



RUSSIAN JUSTICE INITIATIVE ANNUAL REPORT 2008

TABLE OF CONTENTS

3	About Russian Justice Initiative
4	Executive Summary
5	Litigating Cases
6	The Killing of Khalid Khatsiyev and Kazbek Akiyev
7	The Disappearance of the Aziyev brothers
8	The Disappearance of Kurbika Zinabdiyeva and Aminat Dugayeva
9	The Disappearance of Aпти Isigov and Zelimkhan Umkhanov
10	The Disappearance and Extra-judicial Execution of Said-Rakhman Musayev, Odes Mitayev and Magomed Magomadov
11	The Killing of Amkhad Gekhayev and Zalina Mezhidova
12	Building Capacity
13	Advocating Change
14	Evaluating Impact
16	Activities 2009
18	Staff, Board and Committees
19	Finances, Supporters and Acknowledgements

Photographers and photos

Front cover: A demonstration for disappeared and killed people in Chechnya. Photo courtesy of Natalia Estamirova.

Page 4: A press picture from the Council of Europe. The monument, by Spanish artist Mariano González, is dedicated to human rights.

Pages 7, 8 and 9: Copyright private.

Page 17: A demonstration by relatives of disappeared people i Chechnya 2007. Photo courtesy of Tanya Lokshina.

Back cover: Scenery from Ingushetia 2008. Photo courtesy of Varvara Pakhomenko.

ABOUT RUSSIAN JUSTICE INITIATIVE

Our mission: to combat impunity for grave human rights abuse in the North Caucasus and promote respect for rights enshrined in the Russian Constitution and the European Convention on Human Rights.

Russian Justice Initiative (RJI) is a groundbreaking initiative that utilizes domestic and international legal mechanisms to seek redress for human rights abuses committed in the North Caucasus. Together with its implementing partner, Pravovaia Initsiativa (Ingushetia), RJI provides free legal counsel to victims of human rights violations and their families. The organization's lawyers and researchers investigate incidents of arbitrary detention, torture, enforced disappearances and extra-judicial executions and bring these cases to the European Court of Human Rights in Strasbourg (ECtHR), France.

From its earliest days, the second armed conflict in Chechnya has been marked by large-scale grave abuses of human rights. The Russian government's persistent lack of will to guarantee the rule of law and investigate human rights abuses, regardless of the suspected perpetrator's affiliation, has perpetuated a cycle of violence in the region.

RJI emerged from a series of small litigation activities begun in 2000 as a response to the problem of impunity in Chechnya. Initially, members and volunteers of the Moscow office of Human Rights Watch put victims in contact with experienced European lawyers, who, in turn, prepared applications to the European Court on the victims' behalf. By mid-2001, as a growing number of victims requested representation, these ad-hoc efforts were no longer sufficient to meet demand.

Thus, in late 2001, a group of human rights activists founded the Chechnya Justice Initiative in the Netherlands, with an office in Moscow, and a local organization in Ingushetia now known as Pravovaia Initsiativa to jointly implement the Chechnya Justice Project. Since that time, the organization has steadily increased the number of victims it represents. In December 2004, the organization Chechnya Justice Initiative was re-named Russian Justice Initiative. In 2007, in recognition of the spreading of the conflict, the organization expanded its activities to include other republics of the North Caucasus as well. Following the outbreak of the conflict over South Ossetia in 2008 and ensuing reports of grave human

rights abuses, including use of cluster munitions, we decided to further expand our litigation activities to the South Caucasus.

Today, the Russian Justice Initiative has established itself as one of the leading legal representation and litigation organizations in Russia. As grave human rights abuses continue and the climate of impunity persists, the work of the organization remains wholly relevant to ending violence and opening the way for lasting peace in the region.

".. It is for the States to offer this protection [of the rights and freedoms guaranteed by the Convention] themselves, as an essential condition for the rule of law, whether it be the right to life or the prohibition against torture or the right to liberty and security and to an effective remedy, or again the right to a fair trial or the freedom of expression. Only when such protection is a reality at national level will it be possible to prevent such grave violations as were found in the Court's 10 000th judgment delivered today."

*Jean-Paul Costa, the President of the European Court of Human Rights, commenting on the Court's 10 000th judgment *Takhayeva and Others v. Russia* on 18 September 2008, brought by RJI.*

EXECUTIVE SUMMARY

My family and I do not lose hope to find out the whole truth. We believe that the judgment of the European Court will help us in that endeavour.

Khalisat Umkhanova, 26 June 2008

Our work has produced significant results in 2008. The European Court of Human Rights handed down positive judgments in 27 cases submitted by Russian Justice Initiative, bringing the total number of positive judgments to 37. These judgments not only provide long-awaited moral and monetary redress to our clients, but also set important precedent and lay the foundation for future work on bringing about systemic change that will impact the general human rights situation in the North Caucasus. The many judgments in 2008 also strongly reaffirm the effectiveness of our litigation strategy and provide important incentives for our future work.

These victories likewise provide hope to the hundreds of applicants with cases still pending before the Court. Most cases decided in 2008 concerned disappearances in Chechnya and reaffirmed important principles such as the burden of proof, the right to compensation and the obligations of the state to fully cooperate with the Court. Other cases concerned extra-judicial executions, which have continued to produce important judgments related to the disproportionate use of force against civilians. The Court in 2008 also handed down its first judgments regarding grave human rights violations in Ingushetia.

Following the outbreak of the South Ossetia conflict in August 2008 and ensuing reports of grave human rights abuses, including use of cluster munitions, we decided to expand our litigation activities to the South Caucasus. The new project will seek redress for violations committed by both sides to the conflict through the framework of the ECtHR and work as a complement to our North Caucasus cases.

We have also continued our efforts to raise awareness and build the capacity of local lawyers to bring applications to the ECtHR. Our senior staff in 2008 participated as experts and lecturers in several trainings for local lawyers and judicial officials. The growing number of judgments in cases from the North Caucasus continues to attract the attention of journalists, and increasingly, also of academics.

The increased pace of review of cases at the Court is reflected in a growing number of communications and a shorter review period, leading to swifter judgments. At the same time, ensuring effective implementation of these judgments requires additional efforts and resources going forward. Effective implementation of individual and general measures as indicated by the Court remains one of our biggest challenges, but one which carries tremendous potential in bringing about systemic changes that will have a lasting effect on the Russian legal system and the human rights situation in general. In 2008, we submitted our recommendations to the Committee of Ministers in a number of cases and we will continue to do so in 2009.

For 2009 we expect further success before the ECtHR and estimate that the Court will hand down judgments in another twenty to thirty of our cases. We will also continue to submit new cases to the Court, seeking redress for grave human rights abuses in the North Caucasus and from the August 2008 conflict in Georgia and South Ossetia.



A monument to human rights. A gift to the Council of Europe from the Spanish region of Murcia. Created by artist Mariano González.

LITIGATING CASES

By providing legal assistance to victims of grave human rights abuse in the North Caucasus, we secure legal redress and reparations to victims and set important precedent in domestic and European courts.

Representing victims of grave human rights abuse in the North Caucasus before Russian prosecutorial and law-enforcement bodies and the European Court of Human Rights remained our main activity in 2008. By the end of 2008, RJI represents almost 1,200 victims and their family members in 205 cases. In 166 of these cases, our lawyers have exhausted all possible domestic remedies in Russia and the cases have been submitted to the European Court of Human Rights.

The majority of the **new cases** that we submitted to the Court in 2008 concerned enforced disappearances in Chechnya. Another large group of submitted cases concerned torture. Other cases involved extra-judicial execution, non-return of bodies, and arbitrary detention. In all of the cases there are strong indications that the perpetrators of the violations belonged to Russian law-enforcement agencies.

In 2008, the ECtHR **communicated** 26 of our cases to the Russian government. Communication is the first step of the advanced stage of litigation before the Court and involves submitting to the government a statement of facts together with a number of questions.

In 2008, the ECtHR also declared 11 of our cases **admissible**. The number of admissibility decisions is decreasing as the Court now applies its expedited review procedure, under which admissibility and merits are considered together, in a majority of our cases. The increased pace of review is reflected in a growing number of communications and leads to swifter judgments.

The high success-rate of applications that RJI submitted to the ECtHR thus far reflects the high quality of our submissions. Indeed, more than 90 percent of all applications submitted to the Court are refused due to procedural problems. We are pleased to report that all of our cases that have been accepted for review by the Court and all cases that have reached the communication stage have proceeded to the admissibility stage. Likewise, all cases that have reached the admissibility stage

have proceeded to be considered on the merits, the final stage of the procedure.

In 2008, the Court delivered **judgments** in 27 of our cases, bringing the total number of judgments in our cases to 37. In all of the judgments we have secured legal redress and reparations for our clients. The following pages contain summaries of a number of selected cases and judgments.

The Russian government **appealed** several of the judgments handed down against it in 2008. In all the cases in which the appeal has been reviewed, however, the Court has dismissed the appeal and the judgments have become final.

In total the Court in 2008 awarded our clients EUR 1 609, 400 in moral compensation, EUR 188, 341 in material compensation, and RJI was awarded EUR 174, 941 for legal costs and expenses. When judgments become final, the Russian government pays the moral and material damage directly to the applicants and the legal fees directly to the organization, which are then transferred into the organization's endowment fund. The government has paid all awards due in the reporting period within the deadline set by the Court.

Summaries of cases brought by RJI and others pending before the ECtHR can be found at:

<http://www.srji.org/en/legal/cases/>

Cases at the Court	Progress in 2008	Total
Submitted	29	166
Communicated	24	100
Admissible	10	38
Judgments	27	37

Table: Status of RJI's cases at the Court.

**THE KILLING OF KHALID KHATSIYEV AND
KAZBEK AKIYEV
FIRST JUDGMENT CONCERNING GRAVE
HUMAN RIGHTS VIOLATIONS IN INGUSHETIA**

Name: Khatsiyeva and others v. Russia
Number: 5108/02
Judgment: 18 January 2008
Main violation: Extra-judicial killing

On 6 August 2000, about a hundred people divided into small groups were working in the fields in the hills surrounding the village of Arshty in Ingushetia, a neighboring republic to Chechnya.

Around noon that day, two military helicopters appeared and started circling low above the fields. When one of the helicopters launched a non-guided missile that exploded close to the workers, they ran to their cars and drove down the hill. The helicopters disappeared. As a group of men were driving home for lunch shortly after, however, the helicopters reappeared. The men stopped the car and ran for cover in different directions. The helicopters started chasing them and launched several missiles. Khalid Khatsiyev and Kazbek Akiyev were both killed in the attack.

An investigation into the killings was closed on the ground that the order to use lethal force had been justified in the circumstances of the case.

In its unanimous judgment of 17 January 2008, the ECtHR held that:

“... the Government seemed ready to admit that the applicants’ relatives had been unarmed local residents, but insisted that they had been attacked because of their own negligence, since they had failed to mark themselves as civilians.”

Khatsiyeva and others v. Russia, judgment of 17 January 2008, para. 132

“... the Court cannot in any event perceive any justification for the use of lethal force in the circumstances of the present case, given that the authorities had never warned the residents of Arshty about the operation of 6 August 2000.”

Khatsiyeva and others v. Russia, judgment of 17 January 2008, para. 139

THE DISAPPEARANCE OF THE AZIYEV BROTHERS

Name: Aziyevy v. Russia
Number: 77626/01
Judgment: 20 March 2008
Main violation: Disappearance

In the early morning of 24 September 2000, a group of eight military servicemen broke into the house of the Aziyev family in Grozny, Chechnya. The servicemen kicked and beat their father, Lech Aziyev, who suffered several injuries, including a concussion and fractured ribs.

The servicemen, who did not identify themselves, then proceeded to detain Lech's two sons, Lom-Ali and Umar-Ali Aziyev. They assured the family that the two sons would be released as soon as they had checked their identities. The Aziyev family has had no news of their two sons since.

The family immediately complained to Russian authorities about the incident and a criminal investigation was launched on 29 September 2000. The authorities suspended the investigation on several occasions, however, and the investigation has not brought about any tangible results.

In its unanimous judgment of 20 March 2008, the ECtHR found that:

- The Aziyev brothers were abducted by State servicemen;
- The brothers must be presumed dead and Russia held responsible for their deaths (violation of Article 2 of the European Convention on Human Rights);
- The investigation into the disappearance of the Aziyev brothers was inadequate on numerous accounts (Article 2);
- The suffering of the Aziyev family as a result of their sons' deaths, the beating of the father during the detention, and the failure of the Russian government to take adequate steps to investigate the killing constituted inhuman and degrading treatment (Article 3);
- The detention of the Aziyev brothers was unlawful (Article 5);
- The family did not have access to an effective remedy for the violations (Article 13);
- The refusal of the Russian authorities to submit the documents of criminal investigation file constitutes a failure to assist the Court in its investigation (Article 38).

The Court awarded the parents of the two brothers EUR 75.000 in compensation for moral damages.



The two brothers Lom-Ali and Umar-Ali Aziyev were detained by military servicemen in their home in Chechnya in 2000. They have not been seen since.

"I have waited eight years for this judgment. It is a very important step. We very much hope that this judgment will lead to the Russian authorities establishing the fate of our sons and holding the perpetrators accountable."

Lech Aziyev, 20 March 2009

THE DISAPPEARANCE OF KURBIKA ZINABDIYEVA AND AMINAT DUGAYEVA FIRST JUDGMENT FROM CHECHNYA TO BE DECIDED UNDER THE EXPEDITED REVIEW PROCESS

Name: Gekhayeva and others v. Russia
Number: 1755/04
Judgment: 29 May 2008
Main violation: Disappearance

In the early morning of 16 May 2003 about 20 armed Russian servicemen forcibly entered the home of Rumani Gekhayeva, binding her eyes, nose and mouth such that she could barely breathe. After she was freed by her neighbors later that night, her house was in disarray and her daughter, Kurbika Zinabdiyeva, and another female visitor, Aminat Dugayeva, were missing. Since childhood Kurbika had suffered from chronic brain conditions, a brain tumour and epilepsy. Aminat was only 15 years old at the time and was attending secondary school.

The prosecutor's office initially stated to media that Kurbika and Aminat had been arrested on suspicion of involvement with the 2002 siege of the Dubrovka theater in Moscow. In the course of the investigation into the women's disappearance, law-enforcement bodies denied any involvement of federal forces in the disappearance.

Despite the applicants' active search for their relatives, and the examination of their case by the Russian Human Rights Commission, the investigation into the kidnappings was suspended without having established any concrete information as to the perpetrators of the crime.

“The Court notes that the authorities were immediately made aware of the crime through the applicants' submissions. However, the district prosecutor's office refused to investigate the kidnapping of Kurbika Zinabdiyeva and Aminat Dugayeva, arguing that they had possibly been arrested. The investigation was instituted only twenty-two days after the crime.”

Gekhayeva and others v. Russia, judgment of 29 May 2008, para. 103

In a judgment of 29 May 2008 the ECtHR unanimously held that:

- Kurbika and Aminat were abducted by State servicemen;
- The right to life had been violated in respect of Kurbika and Aminat who must be presumed dead (violation of Article 2 of the European Convention on Human Rights);
- The Russian authorities had not conducted an effective investigation into the disappearances (Article 2);
- Kurbika and Aminat were illegally detained (Article 5);
- The Russian authorities indifference towards Kurbika and Aminat's relatives constituted inhuman treatment (Article 3);
- The relatives of Kurbika and Aminat did not have access to an effective remedy before Russian authorities for the violations (Article 13)

The ECtHR awarded Aminat's mother, Kurbika's mother and her three sisters a total of EUR 70,000 in moral compensation.



Zlikhat, Aminat Dugayeva's mother, and Rumani, Kurbika Zinabdiyeva's mother, have been searching for their daughters since 2003

THE DISAPPEARANCE OF APTI ISIGOV AND ZELIMKHAN UMKHANOV

Name: Isigova and others v. Russia
Number: 6844/02
Judgment: 26 June 2008
Main violation: Disappearance

During a 2 July 2001 sweep operation in Sernovodsk Russian troops detained hundreds of men including Aпти Isigov and Zelimkhan Umkhanov. Most men were released the same evening but Aпти and Zelimkhan disappeared. Their relatives have since unsuccessfully sought to establish their whereabouts.

A criminal investigation was opened but later suspended on the grounds of failure to identify a suspect despite the fact that the procuracy identified the commander of the detachment involved in the operation and questioned several servicemen who participated in the sweep operation, including members of the APC crew that detained the two men.

In a judgment of 26 June 2008 the ECtHR unanimously held that:

- Aпти and Zelimkan were abducted by State servicemen;
- The right to life had been violated in respect of Aпти and Zelimkan who must be presumed dead (violation of Article 2 of the of the European

Convention on Human Rights);

- The Russian authorities had not conducted an effective investigation into the disappearances (Article 2);
- Aпти and Zelimkan had been illegally detained (Article 5);
- The manner in which the complaints by Aпти and Zelimkan's relatives were dealt with by Russian authorities constituted inhuman treatment (Article 3);
- Aпти and Zelimkan's relatives did not have access to an effective remedy before Russian authorities for the violations (violation of Article 13)

The ECtHR awarded Aпти's mother and sister and Zelimkan's mother, wife and son a total of EUR 95,000 in moral and material compensation.

“in (...) the present case where the identities of the detachments and their commanders involved in the abduction (...) were established by the domestic investigation, the failure to bring charges may only be attributed to the negligence of the prosecuting authorities in handling the investigation and their reluctance to pursue it. The Court finds it appalling that after the commander of the detachment that had apprehended Aпти Isigov and Zelimkhan Umkhanov had been identified, the investigation was repeatedly suspended on the grounds of the failure to identify the alleged perpetrator.”

Isigova and others v. Russia, judgment of 26 June 2008, para. 109



*Khalisat
Umkhanova*

“I am satisfied with the judgment and felt relief when I found out about it. ... This decision will of course not give me my son back. However, I believe that it will make it easier for me to reply to my grandson's question “why did my father have to suffer?”

Khalisat Umkhanova, 26 June 2008

THE DISAPPEARANCE AND EXTRA-JUDICIAL EXECUTION OF SAID-RAKHMAN MUSAYEV, ODES MITAYEV AND MAGOMED MAGOMADOV

Name: Musayev and others v. Russia
Number: 8979/02
Judgment: 23 October 2008
Main violation: Disappearance

Said-Rakhman Musayev, Odes Mitayev and Magomed Magomadov were detained during a large scale mop-up operation by Russian federal forces in the neighbouring villages of Raduzhnoye, Pobedinskoye and Dolinskiy, situated about 25 kilometres north-west of Grozny on 10 December 2000. On that day a total of 21 men were detained by Russian servicemen. All of them except Said-Rakhman, Odes and Magomed were subsequently released.

Several detainees later testified how they were taken to the main Russian military base at Khankala. Despite the winter weather they were kept in two pits in the ground, 3-4 metres deep, for several days. They were taken out one by one for questioning. During the questioning they were hit with rifle butts.

On 21 February 2001 the mutilated bodies of Said-Rakhman, Odes and Magomed were found in the abandoned village of Zdorovye (also called Dachny), located less than a kilometer from the Khankala base. The bodies bore numerous gunshot and knife wounds. Odes had one ear cut off. The corpses of additional 48 people were eventually found in the vicinity of the village. Human Rights Watch later reported that 19 bodies were identified of which at least 16 were the remains of detainees who were last seen alive in the custody of Russian servicemen. (One of them was Nura Luluyeva, a 40-year-old mother of four who was detained by Russian servicemen on 3 June 2000 in Grozny. In a judgment of 9 November 2006 the ECtHR condemned Russia for the enforced disappearance and killing of Nura Luluyeva.)

In a judgment of 23 October 2008 the Court unanimously held that:

- Said-Rakhman, Odes and Magomed were abducted and killed by State servicemen;
- Russia must be held responsible for the murder of Said-Rakhman, Odes and Magomed (violation of Article 2 of the European Convention on Human Rights);

- The investigation into the disappearance and murder was inadequate on several accounts (Article 2);
- Said-Rakhman, Odes and Magomed had been illegally detained (Article 5);
- The suffering of Said-Rakhman's, Odes's and Magomed's relatives and the manner in which their complaints were dealt with by Russian authorities constituted inhuman treatment (Article 3);
- Said-Rakhman's, Odes's and Magomed's relatives did not have access to an effective remedy before the Russian authorities for the violations (Article 13);
- The refusal of the Russian authorities to submit the documents of the criminal case file constituted a failure to assist the Court in its investigation (violation of Article 38).

The ECtHR awarded Said-Rakhman's father and Odes's mother a total of 80,000 Euro in moral and material compensation.

“Someone who has not experienced what we did cannot understand all the horror that we went through. The perpetrators could have been identified and tried long ago, if the Russian authorities had really wanted it”

Magomed Musayev, 23 October 2008

THE KILLING OF AMKHAD GEKHAYEV AND ZALINA MEZHIDOVA

Name: Akhmadov and others v. Russia
Number: 21586/02
Judgment: 14 November 2008
Main violation: Extra-judicial execution

Around 3 p.m. on 27 October 2001 15 year old Amkhad Gekhayev and Zalina Mezhidova, a 23-year-old mother of two small children, were driving home from work in the fields surrounding the village of Komsomolskoye, Chechnya. Three military helicopters appeared and fired warning shots at the car and at the people remaining in the field. The car stopped. One helicopter landed and several military servicemen got off. After strafing the car with machine guns the servicemen took Amkhad and Zalina out of the car and carried them to the helicopter. The servicemen then blew up the car and took off in their helicopters.

Two days later a military helicopter delivered the severely mutilated bodies of Amkhad and Zalina to the military commander's office in Gudermes. An autopsy was carried out on 30 October 2001 but the Russian government refused to provide the Court with a copy of the results. Accordingly, it remains unclear if Amkhad and Zalina died instantly in the attack or were killed later.

Before the ECtHR, the Russian government did not dispute the killings, but argued that Amkhad and Zalina had been armed and that they had attempted to drive away from the helicopters despite several warning shots. However, no weapons were found in their car and the other villagers present in the field testified that the car had stopped. Although the official investigation into the killings identified the military servicemen involved in the attack, it was repeatedly suspended on the ground that the use of lethal force by the military servicemen had been justified. In 2005 the investigation was closed due to the application of an amnesty law.

In a judgment of 14 November 2008 the ECtHR unanimously held that:

- Amkhad and Zalina were killed by Russian military servicemen. The Russian authorities are responsible for their deaths as they had failed to prove that the use of lethal force was necessary. (violation of Article 2 of the European Convention on Human Rights);

- The Russian authorities failed to properly investigate the killings (Article 2);
- Amkhad's and Zalina's relatives did not have access to an effective remedy for the violations (Article 13);
- The refusal of the Russian authorities to submit the documents of the criminal case file constitutes a failure to assist the Court in its investigation (Article 38)

The Court awarded Amkhad's and Zalina's closest relatives a total of EUR 119,500 in moral and material compensation.

“In the absence of copies of any relevant procedural decisions or any explanation by the Government, it remains unclear what the grounds for those decisions, and more specifically for the application of the amnesty act, were, whether all the circumstances surrounding the deaths of the applicants’ relatives were duly established, and whether the actions of the servicemen involved in the incident of 27 October 2001 were adequately assessed, given that those actions included not only killing the applicants’ two relatives but also taking their bodies away from the scene of the incident and mutilating them by exploding them...”

Akhmadov and Others v. Russia, judgment of 14 November 2008, para. 113

BUILDING CAPACITY

By building capacity of local lawyers to bring cases to the European Court of Human Rights we seek to ensure that our work is sustainable and that local lawyers make use of the mechanisms of the European Convention on Human Rights in their everyday work.

The majority of cases submitted to the European Court of Human Rights from the North Caucasus are submitted by specialist non-governmental organizations. Although there are also individual lawyers who submit applications, due to a lack of knowledge or other considerations most lawyers in the region do not actively pursue this avenue of redress for their clients. In light of the persisting problems with the legal system in the North Caucasus, increasing the knowledge and willingness of local lawyers to file applications with the ECtHR is crucial to ensure the protection of human rights in the region.

First and foremost we prioritize increasing the skills and knowledge of our own staff and lawyers. We conduct weekly conference calls during which we discuss litigation strategy and issues that affect our cases. We conduct in-house trainings on specific legal topics and we sponsor participation in external trainings for our staff.

In 2008, our staff members attended such trainings as the International Summer School of Human Rights (Helsinki Foundation for Human Rights) and the UNHCR/Council of Europe follow-up seminar for lawyers from North Caucasus. It is a testimony to the skills and knowledge of our staff that we are often called upon to participate as speakers or experts in trainings and conferences.

We also actively cooperate with local independent lawyers on specific cases, either jointly representing clients before the ECtHR or providing advice on litigation strategy and legal arguments. The preparation of submissions jointly with lawyers and human rights defenders provides them with practical experience in developing high quality submissions.

A precondition for submitting successful applications to the ECtHR is knowledge of the Convention and access to recent case-law. Based upon our experience we have developed an online resource center for lawyers who want to submit applications to the ECtHR. The resource center includes instructions, templates, forms and articles on how to file an application.

<http://www.srji.org/resources/>

In addition, the resource center is continuously updated with Russian translations of all judgments in our cases and other judgments that set important precedent in relation to the most common violations in the region. In 2008 over half of the total number of visitors to our website came from Russia. An increasing number of visitors were directed to the resource section after having searched a Russian search engine for the term "how to write an application".

To raise awareness of human rights and relevant human rights mechanisms among people in the North Caucasus in general, we developed and published the Citizen's Guide: Defending your Rights on the Territory of the Russian Federation. This guide for victims and their family members provides basic information about human rights and available legal mechanisms, including step-by-step instructions for gathering evidence and the process for launching domestic and international litigation. We distribute this booklet to existing and potential clients. Through this publication we are able to assist and inform a wide audience about their rights and the rights protection mechanisms available to them.

ADVOCATING CHANGE

To ensure that individual judgments have the greatest possible effect on the general human rights situation, we advocate for the full implementation of ECtHR decisions and the establishment of better protection mechanisms in the North Caucasus.

In addition to providing our clients with legal redress and reparations, ECtHR judgments often highlight systemic problems with regards to law-enforcement in the North Caucasus. For instance, in all of the judgments in 2008, the ECtHR found that the investigation had been inadequate to the point of constituting a violation of the government's obligation under the European Convention on Human Rights to effectively investigate grave human rights violations.

Besides paying compensation, a respondent state is obliged to undertake both individual and general measures. Individual measures usually include conducting an effective investigation capable of leading to the identification and prosecution of the perpetrators. General measures are measures that are necessary for similar violations not to happen again and as such address more systemic problems. After a judgment, the Committee of Ministers of the Council of Europe is responsible for overseeing the implementation of the judgment.

Following each judgment, our lawyers closely analyze the text of the judgment and based upon the findings of the ECtHR develop recommendations with regards to individual and general measures. We then submit these recommendations to the Committee of Ministers, which takes them into account during the implementation process. We also work actively with the media, with the governments of member states of the Council of Europe and with other non-governmental organizations to garner support for our recommendations.

The Committee of Ministers in 2008 declassified a document analyzing general measures adopted by Russian authorities following a number of judgments of the ECtHR which found violations of the Convention during anti-terrorist operations between 1999 and 2001 in the Chechen Republic.¹ References made to our cases and submissions throughout the document show that we have succeeded in setting important precedents and putting additional pressure on Russia to implement crucial reforms in law

and policy. A particularly notable improvement includes the introduction of an absolute necessity test in the Russian legislation which governs the use of force by law enforcement officers during anti-terrorist operations.

The growing number of judgments in cases from the North Caucasus continues to attract the attention of journalists, and increasingly, also of academics. While the media coverage in Russian media is greater than we expected, it is mainly restricted to reporting the facts and does not venture to engage in a discussion of the causes of these violations.

IN THE NEWS

"The European Court held Russia responsible for the disappearance of four Chechen residents"

Kavkaz uzel, 3 July 2008

"The 10,000th judgment of the ECtHR holds Russia responsible for disappearance in Chechnya"

Prima News, 19 September 2008

"Strasbourg court fines Russia \$206,000 over Chechnya deaths"

RIA Novosti, 25 September 2008

"The ECtHR held Russia responsible for the illegal detention and murder of three persons"

Kommersant, 24 October 2008

"200,000 euro for the deaths of a teenager and a young mother"

Gazeta, 16 November 2008

¹ CM/Inf/DH(2008)33

EVALUATING IMPACT

Our project is a long-term investment in the pursuit of justice as a peaceful means to ending grave human rights abuses. The real impact of our work will depend upon the effective implementation of ECtHR judgments. However, there are early indications that our work is already improving access to justice for victims and their families.

IMPACT ON THE BENEFICIARIES

Judgments in our cases bring concrete results to our clients. In all of our cases in which judgments have been delivered, the Court has ruled in favor of our clients on the major legal issues raised. After many years of fruitless battle to realize their rights in the Russian judicial system, the ECtHR established that the Russian authorities had indeed violated those rights. It is difficult to overestimate both the symbolic and practical significance of such an acknowledgement for the applicants.

In addition to recognizing rights violations, the ECtHR also awarded significant compensation to our clients. For families that have lost their primary provider, this compensation is of immense value.

“The [legal] process and the realization that there are people who are interested in achieving justice, who understands and provides support, have been of great importance to us”

Khalisat Umkhanova, 26 June 2008

IMPACT ON DOMESTIC INVESTIGATIONS

While the judgments have had a positive impact on the lives of our clients, their potential for a wider impact on the general human rights situation in the North Caucasus has yet to be realized. In connection with each judgment, the respondent state has an obligation to undertake measures to ensure that the victims' rights are restored as far as possible and that similar violations do not occur again. Together with the clients, we develop recommendations on these measures and advocate for their adoption by the Russian government, including through the Council of Europe and its member states.

There are, however, early indications that these cases have an impact on the human rights situation even before they are fully implemented.

In Chechnya, the human rights situation has changed significantly over the last couple of years. There are fewer large-scale military operations

than previously. There are also fewer reported extra-judicial executions and disappearances than in past years.

At the same time, the human rights situation in neighboring republics such as Dagestan, Ingushetia and Kabardino-Balkaria has remained dire with little change in the disturbing number of arbitrary detentions and fabricated criminal cases involving torture. Violations such as disappearances and extra-judicial executions, previously associated with Chechnya, have become regular occurrences in other republics as well. Torture remains widespread in all republics, including Chechnya.

An important precondition to improving the human rights situation in the North Caucasus is effective criminal investigations leading to accountability for perpetrators of grave human rights abuse. In August 2008, the RF Supreme Court upheld the conviction of December 2007 which sentenced officers from the Ministry of Interior Evgeny Khudyakov and Sergey Arakcheev to seventeen and fifteen years in prison respectively for killing three construction workers in Chechnya in 2003.

The renewed focus on human rights violations in Chechnya that accompany ECtHR judgments has increased the pressure on the authorities to demonstrate that they do investigate and prosecute perpetrators of such abuses. Nevertheless, in the vast majority of cases, Russian law enforcement agencies are unable or unwilling to prosecute representatives of the state even when there is overwhelming evidence that state agents were responsible for the abuses. Usually, prosecutor's offices suspend or close investigations claiming the “impossibility of identifying the perpetrators”.

Although domestic legal mechanisms remain far from adequate for coping with complaints of abuses, our work is pushing these mechanisms in a positive direction because of the increased scrutiny that our activities bring to domestic legal decisions. Our lawyers continue to submit complaints on behalf of our clients regarding prosecutorial negligence, and also to request disclosure of criminal case files. As a result of our

complaints, prosecutors were found negligent with regard to eight cases in 2008. Local judges, therefore, have shown an increasing willingness to acknowledge prosecutorial negligence and to sanction it. While these court rulings have not yet succeeded in bringing new cases to trial or holding perpetrators accountable, they are important steps in the right direction. In regard to disclosure of criminal case files, we also experienced significant progress compared to previous years with full access granted in several cases.

Bringing a case to the ECtHR, however, often prompts a more serious investigation. In many of our cases the Russian government reopens closed investigations once the government receives notification from the ECtHR that an application has been filed. Frequently a notification by the Court, referred to as a communication, prompts renewed investigative activity in a case, including interviews of witnesses, identification of possible perpetrators and other crucial investigative steps.

IMPACT ON ECtHR CASE-LAW

Several judgments in 2008 set or confirmed important precedent and reflect emerging trends of ECtHR case law. The many judgments in disappearance cases have in particular confirmed essential principles such as the burden of proof, the obligation of the state to cooperate with the Court and the right to compensation for relatives of the disappeared. In judgments concerning extra-judicial killings, the Court consistently applied the test of absolute necessity in evaluating the use of force by Russian servicemen.

In all of the judgments in 2008, the ECtHR found that the investigation had been inadequate to the point of constituting a violation of the government's obligation under the European Convention on Human Rights to effectively investigate grave human rights violations. The Court's criticism has been particularly sharp in cases where the identity of the perpetrators is known, but in which there has been no effective investigation leading to prosecution, and in cases where the case material clearly demonstrates the Russian authorities' reluctance to investigate high-

ranking officers. Whether the Russian authorities effectively investigate these cases and bring to justice the perpetrators of these violations will constitute important benchmarks by which to evaluate the good faith of the Russian authorities in their implementation efforts.

The ECtHR continued to find the Russian government in violation of Article 38 for not providing the Court with a copy of documents from the criminal investigation file as requested. In other cases, the Court has shifted the burden of proof to the government if the applicants made a prima facie case and then found a violation when the government has refused to provide the requested material.

In 2008, however, the Russian government seems to have changed its policy with regards to providing the ECtHR with access to the investigation material. The consistent pressure that the ECtHR has applied towards Russia on the issue of access to documents from the investigation, on the insistence of RJI and other organizations, seems to have produced results. In several recently communicated cases, the Russian government has submitted substantially more documents from the investigation file than in similar previous cases. We hope and believe that this is a reflection of a change in policy and that the consistent pressure we have brought to bear on the ECtHR and the government has finally given rise to a greater willingness to provide these documents and thereby achieved greater control and transparency with regards to the authorities' investigation of such cases.

“The Court further finds it unacceptable that, despite its specific request, the Government blankly refused, with reference to a military secret, to provide any information on planning and execution of the combat mission of 27 October 2001 which had resulted in the deaths of the applicants' relatives ...”

Akhmadov and others v. Russia, judgment of 14 November 2008, para. 100

ACTIVITIES 2009

OBJECTIVES

The overriding goal of Russian Justice Initiative remains to secure legal redress and reparations for victims of serious human rights abuses committed in the North Caucasus and to promote respect for rights guaranteed by the Russian Constitution and the European Convention on Human Rights.

We believe that our work will contribute to promoting justice for all victims of serious crimes in the North Caucasus by addressing key failures of the justice system through both domestic and international legal remedies. In particular, we seek to hold perpetrators accountable for specific violations by representing clients before Russian authorities and bringing cases to the European Court of Human Rights. The long-term goals of the project include:

- Securing legal redress and reparations for victims of serious human rights abuses committed during conflicts in the North Caucasus when domestic proceedings proved ineffective;
- Contributing to a peaceful and lasting resolution of the conflicts in the North Caucasus by establishing accountability for serious human rights abuses, which it is hoped will decrease tensions and provide a model for resolving disputes through legal means rather than through violent conflict;
- Strengthening capacity in the North Caucasus and throughout Russia by supporting local NGOs and training lawyers and human rights defenders in human rights litigation;
- Publishing accessible resource materials, specific to the regional context and to Russian law, that will allow private citizens and human rights advocates to bring cases independently to the ECtHR;
- Addressing the lack of effective domestic remedy for serious human rights abuses committed both in Chechnya and in other regions of Russia

and compelling Russian authorities to halt widespread abuses in North Caucasus and provide adequate domestic remedies that hold perpetrators accountable;

- Contributing to the development of ECtHR case-law that will clarify Russian obligations under the European Convention, thus setting a framework for reform of the Russian judiciary and law enforcement structures;
- Assisting the Council of Europe Committee of Ministers, as stipulated in the Convention, in supervising the implementation of ECtHR rulings and taking measures to prevent further violations.

Our largest case to date, Sabanchiyeva and Others (38450/05), was declared admissible on 6 November 2008. The case is being brought by 50 applicants whose relatives were killed in the October 2005 attack on Nalchik, Kabardino-Balkaria.

Based on domestic legislation governing the interment of terrorists, authorities refused to hand over the bodies of the deceased to their relatives for burial.

The bodies were kept in deplorable conditions and then were secretly cremated.

In its forthcoming judgment, the ECtHR will assess the compatibility of the domestic legislation with the Convention.

2009 ACTIVITIES

Litigation

We expect another ambitious and productive year in 2009. We will continue to focus on litigation representing the interests of almost 1200 applicants in 205 cases- in 166 cases already submitted to the ECtHR and in 39 cases currently in review for submission to the Court. An ever-increasing proportion of our work will be dedicated to the advanced stages of litigation. We anticipate submitting pleadings on behalf of applicants in response to 25 government memoranda received in the communication stage, as well as to 6 admissibility decisions. We expect the ECtHR to hand down another twenty to thirty judgments in our cases in 2009, among them we hope to see precedent setting cases concerning the non-return of bodies and torture.

Building capacity

In 2009 we will continue our work on transferring skills and knowledge to local lawyers in the North Caucasus. We anticipate that our Russian staff will attend several external trainings. We further expect that our senior staff will continue to be called upon as lecturers and experts on the ECtHR, contributing to improved knowledge of the Court and Convention in various groups of legal professionals. We will moreover continue the development of our website and our online resource center, which provides Russian lawyers with the necessary tools for submitting applications to the ECtHR.

Geographical expansion

Following the outbreak of the August conflict over South Ossetia and the dissemination of increasingly worrying information about grave violations of international humanitarian law and the European Convention on Human Rights, we assessed the need for strategic long-term litigation work on human rights abuses committed by all parties during the conflict. Concluding that many of the cases documented by international human rights organizations present promising opportunities for successful litigation, we launched the South Caucasus Justice Project in cooperation

with the Georgian Young Lawyers' Association. This project, operating fully from the beginning of 2009, is an excellent complement to our existing litigation activities in the North Caucasus. New cases will address the same systemic shortcomings as many of our current cases, thus helping to put further pressure on Russia and also on Georgia to implement crucial reforms.

Advocating change

Effective implementation of ECtHR judgments in our cases is a crucial element in bringing about systemic changes to Russia legislation and law-enforcement practice that will have a lasting effect on the human rights situation in the North Caucasus. At the same time, this is perhaps one of the most challenging aspects of our work. In order to target deficiencies in Russian law-enforcement we develop recommendations for individual and general measures in relation to each judgment. We also cooperate closely with other national and international non-governmental organizations in putting additional pressure on the Russian government to implement both general and individual measures. With more and more judgments being handed down by the Court we will in 2009 devote significant resources to this fundamental aspect of our work.



A demonstration for disappeared and killed relatives. Chechnya 2007.

STAFF, BOARD AND COMMITTEES

STAFF

Pravovaia Initsiativa (Ingushetia)

Arsen Sakalov, Director
Tanzila Arsamakova, Research assistant
Anastasia Maltseva, Staff lawyer
Dokka Itslaev, Staff lawyer (part-time)

Stichting Russian Justice Initiative (Netherlands)

Vanessa Kogan, Executive Director (on leave until July 2009)
Roemer Lemaître, Legal and Program Director
Andrea Algård, Legal Officer and Grants Manager
Elena Ezhova, Moscow Office Director (on leave)
Olga Ezhova, Office Manager/ Legal Assistant
Andrei Nikolaev, Senior lawyer
Maria Suchkova, Staff lawyer
Ludmila Polshikova, Legal Assistant

COMMITTEE OF RECOMMENDATION

The committee of recommendation consists of individuals from around Europe who have made significant contributions in the field of human rights. This committee, which demonstrates the support enjoyed by the Russian Justice Initiative in the international community, has no governing or advisory responsibilities in the organization. Rather, the committee recommends the Russian Justice Initiative by virtue of its members' high standing as internationally recognized human rights activists, journalists, policymakers, and others in positions of moral authority.

Lyudmila Alekseeva, President, Moscow Helsinki Group
Rainer Eppelmann, Member, German Bundestag (CDU/CSU)
André Glucksman, Philosopher
Erik Jurgens, Vice-president, Senate of the Dutch Parliament, and Member, Parliamentary Assembly of the Council of Europe
Nataša Kandic, Humanitarian Law Center, Belgrade
Markus Meckel, Member, German Bundestag (SDP)
Nathalie Nougayrede, Le Monde

Lord Russell-Johnston, Member, Parliamentary Assembly of the Council of Europe (formerly President)

GOVERNING BOARD

The Governing Board is charged with the overall direction and governance of the Russian Justice Initiative. Members of the board lend professional expertise to the organization, assist in fundraising endeavours, and act as a public face for the organization.

Chair

Jan ter Laak, Netherlands Helsinki Committee

Treasurer

Egbert G.Ch. Wesselink, Pax Christi Netherlands

Members

Aage Borchgrevink, Norwegian Helsinki Committee

Holly Cartner, Human Rights Watch

Senior Advisor to the board

Diederik de Savornin Lohman, Human Rights Watch

ADVISORY COMMITTEE

In order to ensure the highest quality work, the Russian Justice Initiative regularly consults with experts on Russian law, the European Convention on Human Rights, and proceedings before the European Court. The Project has established an advisory committee comprised of legal academics and experienced international lawyers who take an active role in advising the project on legal issues.

Anne Bouillon, Avocats sans Frontières France

Jane M. Buchanan, Former Executive Director, Chechnya Justice Project and Human Rights Watch

Professor William Bowring, Faculty of Law, London Metropolitan University

Professor André Nollkaemper, Faculty of Law, University of Amsterdam

Gareth Peirce, Birnberg, Peirce and Partners, London

Maria K. Pulzetti, Founding Executive Director, Chechnya Justice Project

Ruslan Yandarov, Lawyer

FINANCES, SUPPORTERS AND ACKNOWLEDGEMENTS

STATEMENT OF FINANCIAL ACTIVITIES 2008

INCOME

Individual contributions	1000
Grants	446,123.32
Interest	302.13
Reimbursement of expense	41,515
Total	488,940.45

EXPENSES

Personnel, including salaries, benefits and staff development	267,819.25
Administration, including rent	57,183.43
Equipment and capital purchases	1659.38
Consultants, honoraria, translations	74,340.98
Publications	2,029.83
Travel	39,450.17
Other	5,654.54
Total	448,137.58

Total assets, beginning of year	85,595.03
Change in assets (income-expenses)	40,802.87
Total assets, end of year	126,397.90

SUPPORTERS AND ACKNOWLEDGEMENTS

The Russian Justice Initiative gratefully **acknowledges** its financial supporters during 2008: The Global Conflict Prevention Pool, the Swedish Helsinki Committee, the Royal Netherlands Ministry of Foreign Affairs, the Royal Norwegian Ministry of Foreign Affairs, the Open Society Institute, the United Nations High Commissioner for Refugees, and the United Nations Voluntary Fund for Victims of Torture.

We are pleased to announce among our **supporters** for 2009: The Global Conflict Prevention Pool, the Royal Netherlands Ministry of Foreign Affairs, the Open Society Institute, the United Nations High Commissioner for Refugees, and the United Nations Voluntary Fund for Victims of Torture. Applications with the Royal Norwegian Ministry of Foreign Affairs and the Swedish Helsinki Committee are pending.

Our work in 2008 would not be possible without the **contributions** of our Ingushetia security team, which protects the safety of our staff and

clients when in Ingushetia. We are also indebted to our **colleagues** at the European Human Rights Advocacy Centre, the Human Rights Centre «Memorial», the Nizhny Novgorod «Committee Against Torture», Georgian Young Lawyers Association, Human Rights Watch, Amnesty International and Aim for Human Rights who are generous with their wisdom and friendship. The **guidance and backing** of the members of our Advisory Committee and Committee of Recommendation continue to contribute meaningfully to our work.

We thank Andrea Algård who offered her time and assistance as **intern** during 2008.

Others who have offered **special assistance** to us in 2008 include: Bill Bowring, Ole Solvang, Jane Buchanan, Maxim Ferschtman, Aleksey Krasnov, Philip Leach, Tanya Lokshina, Alexander Petrushev, Maria Pulzetti, Dmitri Vitaliev, the staff at Amnesty International-Netherlands, and numerous others who, for security reasons, cannot be named here.

"I have waited eight years for this judgment. It is a very important step. We very much hope that this judgment will lead to the Russian authorities establishing the fate of our sons and holding the perpetrators accountable."

Lech Aziyev, 20 March 2008



Russian Justice Initiative is a groundbreaking initiative that utilizes domestic and international legal mechanisms to seek redress for human rights abuses committed in the North Caucasus. Together with its implementing partner, Pravovaia Initsiativa (Ingushetia), RJI provides free legal counsel to victims of human rights violations and their families. The organization's lawyers and researchers investigate incidents of arbitrary detention, torture, enforced disappearances and extrajudicial executions and bring these cases to the European Court of Human Rights in Strasbourg, France.

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