Control Department
of the Investigative Committee of the Russian Federation

**Report on the course and the results of the investigation
in the case *Akhmadova and Others v. Russia***

The judgment of the European Court of Human Rights (hereinafter – “the European Court”) of 4 December 2008, final on 4 March 2009 (application no. 3026/03).

1) Background

a) The circumstances of the case and the state of the investigation as described in the judgment of the European Court

The applicant's husband Musa Akhmadov was arrested on 6 March, 2002 at the checkpoint near the Kirov-Yurt village by members of federal forces. The reason for the arrest was the fact that his name had been allegedly put into the wanted lists of those searched on suspicion of connection with illegal armed groups.

After his arrest he was brought to the Khatuni village of the Shali District on an armoured personnel carrier (APC). His relatives gave further testimony that they contacted various military servicemen which confirmed his arrest and handing over to the Federal Security Service of Russia (FSB), and then informed that Musa Akhmadov had allegedly been transported on a helicopter to the military base in Khankala.

It was established that the applicant's husband had been in fact arrested by representatives of an unknown military unit and handed over to the territorial department of the Russian FSB deployed in Khatuni. However, despite the fact that the numbers of military units are known, particular military servicemen, which had arrested, transported Akhmadov to Khatuni etc. and handed him over to the FSB, were not identified. Neither the military servicemen, who had contacted with the relatives, were identified. The FSB of Russia denied the detention of Akhmadov.

On 13 May 2002 a criminal case was initiated upon this fact under the elements of the crime provided for by Article 126 § 2 (a, r) of the Criminal Code of the Russian Federation (the CC RF).

b) The main deficiencies of the investigation established by the European Court

Apart from the untimely initiation of the criminal case the European Court noted that neither the FSB officers nor the servicemen indicated in the official documents had been identified or questioned. No action was taken to eliminate the contradictions found in the testimony given by the FSB officers, who denied Akhmadov's detention at their premises, and in the testimony given by the military servicemen, which said that they had handed him over to the officers of the Russian FSB. Also there was no identification of the military servicemen who had been in touch with the applicants and who had informed them on Akhmadov's whereabouts first in Kirov-Yurt, and then in Khatuni.

2) The state of the investigation following the judgment of the European Court

a) interim results of the investigation

Untimely initiation of the criminal case made any forensic possibilities almost negligible. In particular, the inspection of the scene of crime had no results after several years.

At present general investigative actions are aimed at identification of those servicemen who had contacted with Akhmadov's relatives and who therefore can be identified by the latter. Relevant requests were therefore forwarded to all known military units, which were at the relevant place at the material time. Requests contained the description and the names of the military servicemen obtained from the applicants in the course of the interrogations. Some military units have already responded that no servicemen matching the description were doing military service in their units.

It should be clarified that these military servicemen identification is largely hindered by the fact that the military units that served in the Chechen Republic at the material time, served on a temporary basis and according to the rotation principle.

For example, Akhmadov was arrested in March, 2002 and already in April these subdivisions were fully re-recruited. In addition, they were recruited from representatives of different agencies.

Since the applicants cannot confirm for certain the unit or the department to which the servicemen who contacted with them belonged, there is also a version under consideration that those persons could be Russian FSB officers, moreover, it was also confirmed by the military prosecutor, who informed that the servicemen of the Ministry of Justice of the Russian Federation had arrested Akhmadov, a Grozny resident, as a suspect in involvement with illegal armed groups. With support of the servicemen of military unit no., whose identities could not be identified, he was handed over to a unit of the Russian FSB which was a part of the base camp of the regiment tactical group.

At the same time, it appears impossible to admit the version of Akhmadov's arrest by the Russian FSB officers as final due to the fact that the officers could have released him or handed him over to another division.

The FSB officers must be identified to establish the truth in the case, which is rather difficult due to the fact that they stayed in the Chechen Republic under their cover names, the storage period of the orders directing the officers to the Chechen Republic and assigning them cover names was limited to five years, so there are no relevant documents in the archives already.

Presently, other possibilities to obtain this information are being worked on, in particular, through forwarding requests to personnel departments.

In addition to the requests directed to specific military units and agencies, some documents were seized from the Main Archives of the agencies, representatives of which were doing service in the joint military units at the material time. Access to the archives required obtaining of a judicial decision, since the documents contained therein

are a state secret. Nevertheless no information relevant to the investigation was obtained.

Actions are also taken to identify the vehicle which brought Akhmadov to the checkpoint in Khatuni. It should be noted that the storage period of many documents and registers is limited, and the APC number could have been put on the military vehicle by the drivers themselves in order to mislead those concerned on belonging of the APC to the particular military subdivision.

In addition, it shall be stressed that there were many APC vehicles in the Chechen Republic at the material time, which belonged to various military units and law enforcement agencies; therefore it is complicated to identify this APC.

Presently, other possibilities to identify the vehicle are being worked on, in particular, through forwarding requests to military units to find out whether they have an APC vehicle bearing this number.

The upon investigation primary attention is paid and measures are taken to identify the servicemen of military unit no., information was provided by the military prosecutor. For this purpose different police departments are given orders to locate and identify them. The main difficulties here arise due to the fact that the documents containing information on the servicemen of this military unit were not preserved due to the expiration of the storage period.

In order to obtain information on the persons who have committed the crime, it is necessary to identify and question maximum possible number of military servicemen and law enforcement officers who stayed at the material time in Khatuni, and who might refer to particular persons, however, it is quite difficult to realize it, because military units and subdivisions of the Department of the Interior of the Russian Federation, which served in the Chechen Republic, were recruited on a temporary basis.

b) search for Akhmadov

Akhmadov's traces are lost up to date in Khatuni. The account of his transportation to Khankala has neither yet confirmed nor refuted. In order to establish Akhmadov's whereabouts there is active search of possible witnesses carried out who could confirm his stay in Khatuni and the servicemen who contacted with the applicants. Measures are taken to identify the Russian FSB officers, to whom Akhmadov had been handed over, and to identify the helicopter regiment to check the version about Akhmadov's transportation from Khatuni to Khankala by means of helicopter.

In addition, in order to check the whereabouts of the abductee's corpse, Akhmadov was searched in the register of unknown corpses to compare upon individual features.

DNA samples were obtained from the abductee's relative. The samples were sent to the joint database to compare them with those obtained from the unidentified corpses or their fragments found at different time in the territory of the Chechen Republic.

Information requests were sent to the detention facilities and medical institutions not only within the Chechen Republic but also in the neighbouring regions to find out whether the abductee had been delivered there.

c) participation of the victims in the investigation

– contacts with the victim

The abductee's relative was recognized as a victim in the criminal case on 17 May 2004. The victim has no representatives in the criminal case.

After the preliminary investigation was suspended on 9 August 2010 the victim received the report concerning the action which was or is being carried out by the investigative agencies.

While familiarizing herself with the report the victim lodged no requests or submissions.

The victim is entitled to familiarize herself with the entire criminal case-file if she so wishes.

– use of legal remedies by the victim

Neither domestic courts nor investigative agency received any complaints against non-effective investigation from the victim under Article 125 of the Code of Criminal Procedure of the Russian Federation after the European Court had taken over her application.

Main Procedural Control Department
of the Investigative Committee of the Russian Federation

Report on the course and results of the investigation in case *Akhmadova and Sadulayeva v. Russia*

The judgment of the European Court of Human Rights (hereinafter referred to as “the European Court”) of 10 May 2007, final on 10 August 2007 (application no. 40464/04).

1) Background

a) The circumstances of the case and the state of the investigation as described in the judgment of the European Court

On 10 March 2001 members of illegal armed groups had captured a television station in the town of Argun, Chechen Republic. Between 11 and 14 March 2001 the military and law enforcement officers conducted an operation in the town in order to identify and arrest the members of illegal armed groups who had taken part in the television station capture. Movement of civilian traffic and people during the operation was prohibited.

On 12 March 2001 between 12 p.m. and 2 p.m. the applicants’ relative, Akhmadov Sh.S-Kh., who lived with his family in Argun, left his home and went into the street. At this time armoured personnel carriers (hereinafter referred to as “APC”) and police vehicles (UAZ) were located in the town as well as near Sh.S-Kh. Akhmadov’s house. After a while Sh.S-Kh. Akhmadov’s spouse saw her husband being surrounded by servicemen and pushed into an APC.

Other residents of Argun were arrested together with Sh.S-Kh. Akhmadov, some of these went missing while others were found with signs of violent death.

Sh.S-Kh. Akhmadov may have been arrested due to the fact that he was on the wanted list as an accused of having committed a crime provided by Article 228 § 1 of the Criminal Code of the Russian Federation (possession of narcotic substances without the intention of selling them).

On 1 May 2002, Sh.S-Kh. Akhmadov’s skeletised body with signs of violent death was found in the outskirts of Argun.

On 23 March 2001, the criminal case was instituted upon the above fact under Article 126 § 2 (a, ж) of the Criminal Code of the Russian Federation.

b) The main deficiencies of the investigation established by the European Court

In view of the fact that the Russian authorities did not submit the whole criminal case file, the Court made conclusions in respect of the main deficiencies of the investigation based on the information available to it.

The Court pointed out the delay in the criminal case institution, the military prosecutors’ failure to take measures aimed at solving the crime, which expressed in the failure to question the servicemen, who had taken part in the operation in the town of Argun and Akhmadov’s apprehension.

It was also unclear to the Court why on 18 November, 2004 the investigation led to the suspension of the case due to lack of *corpus delicti* and the search for the unidentified servicemen was stopped.

2) The state of the investigation following the European Court's judgment

a) interim results of the investigation

The efforts made to investigate the offence have been intensified since the European Court's admittance of the application for consideration.

In order to be effectively investigated, the criminal case has been forwarded to a special investigative unit of the investigation directorate for the Chechen Republic – the third division for investigation of particularly important cases.

The investigation considered as a primary one the version that law enforcement or military officers had committed the abduction and subsequently killed the applicants' relative.

In order to verify this version it was necessary to firstly establish the specific subdivisions, which had taken part in the special operation. In this connection, more than 120 servicemen and law enforcement officers who had taken part in this operation or had had any relation to it were questioned.

Extracts from the most important interviews of witnesses are cited below.

In order to establish the subdivisions, which participated in the special operation, service and combat activity documents of the United Group Alignment (forces) on conducting the counter-terrorist operation in the Northern Caucasus in March 2001 have been inspected; the security agencies were also requested to provide information about such subdivisions.

It follows from the submitted information that between 10 and 14 March 2001 a special operation was conducted in the town of Argun, its participants being the interior troops of the Ministry of the Interior of Russia, the military units of the Ministry of Defence of Russia, the subdivisions of the law enforcement agencies of the Ministry of the Interior of Russia.

In addition, after obtaining the court permission a document seizure has been conducted in the Central Archive of the Ministry of Defence of Russia, from which it followed that on 12 March 2001 a special operation was conducted in the town of Argun by the officers of the military commandant's office of the Chechen Republic.

Also in order to establish the subdivisions which took part in the special operation, the Argun military commandant has been questioned; he testified that in 2001 a brigade of the Airborne Troops (VDV) was deployed in the territory of the former armoured concrete product plant in the outskirts of Argun. In order to carry out the operation in Argun the interior troops units of the Ministry of the Interior and a company of the armoured regiment were used. After the special operation ending, residents of Argun, including Akhmadov's relatives, applied to the military commandant's office requesting aid in the search of their missing relatives. The commandant made inquiries in the command of the military subdivisions, which had participated in the special operation, however it emerged that none of these units had

arrested any residents of Argun. Alongside with that, it was noted that suspicious persons were arrested by officers of the Ministry of Justice of Russia, and after arrest delivered to the point for arrested persons set up in the territory of the former factory.

Taking into account that a significant amount of servicemen and law enforcement officers took part in the special operation and that they were not subordinate to each other, it was necessary to establish the exact subdivision the officers of which had apprehended Sh.S-Kh. Akhmadov.

In order to establish this subdivision as well as the circumstances of Sh.S-Kh. Akhmadov's arrest, at first the neighbours and victims were questioned. It was established from their testimony that Sh.S-Kh. Akhmadov had been arrested and then placed in the APC by unidentified armed men who were carrying out a passport regime check. The interviewed did not see the numbers of APC, could have helped to establish their belonging to a particular subdivision. They were also not able to describe the persons who had arrested Sh.S-Kh. Akhmadov.

With a view to obtaining a complete picture of the special operation, senior officers who had controlled the special operation were questioned; they did not provide any information that could help to solve the crime, having referred to the remoteness of the events as well as a large number of other similar special operations conducted under their supervision in the Chechen Republic.

The military subdivision commanders who had directly participated in the special operation were questioned in order to establish the fact of apprehension of Sh.S-Kh. Akhmadov by their subordinates, as well as the role assigned to them in this special operation. It was established in the course of their interviews that the servicemen of the Ministry of Defence of Russia were cordoning a location where the special operation was to be conducted, the servicemen of the Interior Troops of the Ministry of the Interior of Russia were covering the operational investigative group which was allocated from the Temporary Division of the Interior (hereinafter – VOVD) of the inhabited locality in which the special operation was being conducted. The arrested persons were delivered to the VOVD, following which after conducting a check they were either released or upon the prosecutor's office decision were delivered to the temporary detention facility.

The investigation established that the VOVD of Argun was comprised of the police officers seconded from the Main Department of the Interior of one of the constituent entities of the Russian Federation.

The interviewed officers, including the commander and the officers of the Main Department of the Interior, who at the time relevant for the investigation had been a part of the VOVD of Argun, did not provide any information that could have helped to solve the crime, having referred to the remoteness of the events. At the same time, they did not deny that they could participate in such special operation, while explaining that should they had arrested Sh.S-Kh. Akhmadov they would have drawn up appropriate documents justifying the need for his apprehension.

Seizures of documents were made in order to verify the fact that Sh.S-Kh. Akhmadov had been delivered to the temporary detention facility of the VOVD of Argun. No information relating to Sh.S-Kh. Akhmadov was found in the seized documents.

Also, in order to verify the commandant's arguments, there was conducted a questioning of officers, in particular the commander and the servicemen of the military unit which had been deployed in the territory of the armoured concrete product plant; they testified that they had been involved in blocking the area in which the special operation was being conducted. They did not have any rallying point at the place of their deployment, they did not arrest any local residents as it was not their duty.

With the aim of verifying the Argun commandant's testimonies on the arrests of residents of Argun by officers of the subdivision of the Ministry of Justice of Russia and their subsequent delivery to the point set up in the territory of the former armoured concrete production plant, there was conducted the questioning of the officers, including the commander and the servicemen of the Directorate of the Execution of Penalties of the Ministry of Justice of Russia for the Sh. Region who had taken part in the special operation; they testified that during and after the special operation they had not detained or brought anyone to the territory of the concrete production plant.

Measures aimed at identifying the servicemen of other subdivisions, who were involved in conduction of the special operation, are being carried out by directing inquiries to archives, however, certain difficulties arise in it, particularly due to the fact that the military subdivisions and the subdivisions of the Ministry of the Interior of Russia which served in the Chechen Republic were staffed on a temporary and rotational basis.

The difficulty in identifying the perpetrators also lies in the absence of their description, distinctive marks of the APC in which the applicants' relative was placed, as well as any forensic objects.

Despite the measures taken, the investigation did not receive any information about the specific subdivision that had apprehended the applicants' relative, which delays the investigation to a certain degree.

At the same time, in order to identify the perpetrators, the investigation is giving orders to special services to conduct secret activities aimed at solving the crime and establishing those implicated in the commission of the crime. Considering that the measures taken by the special services in order to identify the perpetrators are secret, they are not provided in the present reference.

c) The victims participation in the investigation

- contacts with the victims

On 17 April 2001, S.S.-Kh. Akhmadov's mother, T.Kh. Akhmadova, was recognised as a victim under the criminal case. After the suspension of the preliminary investigation on 1 June 2001 the victim was provided with a report on the works complete and being performed by the investigation. No requests or observations were received from the victim while she was studying the report. The victim may, if she wishes, familiarise herself with the entire case file.

– use of legal remedies by the victim

After the admission of her application by the European Court, the victim has lodged no complaints with domestic courts and the investigative authority under Article 125 of the Code of Criminal Procedure of the Russian Federation about ineffectiveness of the investigation.

Main Procedural Control Department
of the Investigative Committee of the Russian Federation

**Report on the course and the results of the investigation
in the case *Sadykov v. Russia***

The judgment of the European Court of Human Rights (hereinafter referred to as “the European Court”) of 7 October 2010, final on 7 January 2011 (application no. 41840/02)

1) Background:

a) The circumstances of the case and the state of the investigation as described in the judgment of the European Court

On 5 March 2000, approximately at 10 a.m., when the applicant was distributing drinking water among the residents of the Oktyabrskiy District of Groznyi, the federal forces representatives drove up in two UAZ vehicles and under the pretext of showing them the way delivered him to the Temporary Division of the Interior of the Oktyabrskiy District of Groznyi (hereinafter - “the Oktyabrskiy VOVD”), where they intimidated and ill-treated the applicant for several hours. In particular, they had severely beaten him, as a result braking his ribs and knocking out his teeth.

On the same day, the investigation division of the Oktyabrskiy VOVD instituted criminal case against the applicant under Article 222 § 1 of the Code of Criminal Procedure of the Russian Federation (unlawful possession of firearms and explosives), as during the search of the applicant’s house, carried out on 5 March 2000, an explosive agent in the form of a 200-gram TNT block had been found and seized. Upon this fact, ten days after the arrest, the applicant had been charged and imposed on a preventive measure in the form of detention.

In the evening of 11 March 2000, two police officers approached the applicant’s cell and ordered the guards to open it. The guards, who appeared to be afraid of the men, complied with the order. According to the applicant, those who entered the cell were drunk, one of them was wearing a mask. They started beating the applicant. After a while one of them placed his foot on the applicant who was lying on the floor, took out a knife and cut off his left ear. The applicant says that the man had a horseshoe-shaped moustache. The applicant’s cellmate K. was a witness of the crime and confirmed this fact.

On 24 May 2000, the applicant was released and the criminal case against him has subsequently been discontinued by the prosecutor’s office of the Chechen Republic due to lack of constituent elements of the crime in his actions.

On 24 May 2000, when the applicant returned home, he found his house partly burnt and his personal property and the property of his relatives (furniture, an audio system, a satellite dish) looted. There was nothing of value in the house. The applicant’s two vehicles, “Subaru” and “Oldsmobile”, were missing. Later, he found out from his neighbours that while he had been in custody unknown masked men driving one of his cars and an armoured personnel carrier had come to his house on numerous occasions and taken away his property.

On 13 July 2000, a criminal case was initiated upon this fact under Article 286 § 3 of the Criminal Code of the Russian Federation.

b) the main deficiencies of the investigation established by the European Court

Apart from the lack of examination of the crime scene, the European Court noted that there were no confrontations conducted between the two police officers who had committed the crimes, the applicant and K. The Court also noted that after the establishment of ZH. whereabouts, no investigative actions were conducted with the latter. The position of the investigators in respect of search of B. was not clear, as according to the authorities of the Russian Federation, on 20 March 2007, the criminal prosecution in his respect was discontinued due to application of an Amnesty Act. Moreover, N. and A., the men recognised by the applicant and K. as those who had been involved in the incident with the applicant's ear being cut off, were not questioned.

2) The state of the investigation following the European Court's judgment

a) interim results of the investigation

Untimely examination of the crime scene (which was carried out within the framework of a different criminal case under investigation), a half-ruined building where the Oktyabrskiy VOVD was located in 2000, and where the detainees were held, led to the loss of possibility of obtaining evidence, as the examination has been conducted 6 years after the crime was committed and gave no results.

The efforts made to investigate the offence have been intensified since the European Court's admittance of the application for consideration.

In order to be effectively investigated, the criminal case has been forwarded to a special investigative unit of the investigation department for the Chechen Republic.

The first stage of the preliminary investigation reliably established the following.

On 5 March 2000, after the applicant had been delivered to the Oktyabrskiy VOVD, a police officer has beaten the applicant with the butt of an assault rifle in the premises of the temporary detention facility, as a result braking his ribs and knocking out his teeth. On 11 March 2000, two police officers entered the cell of the temporary detention facility where the applicant and K. were held, one of these men cut off the applicant's ear, and the second one whose face was hidden by a mask restrained the victim when the bodily injury was being caused.

In order to identify the perpetrators of the crime, the police officers who in March 2000 were on secondment in the Oktyabrskiy VOVD of Grozniy were questioned, however, no data was obtained in respect of the persons who had inflicted bodily injuries to Sadykov due to absence of such information.

The persons who had been held in the temporary detention facility of the Oktyabrskiy VOVD within the period relevant for the investigation were questioned with the same purpose, but they also did not communicate any meaningful information.

The investigation considered as a primary one the version that the crime had been committed by the police officers.

In order to verify this version, on several occasions requests had been made to obtain the photographs of the police officers who served in the Oktyabrskiy VOVD in 2000, which were presented to the applicant and K. for identification.

In the course of the identification of the police officers' photographs, Sadykov first identified N. and then ZH. as the persons who cut off his ear.

Further, upon being presented I.'s photograph, Sadykov said that he looked like the man who had inflicted him the abovementioned bodily injury, however was not certain of it.

It should be noted that Sadykov's ear was cut off by one man.

Subsequently Sadykov identified D. as the person who had cut his ear off, having stated that N., ZH. and I., whom he previously identified were actually not involved in the crime and that he identified them by mistake.

Taking into account that the investigation did not have at its disposal any other evidence that could prove the involvement of the above persons in the investigated offence but for the applicant's testimony which he later recanted, the investigation decided not to institute criminal proceedings in their respect.

According to the data obtained from Sadykov, a decision was rendered in respect of D. on involving him as an accused of having committed a crime provided for by Article 286 § 3 and Article 111 of the Criminal Code of the Russian Federation (abuse of power and intentional infliction of serious harm to health committed by a group of persons), after that a preventive measure in the form of an undertaking not to leave the place of residence and to behave properly was *in absentia* imposed in his respect. On the same day he was put on the wanted list.

At the same time, in order to question N., Zh. and I., who could have become witnesses in the case, the investigation took measures to establish their whereabouts in order to question them. In particular, relevant orders were sent to law enforcement agencies, however these actions yielded no positive results.

Apart from the above-mentioned persons, the applicant and his cellmate K. recognized in presented photographs A. as the head of the convoy group of the Oktyabrskiy VOVD who took a photograph of Sadykov after his ear was cut off, but did not take part in the commission of the crime.

In order to establish the whereabouts of A. and to question him, as well as to find the photographs of Sadykov, the investigation gave orders to the law enforcement authorities on his search. To this end, relatives of A. were questioned and a search of his place of residence was conducted; however, these measures yielded no positive results.

Further, from the police officers' photographs provided to the applicant Sadykov identified B. as the police officer who, after his delivery to the Oktyabrskiy VOVD on 5 March 2000, beat him with assault rifle stock along with other police officers of the division.

K. identified B. as the person who, according to the allegations of other detainees, badly treated the persons under investigation.

On 16 March 2007, in view of the evidence submitted, B. was charged under Article 286 § 3 of the Criminal Code of the Russian Federation. During his interrogation

the latter expressed his intention to avail himself of the Amnesty Act, and as a consequence on 20 March 2007 a decision on discontinuation of the criminal proceedings against him was delivered due to application of the Act. However, contrary to the established requirements, this decision was not approved by the prosecutor and has not entered into force.

Subsequently, the court received another request of B. in which he asked to discontinue criminal proceedings against him due to the Amnesty Act, which, according to the law, obliges the investigation to deliver this procedural decision. On this basis, on 21 March 2012, another decision on discontinuation of the criminal proceedings was rendered in respect of B. due to the application of the Amnesty Act. This fact does not exonerate him of having committed the crime, but on the contrary points out that his guilt has been established; however, in connection with the Act *On Declaring an Amnesty in Respect of Individuals that had Committed Crimes during the Period of the Counter-Terrorist Operation in the Constituent Entities of the Russian Federation located within the Southern Federal District* approved by Resolution of the State Duma of the Federal Assembly of the Russian Federation of 22 June, 2006 no. 3498-4, the criminal prosecution in his respect is to be discontinued.

In addition, the applicant and K. identified Z. from the photographs as the person who allowed the two persons who cut Sadykov's ear off to enter the applicant's cell.

A decision was rendered on involving Z. as an accused under Article 286 § 3 of the Criminal Code of the Russian Federation and a preventive measure in the form of an undertaking not to leave the place of residence and to behave properly was imposed in his respect, following which he was put on the wanted list.

By the measures taken in the course of the investigation, Z. was arrested and delivered to the criminal investigation site. Taking into consideration the fact that the investigation had enough evidence to prove that it was Z. who had committed the crime, he was charged and a preventive measure in the form of detention was imposed in his respect, which afterwards was changed to an undertaking not to leave the place of residence and to behave properly due to the fact that he had a serious illness.

The investigation conducted confrontations between Z. and the applicant, as well as witness K., in the course of which Sadykov and K. directly pointed to Z. as the person who allowed the police officers enter the cell.

As a result of the right tactics chosen by the investigator during Z.'s questioning, and due to establishing a psychological contact with him, the latter testified against S., a former police officer, whom, along with another person, he allowed to enter the cell where Sadykov was held, after which S. cut off the latter's ear

Z. was shown the police officers' photographs, on one of which he identified S. as the person who had committed the crime.

It should be noted that at the preliminary stage of the investigation the photo of S., along with many other police officers' photographs, had been shown to Sadykov for identification, however he did not identify S. at that time.

Sadykov was not provided with a photograph of S. for identification due to a prohibition contained in the legislation in action (Article 193 § 3 of the Code of Criminal Procedure of the Russian Federation).

On the basis of the above-mentioned Amnesty Act, on 15 December 2011, the criminal prosecution against Z. was discontinued under non-exonerating circumstances.

In order to establish the whereabouts of S. —the suspect of having committed the crime — and to perform the necessary investigative actions with him, on 23 March 2012, a preventive measure in the form of an undertaking not to leave the place of residence and to behave properly was imposed in his respect *in absentia*, and on the same day he was put on the wanted list. Relevant instructions were given to the law enforcement agencies.

The difficulty of the investigation in respect of this episode lies in the inability, in spite of the appropriate measures taken, to establish the whereabouts of D. and S. (who were placed on the wanted list) in order to perform investigative activities with them.

With the view of enforcing the European Court's judgment the investigation is taking exhaustive measures aimed at the establishment of whereabouts and questioning of N., Zh., I. and A.; however, there are some difficulties in the establishment of the mentioned persons' whereabouts, as they do not serve in the internal affairs bodies, do not live at the place of their registration, and their relatives do not have any information concerning their whereabouts. Taking into consideration that N., Zh., I. and A. are witnesses and not suspects, it is impossible to apply any sanctions in their respect that would allow to establish their whereabouts by operative way in accordance with the legislation.

However, the investigator conducted a substantial amount of investigative actions in order to identify the witnesses and the wanted persons, including the questioning of their relatives and neighbours, the heads and officers, who testified that they do not know anything about their whereabouts.

In addition, the investigation regularly gives instructions to special services on performance of constant work aimed at the search of the mentioned persons.

The investigative department is the investigating criminal case instituted upon the fact of stealing and destruction of Sadykov's property, in the course of which no evidence were found which could prove the involvement of the persons accused of having inflicted bodily injuries to Sadykov in the commission of this crime.

The investigation established that approximately during the period of February – March 2000, some of the officers of the Oktyabrskiy District Department of the Interior (ROVD) had bought two foreign vehicles at the cost of USD 200 from other officers who served in the Oktyabrskiy VOVD.

As follows from the testimonies of the police officers who served on a permanent basis in the Oktyabrskiy District Department of the Interior, approximately during the period of February – March 2000, they heard from their colleague D., that the latter bought two foreign vehicles from the police officers. They did not buy the vehicles personally, and they did not know from whom in fact were these vehicles bought. After purchasing one of the vehicles was transferred D.'s place of residence, the other was left in the courtyard of one of the buildings in Groznyi.

In addition, witness Av. explained that police officer D. told him that he had bought these vehicles from the police officer R.

D., in turn, testified that in 2000 local police officers came up to him and said that they had bought two vehicles from the officers who served in Oktyabrskiy VOVD of Grozny.

It was impossible to eliminate the contradictions in their testimonies, nor to establish the factual circumstances of the case due to the death of D.

The investigation established F., in whose respect a preventive measure in the form of an undertaking not to leave the place of residence was imposed and who was put on the federal wanted list. F. whereabouts were established, and he was questioned as a suspect with regard to theft of property. On the same day, the investigator rendered a decision to lift the preventive measure previously imposed in respect of F. due to the lack of grounds to charge him and the criminal prosecution in his respect was discontinued.

c) the victim participation in the investigation

- contacts with the victim

On 18 July, 2000, Sadykov was recognised as a victim in the criminal case. The victim has the opportunity to familiarize himself with the criminal case file in full if he wishes to do so.

– use of legal remedies by the victim

According to Article 125 of the Code of Criminal Procedure of the Russian Federation, the representative of the victim filed a complaint against the separate investigation of the criminal cases instituted upon the fact of bodily injuries being inflicted to Sadykov, as well as upon the theft of his property, which was satisfied by the court on 15 April 2011; however, on 23 June 2011, the Supreme Court of the Chechen Republic quashed the judgment and dismissed the appeal.

Main Procedural Control Department
of the Investigative Committee of the Russian Federation

**Report on the course and results of the investigation
in the case *Akhiyadova v. Russia***

The judgment of the European Court of Human Rights (hereinafter referred to as “the European Court”) of 3 July 2008, final on 3 October 2008 (application no. 32059/02).

1) Background

a) The circumstances of the case and state of the investigation as described in the judgment of the European Court

The relatives of the applicant, Magomed Khumaidov and Kharon Khumaidov, were arrested on 13 February 2002 at about 11.00 a.m. by unknown officers of federal forces in their house in the Makhkety village of the Vedenskiy District of the Chechen Republic and according to the applicant were brought by an UAZ vehicle with no number plates to the base of the Federal Security Service of Russia located in the Khatuni village of the Vedenskiy District of the Chechen Republic.

The ground for arrest of Magomed and Kharon Khumaidovy by unknown military servicemen was the necessity to check their identifying documents.

Upon this fact the criminal case was initiated under the elements of the crime provided by Article 126 § 2 (a, ж) of the Criminal Code of the Russian Federation (the CC RF).

b) Main deficiencies of the investigation found by the European Court

In view of the fact that the criminal case-file was submitted to the Court by the Russian authorities only in part, the Court made its conclusion regarding the main deficiencies of the investigation on the basis of the information available to it.

The Court noted that the applicant had immediately informed the investigation agencies of the offence committed, and the investigation was initiated four months later. The applicant was recognised as a victim twenty months after the offence. The scene of crime was only inspected in August, 2005. Three years after the abduction of the applicant’s relatives, some of witnesses were questioned. The investigation was not effective already at early stages. The applicant could not effectively challenge before court the actions or omission of the investigation agencies in charge having no access to the criminal case-file.

2) The state of the investigation following the judgment of the European Court

a) interim results of the investigation

Untimely initiation of the criminal case resulted in the loss of opportunity to obtain evidence, in particular, in the course of the inspection of the scene of crime

carried out much later after the offence had been committed, it therefore brought no results.

Minimum investigation actions were carried out at the initial stage of the investigation. There were virtually no investigative actions carried out in the criminal case for many years, despite obvious gaps in the investigation.

The investigation of the offence had been intensified since the European Court's admittance of the application for consideration.

In order to be effectively investigated, the criminal case has been forwarded to the special investigative unit of the investigation directorate for the Chechen Republic.

The version according to which the offence had been committed by military servicemen or law enforcement officers is considered primary.

In order to establish the circumstances of the offence as well as to obtain other important information relevant to solving the offence the witnesses from among civilians of the Khumaidovy's arrest and the relatives of the abductees were questioned.

In the course of their questionings, it was found that the persons who arrested their relatives were officers of federal forces who used a UAZ vehicle to move and who visited the military base in the Khatuni village. In addition, according to the relatives, when they visited this base, the persons came up to them, these persons called themselves officers of the Federal Security Service of Russia (hereinafter – FSB), and were named T. and Sh. These persons told that work was carried out in respect of the abducted persons and that they would soon be released.

It was established that the UAZ vehicle, on which the applicants' relatives had been taken, was seized by unknown federal forces officers from a Mekhkety resident, who later took it from the checkpoint located in Khatuni.

A request was sent to the FSB of Russia to identify the FSB officers T. and Sh. It appears from the response received that the persons bearing those names were not engaged in military service. It raised no doubts since the federal officers could in fact use cover names. In addition, upon the ending of secondment the Federal Security Service officers left to the regular place of their service. The documents proving their stay at the particular place are destroyed.

Requests regarding the subdivisions deploying in Khatuni were sent to the security agencies of the Russian Federation, which answered that there was the 45th regiment deploying in the village, and that the regiment contained various military units which were staffed on a temporary and military units rotational basis, which in fact made the investigation and identification process of those, which could give important testimonies, more complicated.

Requests were sent to all the state security agencies to identify the particular subdivision, which had arrested Khumaidovy.

It follows from the responses received that the agencies did not have any information on the special operation carried out in Mekhkety at the material time or the arrest of Khumaidovy in its course.

Search for the relevant documents started in the central archives of the security agencies, among others, in the archive of the Russian Federal Security Service, to identify the particular subdivision, which had arrested Magomed and Kharon

Khumaidovy. The search led to no results due to destroying of all the documents following the expiration of the storage period.

In view of the fact that the documents confirming Khumaidovy's arrest were not available in the archives, the investigative agencies took measures to question officers and common soldiers of some military units, which were found to be a part of regiment and deployed in Khatuni at the material time. The questioned servicemen provided no information to the investigative agencies on the persons who had committed the offence, since they did not have such information.

Activities are being carried out at the moment to identify other military servicemen who were deployed in Khatuni at the material time. Thereby it should be again noted that the identification of those military servicemen is largely complicated by the fact that the military subdivisions were staffed on a temporary basis, some military units were disbanded.

The investigation examined among others the version about an alleged arrest of Khumaidovy by the law enforcement agencies of the Chechen Republic; relevant requests were forwarded to clarify the situation around their arrest. It follows from the answers received that the law enforcement agencies have no information on the special operation or Khumaidovy's arrest.

To receive a positive result in the criminal case repeated orders were and are given to special services to carry out operative and search activities aimed at obtaining any relevant information on the whereabouts of the abducted persons and their abductors, as well as the witnesses who could give important information to the investigative bodies.

By means of prosecution authorities the investigative bodies initiate on a regular basis verifications by special services in charge of search, which must properly execute their work to identify the whereabouts of abducted persons and their abductors.

Despite the measures taken, the investigative agencies did not receive enough information on the particular subdivision participating in Khumaidovy's arrest; this complicates the investigation.

b) search for Khumaidovy

The investigative agencies did not positively establish or refute the delivery of the abducted persons to the military base in Khatuni, the investigative agencies keep therefore searching for the witnesses, namely the servicemen who stayed in the regiment, which was deployed in Khatuni at the material time.

In order to establish the whereabouts of the corpses of the abductees the latter were searched by means of the unidentified corpses register.

DNA samples were obtained from the abductee's relative. The samples were sent to the joint database to compare them with those obtained from the unidentified corpses or their fragments found at different time in the territory of the Chechen Republic.

Detention facilities and medical institutions of the Chechen Republic and adjacent regions were requested whether an abducted person had been brought thereto.

c) victims participation in the investigation**- contacts with the victims**

On 27 October 2004 and 17 August 2005, the abductees' wives were recognised as victims in the criminal case. After the preliminary investigation was suspended, on 3 August, 2010 the victims were provided with a report on the work the investigators had done and were doing at the time. No requests or observations were received from the victims while they were studying the report. The victims may, if they wish, familiarise themselves with the entire case file.

- use of legal remedies by the victims

After the admission of their application by the European Court the victims have lodged no complaints with domestic courts and the investigative authority under Article 125 of the Code of Criminal Procedure of the Russian Federation about ineffectiveness of the investigation.

Main Procedural Control Department
of the Investigative Committee of the Russian Federation

Report on the course and the results of the investigation in the case *Turovy v. Russia*

The judgment of the European Court of Human Rights (hereinafter – “the European Court”) of 6 November 2008, final on 6 February 2009 (application no. 29958/04).

1) Background:

a) The circumstances of the case and the state of the investigation as described in the judgment of the European Court

On 28 December 2003, the North Caucasus Department of the Prosecutor General’s Office of the Russian Federation initiated a criminal case against Ibragim Turov under the Article 163 of the Criminal Code of the Russian Federation upon the fact that in 1998 the suspected person had assisted members of an illegal armed group who had kidnapped several persons for ransom. On the same date a search warrant for Ibragim Turov was issued.

On 14 February 2004, the Division of the Interior of the Kirovskiy District of the Republic of North Ossetia-Alania put Ibragim Turov on the wanted list.

On the same day the Prosecutor General’s Office of the Russian Federation put Ibragim Turov’s name on the federal wanted list.

Following a petition from the Russian authorities, the Division of the Interior of the Kirovskiy District of the Republic of North Ossetia-Alania conducted a search for Ibragim Turov. However, the latter’s whereabouts have not been established and the search for him is still under way.

On 26 April 2003, Ibragim Turov, a member of the Bar Association of the Chechen Republic, was driving his VAZ-2110 car to the city of Grozny. He was accompanied by three servicemen of military unit no.

Several cars which had no registration numbers, including a VAZ-2107, a VAZ-2121 and a Volga with a blue flashing signal, followed Ibragim Turov’s car and forced it to stop. Several masked men got out of the vehicles, pointed their machine guns at Ibragim Turov and his passengers and ordered them to get out of the car and lie on the ground.

Ibragim Turov produced a special pass issued by the commander of the United Group Alignment. The armed men hit him with a machine gun butt, put him into the trunk of his car and drove away.

On 18 June 2003, the prosecutor’s office of Grozny initiated a criminal case in relation with Ibragim Turov’s disappearance under Article 126 § 2 of the Criminal Code of the Russian Federation.

In its judgment of 6 November 2008, the European Court has found it established that Ibragim Turov was apprehended on 26 April 2003 by servicemen of the federal forces. His arrest was carried out in secret, was not logged in any custody records and there is no official trace of his subsequent whereabouts or fate.

b) The main deficiencies of the investigation established by the European Court

Apart from the failure to provide the criminal case file, the delay in the criminal case institution and the ineffectiveness of the investigation, in its judgment of 6 November 2008 the Court noted the following deficiencies.

The Government has not submitted any documents to confirm that Ibragim Tsurov was not arrested by the Malgobek police, such as a police registration log for the relevant time period or other materials. In absence of such documents the Government has failed to discredit the legal validity of the letter by the Ministry of the Interior of the Republic of Ingushetia of 26 July 2004, according to which Ibragim Tsurov was arrested by officers of the Department of the Interior (OVD) of the town of Malgobek of the Republic of Ingushetia on account of him being on the wanted list for aggravated extortion.

The investigators failed to verify whether Ibragim Tsurov had been arrested by officers of the OVD of the town of Malgobek or request information on his eventual arrest from law-enforcement agencies of the Republic of Ingushetia.

In addition, the Government has failed to provide an explanation as to what happened to Ibragim Tsurov following his arrest.

2) State of the investigation following the judgment of the European Court

a) interim results of the investigation

The efforts made to investigate the offence have been intensified since the European Court's admittance of the application for consideration.

In order to be effectively investigated, the criminal case has been forwarded to a special investigative unit of the investigation department for the Chechen Republic.

The investigation considered as primary ones the versions that Ibragim Tsurov had been kidnapped by officers of the Division of the Interior of the Kirovskiy District of the Republic of North Ossetia-Alania since he had negotiated ransoms with relatives of those kidnapped by members of illegal armed groups and that he had been kidnapped by military servicemen or officers of law-enforcement agencies in connection with his professional activity.

In order to verify this version the investigation firstly identified and questioned the three servicemen from Khankala, who had been going to Vladikavkaz with Ibragim Tsurov in his car and had been stopped in Grozniy by unknown armed men who had kidnapped Tsurov. As regards the description of the kidnappers, the servicemen stated that they had been wearing masks and camouflage uniforms and carrying firearms. The kidnappers had not told them about their belonging to any security agencies and had barely exchanged a few words with each other. The witnesses could not provide sufficient description of the kidnappers which would facilitate their identification.

The questioned investigator of the prosecutor's office of the Kirovskiy District of the Republic of North Ossetia-Alania stated that in 2000 Ibragim Tsurov had been apprehended under Article 122 of the Code of Criminal Procedure of the Russian Soviet

Federative Socialist Republic (RSFSR). He had been suspected of having mediated the transfer of money for the release of Salbiyev who had previously been kidnapped by members of illegal armed groups and of other persons. Since his involvement in the abduction had not been confirmed, in 10 days he had been released from the temporary detention facility of the Ministry of the Interior for the Republic of North Ossetia-Alania.

The Division of the Interior of the Kirovskiy District of the Republic of North Ossetia-Alania reported that on 28 December 2003 criminal proceedings had been instituted against Ibragim Tsurov under Article 163 of the Criminal Code of the Russian Federation on account of the fact that in 1998 he had assisted members of an illegal armed group who had kidnapped several persons for a ransom.

On 14 February 2004, the Division of the Interior of the Kirovskiy District of the Republic of North Ossetia-Alania put Ibragim Tsurov's name on the federal wanted list. Operational-search measures aimed at establishing his whereabouts are under way.

Officers of the Division of the Interior of the Kirovskiy District of the Republic of North Ossetia-Alania had not apprehended Tsurov or carried out any special operation in his respect; the search for him is still under way.

After the investigators received the above information, they put up a version that Ibragim Tsurov had faked his kidnapping because he was afraid of revenge from the relatives of those kidnapped and officers of the security agencies of the Republic of North Ossetia-Alania. This version was checked along with the others as well.

The investigators questioned Ibragim Tsurov's relatives, his acquaintances and colleagues, who reported that he had served in military unit no. in Khankala and that a special pass issued to him allowed him to move freely within the Republic. He had no enemies or ill-wishers. He had provided legal aid in criminal cases to both servicemen of Khankala and members of illegal armed groups.

The investigators had attached to the case file the verdicts in cases in which Ibragim Tsurov had participated by defending persons concerned, including servicemen and members of illegal armed groups.

Those persons were questioned about the circumstances in which Tsurov had provided them with legal aid in the criminal cases and about the circumstances of his kidnapping which they might have known. No link was established between those persons and the kidnapping.

The investigators also verified the information that unidentified armed men in camouflage uniforms and masks had caused bodily injuries to Ibragim Tsurov at Mustanofinov's house in February 2003. It was established that the men had beaten Ibragim Tsurov because he had interceded for Arsanukayev who had previously been a member of illegal armed groups. However, the link between them and Ibragim Tsurov's kidnapping was not established either.

In order to establish the fact of possible performance of a special operation aimed at apprehending Ibragim Tsurov, the investigators obtained information from all law-enforcement and other security agencies of the Chechen Republic, according to which officers of those organizations had not arrested Ibragim Tsurov and no special operations had been carried out in his respect.

In addition, in order to obtain the above information seizures have been conducted in the central and regional archives of the Ministry of the Interior, the Internal Troops of the Ministry of the Interior, the Federal Security Service (FSB), the Ministry of Defence and the Department of the Federal Service for the Execution of Sentences (UFSIN), during which no documents (military orders, decrees, duty assignments, etc.) on conducting a special operation aimed at Ibragim Tsurov's arrest were found. Requests have been sent to these archives on numerous occasions, answers being negative.

Certain difficulties generally arise when identifying the law enforcement and other security agency officers who took part in the counter-terrorism operation in the Chechen Republic, particularly due to the fact that the military subdivisions and the subdivisions of law enforcement agencies which served in the Chechen Republic, including in 2003, were staffed on a temporary and rotational basis.

A clarification should be made with regard to the applicant's version that officers of the Division of the Interior of the town of Malgobek of the Republic of Ingushetia had been involved in the kidnapping of Ibragim Tsurov.

In its judgment of 6 November 2008, the Court has found it undeniable that Ibragim Tsurov was arrested by officers of the Division of the Interior of the town of Malgobek of the Republic of Ingushetia.

The Court substantiated its finding by the fact that the applicants had received the letter by the Ministry of the Interior of the Republic of Ingushetia of 26 July 2004, which had stated that Ibragim Tsurov had been wanted by the Division of the Interior of the Kirovskiy District of the Republic of North Ossetia-Alania for aggravated extortion and therefore had been arrested by officers of the Division of the Interior of the town of Malgobek of the Republic of Ingushetia.

As it follows from the judgment of 6 November 2008, the applicants informed the Court that they had that letter; however, it is not clear whether they submitted it to the Court.

At the same time, before the European Court's judgment became final and was received by the investigating authority, the investigation had no information on this matter and thus had been unable to verify it.

The investigation is reasonably perplexed by the applicants' conduct in the course of the investigation in the case.

Thus, the applicants, having been repeatedly questioned in the course of the investigation, did not inform the investigators that they had such a significant piece of evidence as the letter by the Ministry of the Interior of the Republic of Ingushetia dated 26 July 2004.

Furthermore, when questioned or making statements, they did not inform the investigators that they had important information about Ibragim Tsurov's arrest by officers of the Division of the Interior of the town of Malgobek of the Republic of Ingushetia.

Such unreasonable and unmotivated concealing of significant information about the persons who might have been involved in Ibragim Tsurov's kidnapping came to an end only on 6 November 2008 when the European Court delivered its judgment on Tsurov's application. After the investigators studied the judgment, they learned the

information on eventual arrest of Ibragim Tsurov by officers of the Division of the Interior of the town of Malgobek of the Republic of Ingushetia.

The information was verified immediately.

Thus, the investigator requested the Ministry of the Interior of the Republic of Ingushetia for the information on Ibragim Tsurov's possible membership in illegal armed groups and involvement in any crimes.

According to the reply there was no information on Ibragim Tsurov's membership in illegal armed groups or involvement in any other crimes.

The investigators are currently taking additional measures aimed at establishing the whereabouts of the letter of 26 July 2004, verifying the information on involvement of officers of the Division of the Interior of the town of Malgobek of the Republic of Ingushetia in Ibragim Tsurov's kidnapping, questioning the applicants, checking the registration log of arrested persons in the temporary detention facility of the Division of the Interior, etc.

b) search for Ibragim Tsurov

It follows from the statements of the relatives of those kidnapped and witnesses that Ibragim Tsurov might have been arrested by officers of the Division of the Interior of the Kirovskiy District of the Republic of North Ossetia-Alania or by those of the Division of the Interior of the town of Malgobek of the Republic of Ingushetia. In this connection the investigators requested information about the possible arrest of Ibragim Tsurov by officers of the above-mentioned departments of the interior from the mentioned Departments. According to the responses received Ibragim Tsurov had not been arrested by police officers or placed in any temporary detention facility.

For the purpose of establishing whether Ibragim Tsurov had died, the latter was checked in the database of unidentified corpses upon his individual features.

A DNA profile was taken from the relatives of the kidnapped person. It was sent to the joint database in order to compare it with the DNA profiles of unidentified corpses of people or their fragments which had been found in the Chechen Republic at different times.

Detention facilities and medical institutions of the Chechen Republic and adjacent regions were requested about the information on whether the kidnapped person had been brought thereto; their responses were negative.

c) The participation of the victim in the investigation

– contacts with the victim

On 30 June 2003, L.I. Tsurova, Ibragim Tsurov's sister, was recognized as a victim in the criminal case. After the preliminary investigation was suspended, on 1 June 2011 the victim was submitted a report on the work the investigators had done and were doing at the time. No requests and observations were received from the victim while she was studying the report. The victim may, if she wishes, familiarise herself with the entire case file.

– use of legal remedies by the victim

After the admission of her application by the European Court the victim has lodged no complaints with domestic courts under Article 125 of the Code of Criminal Procedure of the Russian Federation about ineffectiveness of the investigation.

Main Procedural Control Department
of the Investigative Committee of the Russian Federation

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Date: 15/05/2012

DH - DD(2012)488 - part 2*

Item reference: 1144th meeting DH (June 2012)

Communication from the government of the Russian Federation in the Khashiyev group of cases against Russian Federation (Application No. 57942/00).

Information made available under Rule 8.2.a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

* * *

Référence du point : 1144e réunion DH (juin 2012)

Communication du gouvernement de la Fédération de Russie dans le groupe d'affaires Khashiyev contre Fédération de Russie (Requête n° 57942/00) - bilan complémentaire (**anglais uniquement**).

Informations mises à disposition en vertu de la Règle 8.2.a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

* In the application of Article 21.b of the rules of procedure of the Committee of Ministers, it is understood that distribution of documents at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers (CM/Del/Dec(2001)772/1.4). / Dans le cadre de l'application de l'article 21.b du Règlement intérieur du Comité des Ministres, il est entendu que la distribution de documents à la demande d'un représentant se fait sous la seule responsabilité dudit représentant, sans préjuger de la position juridique ou politique du Comité des Ministres CM/Del/Dec(2001)772/1.4).

Report on the course and the results of the investigation in the case
Isigova and Others v. Russia

The judgment of the European Court of Human Rights (hereinafter referred to as “the European Court”) of 26 June 2008, final on 26 October 2008 (application no. 6844/02).

1) Background

a) The circumstances of the case and the state of the investigation as described in the European Court’s judgment

The applicants’ relatives – A.A. Isigov and Z.U. Umkhanov were detained on 2 July 2001 by the federal armed forces, which had carried out a large-scale special operation in the village of Sernovodsk of the Chechen Republic.

According to the applicants, at about 12:00 p.m. on 2 July 2001, an armed personal carrier (hereinafter – “the APC”) drove up to the outer side of their house. Ts.Sh. Isigova (the mother of A.A. Isigov) noticed that the APC board number was Ч-025. Several armed men in camouflage uniforms ran into the yard, where Apti Isigov and his cousin Rustam Isigov, who lives in the same house, were waiting for the servicemen with their passports. Ts.Sh. Isigova claimed that their documents were in order. Nevertheless, the servicemen took the passports, without looking at them, pulled shirts of the Isigov brothers on their heads and forced them to sit in the APC. In response to the question of Ts.Sh. Isigova why they were detained, the servicemen said they had orders to detain every man in the age from 15 to 50. The servicemen then searched the house and, according to Ts.Sh. Isigova, they took some money and domestic household utensils.

Further, according to Rustam Isigov, the APC, where they were sat, stopped on a nearby street, and they were ordered to get out and climb into the back of a military truck. There were some people inside the truck, both detained and servicemen. One of the servicemen ordered Apti Isigov to get into the far corner of the truck and cover himself with a piece of curtain attached to the board. Apti submitted. The detainees were taken for the passport control at the “temporary filtration point” located in the field near the village, where the foundation of an unfinished building was located. Rustam Isigov and other detainees were ordered to get out of the truck. Apti was ordered to remain in the car, but he went out and sat on the ground with the rest. 15 minutes later a man in camouflage clothing came up to them, looked at the passport, which he held, and ordered Apti Isigov to sit back into the truck.

The rest of the applicants – H.U. Umkhanova – the mother of Z.U. Umkhanov and his wife T.M. Musayeva, who were not eye-witnesses of the Z.U. Umkhanov’s detention, referring to the testimony of eye-witnesses, state that at about 4 p.m. on 2 July 2001 Z.U. Umkhanov was detained on the highway to Groznyi. At the same time, according to others, Z.U. Umkhanov was detained in the street. Several witnesses confirmed that they had seen Z.U. Umkhanov in the APC with number Ч-025 in the afternoon of 2 July 2001. By 2 a.m. of 3 July 2001 all persons detained during the special operation in the village of Sernovodsk were released or taken to the police

station of the Achkhoi-Martan district, except A.A. Isigov and Z.U. Umkhanov, whose whereabouts have not yet been established.

On 14 April 2003, criminal case was instituted under § 1 (a, r, ж) Article 126 of the Criminal Code of the Russian Federation in relation to these facts.

b) The main deficiencies of the investigation established by the European Court

Failure to timely initiate the criminal investigation directly upon the fact of abduction of A.A. Isigov and U.Z. Umkhanov (only on 14 April, 2003 the material was separated on this fact from criminal case file no. with subsequent initiation of the criminal investigation) led to the loss of the possibility to obtain evidence.

In addition, the court pointed out that the investigation had not taken any measures to establish all the circumstances of the disappearance of A.A. Isigov and U.Z. Umkhanov at the early stage of the investigation when the information about subdivisions, which conducted a special operation on 2 July 2001, was received by the relevant local authorities and could have been available to the investigators. Despite the fact that at the early stage of the investigation a specific subdivision of the Internal Troops of the Ministry of the Interior of Russia and the Ministry of the Interior of Russia division involved in the detention of A.A. Isigov and U.Z. Umkhanov, were established, after the transfer of the criminal investigation file to the military prosecution authorities the preliminary investigation was adjourned for several times due to the failure to identify the persons subject to indictment. The Court noted failure of the military prosecution officials to take appropriate measures to ensure the participation of the servicemen from the Internal Troops of the Ministry of the Interior of Russia in a criminal investigation. In addition the Court stated that in the circumstances where the data on the subdivisions and their commanders involved in the abduction of the applicants' relatives were established during the investigation, the failure to bring charges may be characterized as negligence of the authorities in the investigation and their desire not to continue it. Despite the fact that the commander of the subdivision, which detained A.A. Isigov and U.Z. Umkhanov, was identified, the investigation was repeatedly adjourned due to the failure to establish the persons involved or to ensure participation of a suspect in criminal proceedings.

Also, the relatives of the abducted were not timely recognized as victims, they were not timely informed of the measures and actions taken.

2) The state of the investigation following the European Court's judgment

a) interim results of the investigation

Intimely initiation of the criminal investigation directly upon the fact of abduction of A.A. Isigov and U.Z. Umkhanov resulted in the loss of opportunity to obtain evidence. The investigative actions upon the fact of abduction took place within criminal case instituted in response to numerous complaints from the residents of the village of Sernovodsk, including relatives of A.A. Isigov and U.Z. Umkhanov upon the fact of abuse of force by federal troops, which carried out a special operation.

However, at the initial stage the investigators took certain measures to establish all the circumstances of the disappearance of A.A. Isigov and U.Z. Umkhanov. Thus, the servicemen of the Internal Troops of the Ministry of the Interior of Russia, who personally detained A.A. Isigov and U.Z. Umkhanov, and residents of the village of Sernovodsk, which were also among those detained by the servicemen, who carried out the special operation, were identified and questioned.

The efforts made to investigate the offence have been intensified since the European Court's admittance of the application for consideration.

In order to be effectively investigated, the criminal case has been forwarded to a special investigative unit of the investigation department for the Chechen Republic.

The investigation regarded as the main version the one according to which the abduction of A.A. Isigov and U.Z. Umkhanov was conducted by servicemen of the Internal Troops of the Ministry of the Interior of Russia.

The questioned servicemen of the Internal Troops of the Ministry of the Interior of Russia did not exclude the fact of detention of A.A. Isigov and U.Z. Umkhanov by them, at the same time they stated that all the detainees during the raid were transported by them to a collection point on the outskirts of the village of Sernovodsk and handed to representatives of the Ministry of Justice and the Ministry of the Interior of Russia.

This fact was refuted by the testimony of Kh., a resident of the settlement of Assinovskaya of the Sunzhenskiy district, where on 3 July 2001 the same subdivisions of the federal forces, as in the village of Sernovodsk, conducted a special operation. Kh. testified that on 3 July 2001 he saw A.A. Isigov and another man unknown to him in the back of a military truck ZIL-130, where he and his brother were placed by the servicemen, who conducted the special operation in the settlement of Assinovskaya. On the photo presented to him Kh. identified the serviceman from the Internal Troops of the Ministry of the Interior of Russia as a senior of the crew of ZIL-130 truck, in which he and his brother were taken to the outskirts of the settlement of Assinovskaya.

Taking into account the information obtained by the investigation, the involvement of ZIL-130 crew in the abduction of A.A. Isigov and U.Z. Umkhanov was checked. The Military Prosecutor's Office investigator discontinued the criminal prosecution of the commander of ZIL-130 crew, who took part in the special operation in the settlement of Assinovskaya, and the officer subordinate to whom he was, due to the absence of sufficient evidence of their involvement into the abduction of A.A. Isigov and U.Z. Umkhanov.

Despite the fact that the version on the involvement of servicemen from the Internal Troops of the Ministry of the Interior of Russia in the crime was considered as the main one, the investigation took measures to verify the possible involvement of the officials of the Ministry of Justice of Russia.

For this purpose, the officials of the Ministry of Justice of Russia who took part in the special operation were questioned; they stated that during the operation the detainees were taken to the military base in the settlement of Khankala and handed over to the representatives of the Russian Ministry of the Interior. At the same time, the questioned staff were aware neither of any personal data of the detainees, nor the reasons for their detention.

In order to verify the version of involvement of the representatives of the Russian Ministry of the Interior and other government security agencies in the abduction, the investigators conducted seizures in the central archives of security forces in Russia. However the investigation found no relevant information in the documents that are kept in the archives; it follows therefore that either the relevant official documents had not been drawn, or they had been destroyed upon expiration of their storage period.

In addition to the investigative measures taken, the investigator sent requests regarding obtaining information about the persons involved in A.A. Isigov and U.Z. Umkhanov abduction to the law-enforcement bodies and other agencies directly engaged in searching

Additional witnesses are actively searched for, including the staff from the Ministry of the Interior of Russia, who took part in the special operation in the settlement of Sernovodsk.

The investigators took comprehensive measures to establish and question all the possible witnesses of the crime (civilians, applicants' neighbours). Due to it, the investigators established the clear and complete picture of what had happened.

Despite the detailed questioning of the witnesses about the special details in the appearance of the servicemen, the APC numbers and other important evidence, by which it would be possible to identify the persons directly involved in the abduction of A.A. Isigov and U.Z. Umkhanov, the questioned witnesses failed to provide any other information different from that available to the investigation, as the events had happened long ago.

The establishment of the servicemen and law enforcement officers who participated in the special operation in the village of Sernovodsk, as well as the officers of the subdivisions of the Ministry of the Interior of Russia stationed at a military base in the settlement of Khankala in 2001, to whom were possibly transferred A.A. Isigov and U.Z. Umkhanov, is hindered by the fact that military subdivisions and the Russian Ministry of the Interior subdivisions, serving in the Chechen Republic in the relevant period, were staffed on a temporary basis and in accordance with rotational principle.

Also actions are taken to clarify the possible transporting of A.A. Isigov and U.Z. Umkhanov to places of detention, the relevant information was requested from all agencies that are located not only in Chechen Republic, but also in the surrounding regions.

b) search for A.A. Isigov and U.Z. Umkhanov

To date, despite the measures taken, the investigators do not possess sufficient information about a specific subdivision, and, what is most important, about the persons, to whom were transferred A.A. Isigov and U.Z. Umkhanov during the special operation. These factors protracts the investigation in a certain way. Active search is being conducted in respect of possible witnesses of stay of A.A. Isigov and U.Z. Umkhanov in the location of the Temporary Operative Group of Bodies and Divisions of the Ministry of the Interior of Russia stationed in the settlement of Khankala, actions are undertaken aimed at establishing the officers of the Russian Ministry of the Interior to whom were possibly transferred A.A. Isigov and U.Z. Umkhanov. In addition,

measures are being taken to obtain information that would refute the version of the crew commander of APC-80 on the transfer of A.A. Isigov and U.Z. Umkhanov to the officers of the Ministry of Justice and the Ministry of the Interior of Russia, located in passport check point on the outskirts of the village of Sernovodsk.

A.A. Isigov and U.Z. Umkhanov were checked on a database of unidentified corpses for comparison of individual features. In order to establish the possible whereabouts of their corpses, the blood samples for DNA studies were obtained from their close relatives; the samples are sent into a common database for comparison with unidentified corpses or their fragments found at different times in the Chechen Republic.

c) the participation of the victims in the investigation

- contacts with the victims

One of the applicants and two relatives of the applicants are on the initiative of the investigator recognized as victims in the criminal case on 26 August 2001 and 09 October 2001. The human rights organization Russian Justice Initiative serves as the representative of the applicants before the Court, but there are no legally drawn documents in the criminal case file that their representatives have the right to protect the interests of the applicants during the investigation. After the suspension of the preliminary investigation on 24 December 2012 the victims were provided with the report on the conducted and ongoing work of the investigators. During the familiarization with the report the victims did not file any significant requests or observations. The victims have the opportunity to familiarize themselves with the criminal case files if they wish to do so.

- use of legal remedies by the victims

After admission of their application by the European Court the victims have lodged no complaints with domestic courts under Article 125 of the Code of Criminal Procedure of the Russian Federation about ineffectiveness of the investigation.

Main Procedural Control Department
of the Investigative Committee of the Russian Federation

**Report on the course and the results of the investigation in the case
*Estamirov and Others v. Russia***

The judgment of the European Court of Human Rights (hereinafter referred to as “the European Court”) of 12 October 2006, final on 12 January 2007 (application no. 60272/00).

1) Background:

a) The circumstances of the case and the state of the investigation as described in the judgment of the European Court.

On 5 February 2000 unidentified armed men had murdered Kh.Kh. Estamirov, Kh.A-Kh. Estamirov, T.Kh. Estamirova, K.Kh-A. Estamirov and S-A.A. Masarov with firearms at 1 Podolskaya Street, Oktyabrskiy District, Grozniy, and had also stolen and destroyed their property by means of arson: a vehicle, a shed with two calves and other property.

On 14 April 2000 an investigator of the Main Department of the Prosecutor General’s Office in the North Caucasus initiated a criminal upon the murder of the above persons under § 2 Article 105 of the Criminal Code of the Russian Federation.

In its judgment of 12 October 2006, the Court has found it established that the murder of Kh.Kh. Estamirov, Kh.A-Kh. Estamirov, T.Kh. Estamirova, K.Kh-A. Estamirov and S-A.A. Masarov had been committed by servicemen of the federal forces who on that day had had carried out a special operation in the village of Novye Aldy, about one and a half kilometers away from the Estamirovs’ household.

b) The main deficiencies of the investigation established by the European Court

Apart from the Russian authorities’ failure to provide the criminal case file in full, the delay in the criminal case institution and the ineffectiveness of the investigation, in its judgment of 12 October 2006 the Court noted the following shortcomings.

The investigation has not taken several vital steps, such as autopsies and forensic examinations.

The Court has not been familiarised with the results of the identification of the shells and bullets collected from the crime scene.

The Government has not provided any information as to whether it had conducted a military operation or a security forces operation in the specified place in the days at issue.

2) The state of the investigation following the European Court's judgment

a) interim results of the investigation

As regards the applicants' arguments and the Court's conclusions relating to untimely initiation of criminal proceedings, failure to conduct forensic examinations in order to establish the causes of the deceased persons' deaths the following should be noted.

The Russian authorities became aware of the crime only on 8 April 2000 when M., a relative of the deceased, informed the Division of the Interior of the Oktyabrskiy District of Grozniy of the crime. It followed from his testimony that he had found the bodies on 9 February 2000 and buried them in the yard of the household. He had informed his relatives about this; however he did not explain why he has not reported these facts to the investigation for two months. This fact affecting the effectiveness of the investigation has been disregarded by the Court.

The investigation was started on the day of notification of the crime, without any delay.

Three relatives of the deceased have been interviewed, inspections of the scene of crime, the Estamirovs' household and the adjacent territory, have been conducted, in the course of which the located bodies of Kh.Kh. Estamirov, Kh.A-Kh. Estamirov, T.Kh. Estamirova, K.Kh-A. Estamirov and S-A.A. Masarov were handed over to the relatives upon their request.

It should also be clarified that the deceased persons' relatives refused to conduct forensic examinations to determine the causes of the deaths. They justified the refusal by their religious beliefs, according to which performance of the autopsy of the deceased is a sin and is contrary to the norms of Islam. At the same time, without autopsy it is impossible to establish the cause of death in forensic medicine.

In this connection it became impossible to conduct forensic examinations and autopsies of the deceased persons' bodies, whereas the forensic examinations which were conducted at the preliminary stage of the investigation and did not involve examination of bodies were not capable of giving an answer to the question about the causes of the deaths.

In addition, the investigation, in accordance with the domestic criminal procedure law, has subsequently obtained a court decision for exhumation of the deceased persons' bodies, however approximately 30 relatives of the deceased, having gathered at the burial site, prevented the exhumation from being conducted and did not allow the investigation to send the bodies for forensic examination.

The opposition of the deceased persons' relatives in the conduct of the exhumation and autopsies of the bodies was the only obstacle due to which the investigation has not conducted a forensic examination of the bodies and has not established the causes of the deaths.

As regards the forensic ballistic examinations conducted in the case in respect of the shells and bullets found at the crime scene, the Court has previously been informed that the experts have confirmed the eligibility of a number of obtained bullets and shells for identification. However, their check in the records of the federal and regional bullet and shell casing repositories which reflect information about the discharge of all

weapons used by the law enforcement and other security agencies has yielded no results. This circumstance, in fact, suggests that the shells and bullets found at the crime scene were discharged from a firearm not owned by the Russian security forces.

The efforts made to investigate the offence have been intensified since the European Court's admittance of the application for consideration.

In order to be effectively investigated, the criminal case has been forwarded to a special investigative unit of the investigation directorate for the Chechen Republic – the third division for investigation of particularly important cases.

The investigation considered as a primary one the version that Kh.Kh. Estamirov, Kh.A-Kh. Estamirov, T.Kh. Estamirova, K.Kh-A. Estamirov and S-A.A. Masarov have been murdered by the servicemen of the Russian armed forces and by the officers of the interior bodies.

In order to verify this version the investigation firstly had to establish the fact that a special operation actually took place in early February 2000 near Podolskaya Street of Grozniy, as well as specific subdivisions of the security agencies and their staff who took part in it.

For these purposes, information has been obtained from all law enforcement and other security agencies in the Chechen Republic that their officers had not conducted any special operations in February 2000, including that on 5 February, neither near Podolskaya Street of Grozniy, nor in the village of Novye Aldy.

Similar information has been requested from the Main Departments of the Ministry of the Interior of Russia. Officers of these departments also did not take part in the special operation.

In addition, in order to obtain the above information seizures have been conducted in the central and regional archives, during which no documents (military orders, decrees, duty assignments, etc.) on conducting a special operation were found. With the same aims, requests have been sent to archives on numerous occasions, answers being negative.

Certain difficulties generally arise when identifying the law enforcement and other security agency officers who took part in the counter-terrorism operation in the Chechen Republic, particularly due to the fact that the military subdivisions and the subdivisions of law enforcement agencies which served in the Chechen Republic, including in 2000, were staffed on a temporary and rotational basis.

The investigation identified the law enforcement officers and representatives of the local administration who participated in the inspection of the crime scene on 8 April 2000 and reburial of bodies. In their interviews and during the operational-search activities aimed at solving the crime no information relating to the murder of the Estamirovs family members and Masarov has been obtained.

The investigation has identified and interviewed the relatives of the deceased, as well as their neighbours, including those who participated in the reburial.

It became known from these testimonies that they suspected the servicemen who conducted a special operation on 5 February 2000 in the village of Novye Aldy in committing these murders. They received this information from the residents of Novye Aldy, however they refused to name anyone in particular, fearing for their personal safety.

In order to obtain information on the witnesses of the crime from the residents of the village of Novye Aldy, the officers of the bodies of the interior conducted operational-search activities with the deceased persons' relatives, including questioning; however they have not yielded any positive results.

This reluctance of the deceased persons' relatives to report detailed information about the circumstances of the crime, including about the witnesses and eye-witnesses to the crime, to a considerable degree complicates the possibility of conducting an effective investigation, solving the crime and bringing the perpetrators to criminal responsibility.

Despite the measures taken, the investigation has yet to obtain any information on the special operation conducted on 5 February 2000 near Podolskaya Street in Grozniy, as well as about the subdivisions that had taken part in it, which also complicates the investigation.

At the same time, in order to identify the perpetrators, the special services, on the basis of instructions given by the investigator, conduct secret activities aimed at solving the crime and establishing those guilty. Considering that the methods used by the special services are secret, they are not provided in the present reference.

b) the victim participation in the investigation

– contacts with the victim

The following persons have been recognised as victims under the criminal case: on 22 July 2003 – V.A. Masarov and R.A. Masarov, on 5 March 2004 – Kh.Kh. Tatasheva, on 19 August 2003 – L.Kh. Yandarova and M.D. Masarova. After the suspension of the preliminary investigation on 1 December 2010, victim V.A. Masarov was provided with a report on the works complete and being performed by the investigation. During the familiarisation with the report the victim did not file any significant motions or observations. The investigation obliged the victim to pass a copy to the report to other victims, of which there is a note in the report. The victims are entitled to familiarize themselves with criminal case file in full if they wish to do so.

– use of legal remedies by the victim

After the admission of their application by the European Court the victims have lodged no complaints with domestic courts under Article 125 of the Code of Criminal Procedure of the Russian Federation about ineffectiveness of the investigation.

Main Procedural Control Department
of the Investigative Committee of the Russian Federation

**Report on the course and the results
of the investigation in the case *Musayeva v. Russia***

The judgment of the European Court of Human Rights (hereinafter – “the European Court”) of 3 July, 2008, final on 3 November, 2008 (application no. 12703/02).

1) Background

a) The circumstances of the case and the state of the investigation as described in the judgment of the European Court

Applicant's son Yakub Iznaurov was arrested on 5 February, 2000 in his own house at Tretiy Pereulok of Zabolotny located in Oktyabrskiy District of Grozny by a group of about 50 military servicemen in camouflage uniforms who used armored personnel carriers (hereinafter - "APC vehicles") for transportation.

According to the applicant, federal forces had established control over the northern and the central parts of the city of Grozny in late December, 1999 and January, 2000 respectively, and the southern part of the city, where her house was located, was taken by federal forces on 4 February, 2000. On the same day the servicemen warned the residents who lived in the street about the operation that would be carried out on the next day.

The pretext for Iznaurov's arrest was the fact that in his passport there was no registration entry of his residence in the territory of the Chechen Republic.

Then he was brought to Staraya Sunzha, a Grozny suburb, for questioning. After that, APC vehicles, including that where the arrested person was detained, formed a column and left for the village of Novye Aldy.

On 22 February 2001, a criminal case was initiated upon this fact under the elements of the crime provided for by § 2 Article 126 of the Criminal Code of the Russian Federation.

b) the main deficiencies of the investigation established by the European Court

Apart from the delays in the criminal case initiation, the European Court noted the conflicting information about the date when the investigation had been initiated, which was either 12 November, 2000 or 22 March, 2001. It referred to failure to take adequate measures to establish the fact of conduction of special operation carried out on the day when the applicants' relative was abducted, as well as to identify those involved in this operation. In addition, the abductees' relatives were also untimely recognized as victims in the case and untimely informed of the measures and actions taken by the investigative bodies. The investigation was inefficient already at the early stages. The applicant, having no access to the criminal case-file, could not effectively challenge before court the actions or omission of the investigative bodies in charge.

2) the state of the investigation following the judgment of the European Court

a) interim results of the investigation

Untimely initiation of the criminal case led to the loosing of possibility to obtain the evidence, including evidence that could be obtained during the inspection of the crime scene that was carried out three years after the offence had been committed.

Minimum investigative actions were carried out at the preliminary stage of the investigation, only few witnesses of the offence were identified and questioned. There had been virtually no work carried out upon the criminal case for many years. Despite obvious gaps in the investigation; there were no investigative actions taken to eliminate them.

The investigation of the offence had been intensified since the European Court's admittance of the application for consideration.

In order to be effectively investigated, the criminal case has been forwarded to a special investigative unit of the Investigation Department for the Chechen Republic -- the third division for investigation of particularly important cases.

The investigation considered as a primary one the version that the abduction of the victims' son was committed by law enforcement officers or military servicemen.

To check this version the witnesses and victims in the case were questioned. In the course of their questioning it was found that the officers of the OMON of the Main Department of the Interior (OMON GUV D) in the city of Sh. Were involved in the special operation conduction.

Despite the fact that the version of involvement of OMON officers in the crime was considered as the main one, measures were also carried out to check the alleged participation in the offence of other security forces. For these purposes requests were sent to all state security agencies which could possibly possess such information.

It follows from the answers received that there was no requested data. It was therefore recommended to apply to the central archives of the security agencies.

Upon the investigators application to the central archives, the search of the relevant documents was organized. It was established that there was no information of the events occurred among the archive documents. It follows that such documents were either not been written or they were destroyed due to expiration of the storage period.

The taken measures allowed to identify and question several servicemen and commanding officers of OMON of Sh. It follows from their testimony that they were serving in Grozny at the material time, but they have no information on the circumstances of Yakub Iznaurov's arrest. They were not able to give a definite answer on the questions concerning their whereabouts on the abduction day, posed by the investigator, referring to the remoteness of the events.

The investigative agencies have taken measures to obtain OMON officers' photos which had been provided to the witnesses of Iznaurov's arrest to be identified. No photo was identified.

In addition to the measures taken, the investigator has repeatedly requested the special services to carry out operative-search activities to obtain any important

information regarding those who have committed the offence. Besides, additional witnesses are being actively searched, including those other OMON officers of Sh. who participated in the events of 5 February, 2000.

During the investigation, comprehensive measures have been taken to identify and interrogate all possible witnesses of the offence, including civilians and the applicant's neighbors. As the result of it the investigative bodies possess a sufficiently clear and complete picture of what happened.

Despite detailed and substantive questioning of the witnesses in order to obtain information on the criminals' marks, APC' side numbers, the perpetrators' conversations and other relevant evidence which could help to identify the criminals, the witnesses could not provide any information apart from that already available to the investigative bodies due to the remoteness of the events.

Identification of the military servicemen and law enforcement officers involved in the arrest of the applicant's son is complicated due to the fact that military subdivisions and subdivisions of the Ministry of the Interior of the Russian Federation, which were serving in the Chechen Republic at the material time, were recruited on a temporary basis and according to the rotation principle.

In addition, measures are also taken to identify a vehicle that has taken Yakub Iznaurov away from the scene of crime. For this purpose it measures were taken to identify the equipment, including APC vehicles, that was in use by the OMON of Sh. However, certain difficulties are present at this point in connection with the fact that the storage period of many documents and registers is limited.

Despite the measures taken, the investigative agencies did not receive enough information on the subdivision that participated in Iznaurov's arrest which complicates further investigation process.

b) search for Yakub Iznaurov

According to the testimony given by the witnesses Yakub Iznaurov could have been brought to the locality of Staraya Sunzha, a Grozny suburb. In the course of the investigation measures have been taken to verify this version, but it remains unconfirmed so far. To determine whether the militarized subdivisions had been deployed in Staraya Sunzha, such information was requested from the central archives of the general security agencies, but no information was obtained. It can be explained both by limited storage terms of the documents, or by the fact that no such documents were written.

In order to identify the corpse of the abductee the latter was searched in the register of unidentified corpses in order to compare upon specific marks.

DNA samples were obtained from the abductee's relative. The samples were sent to the joint database to compare them with those obtained from the unidentified corpses or their fragments found at different time in the territory of the Chechen Republic.

Information requests were sent to the detention facilities and medical institutions not only within the Chechen Republic but also in the neighbouring regions to find out whether the abductee had been delivered there.

c) participation of the victims in the investigation**- contacts with the victims**

On 22 April 2001, 28 April 2003 and 22 March 2007, the abductee's relatives were recognized as victims status in the criminal case. Two of them were recognized as victims upon the initiative of the investigative bodies. On 12 October 2010, after the preliminary investigation was suspended, the victims received the report concerning the actions which were or are being carried out by the investigative agencies. While familiarizing themselves with the report the victims lodged no requests or submissions.

The victims are entitled to additionally familiarize themselves with all the materials of the criminal case if they wish so.

- use of legal remedies by the victims

Neither national courts nor investigative body received any complaints from the victims under Article 125 of the Code of Criminal Procedure of the Russian Federation after the European Court's admittance of their application on ineffectiveness of the investigation for consideration.

Main Procedural Control Department
of the Investigative Committee of the Russian Federation

**Report on the course and the results of investigation
in the case *Khadisov and Tsechoev v. Russia***

Judgment of the European Court of Human Rights of 05.02.2009 (application no. 21519/02)

1) Background

a) Circumstances of the case and state of the investigation as described in judgment of the European Court.

On 23 September 2001 the second applicant was at home. He was planning to go together with his relatives to the construction site of their new house. His parents, sister, three brothers and relatives were at home at that moment, the fact is described in detail in the statements concerning the incident.

At about 10 a.m. a group of people in civilian clothes came into the yard. The second applicant recognized among them the head of the Sunzhensky criminal investigation office and two policemen whom he knew personally. All the family members were ordered to go out of the house and their documents were checked. The policemen searched the house. They ordered the second applicant to follow to the Sunzhensky District Department of the Interior (hereinafter - "Sunzhensky ROVD") for inspection. There are no documents proving the authorization for search and arrest/detention of the second applicant.

At ROVD the applicant was interrogated with regard to what he was doing on 19 September 2001. By the nature of the questions the second applicant understood that he was suspected of the attack on Russian military servicemen which had happened in the village of Verkhny Alkun. The second applicant gave a written statement where he explained that on that day he was working with his brother and father at the construction site for their new house and that the neighbours could confirm the fact.

The second applicant has been interrogated with regard to the attack for several hours. The interrogators were three men of Slavic appearance wearing camouflage military uniforms. They asked him whom of the militants he knew. They said that he was suspected of being involved with illegal armed groups and that he would be sent to Khankala - the major Russian military base in the Chechen Republic. No written records were kept during the interrogation.

Keeping the applicants at the military base in Khankala and Grozny

On 24 September 2001 both applicants were brought to the Sunzhensky District Court where the judge spoke to each applicant separately. Later on the applicants learned that they were accused of resistance to police officers and that they had been brought to ROVD for that reason. On the same day the judge of the Sunzhensky District Court authorized the detention of both applicants for the period of 3 days based on resistance to the actions of police officers during the check of identification documents.

Then the applicants' passports were returned to them and they thought they were free. However, instead they were taken by the officers of the Special Police Forces Unit

(hereinafter - "OMON"). The word "OMON" was written on those servicemen's jackets. They brought the applicants into a bus, threw them under the seats and beat them with their hands and feet.

The bus arrived to the territory of the military base of a special purpose division (hereinafter – "DON") of the Russian Ministry of the Interior, situated not far from Nazran. This base is known by the name "Army no.". The beatings continued there. The applicants were severely beaten with sub-machine gun stocks, boots, metallic rods and wrenches; they were also strangled with polyethylene bags and belts. When they lost consciousness the military servicemen took the bags off their heads and when they regained consciousness the beatings resumed. The servicemen did not ask any questions but they said they were beating the applicants to avenge for the death of their comrades.

Afterwards, both applicants were put into a helicopter. The second applicant lost consciousness again and later regained consciousness inside the helicopter where he was lying on the floor with a bag fallen off his head, on his back were the feet of a soldier who kept the barrel of a submachine-gun aimed at his head. The first applicant's head was tightly wrapped in a rag so that he could not see anything but he felt that he was being transported in a similar manner.

Later on, the applicants heard that the helicopter brought them to a military base in Khankala. They were thrown on the ground in a big pit and have been beaten for an hour. They were also subjected to other kinds of tortures: their hands were tightly tied with metallic wires, their chests and thighs were burned by cigarettes. The soldiers also made photos of themselves standing with their feet posed on the applicants' bodies.

Afterwards, the first applicant was thrown into another pit where he was allowed to take the rag off his face.

The second applicant was taken somewhere for interrogation, there he has been severely beaten by the head, ribs and feet for an hour. He was being questioned about his ties with militants. After that he was thrown into the same pit with the first applicant and allowed to take the bag off his head.

The applicants spent five days in that pit. They described the pit as approximately 2.5 to 2.5 meters in size and 2.5 meters deep. It was covered with wooden planking; there was only a small hole in the left part, covered with camouflage net. The applicants suffered from wetness and cold and were not given any food.

During the first four days of their detention in Khankala the applicants were taken out for interrogations one after another to a premise with wooden walls and an electric lamp with a sign "Head of Headquarters" attached to one of the walls. They were asked whom of the militants they knew and asked to tell the names. The investigators also read out a list of persons on the wanted list and asked if the applicants knew any of those persons. No official written records were kept during the interrogations.

The applicants allege that they were subjected to the following tortures and ill-treatment: they were beaten with boots and submachine-gun stocks by various parts of their bodies, in particular by the heels, they were burned by cigarettes, were made sit into a bucket and beaten. As the result of the beatings the applicants could hardly move, the skin on their legs was torn away, their faces and bodies were swollen and covered with bruises. The second applicant was made stand for hours with his face to the wall,

his forehead touching the wall, his hands tied behind his back and legs wide apart. In this position, he was beaten. After a year from those events, the applicant still had on his forehead clearly visible traces of the torture. The soldiers also threatened the applicants with execution by putting submachine-guns to their heads. On one occasion both applicants were given a document to read. The document said that they had been arrested during an attempt to put a land mine on the road, but the land mine had exploded and they both had died on the way to the hospital.

On the fifth day of detention (the applicants believe it was on 29 September 2001, they were one by one taken to sign a document saying they had no complaints whatsoever and that they had not been subjected to ill-treatment. The applicants allege they refused to sign that document but then the soldiers started beating them and they signed the document to avoid any further beatings. Then polyethylene bags were put on their heads and they were moved by car to a division of the Organized Crime Fighting Department (hereinafter - "RUBOP"). The applicants spent 15 days in this division. During that period they were relatively well-treated and given food. Nevertheless, the servicemen kicked them a few times and threatened them with tortures.

Based on I.I.Tsechoev application regarding his unreasonable bringing to administrative responsibility and violence applied to him by police officers, on 04.01.2002 the senior prosecutor of the Prosecutor's Office Division of the Republic of Ingushetiya initiated criminal case under the elements of the crime provided for by § 1 Article 285 of the Criminal Code of the Russian Federation (hereinafter - "the CC of the RF").

b) the main deficiencies of the investigation as established by the European Court.

The European Court noted that the applicants notified the authorities of their illegal arrest and cruel treatment after their release from custody on 12 October 2001. They submitted a detailed description of their arrest and cruel treatment, the second applicant submitted a medical examination report describing the injuries received by him. Initially, on 23 November 2001 there was a refusal to begin the investigation. However, after the application lodged by the other applicant, the investigation began on 4 January 2002. Thus, as the Court notes, the beginning of the investigation was postponed for a period exceeding two months, and no explanation thereof has been submitted whatsoever.

The Court notes that on 16 January 2002 the second applicant was recognized as a victim and questioned. The first applicant was recognized as a victim and questioned on 11 February 2002. In January and February 2002 the investigators questioned seven officials of the Sunzhenskoye ROVD and confrontations of the applicants with three of those officials were effected. In February 2002 the investigators also questioned the senior operative of the criminal investigation office of the Solmogorskoye ROVD I.A. and in April 2002 they questioned the commander of the unit of the Russian Ministry of the Interior in the Republic of Ingushetiya – S.Z. Other witnesses were questioned in the course of the investigation as well, however the Court did not receive any information regarding either those witnesses or the role of their evidence in the investigation proceedings.

The Court further notes, based on the information provided that many urgent investigative actions were postponed and either were finally completed only as the result of communicating the application to the government or were not completed at all. First of all, forensic medical examinations in respect of the applicants have not been carried out until 6 July 2005, i.e. they were carried out more than 3 years after the beginning of the investigation. A forensic medical examination is the most urgent measure in case of a statement alleging cruel treatment, it is absolutely necessary in order to establish the degree of bodily injuries as well as the time and circumstances of inflicting the injuries. It is most important for a further investigation to carry out this examination with reasonable promptness as any delay influences the accuracy of the conclusions to be drawn based on its results due to healing of wounds, which may negatively influence the evidentiary basis in the course of the investigation. In this case the impossibility of carrying out a forensic medical examination for more than three years, with no explanations thereof provided to the Court, itself proves the ineffectiveness of the investigation.

The Court further notices that the investigators questioned the commander of the unit of the Russian Ministry of the Interior in the Republic of Ingushetiya S.Z., to whose subordinates the applicants were handed over on 24 September 2001. The authorities did not submit to the Court the protocol of his questioning however as follows from the decision of the Sunzhenskaya District Prosecutor's Office of 17 July 2005 it was he who ordered I.A. to put the applicants in the helicopter which had arrived from Khankala. However the investigation has not established the applicants' whereabouts during the following period, not mentioning the particular circumstances of their arrest, though it was stated in the decision of First Deputy Prosecutor of the Republic of Ingushetiya of 26 September 2005 that it was necessary to question lieutenant-colonel I.A., and the Court has received no information as to whether he or his subordinates had been questioned.

The Court believes that the investigation has not established which divisions of the authorized law-enforcement bodies had been involved in the applicants' arrest. The failure to establish it within the examined time period and bring the charges against the suspects proves the inability and unwillingness of the authorities to carry out a proper investigation. The Court notes that after identification of the division commander who transferred the applicants to the military base in Khankala the military prosecutor's office stopped the investigation on the grounds of absence of elements of crime. The investigation carried out by the investigative authority of the Prosecutor's Office of the Republic of Ingushetiya has been repeatedly suspended based on the same grounds. The higher investigative authorities of the Prosecutor's Office quashed such decisions and resumed the investigation. It seems however that these orders were not followed. Such character of carrying out the investigation proves that there are no prospects for identifying the persons responsible for committing the crime.

2) The state of the investigation following the judgment of the European Court.

a) interim results of the investigation

The work on investigating this crime has been intensified by the investigative authorities from the moment of acceptance of the application for consideration by the European Court.

With the purpose of identification of the persons involved in committing this crime the Investigation Department for the Republic of Ingushetiya has questioned the criminal investigation officers who had brought Mr. Tsechoev and Mr. Khadisov to the Department of the Interior (hereinafter - "OVD") of the Sunzhensky District, the officers of the temporary detention facility (hereinafter - "IVS") of the OVD of the Sunzhensky District where the victims had been detained following the court decision, and other officers of the interior. As follows from their evidence, after being brought to ROVD Mr. Tsechoev expressed his discontent with the actions of the police officers and used obscene language towards them, resulting in his administrative arrest. The Court does not contest the lawfulness of detention of Mr Tsechoev and Mr Khadisov in the IVS of the Ministry of the Interior for the Republic of Ingushetiya.

The officers of OVD of the Sunzhensky District M.R. Tsechoev and R.A. Khamkhoev as well as the victim S.D. Khadisov have been questioned additionally.

Besides, after suspension of the investigation in compliance with the requirements set up by § 2 (1) of Art. 209 of the Code of Criminal Procedure of the Russian Federation the investigator took measures for identification of the person subject to involvement as a suspect or as an accused. In particular orders for carrying out a complex of operational investigative measures aimed at identification of the persons involved in committing of this crime were sent to the investigation authorities, requiring them to submit information on the results of the work performed on a monthly basis.

A request was filed with the Ministry of the Interior of the Republic of Ingushetiya with regard to provision of the personal data of OMON officers who served in the territory of the Republic during the period the investigation is interested in. As follows from the reply there was no possibility for obtaining this data due to expiry of the storage time for archived documents.

The investigator took measures for identification of the serviceman I.B. to whom the law enforcement officers handed over the applicants for further delivery to Khankala settlement. Thus, requests were sent to the Directorates of the Federal Security Service for different regions for provision of data on military service of the said person. As follows from the reply I.B. did not serve in the divisions of the Federal Security Service (FSB) of Russia. It should be explained that it is rather difficult to identify the Federal Security Service (FSB) officers as they were serving in the Chechen Republic under cover names, and the documents with regard to assigning to them those cover names can be already destroyed due to expiry of their storage period.

It does not appear possible to identify the person who brought Mr Tsechoev and Mr Khadisov to Khankala settlement at the present moment. This is related primarily to

the fact that there is no data in the system of the Ministry of Defence of the Russian Federation as well as law enforcement bodies on the persons who performed military service functions in the territory of the Northern Caucasus.

The occurred events are simultaneously examined within the framework of the investigation of the criminal case in which the proceedings are carried out by the Third Military Investigative Division of the Military Investigative Directorate of the Russian Prosecutor's Office for the Southern Military Circuit.

At the moment of initiating of the criminal investigation proceedings the investigation lacked any information allowing to establish the circumstances of Mr. Khadisov's and Mr. Tsechoev's detention in Khankala, except for the data on the person named I.A. to whom the detainees were handed over.

At the same time, the said person could perform his functions under a cover name.

The investigation of this criminal case is made even more difficult by the remoteness of the events, continuous rotation of the military units in the territory of the Chechen Republic, the lack of accurate and exact data on the military personnel of the military units and organisations located at Khankala settlement during the relevant period, as well as by lack of any significant information in Mr. Khadisov's and Mr. Tsechoev's evidence with regard to the location of the place of their detention within Khankala settlement and the persons who committed acts of violence against them.

In view of the situation the investigation is carried out in several directions.

The main efforts are aimed at identification and finding the whereabouts of I.A. as the evidence provided by the said person could help to identify the place in Khankala where the arrested men were kept as well as identify the persons who applied ill treatment to the victims.

The nature of the questions posed to the applicants during their stay in Khankala settlement and the distribution of powers of the law enforcement authorities allowed the investigation to come to the conclusion that violence could be applied towards the applicants by the officers of the FSB of Russia.

In order to check this version requests have been sent to heads of directorates of the FSB of Russia for the constituent entities of the Russian Federation whether lieutenant-colonel I.A. was serving in any of these organisations or such a cover name had been used by any person on their staff. According to the replies which are being received the belonging of I.A. to the FSB of Russia has not been proved. It is also not possible to check whether such name has been used by FSB officers as a cover name due to the fact that all relevant registration documents have been destroyed on expiry of the stipulated storage periods.

Taking into consideration I.A.'s military uniform, information on his being on the staff of the Ministry of Defence of the Russian Federation and the Internal Armed Forces of the Russian Ministry of the Interior has been requested. According to the replies received the said person is not on the registration lists of the Ministries.

Besides, requests have been sent to the Federal Migration Service departments of the constituent entities of the Russian Federation whether persons bearing such name

and initials were in their databases. The majority of the replies being received inform that data on registration of the said person is not found.

At the same time, in case of receipt of positive answers, the relevant bodies of the Russian Ministry of the Interior are ordered to establish the whereabouts of, and to question these persons. Till this moment, the involvement of any of these persons in Mr. Khadisov and Mr. Tsechoev detention has not been established.

At the same time, relevant measures are being taken for identification of the helicopter crew members who brought the arrested men to Khankala, as well as for identification of the place of the applicants' detention.

For this purpose the commanding officers of the aviation unit located in Khankala, as well as one of the aviation commanders from the Group Alignment in the Chechen Republic have been questioned too. The said persons informed that due to the tight flight schedule during that period as well as the remoteness of the events they cannot clarify anything with regard to the circumstances of bringing Mr. Khadisov and Mr. Tsechoev to Khankala. The flight documentation for the relevant period has been destroyed on expiry of the storage period (1 year).

Besides, there have been examined helicopter landing sites in Khankala as well as neighboring territory. As the result of the examination no pits where Mr. Khadisov and Mr. Tsechoev could have been kept have been discovered.

According to the conclusions of the forensic medical examinations carried out within the framework of the investigation of the criminal case, as the result of violence mild harm has been caused to Mr. Khadisov's health and average gravity harm – to Mr. Tsechoev's health.

Active search of additional witnesses (including the officials of the division of the Russian Ministry of the Interior in the city of Grozny, where the detainees had been transferred after their detention in Khankala) is being carried out.

The investigating authorities have taken exhaustive measures for identification and questioning of all the possible witnesses of the crime committed.

In particular, following persons have been questioned: the former head of criminal investigation of the Mobile Unit of the Ministry of the Interior for the Republic of Ingushetiya, the former commander of Military Unit 5560, the former head of Sunzhensky ROVD of the Republic of Ingushetiya, a former official of Sunzhensky ROVD of the Republic of Ingushetiya, division officers of the Ministry of the Interior in the city of Grozny, the spouse of the victim S.D. Khadisov as well as the mother of the victim I.I. Tsechoev.

In spite of the detailed clarification of all the known circumstances of Mr Khadisov's and Mr Tsechoev's detention the questioned witnesses have not provided any important information whatsoever, except for the information already available to the investigation.

At such circumstances the investigation has no sufficient data on the relevant division and – what is most important – on the persons to whom Mr. Khadisov and Mr. Tsechoev were handed over in Khankala.

At the present moment the efforts of the investigation are aimed on finding out the whereabouts of I.A., all the officers of the law enforcement authorities located in

Khankala territory and the servicemen involved with Mr. Khadisov's and Mr. Tsechoev's detention.

The work in this direction is impeded by the fact that the military units, the Ministry of the Interior and the FSB units locate in the Chechen Republic at that period were staffed on a temporary basis and based on the rotation principle.

c) participation of the victims in the investigation

S.D. Khadisov and I.I. Tsechoev were recognized as victims in the criminal case investigated by the Investigative Department for the Republic of Ingushetiya.

The victim S.D. Khadisov on 16.10.2011 filed a request for familiarizing with the decisions on appointment of forensic examinations as well as with the expert's conclusions. The said request was granted, the victim familiarized himself with the decisions on appointment of forensic examinations and the expert's conclusions, no statements were made by S.D. Khadisov in the course of examination.

The victim I.I. Tsechoev filed no requests in the course of the investigation.

In the case in which the criminal proceedings are being conducted by the military investigative authorities S.D. Khadisov was recognized as a victim.

Mrs R.S. Tsechoeva, when being questioned, informed that her son I.I. Tsechoev was at the relevant moment in Moscow and that his address and telephone number were unknown to her. It seemed impossible to establish his whereabouts by way of the search measures applied until the present moment, as the result he has not been recognized as a victim.

Within the period from 27 till 29 June 2011 in the city of Grozny, in the course of the bilateral consultations between the delegation of the Registry of the Committee of Ministers of the Council of Europe, Representative of the Russian Federation at the European Court of Human Rights and representatives of the investigative authorities a meeting was organized with the victim S.D. Khadisov, during which the latter informed the representatives of the delegation about observation of his rights in the course of the preliminary investigation. He did not file any applications or claims against the investigators of the military investigative authorities.

- use of legal remedies by the victims

The victims did not lodge any complaints with the national courts according to the procedure stipulated by Art. 125 of the CCP of the RF after acceptance by the European Court of their application with regard to ineffective investigation.

Main Procedural Control Department
of the Investigative Committee of the Russian Federation

**Report on the course and the results of investigation
in the case *Khadisov and Tsechoyev v. Russia***

Judgment of the European Court of Human Rights of 05.02.2009 (application no. 21519/02 *Khadisov and Tsechoyev v. Russia*)

1) Background

a) The circumstances of the case and the state of the investigation as described in the judgment of the European Court

On 23 September 2001 the applicants Mr. S.D.Khadisov and Mr I.I.Tsechoyev were delivered by police officers to the Sunzhensky District Department of the Interior of the Republic of Ingushetiya for a check of their involvement with illegal armed groups. On the next day, based on the decision of the judge of the Sunzhensky District Court, they were subjected to a 3-day administrative arrest for disobedience to lawful orders of police officers. On the same day, according to the order of an unidentified official, Mr Is. (who was the head of criminal investigation of the Mobile Unit of the Russian Ministry of the Interior for the Republic of Ingushetiya) delivered Mr. Khadisov and Mr. Tsechoyev to the city of Nazran where he handed them over to a military serviceman who introduced himself as lieutenant-colonel A.Iv. The latter submitted a document proving the fact of their rendering at his disposition. Mr. Khadisov and Mr. Tsechoyev were convoyed in an unidentified helicopter to the territory which, in their opinion, was the territory of the settlement of Khankala of the Chechen Republic, which was a base for stationing military units and agencies. There they were put in a pit dug in the earth and were repeatedly taken to some premises where they were repeatedly beaten and ordered to confess in their involvement with illegal armed groups or inform about the militants' whereabouts. As the result of the beatings to Mr. Khadisov and Mr. Tsechoyev were inflicted bodily injuries of various severity.

Mr. Khadisov and Mr. Tsechoyev were kept in the pit for 5 days, after that they were delivered to the city of Grozny to a division of the Ministry of the Interior of the Russian Federation, from where they were released on 12 October, 2001.

The circumstances of the events were the subject of a criminal investigation conducted by the investigative authorities of the Republic of Ingushetiya in criminal case No. 22600008, as well as of a pre-investigation check, based on the materials separated from the said criminal case, with regard to the servicemen of the federal armed forces who applied physical violence in respect of S.D.Khadisov and I.I.Tsechoyev in the settlement of Khankala of the Chechen Republic.

On 28 July, 2003 the said materials were submitted to the Military Prosecutor's Office – Military Unit no. 20102 for carrying out a pre-investigation check, and later, after establishment of the Investigative Committee at the Russian Prosecutor's Office (hereinafter - "SKP RF"), they were submitted to the military investigation department of the SKP RF of the United Alliance Group of the Federal Troops (forces).

Based on the results of the pre-investigation check repeated decisions to refuse to initiate criminal proceedings were taken and subsequently quashed.

On 28 July 2010 the military investigation directorate for the North Caucasian Military Circuit and the United Group Alliance initiated criminal case no. 34/00/0019-10 (№ 14/90/0070-11) based on this fact under the elements of the crime provided for in § 3 (a) of Article 286 of the Criminal Code of the Russian Federation (hereinafter - "the CC RF").

At the present moment the proceedings in the said criminal case are carried out by the Third Military Investigative Directorate of the Military Investigative Department of the

Russian Prosecutor's Office for the Southern Military Circuit, which specializes in such types of criminal cases.

b) The main deficiencies of the investigation as established by the European Court.

The European Court noted the deficiencies of the investigation related to the established facts, namely the delays in beginning the investigation and carrying out forensic medical examinations. Apart from these deficiencies, the Court noted the deficiencies which could be eliminated. Thus, the investigation of the criminal case was recognized as ineffective because, notwithstanding the established fact that the applicants had been handed over to the servicemen arriving from Khankala and lieutenant-colonel A.Iv. had submitted a document proving handing over of the applicants, the investigation has not established the applicants' whereabouts during the following period, not mentioning the particular circumstances of their arrest.

2) The state of the investigation following the judgment European Court.

a) interim results of the investigation

At the moment of initiating of the criminal investigation proceedings the investigation lacked any information allowing to establish the circumstances of Mr. Khadisov's and Mr. Tsechoyev's detention in Khankala, except for the data on the name and initials (A.Iv.) of the person to whom the detainees had been handed over.

However, the said person could have exercised his powers using a cover name.

The investigation of this criminal case is made even more difficult by the remoteness of the events, constant rotation of the military units in the territory of the Chechen Republic, the lack of accurate and exact data on the military personnel of the relevant military units and agencies located at the Khankala settlement during the relevant period, as well as by lack of any significant information in Mr. Khadisov's and Mr. Tsechoyev's evidence with regard to the location of the place of their detention within the Khankala settlement and the persons who committed acts of violence against them.

In view of the present investigative situation the investigation is carried out in several directions.

In particular, the main efforts are aimed at identification and location of A.Iv. as the evidence provided by the said person could help to identify the place in Khankala where the arrested men were kept as well as identify the persons who applied cruel treatment to the victims.

For these purposes requests have been sent to heads of divisions of the FSB of Russia in the constituent entities of the Russian Federation whether lieutenant-colonel A.Iv. was serving in any of these organisations or whether the said cover name had been used by any person on their staff. According to the replies which are being received the belonging of A.Iv. to the FSB of Russia has not been proved. It does not seem possible either to check whether the name has been used by FSB officers as a cover name due to the fact that all relevant registration documents have been destroyed on expiry of the stipulated storage periods.

Taking into consideration A.Iv.'s military uniform information on his being on the staff of the Ministry of Defence of the Russian Federation and the Internal Armed Forces of the Russian Ministry of the Interior has been requested. According to the replies received the said person is not on the registration lists of the Ministries.

Besides, for the purposes of locating A.Iv. requests have been sent to the Federal Migration Service departments of the constituent entities of the Russian Federation whether persons bearing such name and initials were in their databases. The majority of the replies being received inform that data on registration of the said person is not found.

At the same time, in case of positive answers, the relevant bodies of the Russian Ministry of the Interior are ordered to locate and question these persons. Till this moment, the involvement of any of these persons in Mr. Khadisov's and Mr. Tsechoyev's detention has not been established.

While measures aimed at identifying A.Iv. are being taken, relevant measures are also being taken for identification of the helicopter crew members who brought the detainees to Khankala, as well as for identification of the place of the applicants' detention.

For this purpose the servicemen from the command of the aviation unit located in Khankala, as well as one of the aviation commanders from the Group Alignment in the Chechen Republic, have been questioned. The said persons informed that due to the tight flight schedule during that period as well as the remoteness of the events they can not clarify anything with regard to the circumstances of bringing Mr. Khadisov and Mr. Tsechoyev to Khankala. The flight documentation for the relevant period has been destroyed on expiry of the storage period (1 year).

Besides, there have been examined the helicopter landing sites in Khankala as well as adjoining territory. As the result of the examination there have not been discovered any pits whatsoever where Mr Khadisov and Mr Tsechoyev could have been kept.

According to the conclusions of the forensic medical examinations carried out within the framework of the investigation of the criminal case, as the result of violence light harm has been caused to Mr. Khadisov's health and average gravity harm - to Mr. Tsechoyev's health.

Active search of additional witnesses (including the officials of the division of the Russian Ministry of the Interior in the city of Grozny, where the detainees had been transferred after their detention in Khankala) is being effected.

The investigating authorities have taken exhaustive measures for identification and questioning of all the possible witnesses of the crime committed.

Thus, the following persons have been questioned: former head of criminal investigation of the Mobile Unit of the Ministry of the Interior for the Republic of Ingushetiya Is.; former commander of Military Unit 5560 Z.; the former head of Sunzhensky ROVD of the Republic of Ingushetiya Kh.; former officer of Sunzhensky ROVD of the Republic of Ingushetiya M.; division officers of of the Ministry of the Interior in the city of Grozny E. and Sh.; spouse of the victim S.D. Khadisov – Mrs. R.U.Khadisova, as well as the mother of the victim I.I. Tsechoyev – Mrs. R.F. Tsechoyeva..

In spite of the detailed clarification of all the known circumstances of Mr. Khadisov's and Mr. Tsechoyev's detention the questioned witnesses have not provided any important information whatsoever, except for the information already available to the investigation, due to the remoteness of the events.

At such circumstances the investigation does not possess sufficient data on the relevant division and – what is most important – on the persons to whom Mr. Khadisov and Mr. Tsechoyev were handed over in Khankala.

At present moment the efforts of the investigation are aimed at location of A.Iv. as well as all the officers of the law enforcement authorities stationed in Khankala territory and the servicemen involved with Mr. Khadisov's and Mr. Tsechoyev's detention.

The work in this direction is impeded by the fact that the military units, the Ministry of the Interior and the FSB units stationed in the Chechen Republic at that period were staffed on a temporary basis and based on the rotation principle.

b) participation of the victims in the investigation**– contacts with the victims**

In the course of the preliminary investigation S.D. Khadisov was recognized as a victim and questioned in this procedural status.

Mrs. R.S. Tsechoyeva, when being questioned, informed that her son I.I. Tsechoyev was at the relevant moment in Moscow and that his address and telephone no. were unknown to her. Till the present moment it has seemed impossible to establish I.I.Tsechoyev's whereabouts by way of the search measures applied and summon him to the investigator.

In view of this, I.I. Tsechoyev has not been recognized as a victim in the criminal case.

Within the period from 27 till 29 June, 2011 in the city of Grozny, in the course of the bilateral consultations between the delegation of the Registry of the Committee of Ministers of the Council of Europe, Representative of the Russian Federation at the European Court of Human Rights and representatives of the investigative authorities a meeting was organized with the victim S.D. Khadisov, where the latter informed the representatives of the delegation about observation of his rights in the course of the preliminary investigation. He did not file any applications or claims against the investigators of the military investigative authorities.

- use of legal remedies by the victims

The victims did not lodge any complaints with national courts according to the procedure stipulated by Art. 125 of the CCP of the RF after acceptance by the European Court of their application with regard to ineffective investigation. .

*Main Military Investigation Directorate
of the Investigative Committee of the Russian Federation*

19.04.2012

**Report on the course and results of investigation
in the cases *Isaeva v. Russia, Abueva v. Russia***

Judgments of the European Court of Human Rights of 24 February 2005 and 2 December 2010 (applications nos. 57950/00, 27065/05)

1) Background

a) The circumstances of the case and state of the investigation as described in the judgment of the European Court.

The applicants and their relatives became the victims of the attack on the village of Katyr-Yurt which took place on 4-7 February 2000.

From the beginning of the military operations undertaken by the Russian army and the security forces in Chechnya in the autumn of 1999 the village of Katyr-Yurt was considered a "safety zone". By the beginning of February 2000, there lived up to 25,000 people including local residents and forced migrants from other districts of the Chechen Republic. Until 4 February 2000, the residents of the village of Katyr-Yurt had not been informed by state authorities of possible entrance of the Chechen armed groups though the military command possessed such information. On 4 February 2000 the village was seized by a large group of Chechen militants who had escaped from Grozny, and later the Federal armed forces launched an attack on the village using among others such weapons as free falling air bombs, missiles and other military weaponry. Both exit roads from the village were controlled by the military roadblocks. The roadblock leading to the district centre Achkhoi-Martan could be used by the village residents to leave the village; the other roadblock, situated in the road leading to the neighbouring village of Valerick, remained closed for the most part of the period when military actions were conducted. The bombardment of the village of Katyr-Yurt continued until 7 February 2000.

The authorities of the Russian Federation stated that when the local residents left Katyr-Yurt, the federal forces called in the artillery and aviation for performing a strike on the village. The targets were defined on the basis of the intelligence information received. The military operation continued until 6 February 2000. Some of the residents remained in Katyr-Yurt because the militants did not allow them to leave. As the result there were numerous victims among the civilians: 46 persons were killed and 53 were wounded.

The European Court came to a conclusion that notwithstanding the fact that the operation in Katyr-Yurt carried out from 4 till 7 February 2000 pursued a legitimate aim, it had not been planned and carried out with due care about the civilians' lives.

Based on the events of 2-7 February 2000 in the village of Katyr-Yurt, the Prosecutor's Office of the Achkhoi-Martan District of the Chechen Republic on 16 September 2000 initiated a criminal case on the basis of elements of the crime, provided for by § 2 (e) of Art. 105 of the Criminal Code of the Russian Federation (hereinafter – "the CC of the RF").

On 19 February 2001 the investigation was submitted to the Military Prosecutor's Office of the North Caucasian Military District (hereinafter – "the Military Prosecutor's Office"). The said case was assigned the number 14/00/0004-01.

On 13 March 2002 the Military Prosecutor's Office terminated the proceedings in criminal case no. 14/00/0004-01. The decision was at a large scale based on the results of the statement of a military expert of 11 February 2002. The said statement established that the commandment taking part in the special operation in the village of Katyr-Yurt on 4-6 February acted in accordance with the circumstances and the applicable provisions of law. In this connection the investigation came to the conclusion that the military commandment's actions had been absolutely necessary and proportionate to the resistance put up by the militants. No elements of crime were found in the Russian military servicemen actions. According to the same decision the status of victim was removed from 62 persons. The persons concerned were informed about the possibility to obtain compensation through a civil procedure.

On 6 July 2005 the judgment of the European Court on application no. 57950/00 *Isaeva v. Russia* became final.

On 14 November 2005 the decision on dismissal of criminal case no. 14/00/0004-01 was quashed.

On 14 December 2005 the investigation in the criminal case was resumed. The criminal case was assigned the number 34/00/0026-05.

On 14 June, 2007 the criminal case was dismissed with the same conclusions as in March 2002, in accordance with § 1 of Article 39 of the CC of the RF. The decision confirmed the death of 46 and the wounding of 53 local residents without a name list. Additional expert report was prepared by the Military Academy of the Armed Forces in June 2007. The Academy established that the commandment's actions with regard to planning and effecting the operation were reasonable and complied with the domestic legislation.

b) The main deficiencies of the investigation established by the European Court.

The European Court concluded that the domestic investigation of the said events was ineffective. The Court criticized the seven months delay before the opening of the investigation. After the investigation was commenced, the investigator was unable or unwilling to compile crucial information about the "safe passage" announced to the civilians and the observance of it by the military. No one responsible for the declaration or the observance of the safety of the evacuation had been identified among the civilian or military authorities. The head of the civilian administration of Katyr-Yurt had not been properly questioned about these events. In addition, the European Court criticized the fact that the investigator had failed to build a complete picture with regard to the human victims and all the persons who suffered during the attack. Informational cooperation with the persons recognized as victims in the criminal case was very weak, and these persons were not informed of the most important procedural decision taken in the course of the proceedings in the case. Lastly, the European Court established that it appeared that the expert statement of February 2002, which served as the grounds for

termination of the investigation proceedings, did not agree with the documents contained in the case file.

The second statement by military experts has not been submitted to the European Court either, in any case the European Court did not see the factual basis for the conclusions it contained (as these conclusions were mentioned in the decision of 14 June 2007).

The European Court could not identify the measures taken for clarification of the key issues of responsibility for safe evacuation of civilians and the "vindictive" character of the operation aimed against the residents of Katyr-Yurt. It appears that military or civilian governing bodies or the servicemen who took part in the land attack were not posed additional questions on these aspects of the operation. Nobody was accused of committing a crime.

The decisions on termination of the proceedings on the case taken by the Military Prosecutor's Office based on the reports prepared by military officers raise considerable doubts with regard to independence of the investigation from the persons involved in the said events.

2) State of the investigation following the judgment of the European Court.

a) interim results of the investigation

In connection with the judgment of the European Court on application no. 27065/05 *Abueva and Others v. Russia*, on the basis of the provisions of Article 46 of the Convention, the Recommendations of the Committee of Ministers of the Council of Europe of 19 January 2000 no. R(2000)2 on review of cases and resuming proceedings in a case on domestic level, the decision on termination of criminal case no. 34/00/0026-05 was quashed. The criminal case was transferred to the Third Military Investigative Division in the Investigative Directorate of the Investigative Committee of the Russian Federation for the Southern Military Circuit. The criminal case was assigned the number 14/90/0092-11.

In the course of the investigation measures were taken with a view to identify all the victims of the bombing and bombardment of Katyr-Yurt by the Federal armed forces. As the result 44 more persons were recognized as victims.

Moreover, the decision of 14 June 2007 was quashed; according to the said decision the status of victim had been removed from 95 persons. Thus, at present 139 persons are recognized as victims in the case.

The circumstances of organization of evacuation of civilians before the bombardment were also being clarified.

The questioned victims and witnesses among the civilians who were staying in Katyr-Yurt at the time of bombing have not informed the investigators about any new facts due to remoteness of the events. Some of them explained that they were not aware of the "humanitarian corridor" because they had been hiding in the basements.

It is impossible to question the head of Katyr-Yurt administration Mr R.Kh.Bokov on the circumstances of informing and evacuation of the civilians due to his death in March 2002.

For the purposes of establishing the degree of bodily injuries received by the victims under the above-mentioned circumstances more than 30 forensic examinations have been conducted.

A forensic and tactical examination was carried out in the course of the investigation by the Military Academy. It is not possible to entrust conducting of the examination to other specialists including civilian experts due to the specific character of the raised issues which refer to the armed group actions; it is also not possible to do so due to the specific character of the documentation submitted for expertise as most of the documents are secret.

According to the experts conclusions, the seizure of the village of Katyr-Yurt by the participants of illegal armed groups, considerable number of the latter and the fact that they were armed not only with small arms, but also with heavy machine guns, air-defense missile systems and other types of weaponry, required taking adequate measures by the commanders of the special operation, aimed at prevention of armed interference with the lawfully protected rights and interests of citizens (civilians and representatives of federal armed forces), as well as with the interests of the society and the state protected by law (restoration of constitutional order in the Chechen Republic).

After preliminary informing and providing the possibility for the village residents to leave the village using the "humanitarian corridors", the effected later area-and-object-based fire damage of the centers of armed resistance by aviation and artillery means was in compliance with the methods of using such means, as envisaged by the special operation plan, however it did not exclude losses among civilians.

According to the experts conclusions, the commandment's actions with regard to planning and effecting the operation were reasonable and in compliance with domestic legislation.

At the same time it should be noted that the Federal Law of the Russian Federation of 6 March 2006 no. 35-FZ *"On Counteracting Terrorism"* establishes the principle of proportionality of measures for fighting terrorism to the degree of terrorist danger.

However Federal Law of 2 July 1998 no. 130-FZ *"On Combatting Terrorism"* which was in force at the period of conducting the special operation did not contain such provision.

On 16 March 2012 the criminal case was terminated under § 1 of Article 39 of the CC RF and §1 (2) of Article 24 of the Code of Criminal Procedure of the Russian Federation.

c) participation of the victims in the investigation

– contacts with the victims

All the victims were duly notified of the decision of 16 March 2012 on dismissal of the criminal case.

– use of legal remedies by the victims

No applications from the victims under Article 125 of the Code of the Criminal Procedure of the Russian Federation with regard to the decision of 16 March 2012 were received to the moment of preparation of this Reference.

Main Military Investigation Directorate
of the Investigative Committee of the Russian Federation

19.04.2012

**Report on the course and results of investigation
in the case *Bazorkina v. Russia***

Judgment of the European Court of Human Rights of 27 July 2006 (application no. 69481/01 *Bazorkina v. Russia*).

1) Background

a) The circumstances of the case and state of the investigation as described in the judgment of the European Court

The applicant's son Khadzhi-Murat Aslanbekovich Yandiev until August 1999 was a student of the Moscow Sociology University, later he terminated his studies and left to the city of Grozny of the Chechen Republic. In autumn 1999 hostilities began in Chechen Republic. After the seizure of Grozny by the federal army in the end of January – beginning of February 2000 a large group of Chechen militants left the city heading to the mountains in the south-west of Chechnya. On their way the militants and the other persons leaving the city with them came upon the minefields. As the result many of them received wounds of feet and legs. Many wounded persons underwent treatment in the hospital of the village of Alkhan-Kala which was seized by the Russian army in the beginning of February 2000.

On 2 February 2000 the applicant saw her son Kh.-M.A.Yandiev in a television news program informing of the seizure of Alkhan-Kala by the Russian armed forces. He was dressed in a camouflage uniform and was being interrogated by a Russian army officer surrounded by servicemen. Later the officer was identified as colonel-general A.I.Baranov. In the full videotape recording which she obtained later in the end of the conversation Baranov says that Yandiev must be executed.

In view of the fact that no data on whereabouts of Yandiev have been available for several years, the Court concluded that he could be considered dead after the unacknowledged detention.

Upon the fact of disappearance of Kh.-M.A.Yandiev on 14 July 2001 the Prosecutor's Office of the Chechen Republic initiated and began investigating the criminal case no. 19112.

On 21 May 2004 the said criminal case was received for further investigation to the Military Prosecutor's Office of the United Group Alliance, and later in connection to foundation of the Investigative Committee (hereinafter - "the IC") at the Prosecutor's Office of the Russian Federation it was transferred to the Military Investigative Directorate of the Investigative Committee at the Prosecutor's Office of the Russian Federation for the United Group Alliance.

At present the said criminal case is under proceedings with the Third Military Investigative Division of the Investigative Directorate of the IC of Russia for the Southern Military Circuit, which specializes in investigation of such type of criminal cases. The criminal case was assigned the number 14/90/0092-11.

b) The main deficiencies of the investigation established by the European Court.

The Court concluded that the authorities had not conducted an effective investigation of the circumstances of the disappearance and probable death of Kh-M.A. Yandiev. First of all, the Court noted that notwithstanding repeated appeals of the applicant to the authorities starting just after 2 February 2000, the investigation began only in July 2001, i.e. a year and five months after the said events. Moreover, immediately after beginning the investigation inexplicable delays began as well. The questioning of the applicant did not take place till January 2002, the questioning of the officers who had taken part in Yandiev's detention, as well as the questioning of other witnesses took place only in autumn of 2005, other detainees and the bus driver were questioned within the period from May 2004 till October 2005, the servicemen of the Ministry of Justice who had been responsible for guarding and transportation of the detainees were questioned in November 2005. It is important that colonel-general Baranov was questioned for the first time in June 2004, i.e. four years and four months after the events and three years after the beginning of the investigation. The delays themselves compromise the effectiveness of the investigation, and it could not but make a negative impact on the prospects of finding out the truth.

In addition, a number of servicemen informed that military investigation officers and officers of the Federal Security Service of Russia (hereinafter – “the FSB”) worked with those detainees who were suspected of being field commanders. The investigators neither identified any of the servicemen or officers of the said divisions nor questioned them.

The information on discovery of corpses in mid-February 2000, contained in the documents dated February 2005, was not checked. Moreover, in spite of numerous evidence of the opposite, the investigation continued to stick to the version that Yandiev could have escaped from custody and be safe and sound.

2) State of the investigation following the judgment of the European Court

a) interim results of the investigation

At the moment of the delivery of the judgment on the application by the Court the investigation identified and questioned a large amount of witnesses and participants of the said events, including military servicemen, servicemen of the internal security troops and Main Directorate for Punishment Implementation (hereinafter - "GUIN") of the Ministry of Justice of the Russian Federation, journalists and local residents. Some witnesses confirmed that they saw the meeting between Yandiev and colonel-general Baranov, and that the latter's words were understood by all those present at the meeting not as an order but as "a figure of speech" used for the purposes of calming down Yandiev who behaved aggressively and in a provocative manner thus being able to induce the other detainees not obey the orders. After the interrogation Yandiev was led out of the bus together with the other wounded and placed near the fence. He remained there for some time. The case-files contain the evidence of general Nedobitko who

headed the operation and denied the fact of conducting mass executions. All the military servicemen who were present at the interrogation were questioned as witnesses. The witnesses stressed that Baranov's words were not regarded as an order because after their conversation Yandiev remained near the bus for quite a long time and because, in any case, there were too many people around for giving and performing of such an order. They also said that the majority of the servicemen in the videotape recording were the servicemen of the Ministry of the Interior (OMON) or the Ministry of Justice (GUIN), therefore they did not report to an army colonel-general. The witnesses denied the fact of mass execution taking place.

Colonel-general A.I.Baranov was questioned about the said events twice and informed that he had not given the order "to shoot" Yandiev, but had intended to stop his aggressive behaviour and prevent any possible mutinies which could have led to further victims among the arrested militants and federal armed forces servicemen.

A number of examinations were carried out. Thus, in October 2004 experts from the Criminological Institute of the Federal Security Service concluded that the videotape recording had no traces or signs of any changes or editing of either image or sound, and that the voice giving the order to execute Yandiev belonged to Baranov.

In October 2005 a professor of linguistics from Moscow State Pedagogical Institute concluded that notwithstanding the fact that colonel-general A. Baranov had been using obscene words and expressions they had not been addressed directly to Kh.-M.Yandiev or to anyone personally, therefore they could not be regarded as insults.

At the same time a complex psychological and psychiatric expertise carried out by two senior medical experts came to the conclusion that judging by the videotape recording and by other materials the behaviour of both colonel-general A.Baranov and Khadzhi-Murat Yandiev on 2 February 2000 was adequate in the situation, and neither of them showed any signs of weakening of intellectual activity.

In November 2005 an expert committee consisting of three professors of military academies concluded that the videotape recording fragment did not contain an actual order of the commander due to its contents and an improper form. In particular, the expert conclusion stated that orders should be in compliance with the Constitution and other normative and legal documents and that they could refer only to the issues related to the work of the military officers and be within the competence of the ordering person. Moreover, orders could be given only by the higher commander to a certain person subordinate to him, and they could be given only in a clear and explicit manner. Neither of these conditions was observed, therefore the experts concluded that neither colonel-general A.Baranov nor other servicemen present could regard his words as an order (see §§ 58-68 of the Court Judgment).

There was no proof whatsoever found in the course of the investigation as to the involvement of colonel-general A.I.Baranov in Kh.-M.A.Yandiev's abduction and murder. On 15 June 2007 the Military Prosecutor's Office of the United Groupup Alliance refused to initiate a criminal case against A.I.Baranov based on information about a crime stipulated by Part 3 § "a" of Article 286 of the CC of the RF, basing on Part 1 § 2 of Article 24 of the CCP of the RF, due to absence of the elements, constituting a crime in his actions.

However the failure to initiate the criminal case in due time led to loss of the possibility for effecting the examination of the scene of action.

At the first stage of the investigation minimal investigative actions were undertaken, while with this type of crimes any delays in the course of the investigation are intolerable. During the first three years actually no work in the criminal case was carried out, despite clear lapses in the investigation no efforts were taken for their elimination.

The work on investigation of this crime was intensified from the moment of its acceptance for proceedings by the Military Prosecutor's Office.

With the purpose of elimination of the violations stated in the European Court judgment and establishing the circumstances of Kh-M.A.Yandiev's disappearance, his whereabouts and, with existing of the grounds thereto, bringing to responsibility the persons who had committed a socially dangerous conduct against him, the following measures were taken.

Inquiries were sent to the security authorities of the Russian Federation with regard to military units taking part in the special operation in the village of Alkhan-Kala, to the servicemen of the said units and any data on Yandiev's detention.

Taking into account the received information the questioning as witnesses had been performed in respect of the servicemen of the Ministry of Justice and the Ministry of the Interior of the Russian Federation (45 persons) who were sent on mission to the Chechen Republic in February 2000. The questioned officers did not provide any information about the persons committed the crime as they had no information on Yandiev's detention and on his further fate.

At the present moment measures are taken for establishing the whereabouts and questioning of all the servicemen who had not been questioned earlier, as well as of the officials from other ministries and state authorities who had taken part in the said special operation.

The information on the officials from the said authorities involved in effecting of the special operation in the village of Alkhan-Kala was requested from the archives and the relevant personnel divisions of the Federal Security Service (FSB) of Russia, the internal security troops of the Ministry of the Interior of Russia, the Ministry of Defence of Russia, and the Ministry of Justice of Russia. As seen from the answers received, a number of authorities do not have such data in their possession.

At the same time, it should be emphasized that identification of these persons is significantly complicated by the fact that military units were staffed on a temporary basis and on rotation principles. In particular, after the end of their mission officers of some structures left for the place of their permanent service, and the documents proving their stay in a relevant place were destroyed.

In the course of the investigation measures are taken for establishing the whereabouts and questioning the officers of the Ministry of the Interior to whose evidence there are references in the case-files, with regard to their being aware of discovery in the outskirts of Alkhan-Kala of the corpses of five men in mid-February 2000.

In order to check up this information relevant data was requested from the Military Commandant's Office, the Prosecutor's Office, the bodies of the Ministry of the

Interior of the Russian Federation situated in the territory of the Chechen Republic, and replies were received that the said authorities did not possess any information on delivery of five corpses in camouflage uniform and civil clothes found in the outskirts of the village of Alkhan-Kala of the Groznensky district of the Chechen Republic in mid-February 2000.

The residents of Alkhan-Kala A. and Kh. questioned as witnesses stated that on 2 February 2000 they were near the hospital and heard the conversation between Yandiev and general Baranov, however before the conversation was finished they were edged out of the place and afterwards they did not see Yandiev.

Other questioned residents of the village of Alkhan-Kala said they had been hiding during the special operation and therefore did not know about the circumstances of the militants arrest.

With the purpose of identification of new eyewitnesses among local residents data on the persons residing in the territory of the said village in February 2000 was requested from the Alkhan-Kala administration.

Measures were taken for identification of the "gantamirovtsy" – an armed group of local volunteers who took part in the special operation in Alkhan-Kala. However the Russian Ministry of the Interior and other security ministries do not possess such information.

At the present moment the version about Kh-M.A.Yandiev's escape after detention as the result of an attack on the guards and his being at liberty does not have the priority as it had found no proof in the course of the investigation.

At the present moment the main version is that after his detention Yandiev was taken out of Alkhan-Kala by unidentified persons being the officers of the ministries and authorities taking part in the special operation and having no relation to Federal Penal Service (FSIN) of the Ministry of Justice of the Russian Federation.

b) search for Yandiev

An additional molecular and genetic expertise was carried out in the course of the investigation; the examination included the comparison of the genotype of the mother of Kh-M.A. Yandiev – F.S.Bazorkina – with the database of the genotype of the unidentified remains/corpses discovered in the territory of the Chechen Republic. No genetic matches were discovered.

As per the statement of the head of the military hospital where the wounded in the territory of the Chechen Republic were transported in February 2000, there are no data on transportation of Yandiev for medical treatment. The station for acceptance and transportation of persons dead in the territory of the Chechen Republic (in 2000) has no information on delivery of Yandiev's corpse either.

For the purposes of possible discovery of Kh-M.A. Yandiev among the persons who stopped their activities with illegal armed groups due to amnesty and turned in, the relevant data was requested from the departments of the interior and prosecutors' offices situated in the territory of the Chechen Republic and the Republic of Ingushetiya (total 38 requests). According to the replies received Kh-M.A. Yandiev did not contact law enforcement authorities.

For obtaining a positive result in the criminal case repeated orders were given and are being given to the special services with regard to conducting investigative activities aimed on obtaining any important information with regard to the whereabouts of Yandiev and those responsible for committing the crime, as well as at identifying the witnesses who could supply important information for the investigation.

In spite of the taken measures the investigation has not obtained enough data, either on the particular division which effected Yandiev's detention nor on his own further fate.

c) participation of the victims in the investigation

– contacts with the victims

In the course of the preliminary investigation the mother Kh-M.A. Yandiev – F.S.Bazorkina was recognized as a victim and questioned in this procedural status.

On 15 September 2011 the victim's representative was fully acquainted with the criminal case files.

– use of legal remedies by the victims

No applications from the victim under Article 125 of the CCP of the RF, after acceptance by the ECHR of her application with regard to ineffective investigation, have been received by the court.

Main Military Investigation Department
of the Investigative Committee of the Russian Federation

19.04.2012