



RUSSIA

# “Who Will Tell Me What Happened to My Son?”

Russia’s Implementation of European Court of Human Rights  
Judgments on Chechnya

HUMAN  
RIGHTS  
WATCH



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Judgments on Chechnya**

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Human Rights Watch  
350 Fifth Avenue, 34th floor  
New York, NY 10118-3299 USA  
Tel: +1 212 290 4700, Fax: +1 212 736 1300  
hrwnyc@hrw.org

Poststraße 4-5  
10178 Berlin, Germany  
Tel: +49 30 2593 06-10, Fax: +49 30 2593 0629  
berlin@hrw.org

Avenue des Gaulois, 7  
1040 Brussels, Belgium  
Tel: + 32 (2) 732 2009, Fax: + 32 (2) 732 0471  
hrwbe@hrw.org

64-66 Rue de Lausanne  
1202 Geneva, Switzerland  
Tel: +41 22 738 0481, Fax: +41 22 738 1791  
hrwgva@hrw.org

2-12 Pentonville Road, 2nd Floor  
London N1 9HF, UK  
Tel: +44 20 7713 1995, Fax: +44 20 7713 1800  
hrwuk@hrw.org

27 Rue de Lisbonne  
75008 Paris, France  
Tel: +33 (1)43 59 55 35, Fax: +33 (1) 43 59 55 22  
paris@hrw.org

1630 Connecticut Avenue, N.W., Suite 500  
Washington, DC 20009 USA  
Tel: +1 202 612 4321, Fax: +1 202 612 4333  
hrwdc@hrw.org

Web Site Address: <http://www.hrw.org>



# “Who Will Tell Me What Happened to My Son?”<sup>1</sup> Russia’s Implementation of European Court of Human Rights Judgments on Chechnya

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<sup>1</sup> Human Rights Watch telephone interview with Fatima Bazorkina, July 30, 2009.

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## Introduction

The European Court of Human Rights (European Court, the court) has issued 115 judgments to date on cases concerning serious human rights violations in Chechnya. In nearly all cases, the court has held Russia responsible for enforced disappearances, extrajudicial executions, torture, and for failing to properly investigate these crimes.

Following a judgment, Russia has an obligation not only to pay the monetary compensation and legal fees awarded by the court, but also to implement measures in each individual case to rectify the violations, as well as adopt policy and legal changes (also known as general measures) to prevent similar violations from recurring. Russia generally has paid the compensation and legal fees mandated in European Court rulings on Chechnya in a timely manner. However, it has failed to meaningfully implement the core of the judgments: it has failed to ensure effective investigations and hold perpetrators accountable.

Human Rights Watch undertook research in July and August 2009 to examine Russia's implementation of European Court judgments on Chechnya through interviews with applicants and examination of relevant legal documents. This report, based on materials related to 33 cases, describes the problems that have plagued Russian investigations into these cases after the European Court judgments were handed down.

First, and most significantly, as of this writing no perpetrator in any of these cases has been brought to justice, even in cases in which the court has found that the perpetrators are known, and in some instances even named in its judgments. Other problems include: the state's failure to inform the aggrieved parties about the investigation; failure to provide access to criminal case files; inexplicable delays in investigation; and legal obstacles preventing investigators from accessing key evidence held by Russian military or security services. These same failures had plagued earlier investigations into abuses in Chechnya and had led the court to find violations related to the investigations.

In addition, in a new and very troubling trend, the investigative authorities have flatly contested several of the European Court's judgments apparently in order to justify closing investigations and refusing to bring charges against perpetrators. This has occurred even in cases in which those responsible or their superiors are known and named in European Court judgments, or could readily be known.

Russia has shown resistance to cooperating with the court in other ways. In 40 judgments on cases from Chechnya, the European Court found that Russia's refusal to share with the court

documents from the criminal case files had violated its obligation to “furnish all necessary facilities” to support the court’s examination of a case.

Russia’s failures to implement judgments and effectively investigate violations contravene its obligations under the European Convention on Human Rights (European Convention). On a human level, these shortcomings, and the resulting lack of justice, diminish the significance of the judgments for applicants themselves. Applicants consistently told Human Rights Watch that the financial compensation awarded by the court is not the most important issue for them, although they said it did provide needed relief for the expenses they have incurred while searching for their relatives. Rather, more important for victims has been the court’s condemnation of Russia’s violations. However, without justice for the crimes committed or information about the fate of their disappeared loved ones, they do not feel that the violations have been rectified in any meaningful way and continue to await real results from investigations and prosecutions.

Full implementation is crucial to prevent abuses from recurring in Chechnya and in other parts of Russia’s troubled North Caucasus. It carries perhaps the single most significant potential to produce lasting improvements in the human rights situation in this region.

Human Rights Watch calls on the Russian government to bring ongoing investigations to meaningful conclusions by identifying and prosecuting perpetrators of violations found by the European Court. This should be particularly swift in cases in which the perpetrators or commanders of operations resulting in violations are known, or could easily be known, based on existing evidence such as the military or other units or vehicle numbers in action at the relevant times and locations. The Russian government should also immediately issue instructions to all prosecutor’s offices and investigative committees clarifying that the practice of disregarding or rebutting European Court judgments is a violation of Russia’s obligations to the Council of Europe and will result in disciplinary action.

Council of Europe member states, as well as the European Union, should press Russia to take these crucial steps, and ensure that the Council of Europe’s Committee of Ministers adopts rigorous and comprehensive criteria for Russia’s implementation of individual and general measures. By promoting full implementation of the court’s rulings, in particular where the violations are so egregious, Europe would also ensure the integrity and efficacy of the European Court, the leading mechanism in Europe for ensuring that states uphold human rights commitments, which Russia’s noncompliance is jeopardizing.

## **A Note on Methodology**

In July 2009, Human Rights Watch researchers conducted interviews in Chechnya and Ingushetia with applicants in 19 cases from Chechnya decided by the European Court and telephone interviews with applicants in three cases.

The interviews were conducted in Russian by a Human Rights Watch researcher who is fluent in Russian. Human Rights Watch initiated contacts with interviewees, and in some cases their legal representatives assisted us in facilitating the interviews. In July and August 2009, with the help of the applicants and their representatives, two Human Rights Watch researchers examined the legal correspondence files of the applicants who were interviewed as well as the files relating to an additional 14 cases.

Judgments of the chambers of the European Court, unless otherwise specified, become final three months after their adoption unless either party exercises their right to request a referral to the Grand Chamber of the court within that time frame. In two of the cases reviewed by Human Rights Watch for this report, the European Court judgments have been final (meaning that any referrals to the Grand Chamber of the court have been denied or that the period for referral has expired), and the case was being transferred to the Committee of Ministers for supervision of implementation (as described below), for more than four years. In four of the cases the judgments had been final for over two years. In seven cases the judgments had been final for over one year. In an additional seven cases, the judgments have been final for at least 10 months. In the remaining 13 cases, the judgments became final in the past nine months or less.



## The Experience of Applicants who have Won Cases at the European Court

For the victims and relatives of victims who have won cases from Chechnya at the European Court, victory has been a mixed experience. While the applicants have received from the Russian government the financial compensation awarded in the court's judgment, they continue to strive for justice for the crimes they and their loved ones have suffered and for knowledge about the fate of their killed or disappeared relatives. Below are a number of statements from relatives of victims that illustrate their continued hopes for resolution as a result of the European Court judgments.

Winning the case in Strasbourg and getting the government to pay the compensation is a small victory for me, but it is not the result I have been waiting for. The real result can only be in finding out what happened to [my husband], at least in learning where his bones are. If only I knew, I could have his body reburied [at the family grave]. I hope the [Council of Europe] does not stop at the actual judgment but will continue putting pressure on the government to conduct a meaningful investigation. There must be an end to this, a conclusion.

— Medina Akhmadova<sup>2</sup>

Medina Akhmadova's 52-year-old husband, Musa, a father of three, was detained at a Russian military checkpoint in Kirov-Yurt and subsequently disappeared in March 2002. In December 2008, the European Court found Russia responsible for the illegal detention and presumed death of Musa Akhmadov.<sup>3</sup>

\* \* \*

What I expected was for the European Court to achieve justice in my case, to make the authorities explain if my son is alive or dead. And, if he is alive, where is he? If he's in prison, what was he sentenced for? But most importantly, whether he is alive or dead. I wanted truth. That's all I needed. I wanted no money... truth is the only thing I want, and still do.

—Umazh Ibragimov<sup>4</sup>

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<sup>2</sup> Human Rights Watch interview with Medina Akhmadova, Grozny, July 11, 2009.

<sup>3</sup> *Akhmadova and Others v. Russia*, (App. 3026/03), Judgment of 4 December 2008.

<sup>4</sup> Human Rights Watch interview with Umazh Ibragimov, Urus Martan, Chechnya, July 11, 2009.

In December 2002 Russian federal forces detained Umazh Ibragimov's son, Rizvan Ibragimov, at the family's home in Urus-Martan. The forces threatened to shoot Rizvan Ibragimov's parents if they tried to follow them. He has not been heard from since. In May 2008, the European Court found Russia responsible for Rizvan's disappearance and presumed death.<sup>5</sup>

\* \* \*

As for the European Court, we received the compensation but it means nothing to us. This was never about money. We simply want my brother back. Our mother needs her son back. Or at least to know what happened to him!  
— Abubukar Gaitayev<sup>6</sup>

In the middle of the night on January 24, 2003, Abubukar Gaitayev's brother, Musa Gaitayev, and cousin, Magamed Gaitayev, were detained at their houses in Urus-Martan by Russian military servicemen. Magamed was released the same day after being beaten and drugged, but 31-year-old Musa, married and a father of four young children, was never seen again. The European Court determined Russia to be responsible for Musa Gaitayev's unacknowledged detention and presumed death.<sup>7</sup>

\* \* \*

When I decided to lodge the application with the European Court I hoped that the Court could influence the Russian law enforcement agencies [and] make them find the people who took my brother away.  
— Rizvan Rasayev<sup>8</sup>

On December 25, 2001, Russian troops conducted a special operation in the village of Chechen-Aul, where they detained Ramzan Rasayev and took him to a detention camp on the edge of the village. He has not been seen since. In October 2008, the European Court found Russia responsible for Ramzan's disappearance and presumed death.<sup>9</sup>

\* \* \*

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<sup>5</sup> *Ibragimov and Others v. Russia*, (App. 34561/03), Judgment of 28 May 2008.

<sup>6</sup> Human Rights Watch interview with Abubukar Gaitayev, Martan-Chu, Chechnya, July 11, 2009.

<sup>7</sup> *Sangariyeva and Others v. Russia*, (App. 1839/04), Judgment of 29 May 2008.

<sup>8</sup> Human Rights Watch interview with Rizvan Rasayev, Chechen-Aul, Chechnya, July 12, 2009.

<sup>9</sup> *Rasayev and Chankayeva v. Russia*, (App. 38003/02), Judgment of 2 October 2008.

We only wanted one thing from the European Court: to have the guilty brought to justice, to have them shown to us, tried, and put in prison. But this has not happened. We won the case at the European Court and still nothing has happened.

— Salman Khadzhiyev<sup>10</sup>

In December 2002, federal forces broke into the home of 70-year-old Salman Khadzhiyev in the village of Samashki. They beat his two sons, Ramzan and Rizvan Khadzhiyev, and Ramzan's pregnant wife with rifle butts, and took the brothers away. On December 19, 2002, human remains were found over an area of 500 square meters at a nearby farm. Salman Khadzhiyev collected the fragments himself and delivered them to investigators. It was later established that the remains originated from corpses that had been decapitated and then exploded and that belonged to the Khadzhiyev brothers. The European Court found that it had been established beyond a reasonable doubt that Russian federal forces had detained and then killed the Khadzhiyev brothers.<sup>11</sup>

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<sup>10</sup> Human Rights Watch interview with Salman Khadzhiyev, Samashki, Chechnya, July 12, 2009.

<sup>11</sup> *Khadzhiyev and Others v. Russia*, (App. 3013/04), Judgment of 6 November 2008.

## Background

### Human Rights Violations and the Armed Conflict in Chechnya

The 115 European Court judgments thus far decided on Chechnya concern enforced disappearances, killings, and torture that took place from 1999-2004. Russia launched what it called a counterterrorism operation in Chechnya in September 1999. Five months of indiscriminate bombing and shelling in 1999 and 2000 caused thousands of civilian deaths. Throughout the conflict, Chechen rebel forces also committed grave crimes, including numerous brutal attacks targeting civilians in and outside of Chechnya. By March 2000, Russia's federal forces had gained control over most of Chechnya and continued fighting the insurgency. Their strategy included tactics that constituted serious human rights violations. Russian forces arbitrarily detained suspected rebel fighters and collaborators and tortured them to secure confessions or testimony. In some cases the corpses of detainees, who had last been seen alive in custody, were subsequently found. More often, those detained were never seen again—they had been forcibly “disappeared.” In only a handful of cases were Russian forces held accountable for crimes.

Responsibility for law enforcement and counterterrorism operations in Chechnya has been transferred to local forces loyal to Moscow under the de facto command of Chechen President Ramzan Kadyrov. Serious human rights abuses persist, including executions, unacknowledged detention, torture and, although fewer in number, enforced disappearances.<sup>12</sup> Kadyrov and his forces have also been implicated in punitive house burnings of people believed to be linked to rebel fighters<sup>13</sup> and to the brazen murder of Natalia Estemirova, a leading human rights activist and researcher in Chechnya for the Russian human rights organization Memorial. Estemirova was abducted by unidentified men on July 15, 2009; several hours later her body was found with multiple gunshot wounds.<sup>14</sup> Less than a month later, Zarema Sadulayeva and her husband, activists with a local humanitarian organization, were abducted by men claiming to be from security services and later found shot.<sup>15</sup> Kadyrov's forces have been implicated in these murders.

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<sup>12</sup> “Chechnya: Research Shows Widespread and Systematic Use of Torture,” Human Rights Watch news release, November 12, 2006, <http://www.hrw.org/en/news/2006/11/12/chechnya-research-shows-widespread-and-systematic-use-torture>.

<sup>13</sup> Human Rights Watch, *Russia—“What Your Children Do Will Touch Upon You”*: Punitive House-Burning in Chechnya, no. 1-56432-514-8, July 2009, <http://www.hrw.org/en/reports/2009/07/02/what-your-children-do-will-touch-upon-you>.

<sup>14</sup> “Russia: Leading Chechnya Rights Activist Murdered,” Human Rights Watch news release, July 15, 2009, <http://www.hrw.org/en/news/2009/07/15/russia-leading-chechnya-rights-activist-murdered>.

<sup>15</sup> “Russia: Ensure Independent Inquiry Into Activists’ Killings,” Human Rights Watch news release, August 11, 2009, <http://www.hrw.org/en/news/2009/08/11/russia-ensure-independent-inquiry-activists-killings>.

These violations are not restricted to Chechnya, but are becoming increasingly common in other parts of the North Caucasus. Human Rights Watch has documented executions, arbitrary detentions, and torture during counterterrorism operations in Ingushetia.<sup>16</sup> In August 2009 a prominent newspaper editor known for his criticism of local authorities' conduct of counterterrorism operations, was shot and killed in Dagestan. A few weeks later, an organization documenting human rights abuses in Dagestan lost nearly all of its computer and paper files in an arson attack that followed numerous threats, including from local security officers, against the organizations staff.<sup>17</sup>

## **The Role of the Council of Europe's Committee of Ministers in the Implementation of Judgments**

The Council of Europe's Committee of Ministers is responsible for overseeing the implementation of the judgments decided by the European Court. All states party to the European Convention on Human Rights are obligated to implement judgments decided by the court.<sup>18</sup>

Once a judgment becomes final, the Committee of Ministers requests the state in question to pay the amounts awarded by the court and, when appropriate, to inform the committee of the individual and general measures taken to implement the judgment. Once the Committee of Ministers concludes that the state has taken all the necessary measures to implement the judgment, it adopts a resolution to this effect. Until a state has implemented the judgment, however, the case remains on the committee's agenda. If a state fails to implement a judgment, the Committee of Ministers can adopt an interim resolution noting the failure to comply with the Convention.<sup>19</sup>

Since the first judgments in 2005, dozens of cases from Chechnya have come under the supervision of the Committee of Ministers of the European Court. Throughout this time Russia has been corresponding with the Committee of Ministers regarding its steps to implement both individual measures in each case and general measures to prevent similar violations from occurring. While it is not within the scope of this report to analyze Russia's steps to implement general measures, one in particular—its creation of a special unit in the

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<sup>16</sup> Human Rights Watch, *Russia – “As If They Fell From the Sky”: Counterinsurgency, Rights Violations, and Rampant Impunity in Ingushetia*, 1-56432-345-5, June 2008, [http://www.hrw.org/sites/default/files/reports/russia0608\\_1.pdf](http://www.hrw.org/sites/default/files/reports/russia0608_1.pdf).

<sup>17</sup> “Russia: Investigate Dagestan Arson Attack,” Human Rights Watch news release, August 20, 2009.

<sup>18</sup> European Convention for the Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 222, entered into force September 3, 1953, as amended by Protocols Nos 3, 5, 8, and 11 which entered into force on September 21, 1970, December 20, 1971, January 1, 1990, and November 1, 1998, respectively, article 46.

<sup>19</sup> See: Council of Europe, “Execution of Judgments of the European Court of Human Rights,” [http://www.coe.int/t/dghl/monitoring/execution/Presentation/Default\\_en.asp](http://www.coe.int/t/dghl/monitoring/execution/Presentation/Default_en.asp) (accessed on August 21, 2009).

Prosecutor General's office—is discussed below because it is germane to the issues examined in this report.

## The Role of the Prosecutor's Office in the Implementation of European Court Judgments

The European Court's rulings on Chechnya consistently have held that the authorities responsible for investigating human rights violations are insufficiently independent. Beginning in 2006, the Committee of Ministers noted the independence of investigative authorities as an issue of concern for Russia's implementation of European Court rulings on Chechnya.<sup>20</sup>

In September 2007, a Russian presidential decree formed an Investigative Committee within the Prosecutor General's office, which separated this agency's authority to launch and investigate criminal cases from oversight of investigations and prosecutorial functions.<sup>21</sup>

The Investigative Committee has the power to initiate criminal cases, directs investigations, and has supervisory authority over European Court cases. It is subdivided into two branches: the Investigative Directorate [*Sledstvennoe upravlenie*] and the Military Investigative Directorate [*Voennoe sledstvennoe upravlenie*]; these branches are further subdivided by federal subjects and then by regions or cities.

After arriving at the Prosecutor General's office in Moscow, cases which have been decided by the European Court but require further investigation are forwarded to the relevant investigative directorates of regional prosecutors' offices for further investigation. In Chechnya, the Second Department for Particularly Important Crimes of the Investigative Committee of the Chechnya Prosecutor's Office (also known as the Second Department) is

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<sup>20</sup> Committee of Ministers of the Council of Europe, Information Document, CM/Inf/DH(2006)32 29 June 2006, "Violations of the ECHR in the Chechen Republic: Russia's compliance with the European Court's Judgments," ([https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Inf/DH\(2006\)32&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Inf/DH(2006)32&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864), (accessed August 23, 2009) paras. 44-46. See also the revision to this document, of June 12, 2007, <https://wcd.coe.int/ViewDoc.jsp?id=1149205> (accessed August 23, 2009), paras. 87-89.

<sup>21</sup> Although the Investigative Committee is formally attached to the Prosecutor General's office, the head of the committee - who is also the first deputy prosecutor general - is appointed following the same procedure used for the prosecutor general himself, i.e. by the Federal Council (the upper chamber of the parliament), upon the proposal of the Russian President. Committee of Ministers of the Council of Europe, Information Document, CM/Inf/DH(2008)33 September 11, 2008, "Actions of the security forces in the Chechen Republic of the Russian Federation: general measures to comply with the judgments of the European Court of Human Rights," [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Inf/DH\(2008\)33&Language=lanEnglish&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDBo21&BackColorLogged=F5D383#P329\\_45942](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Inf/DH(2008)33&Language=lanEnglish&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDBo21&BackColorLogged=F5D383#P329_45942) (accessed August, 17, 2009), para. 78; and Decree of the President of the Russian Federation, "Questions about the Investigative Committee of the Prosecutor General's Office, No. 1004, August 1, 2007, <http://www.mchs.gov.ru/mchs/law/index.php?ID=4215> (Accessed August 17, 2009).

responsible for the investigations into cases which are the subject of judgments by the European Court.

As indicated in this report, although the Investigative Committee has been functioning for nearly two years and has direct supervision over investigations in European Court cases, including those from Chechnya, investigations into violations in cases from Chechnya found by the European Court have so far been no more fruitful or led to any more meaningful results than prior to the Investigative Committee's creation.

## No Accountability for Perpetrators

To date, not a single person has been held accountable for crimes committed in the 33 cases from Chechnya decided by the European Court and analyzed by Human Rights Watch. In numerous cases, evidence obtained by Russian investigators and cited in European Court judgments indicates the individuals directly involved in the violations; persons responsible for commanding the operations that led to the violations; or a particular military or other unit as being present or involved in the violations. Despite such powerful evidence, investigations have failed to lead to prosecutions of those responsible. Six of these cases are described below.

In numerous judgments on cases from Chechnya, the European Court found that the Russian authorities failed to effectively investigate even very strong leads or evidence indicating official involvement in human rights violations. It appears that this shortcoming has continued in some cases even after the European Court judgments. In four cases known to Human Rights Watch, described in detail below, the Russian government has rejected or ignored the court's findings of violations, emphasizing its lack of intent to conduct full investigations and prosecute even perpetrators or commanding officers.

### The Disappearance and Presumed Death of Shakhid Baysayev

Russian federal troops detained Shakhid Baysayev during a sweep operation in Podgornoye (near Grozny) on March 2, 2000. Baysayev's wife of 25 years, Asmart Baysayeva, has been looking for her husband ever since. Baysayeva obtained a videocassette in August 2000 containing footage of Russian riot police (known by the Russian acronym OMON) detaining her husband. In April 2007, the European Court determined that "Shakhid Baysayev must be presumed dead following unacknowledged detention by State servicemen." The court determined the investigation to have been inadequate, among other reasons, because investigators failed to identify or question the servicemen shown in the videotape detaining Baysayev.<sup>22</sup>

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<sup>22</sup> *Baysayeva v. Russia*, (App. 74237/01), Judgment of 5 April 2007, paras. 120 and 228. "In the present case there existed a unique piece of evidence in the form of a videotape which showed the applicant's husband being apprehended by servicemen and which could have played a key role in the investigation. It was available to the authorities as far back as 2000. The Court finds it astonishing that in February 2006 the persons depicted in it had still not been identified by the investigation, let alone questioned..." *Baysayeva v. Russia*, para. 128.



On March 20, 2008, the Investigative Directorate of the Chechen Republic reopened the investigation.<sup>23</sup> However, as of this writing neither Asmart Baysayeva nor her representatives have any further information about the status of the investigation and are not aware of any further efforts by the authorities to identify or question the servicemen shown in the video.<sup>24</sup>

### **The Disappearance and Presumed Death of Aпти Isigov and Zelimkhan Umkhanov**

During a sweep operation on July 2, 2001, in Sernovodsk, Russian troops detained hundreds of men, including Aпти Isigov and Zelimkhan Umkhanov. Most of the men were released the same evening, but Isigov and Umkhanov disappeared. The Russian authorities' investigation identified the Ministry of Internal Affairs detachments and their commanders involved in the abduction of Isigov and Umkhanov. Despite this crucial evidence, over the course of more than seven years the authorities repeatedly suspended the investigation allegedly because they could not identify the perpetrators. The European Court found this manner of proceeding “appalling” and offering “no prospect of bringing those responsible for the offence to account or of establishing the fate of the applicants' relatives.” The court noted that “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.”<sup>25</sup>

Despite such strong indications from the court, since the June 2008 judgment, *Isigova and Others*, the applicants in the case are not aware of any meaningful steps by the Russian investigative authorities. The applicants have received only a series of letters indicating the case was being transferred from one investigative body to another, with the case ultimately ending up with the Investigative Committee of the civilian prosecutor's office in Chechnya in April 2009.<sup>26</sup> Neither the applicants nor their representatives have been informed of any investigative steps since the European Court judgment.<sup>27</sup>

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<sup>23</sup> Letter from the Investigative Committee of the Chechen Republic to Asmart Baysayeva, no. 396-12048sy-08, March 20, 2008, on file with Human Rights Watch.

<sup>24</sup> Human Rights Watch interview with Asmart Baysayeva, Grozny, July 12, 2009.

<sup>25</sup> *Isigova and Others v. Russia*, (App. 6844/02), Judgment of 26 June 2008, para. 109.

<sup>26</sup> Letter from the Military Prosecutor's Office of the Northern Caucasus Military District to Russian Justice Initiative, no. 1-Y96, March 30, 2009; letter from the Investigative Committee of the Military Investigative Directorate of the United Group of Forces to Russian Justice Initiative, no. 1353, April 6, 2009; and letter from the Investigative Directorate of the Republic of Chechnya to the Head of the Second Department for Investigation of Especially Important Cases of the Investigative Directorate of the Republic of Chechnya (copy to Russian Justice Initiative), April, 20, 2009, No. 396-216/2-44-08, all on file with Human Rights Watch.

<sup>27</sup> Human Rights Watch interviews with Khalisat Umkhanova and with Tsalmat Isigova, Sernovodsk, Chechnya, July 11, 2009.

## The Disappearance and Presumed Death of Kharon and Magomed Khumaidov

In *Akhiyadova v. Russia*, the European Court found the Russian government responsible for the abduction and death of Kharon and Magomed Khumaidov.<sup>28</sup> On February 13, 2002, a group of armed military servicemen broke into the Khumaidovs' home in the village of Makhketi. When the servicemen left, they took Kharon Khumaidov and his 25-year-old son, Magomed, with them. Witnesses observed that servicemen took the Khumaidovs to the building of the Federal Security Service (FSB) in Khatuni.

In August 2002, the prosecutor's office determined that servicemen of the 45<sup>th</sup> regiment had been involved in the abduction. Despite this evidence and the July 2008 European Court judgment determining state responsibility for the disappearances, no perpetrators are known to have been identified. In response to a request for information sent by the Khumaidov family's representatives, in April 2009 the prosecutor's office of the Chechen Republic sent a pro forma reply indicating that the criminal case into the disappearance of the Khumaidovs was under the control of the prosecutor's office and under examination by investigators.<sup>29</sup>

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*In at least four cases, the Russian government has disregarded or directly contested the European Court's findings. These include one case in which the court named a potential perpetrator, and another in which it named those in command responsibility for violations.*

## The Disappearance and Presumed Death of Khadzhi-Murat Yandiyev

While watching an evening news broadcast on February 2, 2000, Fatima Bazorkina saw footage of federal forces detaining her son, Khadzhi-Murat Yandiyev. The video showed Russian Army Colonel-General Alexander Baranov yelling at soldiers saying, "Come on, come on, come on, do it, take him away, finish him off, shoot him, damn it..."<sup>30</sup> Russian servicemen are then seen leading Yandiyev away. He has not been seen since and his body was never found. In 2006, the European Court determined that the Russian government had illegally detained and killed Yandiev and had failed to conduct a proper investigation into his disappearance.

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<sup>28</sup> *Akhiyadova v. Russia*, (App. 32059/02), Judgment of 3 July 2008.

<sup>29</sup> Letter from the prosecutor's office of the Chechen Republic to Russian Justice Initiative, no. 15-192-2009, April 21, 2009, on file with Human Rights Watch.

<sup>30</sup> *Bazorkina v. Russia*, (App. 69481/01), Judgment of 27 July 2006.

In the more than three years since the European Court's judgment, the Russian authorities have refused to open an investigation into the actions of General Baranov and have on two occasions indicated that they do not respect the court's judgment. In a March 24, 2008 letter to Bazorkina's representatives, the military prosecutor's office concluded that during the 'preliminary' investigation into Yandiev's disappearance, "all violations of the European Convention, indicated in the Court's judgment [in *Bazorkina v. Russia*], have been rectified."<sup>31</sup> The letter did not explain this conclusion, nor did it explain why an investigation that has been ongoing for nearly seven years has failed to lead to the identification and punishment of the perpetrators or to locate Yandiev's body.

On February 20, 2009, Bazorkina's representatives wrote to the military investigative directorate responsible for the investigation into Yandiyev's killing, requesting that the authorities launch a criminal investigation into General Baranov's actions, which the court had found placed Yandiyev in a life-threatening situation.<sup>32</sup>

In its reply of April 3, 2009, however, the military prosecutor responded that "no evidence has been established during the investigation of potential involvement of Major-General A.I. Baranov in the abduction and killing of Kh-M.A. Yandiyev. In this connection, the request to launch a criminal investigation in relation to the latter [sic] has been denied."<sup>33</sup>

### **The Killing by Bombardment of Zara Isayeva's Son and Nieces**

On February 4, 2000, a Russian military aerial and artillery bombardment of the village of Katyr-Yurt killed at least 46 civilians, including Zara Isayeva's son and three nieces, and wounded 53 others. Russian forces had declared the village a "safe zone" for people fleeing fighting taking place in other parts of Chechnya. In 2005, the European Court found two senior military officers, Major-General Yakov Nedobitko and Major-General Vladimir Shamanov, responsible for the operation, which involved the "massive use of indiscriminate weapons" and which led to the loss of civilian lives and a violation of the right to life. The court also found that the investigation into the operation had been inadequate. In particular, the court determined that government's decision to close the investigation, based on a February 2002 military experts' report concluding that the actions of the operational

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<sup>31</sup> Letter from the Military Prosecutor's Office of the United Group of Forces, no. 3/1262, March 24, 2008, no. 3/1262, on file with Human Rights Watch.

<sup>32</sup> "Whether [General Baranov's] words [to "finish off" Yandiev] were interpreted as a proper order within the chain of command is under dispute between the parties, but there can be no doubt that in the circumstances of the case the situation can be reasonably regarded as life-threatening for the detained person." *Bazorkina v. Russia*, para. 110; and Letter from Russian Justice Initiative to the Military Investigative Directorate of the United Group of Forces, no. Mo90220, April 20, 2009, on file with Human Rights Watch.

<sup>33</sup> Letter from the Military Investigative Directorate of the United Group of Forces to Russian Justice Initiative, no. 1342, April 3, 2009, on file with Human Rights Watch.

command corps (including Nedobitko and Shamanov) were legitimate and proportionate to the situation, was not consistent with the materials of the investigation file.<sup>34</sup>

Following the European Court's judgment, in November 2005, the Russian authorities resumed the investigation into the operation in Katyr-Yurt, but closed it in June 2007, having found "no evidence of a crime." None of the applicants in the case were informed about the closure, and learned about it only after the government submitted a memorandum to the European Court in another application involving the same events and investigation.<sup>35</sup> On May 25, 2009 the Ministry of Defense announced that Lt. General Shamanov had been appointed commander of the airborne troops of the Russian Federation.<sup>36</sup>

### The Killing of Khalid Khatsiyev and Kazbek Akiyev

Around noon on August 6, 2000 a Russian military helicopter opened fire, without apparent reason, at a car and a group of men who were mowing grass near the village of Arshty in Ingushetia (just across the border with Chechnya). Khalid Khatsiyev, a father of two, and Kazbek Akiyev, a father of four, were both killed in the attack. In its 2008 judgment, the European Court, unable to "perceive any justification for the use of lethal force in the circumstances of the present case" found that the Russian government had violated the victims' right to life.<sup>37</sup>

Despite the overwhelming evidence of Russian federal military personnel involvement in the attack, the military prosecutors' investigation established the identity of the federal pilots who participated in the attack only more than a year after the incident.<sup>38</sup> The identity of their superiors who had given the order to attack does not appear to have been established at all. Notably, in December 2001, the military prosecutor's office issued a decision to discontinue the criminal investigation into the actions of an official who had ordered the attack, without indicating whether the identity of that official had been established. Furthermore, the

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<sup>34</sup> *Isayeva v. Russia*, (App. 57950/00), Judgment of 24 February 2005, paras. 223-224.

<sup>35</sup> Memorandum of the Russian Federation concerning application no. 27065/05, *Abyeva and Others v. Russia*, January 12, 2009, no. 14-2174-08, paras. 25 and 30. The case *Abyeva and Others v. Russia*, lodged with the European Court in 2005, concerns the same events in Katyr-Yurt as *Isayeva v. Russia*.

<sup>36</sup> Human Rights Watch, "Russia: Investigate General Who Got Promotion, European Court Found He Was in Command When Villagers Got Killed," Press Release, May 28, 2009, <http://www.hrw.org/en/news/2009/05/27/russia-investigate-general-who-got-promotion>.

<sup>37</sup> *Khatsiyeva and Others v. Russia*, (App. 5108/02), Judgment of 17 January 2008, para. 139.

<sup>38</sup> "Furthermore, despite the abundant evidence of the federal military personnel's involvement in the attack of 6 August 2000 and the killing of the applicants' two relatives, it does not appear that at the early stage of the investigation any meaningful efforts were made to establish the identity of the State agents who had given the order to attack the group of people including the applicants' relatives, or of those who had carried out the order. ... The Court notes in this connection that it is highly unlikely that the identity of those involved in the operation of 6 August 2000 was unknown to the authorities or that it was impossible to establish it immediately thereafter." *Khatsiyeva and Others v. Russia*, para. 147.

decision ordered that the proceedings be discontinued on the sole ground that the circumstances justified the command to use lethal force; the decision made no assessment of that command nor did it provide any explanations.<sup>39</sup>

On March 30, 2009, the head of the Military Investigative Directorate under the United Group of Forces ordered all parts of the investigation into the killing of Khalid Khatsiyev and Kazbek Akiyev reopened. However, without explanation or justification, the investigator responsible for the case reopened only part of the investigation, leaving in place the 2001 military prosecutors' decisions to close the investigation into the pilots and their superiors.<sup>40</sup> In so doing, he ignored the European Court's extensive and strong language regarding the failure of the investigation to pursue the helicopter pilots and their superiors responsible for the attack that killed Khatsiyev and Akiyev.<sup>41</sup>

In a letter to the applicants' legal representatives, the investigator indicates his intent to pursue a few procedural steps only, based on his belief that "*part of the Court's findings in [the] Khatsiyeva and Others v. Russia [judgment], can be confirmed,*" namely the procedural failures to grant any of Khatsiev's relatives victim status in the criminal investigation; the absence of a forensic ballistic examination; and the failure to exhume the bodies of the victims for forensic medical tests.<sup>42</sup>

The investigator then suspended the investigation on April 30, 2009, the same day as his letter to the applicants' representatives indicating the decision to reopen the investigation, although this letter did not inform them of his decision to suspend. The applicants learned of the suspension only in a May 14, 2009 in a letter from the Military Prosecutor's Office of the United Group of Forces.<sup>43</sup> At least two of the victims' relatives were interrogated by investigators during this brief resumption of the investigation, although the purpose of the interrogations was not clear to them, given the strength of the existing evidence.

The status of the investigation since the April 30 suspension is not known to the applicants or their representatives.<sup>44</sup> One of Khalid Khatsiev's brothers, Nasip Khatsiev, told Human Rights Watch, that he and his family are still waiting for real results of the investigation: "The European Court judgment came in January 2008. ... We rather hoped for justice to be

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<sup>39</sup> *Khatsiyeva and Others v. Russia*, paras. 76 and 147.

<sup>40</sup> Letter from the Military Investigative Directorate of the United Group of Forces to Russian Justice Initiative, no. 1773, April 30, 2009, on file with Human Rights Watch.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Emphasis added. Ibid.*

<sup>43</sup> *Ibid.*; and Military Prosecutor's Office of the United Group of Forces, no. 3/2069, May 14, 2009.

<sup>44</sup> Human Rights Watch interview with Nasip Khatsiev, brother of Khalid Khatsiyev, and Zalina Khayauri, widow of Kazbek Akiyev, Nazran, Ingushetia, July 8, 2009.

restored. We hoped that those military servicemen who shot peaceful people from the helicopter be punished. Although it's clear what happened, ... nothing is being done.”<sup>45</sup>

## The Disappearance and Presumed Death of the Aziyev Brothers

In the case *Aziyevy v. Russia*, less than six months after the European Court decision, the Investigative Directorate of the Republic of Chechnya sent a letter to the Aziyev family flatly rejecting the European Court's findings.

On September 24, 2000, a group of eight military servicemen broke into Lech Aziyev's home, kicked and beat him, and then detained his two sons, Lom-Ali and Umar-Ali Aziyev. The Aziyev family has had no news of their two sons since. In its judgment the European Court held that servicemen were responsible for the disappearance and presumed death of Lom-Ali and Umar-Ali Aziyev, in violation of the right to life guaranteed by article 2 of the European Convention.<sup>46</sup>

The court strongly criticized the investigation, noting that the materials of the criminal investigation file “do not suggest any progress in more than seven years and, if anything, show the incomplete and inadequate nature of those proceedings,” including a failure to identify and question servicemen at a nearby checkpoint, to identify whether any special operations had been carried out at the time of the disappearances, or to question witnesses.<sup>47</sup> The court also concluded that “authorities' behavior in the face of the applicants' well-substantiated complaints gives rise to a strong presumption of at least acquiescence in the situation and raises strong doubts as to the objectivity of the investigation.”<sup>48</sup>

In addition, the court held that the manner in which the Russian authorities dealt with the Aziyevs' complaints regarding the disappearance of their sons constituted inhuman treatment contrary to article 3 of the European Convention, that the brothers had been held in illegal detention, and that the family had not had access to an effective remedy for any of the violations.

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<sup>45</sup> Human Rights Watch interview with Nasip Khatsiev.

<sup>46</sup> *Aziyevy v. Russia*, (App.77626/01), Judgment of 20 March 2008, paras. 76 and 84.

<sup>47</sup> *Aziyevy v. Russia*, paras. 77, 78 and 93.

<sup>48</sup> *Aziyevy v. Russia*, para. 78.

However, in an April 29, 2009 letter to Lech Aziyev, the Investigative Directorate of the Republic of Chechnya flatly disputed the majority of the European Court’s findings, stating:

- “The materials of the criminal case file do not confirm that representatives of federal forces violated L-A. L. Aziyev’s and L-U L. Aziyev’s [the brothers] right to life;”
- The investigation had been effective and in accordance with European Convention standards because it had involved “numerous inquiries and requests through all force structures located on the territory of the [Chechen] republic, with the aim of identifying the persons responsible for the crime;”
- “The materials of the criminal case file do not confirm that [the brothers] L-A. L. Aziyev [and] Y-A. L. Aziyev or [the father, Lech Aziyev] were subject to treatment in violation of Article 3 of the Convention from the side of the government;” and
- “As confirmed by the materials of the criminal case file, governmental organs of the Russian Federation did not impede the applicants’ right to effective remedy.”<sup>49</sup>

While the letter rejects the Court’s findings, including the fact that federal forces were responsible for the disappearance and presumed death of the Aziyev brothers, it also stated that the investigation had been resumed on March 3, 2008 and listed a number of investigative measures being undertaken to find the missing Aziyev brothers and “identify those responsible for the crime.”<sup>50</sup> Since the February 2009 letter neither the Aziyevs nor their representatives have received any information from the authorities about the results of the investigation. Zulai Aziyeva, mother of the Aziyev brothers, told Human Rights Watch that she and her husband continue to hope for resolution in the case: “I want my sons back. That’s all we need. ... This is about our children. We’re two elderly people. We’re all alone. ... We want our boys—or at least to know what happened to them. We want this torment to be over.”<sup>51</sup>

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<sup>49</sup> Letter from the Investigative Directorate of the Republic of Chechnya to Lech Aziyev, no. 396-216/2-54-07, February 19, 2009, on file with Human Rights Watch.

<sup>50</sup> Ibid.

<sup>51</sup> Human Rights Watch interview with Zulai Aziyeva, Grozny, July 12, 2009.

## Ongoing Failure to Inform Aggrieved Parties about the Investigation

The European Court has established that one of the elements of an effective investigation is the requirement to provide information to the victim's relatives about the investigation.<sup>52</sup> The court has confirmed this principle in cases from Chechnya, holding in virtually all cases that the Russian authorities have not properly informed the applicants about the investigations. In at least 70 cases (as of September 24, 2009) concerning disappearances in Chechnya the European Court found that the government's conduct of its investigation and its superficial responses to the applicants' complaints and requests for information constituted inhuman treatment with respect to the applicants, contrary to article 3 of the European Convention.<sup>53</sup>

In *Bazorkina v. Russia*, the first disappearance case from Chechnya that it ruled on, the court noted that in response to Fatima Bazorkina's complaints, the Russian government mostly denied the government's responsibility for the disappearances, or simply informed Bazorkina that an investigation was ongoing. Taking the failures of the investigation and the indifferent response on the part of the government together, the court found that "the applicant suffered, and continues to suffer, distress and anguish as a result of the disappearance of her son and of her inability to find out what happened to him. The manner in which her complaints have been dealt with by the authorities must be considered to constitute inhuman treatment contrary to Article 3."<sup>54</sup> The court echoed this language in more than 70 subsequent judgments.<sup>55</sup>

Despite the European Court's consistently strong language on this manner of inhuman treatment, applicants to the European Court interviewed by Human Rights Watch continue to receive no or largely *pro forma* information about investigations after the judgments became final, even after they submitted requests to the authorities for information. Many did not know whether the investigation was still ongoing or had been closed.

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<sup>52</sup> *McKerr v. United Kingdom*, (App. 28883/95), Judgment of 4 May 2001, para. 157. See also *Kukayev v. Russia*, (App. 29361/02), Judgment of 15 November 2007, paras. 107-110.

<sup>53</sup> The European Court establishes such a violation in disappearance cases primarily in respect of the authorities' reactions and attitudes to the alleged crime when it is brought to their attention, not just the fact of a disappearance alone. See, *inter alia*, *Bazorkina v. Russia*, para. 139.

<sup>54</sup> *Bazorkina v. Russia*, para. 141.

<sup>55</sup> See, for example, *Imakayeva v. Russia* (App. 7615/02), Judgment of 9 November 2006, para. 166.



## Applicants Questioned but Given No Information

For example, in the case *Isayeva, Yusupova, and Bazayeva v. Russia*, the European Court found Russia responsible for the death of several of the applicants' relatives during an aerial attack on a civilian convoy in 1999.<sup>56</sup> The applicants became aware that the investigation had been reopened when they were summonsed for questioning in 2008, but have had no information about the investigation since. Human Rights Watch spoke to two of the applicants in the case. Medka Isayeva stated:

They invited me to come to [speak to military investigators at] Khankala once or twice. This was some time last year. ... They asked the same questions as before: what time it all happened, who was killed, where are they buried and so on. I don't know what happened since then. They said that they would call, but I never heard anything. I didn't receive any letters either.<sup>57</sup>

Zina Yusupova was asked similar questions by investigators in 2008, who were particularly focused on the time of the bombing and pressured her to state that it happened in late afternoon, rather than in early afternoon, as she recalls. She has had no news of the investigation since then.<sup>58</sup>

Eight other applicants interviewed by Human Rights Watch also stated that they had been questioned by investigators since the European Court judgments on their cases, but told Human Rights Watch that the interrogations simply repeated interrogations from the earlier investigations. They also received no substantive information or no information at all regarding ongoing proceedings in the investigation.<sup>59</sup> For example, according to Abubakar Gaitaev, whose brother was disappeared in January 2003, "They [the investigators] questioned me and the other family members, asking us how [Musa] had been abducted, what we had seen, if we had any information on his whereabouts, etc. It wasn't any different from the kinds of questions we had been asked at the first interrogations, years ago."<sup>60</sup>

Asmart Baysayeva, whose case includes a video depicting her husband being detained by federal forces, described to Human Rights Watch a recent interrogation, which was not only

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<sup>56</sup> *Isayeva, Yusupova, and Bazayeva v. Russia*, (App. 57947/00, 57948/00, and 57949/00), Judgment of 24 February 2005.

<sup>57</sup> Human Rights Watch telephone interview with Medka Isayeva, July 30, 2009.

<sup>58</sup> Human Rights Watch telephone interview with Zina Yusupova, July 30, 2009.

<sup>59</sup> Human Rights Watch interviews with Nasip Khatsiev, Nazran, July 8, 2009; Abubakar Gaitaev, Martan-Chu, July 11, 2009; Medina Akhmadova, Grozny, July 11, 2009; Umazh Ibragimov, Urus Martan, Chechnya, July 11, 2009; with Asmart Baysayeva, Grozny, July 12, 2009; Larisa Tovmirzayeva and Belita Dadayeva, Novye Atagi, Chechnya, July 12, 2009; and Lech Aziyev and Zulai Aziyeva, Grozny, July 12, 2009; and Human Rights Watch telephone interview with Fatima Bazorkina, July 30, 2009.

<sup>60</sup> Human Rights Watch interview with Abubakar Gaitaev, Martan-Chu, July 11, 2009.

perfunctory, but humiliating, suggesting that her husband had voluntarily absconded, perhaps even with another woman:

They asked all the old questions. ‘Where did my husband go? Did he have another wife? Could he simply have run off with a mistress?’ They’ve been asking me those questions for nine years... This is the tenth investigator I’ve been talking to, and every time the case is assigned to a new investigator I realize that he hasn’t even watched the video of my husband [being detained by] Russian servicemen, which is part of the case file. ... What am I still hoping for? All I want is for those servicemen—their faces are all on that video ...—to be brought here and interrogated.<sup>61</sup>

In other cases, investigators have not contacted applicants at all following the judgments, either to summon them for questioning or to inform them of the status of the investigation. Zainap Tangiyeva, whose mother, father, and uncle were killed in 1999 during a massive sweep operation in the Staropromoslovsky district of Grozny, has had no information from investigators more than one year since her judgment became final.<sup>62</sup> “When the judgment was passed, it was a very good feeling,” she told Human Rights Watch. “It was important to know that Russia was found responsible and that the authorities are required to investigate the crime. But, the authorities never contacted me about [the investigation]. No officials have contacted me, no new investigation seems to be happening. The prosecutor’s office has not been in contact with me even once since the judgment came.”<sup>63</sup>

## **No Meaningful Response or No response to Information Requests**

In numerous cases, applicants and their representatives have sent requests for information to investigators and prosecutors, yet have received only formalistic responses or no response at all.

Russian Justice Initiative (RJI), an organization representing victims in dozens of cases before the European Court, has submitted separate letters to relevant prosecutorial authorities in at least 19 cases, asking detailed questions about the progress of the investigation since the court judgments became final and requesting that the authorities take certain investigative measures, if they had not yet done so.<sup>64</sup>

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<sup>61</sup> Human Rights Watch interview with Asmart Baysayeva, Grozny, July 12, 2009.

<sup>62</sup> *Tangiyeva v. Russia*, (App. 57935/00), Judgment of 29 November 2007.

<sup>63</sup> Human Rights Watch interview with Zainap Tangiyeva, Nazran, Ingushetia, July 8, 2009.

<sup>64</sup> All of these case files were reviewed by Human Rights Watch. Letters from Russian Justice Initiative to investigative authorities in cases *Akhiyadova v. Russia*, on March 3, 2009; *Akhmadova and Sadulayeva v. Russia*, on March 3, 2009; *Akhmadov and Others v. Russia*, on March 3, 2009; *Aziyevy v. Russia*, on October 3, 2009; *Bazorkina v. Russia*, on January 11,

In many cases, the authorities have not replied at all several months after the request was submitted.<sup>65</sup> With regards to 10 cases, the Prosecutor's Office of the Republic of Chechnya sent a one-page letter to RJI, informing the lawyers that the cases had been transferred to its Second Department and that the "progress and results of the investigation have been placed under the control of the prosecutor's office of the republic."<sup>66</sup> The letter contained no other information about the investigation.

Even in cases in which the authorities have submitted several letters to the applicants and their representatives, a closer examination of the correspondence reveals that it contains little substantive information. For example, although investigators have sent a number of documents to the applicants and their representatives in *Utsaeva and Others v. Russia* concerning the disappearance of four men during a special operation in Novye Atagi in 2002, the letters either indicate that the case is with investigators or contain vague descriptions of investigative actions. Despite claiming that a "significant volume of investigative and other procedural measures," have been taken, the investigation has produced no results.<sup>67</sup> Belita Dadayeva, mother of disappeared Movsar Taisumov and an applicant in the *Utsaeva and Others v. Russia* case, told Human Rights Watch that she still awaits the investigation to reach a conclusion: "We are still waiting, hoping. ... [Our sons] have to be somewhere. Or their bodies. We cannot even bury them. If we could only do that it would at least give us peace. But there is nothing, no traces. And all I do is think of [my disappeared son] day after day, each and every moment."<sup>68</sup>

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2008 and February 20, 2009; *Estamirov and Others v. Russia*, on January 11, 2008 and April 30, 2009; *Imakayeva v. Russia*, on December 7, 2007 and April 30, 2009; *Goygova v. Russia*, on April 28, 2008 and March 16, 2009; *Khadzhialiyev and Others v. Russia*, on June 10, 2009; *Khalidova and Others v. Russia*, on June 10, 2009; *Khatsiyeva and Others v. Russia*, on March 11, 2009; *Lyanova and Aliyeva v. Russia*, on June 10, 2009; *Magomadova and Iskhanova v. Russia*, on June 10, 2009; *Magomed Musayev and Others v. Russia*, on June 10, 2009; *Rasayev and Chankayeva v. Russia*, on June 10, 2009; *Tsurova and Others v. Russia*, on June 10, 2009; *Utsayeva and Others v. Russia*, on March 3, 2009; *Yusupova and Zaurbekov v. Russia*, on June 10, 2009; and *Zulpa Akhmatova and Others v. Russia*, on June 10, 2009.

<sup>65</sup> This is the case for example in *Khadzhialiyev and Others v. Russia*, *Khalidova and Others v. Russia*, *Lyanova and Aliyeva v. Russia*, and *Magomed Musayev and Others v. Russia*.

<sup>66</sup> As noted above, the Second Department is the Second Department for Particularly Important Crimes of the Investigative Committee of the Chechnya prosecutor's office. Letter from the prosecutor's office of the Chechen Republic to Russian Justice Initiative, April 21, 2009, no. 15-192-2009, on file with Human Rights Watch.

<sup>67</sup> "A significant volume of investigative and other procedural measures have been undertaken during the preliminary investigation. Among those, [the investigation has], through investigatory-operational means, undertaken measures to establish the whereabouts of military servicemen of the commandant's office of the district of Shali, who presumably could have participated in the special operation in the village of Novye Atagi on June 2, 2006, to establish to whom APCs with hull number "569," "1252," and "889" belonged, as well as vehicles of the brand UAZ-344, documents have been obtained from the central archive of security forces, all witnesses of the crime have been questioned. However, through the undertaken measures it has not been possible to establish the identity of those who committed the crime and the equipment that they used. The work to establish their identity continues." Letter from the Investigative Directorate of the Republic of Chechnya to RJI, no. 396-216/2-36-07, May 27, 2009, on file with Human Rights Watch.

<sup>68</sup> Human Rights Watch interview with Belita Dadayeva, Novie Atagi, Chechnya, July 12, 2009.

On June 10, 2009, Russian Justice Initiative sent information request letters regarding five other cases, but to date has received no replies at all.<sup>69</sup> An applicant in one of these cases, Zara Khadzhiyeva, whose two sons were detained and later killed by Russian forces, voiced her anger about the lack of an effective investigation to Human Rights Watch: “The investigation is not going anywhere. After the [European Court] judgment, nothing changed, no action has been taken. We are hoping for the killers to be found and punished. [It seems that] this [justice] system protects the criminals instead of punishing them.”<sup>70</sup>

The Russian government’s continued inability or unwillingness to conduct meaningful investigations and to provide substantive responses to the inquiries of the victims’ relatives represents not only a failure to implement European Court judgments, but also continued inhuman treatment of the applicants. The situation is further exacerbated by the government repudiating the European Court judgments and continuing to deny culpability for the violations in a number of cases, as described above.

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<sup>69</sup> *Khatsiyeva and Others v. Russia; Rasayev and Chakankayeva v. Russia; Khadzhiyev and Others v. Russia; Lyanova and Aliyeva v. Russia; and Magomed Musayev and Others v. Russia.*

<sup>70</sup> Human Rights Watch interview with Zara Khadzhiyeva, Samashki, Chechnya, July 12, 2009.

## Ongoing Failure to Provide Aggrieved Parties Access to the Criminal Case File

Human Rights Watch found that in the vast majority of cases, Russian investigative authorities continue to deny European Court applicants access to the case file after the judgment has become final, in continued violation of the applicants' right to an effective remedy (article 13 of the European Convention).

### The Importance of Access to the Case File

In all of its rulings concerning violations in Chechnya, the European Court has held that the applicants were deprived of effective remedies in respect of the various violations that they complained about. In many of these cases, the court has listed the authorities' refusal to grant the victim's relatives access to the case file in the criminal investigation as one of the reasons it considered the investigation ineffective and therefore failing to constitute an effective remedy.<sup>71</sup> In the case of *Gekhayeva and Others v. Russia*, for example, the court found that:

The applicants, having no access to the case file and not being properly informed of the progress of the investigation could not have effectively challenged the actions or omissions of the investigating authorities before a court... Accordingly, the Court finds that the remedy relied on by the Government was ineffective in the circumstances...<sup>72</sup>

One lawyer who has won several European Court cases against Russia explained to Human Rights Watch why access to the case file is crucial to ensure an effective investigation:

The investigative authorities regularly suspend the investigation of these cases, claiming that it has not been possible to identify the perpetrators. If we are not able to review the documents in these cases, we have no information about what measures the authorities have undertaken to investigate the disappearance. Without this information it becomes

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<sup>71</sup> See for example *Gekhayeva and Others v. Russia*, (App. 1744/04), Judgment of 29 May 2008, para. 107; *Takhayeva and Others v. Russia*, (App. 23286/04), Judgment of 18 September 2008, para. 95; and *Karimov and Others v. Russia*, (App. 29851/05), Judgment of 16 July 2009, para. 118. The European Court has also held in several cases that the Russian authorities' refusal to provide it with a copy of the criminal case file constitutes a violation of article 38, the state party's obligation to cooperate with the court. See for, *Imakayeva v. Russia*, para. 123.

<sup>72</sup> European Court of Human Rights, *Gekhayeva and Others v. Russia*, para. 107.

impossible for us to challenge the decision to suspend the investigation and to point out to the court what other steps should have been taken.<sup>73</sup>

In the cases analyzed by Human Rights Watch, Russian investigating authorities, however, have consistently denied applicants access to the case file.

For example, in June 2008, Marzet Imakayeva and her lawyer went to the Shali district prosecutor's office in Chechnya to review the case file in the criminal investigation related to her husband's abduction by federal forces in June 2002.<sup>74</sup> Imakayeva told Human Rights Watch:

Last year I came to Chechnya from the United States [where I now live] and got access to my husband's case file. Together with my lawyer we started going over the file. We immediately saw that all the witness testimonies had been taken out of the case file, but we weren't even able to photograph anything because in about 15 minutes they took all the three volumes of the case file from us. The officials at the prosecutor's office were afraid of getting into trouble—they even told me that directly. An investigator, a young guy, started begging me, "If you photograph this they'll fire me right away!" And his boss was saying, "Why do you need this? You've already won your case. Leave this alone."

So, I returned to Chechnya this summer, once again, to ask for access to the case file. We've sent an official request and I'm now waiting for the answer. That's why I'm here.<sup>75</sup>

On April 30, 2009, Imakayeva and her lawyer submitted a written request to review the criminal case.<sup>76</sup> In a letter to Imakayeva's lawyer, the Investigative Directorate of the Republic of Chechnya replied:

In connection with the fact that the investigation in the criminal case has not concluded, in accordance with paragraph 2, article 42 of the criminal procedure code, the representatives of the applicants cannot review the

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<sup>73</sup> Human Rights Watch interview with lawyer (name withheld), Moscow, July 29, 2009.

<sup>74</sup> *Imakayeva v. Russia*.

<sup>75</sup> Human Rights Watch interview with Marzet Imakayeva, Grozny, July 12, 2009.

<sup>76</sup> Letter from Russian Justice Initiative to the Shali interdistrict investigative department, April 30, 2009, on file with Human Rights Watch.

materials of the criminal case in its entirety, and only with the protocols of investigatory measures undertaken with their participation.<sup>77</sup>

Russian legislation, however, does not provide an absolute prohibition on access to the case file before the investigation has concluded. Article 42 confirms the right of the aggrieved party to review the case file after the investigation has concluded, but, contrary to the investigator's claim above, it is silent on the issue of access to the case file during the investigation.<sup>78</sup> Article 161 of the criminal procedure code does stipulate that materials of the preliminary investigation should, as a default, not be divulged. However, the investigative authorities can provide access "in such volume, which they recognize as permissible, if such divulgence does not contradict the interests of the preliminary investigation and is not connected with a violation of the rights and lawful interests of the participants in the criminal court proceedings."<sup>79</sup> The Russian authorities' blanket use of this provision to refuse any disclosure of the criminal case file has also been criticized by the European Court.<sup>80</sup>

For Marzet Imakayeva, the European Court judgment has not diminished her desperate efforts to learn the fate of her husband and son. She told Human Rights Watch, "If only I could be given the bodies of my husband and son, I could bury them. ... This is the one thing that I want now. I just want to know the truth. I'm ill all the time because of this torture of not knowing. ... I need the truth. Anything is better than this waiting."<sup>81</sup>

Human Rights Watch reviewed six additional cases in which applicants and their lawyers submitted written requests in 2007, 2008, and 2009 to review the criminal case file in cases decided by the European Court.<sup>82</sup> In four of the cases the authorities replied that it was not

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<sup>77</sup> Letter from the Shali interdistrict investigative department to Russian Justice Initiative, May 27, 2009, on file with Human Rights Watch.

<sup>78</sup> Criminal Procedure Code of the Russian Federation, No. 174-FZ of December 18, 2001, with amendments, article 42.

<sup>79</sup> Criminal Procedure Code of the Russian Federation, No. 174-FZ of December 18, 2001, with amendments, article 161.

<sup>80</sup> In *Imakayeva v. Russia* the European Court stated: "the provisions of Article 161 of the Code of Criminal Procedure, to which the Government refer, do not preclude disclosure of the documents from a pending investigation file, but rather set out a procedure for and limits to such disclosure." *Imakayeva v. Russia*, para. 123. Several lower courts have also held that the investigating authorities have been too restrictive in denying victims access. On August 1, 2005, for example, the Urus-Martan city court declared that the prosecutor had acted negligently in the case of I. Sagayev and ordered the prosecutor's office to facilitate Sagayev's access to the criminal case file: "The Court is of the opinion that I. Sagayev, in criminal case 6121, has the right to complain about actions (omissions) and decision made by the investigator and prosecutor. This right is one of the means of legal defense provided for by current legislation. In order to make use of this right, however, I. Sagayev should receive information about the progress of the investigation in the current criminal case. He can only receive the necessary information by reviewing the material of the criminal case." Urus-Martan city court, Decision on redress of grievance, decision of August 1, 2005, on file with Human Rights Watch.

<sup>81</sup> Human Rights Watch interview with Marzet Imakayeva, Grozny, July 12, 2009.

<sup>82</sup> Russian Justice Initiative submitted letters to investigative authorities in the following ECHR cases: *Akhiyadova v. Russia*, on March 3, 2009; *Aziyevy v. Russia*, on October 3, 2008; *Bazorkina v. Russia*, on January 11, 2008 and on February 20, 2009;

possible for the applicants to review the criminal case file before the conclusion of the investigation. In the two other cases the authorities completely ignored the applicants' request to review the case file.<sup>83</sup>

On July 28 and August 3, 2009, applicants and lawyers resubmitted requests to review the case files. Four of these cases are being investigated by the Second Department of the Investigative Directorate of the Chechnya Prosecutor's Office ("Second Department")<sup>84</sup> and two cases are under the jurisdiction of the Military Investigative Directorate.<sup>85</sup> On August 9, an investigator at the "Second Department" informed the lawyer in these cases the case that the requests had been denied. The lawyer told Human Rights Watch:

The investigator on the case recognized my name and called me yesterday [August 9] on the day that they were legally obliged to reply to my request. He told me that my request for access to the criminal case files had been denied. According to him, the investigation in all the cases had been suspended and there is no real investigation going on. Still, they deny us access. Now we have to go to the court to try to get access that way.<sup>86</sup>

It is not known as of this writing whether the requests for access were granted in the two cases being investigated by the military investigative directorate.

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*Estamirov and Others v. Russia*, on January 11, 2008 and on April 30, 2009; *Goygova v. Russia*, on April 28, 2008 and on March 19, 2009; and *Imakayeva v. Russia*, on December 7, 2007 and on April 30, 2009. All letters on file with Human Rights Watch.

<sup>83</sup> Letter from the prosecutor's office of the Chechen Republic to Russian Justice Initiative, no. 15-192-2009, April 21, 2009, on file with Human Rights Watch. Letter from the Investigative Directorate of the Republic of Chechnya to Lech Aziyev, no. 396-216/2-54-07, February 19, 2009, both on file with Human Rights Watch.

<sup>84</sup> Letters from Russian Justice Initiative to the Second Department for Investigation of Especially Important Cases of the Investigative Directorate of the Republic of Chechnya in the cases *Lyanova and Aliyeva v. Russia*, on July 28, 2009; *Aziyevy v. Russia*, on July 28, 2009; *Gekhayeva and Others v. Russia*, on August 3, 2008; and *Akhiyadova v. Russia*, on August 3, 2008. All letters on file with Human Rights Watch.

<sup>85</sup> Letters from Russian Justice Initiative to the Military Investigative Directorate in the cases *Bazorkina v. Russia* and *Baysayeva v. Russia*, on August 3, 2009, on file with Human Rights Watch.

<sup>86</sup> Human Rights Watch interview with lawyer (name withheld), Moscow, August 11, 2009.



## Legal Obstacles to Investigation

In at least two cases, legal, jurisdictional, or bureaucratic obstacles have prevented an effective investigation and thereby proper implementation of European Court judgments.

### Aziyevy v. Russia

In the investigation into the abduction in 2000, of the Aziyev brothers, the lack of replies from government structures and a secret order of the Ministry of Internal Affairs have prevented the investigation from establishing the identity of potential perpetrators. As noted above, in *Aziyevy v. Russia*, the European Court established that the investigation into the disappearances had been inadequate and that it had failed to undertake a number of essential steps:

Most notably, it does not appear that the investigation tried to identify and question the servicemen who had manned the roadblock to which the witnesses referred nor that they had tried to find out whether any special operations had been carried out at the applicants' place of residence on the night in question.<sup>87</sup>

According to a December 2008 letter from the Prosecutor's Office of the Republic of Chechnya to the Aziyev family's lawyers, the investigation had submitted several letters to various government structures, requesting information about possible special operations at the time of the abduction. The investigative authorities had not received any replies, however.<sup>88</sup>

The investigation also attempted to establish the identity of military servicemen manning the checkpoint near the Aziyev family's house. According to the same December 2008 letter, the investigative authorities had submitted a letter to the head of the Ministry of Internal Affairs in Mari-El, requesting the names of officers of the Mari-El riot police who served at checkpoint 13 in Grozny on the night that the Aziyev brothers were abducted.<sup>89</sup> The head of the Mari-El Ministry of Internal Affairs rejected the request, however, referring to an August

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<sup>87</sup> *Aziyevy v. Russia*, para. 93

<sup>88</sup> Letter from the Prosecutor's Office of the Republic of Chechnya to Russian Justice Initiative, December 19, 2008, on file with Human Rights Watch.

<sup>89</sup> During the war, check-points and police-stations in Chechnya were often manned by police units from other regions in Russia.

25, 2007 Ministry of Internal Affairs order that allegedly prohibits the disclosure of personal information about officers participating in counter-terrorist and special operations.<sup>90</sup> The Aziyev family's lawyers have since attempted to obtain a copy of the August 25, 2007 order from the Ministry of Internal Affairs.<sup>91</sup> As of this writing, the Ministry has not replied. Despite these shortcomings, the investigative authorities again suspended the investigation into the Aziyev brothers' abduction on December 6, 2008.<sup>92</sup>

## **Imakayeva v. Russia**

Russian military investigative authorities have refused to provide the civilian investigation with access to key information about likely perpetrators of the abduction of Marzet Imakayeva's husband in 2002, preventing an effective investigation and proper implementation of the judgment.

In 2002, Marzet Imakayeva's husband was abducted by military servicemen from his home in Novye Atagi. After having denied any state involvement in the abduction for more than two years, the military prosecutor's office in July 2004 admitted that Imakayev had been detained by the Federal Security Service (FSB) and that it had questioned the military servicemen who detained him. The authorities claimed, however, that the FSB had released Imakayev shortly after his detention and that his disappearance therefore was not connected to his detention. Based on this conclusion, the military prosecutor's office closed the investigation and canceled Imakayeva's status as a victim in the case, depriving her and her lawyers of the possibility to review the case file and the relevant testimonies. When the civilian prosecutor's office launched a new criminal investigation several months later, the military prosecutor's office refused to provide the civilian prosecutor with statements from the military servicemen who detained Imakayev.

In its judgment, the European Court referred to the civilian investigation's lack of access to these statements as one of the reasons for finding that the investigation had been inadequate and in violation of article 2.<sup>93</sup> In its supervision of Russia's implementation of

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<sup>90</sup> Order 750 dsp of the Ministry of Internal Affairs of the Russian Federation, August 25, 2007. Current legislation on anti-terrorism operations in Russia contains the following provision: "Persons participating in the struggle against terrorism shall be protected by the State and shall be subject to legal and social protection." The legislation does not specify, however, what is meant by legal protection in this context. See Federal Law No. 35-FZ on Counteracting Terrorism (2006), article 20, <http://www.legislationline.org/documents/action/popup/id/4365> (accessed August 13, 2009).

<sup>91</sup> Letter from Russian Justice Initiative to Minister of Internal Affairs R.G. Nurdaliyev, April 7, 2009, on file with Human Rights Watch.

<sup>92</sup> Letter from the Prosecutor's Office of the Republic of Chechnya to Russian Justice Initiative, December 19, 2008, on file with Human Rights Watch.

<sup>93</sup> *Imakayeva v. Russia*, para. 154.

European Court judgments on Chechnya, the Committee of Ministers of the Council of Europe has also pointed out this shortcoming.<sup>94</sup>

After the judgment became final, Imakayeva's representatives have on several occasions requested that the documents from the military investigation be joined to the current civilian investigation to allow the civilian investigator to access information related to Imakayev's detention.<sup>95</sup> Their requests have been forwarded from one government institution to another, with each institution denying responsibility.

On April 28, 2008, the Investigative Directorate of the Republic of Chechnya informed Imakayeva's lawyers that it was beyond its competence to join the case files because part of it was with the military investigative authorities.<sup>96</sup> In a letter of February 20, 2008, the Main Military Prosecutor's Office informed Imakayeva's lawyers that questions regarding the case should be directed to the Military Prosecutor's Office of the United Group of Forces.<sup>97</sup> On April 7, 2009, the Military Investigative Directorate of the United Group of Forces informed Imakayeva's lawyer that the case file had been transferred to the Main Military Prosecutor's Office in 2003, the very same office which in 2008 had said that all questions should be directed to the United Group of Forces, and that all questions should be directed to that office.<sup>98</sup> As a result of this bureaucratic roundabout the Russian authorities have still not provided the civilian investigative authorities with statements from the military servicemen who detained Said-Magomed Imakayev almost two and a half years after the judgment in the case became final and the European Court pointed to the lack of access to key statements as a serious shortcoming.

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<sup>94</sup> Committee of Ministers of the Council of Europe, Information Document, "Actions of the security forces in the Chechen Republic of the Russian Federation," paras. 96-97.

<sup>95</sup> Letter from Russian Justice Initiative to the Prosecutor Office of the Shali district in the Republic of Chechnya and to the Main Military Prosecutor's Office, December 7, 2007 and Letter from Russian Justice Initiative to the Second Department for Investigation of Especially Important Cases of the Investigative Directorate of the Republic of Chechnya, March 3, 2009, both on file with Human Rights Watch.

<sup>96</sup> Letter from the Investigative Directorate of the Republic of Chechnya to Russian Justice Initiative, April 28, 2008, on file with Human Rights Watch.

<sup>97</sup> Letter from the Main Military Prosecutor's Office to Russian Justice Initiative, February 20, 2008, on file with Human Rights Watch.

<sup>98</sup> Letter from the Military Investigative Directorate of the United Group of Forces to Russian Justice Initiative, April 7, 2009, on file with Human Rights Watch.

## Recommendations

### To the Russian Government

- Without delay, bring ongoing investigations to meaningful conclusions by identifying and prosecuting perpetrators of violations found by the European Court;
- Without delay, initiate effective, objective, and thorough criminal investigations into the actions of persons named in European Court judgments as participating in or having command responsibility for operations in Chechnya that resulted in violations found by the Court. These include: Major-General Yakov Nedobitko, Major-General Vladimir Shamanov, and Colonel-General Alexander Baranov;
- Without delay, issue instructions to all prosecutor's offices and investigative directorates indicating that disregard or rejection of European Court findings violates Russia's obligations under the European Convention and is unacceptable;
- Issue instructions to all prosecutor's offices and investigative directorates specifying the relevant European Convention requirements for effective investigations and clear penalties for those who do not abide by these requirements;
- Provide families with all information as to the fate and whereabouts of the disappeared. This should include the immediate creation of a coordinated and effective system to identify all remains, including through the identification and exhumation of burial sites;
- Ensure that victims and aggrieved parties receive up-to-date and complete information about the investigation, in conformity with their rights under the European Convention, through:
  - re-iterating investigators' and prosecutors' obligation to properly inform aggrieved parties about the investigation;
  - issuing instructions to all prosecutor's offices and investigative committees to allow victims or their legal representatives as much access as possible to review case files and copy documents;
  - revising article 42 of the criminal procedure code to explicitly allow victims and aggrieved parties to have full access to the investigative materials of suspended criminal cases;
  - revising article 161 of the criminal procedure code, which the European Court has criticized as being too restrictive, to clarify the circumstances in which information from the preliminary investigation may be divulged, with a view towards making investigations effectively subject to public scrutiny, as the European Court has determined necessary for an effective investigation;

- considering the establishment of family liaison officers, whose duty would be to keep in contact with a victim’s family during the course of an investigation, a practice that has proven effective in the United Kingdom in response to shortcomings in investigations concerning actions of the security forces in Northern Ireland.
- Ensure an effective judicial mechanism to challenge the actions or omissions of the investigative authorities as one aspect of ensuring effective investigations;
- Ensure consistent disciplinary action for investigators who fail to take all necessary investigative steps, to inform aggrieved parties about the investigation, or otherwise fail to comply with their professional duties. Regularly publicize information and statistics about such disciplinary proceedings;
- Ensure effective coordination between military and civil prosecutors’ offices and investigative directorates, including sharing of information as well as effective prosecutorial and judicial oversight to prevent cases from being trapped in indefinite referrals from one prosecutor to another;
- Ensure that relevant laws guarantee, and issue instructions to relevant agencies insisting on, full cooperation from relevant security and other agencies with investigations into potential violations during anti-terrorism, military, and other operations;
- Conduct an in-depth inquiry into the conduct of investigations into abuses committed by Russian military, police, and intelligence officials and other forces in the Chechen Republic to establish why these investigations are ineffective and incapable of identifying perpetrators;
- Undertake a thorough review and revision of domestic legislation and regulations regarding the use of force by military or security forces to ensure their compliance with human rights law;
- Ensure that officials engaged in or commanding security operations, including counterterrorism operations, are not immune from prosecution for violations of the law.

### **To Governments of Council of Europe Member States**

- In dialogues with the Russian authorities, insist that Russia take the above measures as essential steps toward rectifying past violations and preventing future human rights abuses in Chechnya and the broader North Caucasus;
- In dialogues with the Russian authorities, stress the importance of Russia’s cooperation with the European Court, including by supplying all materials requested by the court for its review of cases;

- Ensure that the Committee of Ministers of the Council of Europe formulates rigorous and comprehensive expectations for Russia's implementation of individual and general measures;
- Engage actively in the Committee of Ministers' quarterly human rights meetings to make the most of the opportunity they provide for periodic scrutiny and assessment of Russia's implementation of the European Court's judgments;
- Insist that the government of Russia sign, with a view to prompt ratification, the new UN Convention against Enforced Disappearances. Doing so would demonstrate good faith on the part of the government to prevent additional disappearances.

### **To the European Union and its Member States**

- Adopt conclusions in the context of the General Affairs and External Relations Council (GAERC) expressing the European Union's profound concerns at continued reports of torture, extra-judicial killings and enforced disappearances in Chechnya and the broader North Caucasus and the persisting impunity for these serious human rights violations, and insist that Russia take the above measures as essential steps toward rectifying past violations and preventing future human rights abuses;
- Ensure that concerns about impunity for torture, extra-judicial killings, and enforced disappearances are raised at all dialogues with Russian authorities and policy makers, including at EU-Russia Summits and Foreign Ministerial meetings, and stress the importance of Russia's full implementation of the European Court rulings and its cooperation with the European Court at all times;
- Ensure that impunity for torture, extra-judicial killings, enforced disappearances, and the implementation of the European Court decisions are standing themes on the agenda of the biannual EU-Russia Human Rights Consultations;
- Use the EU-Russia Human Rights Consultations to take stock of concrete steps by Russia to implement the European Court decisions. The Consultations should always reflect input from individual lawyers and NGOs representing victims in these cases or otherwise engaged on implementation of European Court judgments on Chechnya;
- In coordination with the Council of Europe, establish a permanent EU working group consisting of Moscow-based diplomats from EU member states, the Commission and the Council, with the purpose of engaging directly with the Russian authorities and offering technical assistance, where appropriate, to ensure Russia's effective implementation of the European Court decisions. The working group should use as a basis for its work the assessments prepared by Council of Europe bodies in this area as well as input from individual lawyers and NGOs representing victims in these cases or otherwise engaged on implementation of European Court judgments on Chechnya.

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## **Appendix: European Court Judgments on Cases from Chechnya (as of September 24, 2009)**

Khashiyev and Akayeva v. Russia, (57942/00 and 57945/00), Judgment of 24 February 2005  
Isayeva v. Russia, (App. 57950/00), Judgment of 24 February 2005  
Isayeva, Yusupova and Bazayeva v. Russia, (App. 57947/00, 57948/00, and 57949/00),  
Judgment of 24 February 2005  
Bazorkina v. Russia, (App. 69481/01), Judgment of 27 July 2006  
Estamirov and Others v. Russia, (App. 60272/00), Judgment of 12 October 2006  
Lulyuev v. Russia, (App. 69480/01), Judgment of 9 November 2006  
Imakayeva v. Russia, (App. 7615/02), Judgment of 9 November 2006  
Chitayev and Chitayev v. Russia, (App. 59334/00), Judgment of 18 January 2007  
Baysayeva v. Russia, (App. 74237/01), Judgment of 5 April 2007  
Akhmadova and Sadulayeva v. Russia, (App. 40464/02), Judgment of 10 May 2007  
Bitiyeva and X v. Russia, (App. 57953/00 and 37392/03), Judgment of 21 June 2007  
Alikhadzhiyeva v. Russia, (App. 68007/01), Judgment of 5 July 2007  
Magomadov and Magomadov v. Russia, (App. 68004/01), Judgment of 12 July 2007  
Musayev and Others v. Russia, (App. 57941/00, 58699/00, and 60403/00), Judgment of 26  
July 2007  
Musayeva and Others v. Russia, (App. 74239/01), Judgment of 26 July 2007  
Makhauri v. Russia, (App. 58701/00), Judgment of 4 October 2007  
Goncharuk v. Russia, (App. 58643/00), Judgment of 4 October 2007  
Goygova v. Russia, (App. 74240/01), Judgment of 4 October 2007  
Medov v. Russia, (App. 1573/02), Judgment of 8 November 2007  
Khamidov v. Russia, (App. 72118/01), Judgment of 15 November 2007  
Khamila Isayeva v. Russia, (App. 6846/02), Judgment of 15 November 2007  
Kukayev v. Russia, (App. 29361/02), Judgment of 15 November 2007  
Tangiyeva v. Russia, (App. 57935/00), Judgment of 29 November 2007  
Zubayrayev v. Russia, (App. 67797/01), Judgment of 10 January 2008  
Khatsiyeva and Others v. Russia, (App. 5108/02), Judgment of 17 January 2008  
Aziyevy v. Russia, (App. 77626/01), Judgment of 20 March 2008  
Kaplanova v. Russia, (App. 7653/02), Judgment of 29 April 2008  
Betayev and Betayeva v. Russia, (App. 37315/03), 29 May 2008  
Sangariyeva and Others v. Russia, (1839/04), Judgment of 29 May 2008  
Gekhayeva and Others v. Russia, (App.1755/04), Judgment of 29 May 2008  
Ibragimov and Others v. Russia, (App. 34561/03), Judgment of 29 May 2008  
Utsayeva and Others v. Russia, (App. 29133/03), Judgment of 29 May 2008  
Atabayeva and Others v. Russia, (App. 26064/02), Judgment of 12 June 2008



Elmurzayev and Others v. Russia, (App. 3019/04), Judgment of 12 June 2008  
Isigova and Others v. Russia, (App. 6844/02), Judgment of 26 June 2008  
Musayeva v. Russia, (App. 12703/02), Judgment of 3 July 2008  
Ruslan Umarov v. Russia, (App. 12712/02), Judgment of 3 July 2008  
Akhliyadova v. Russia, (App. 32059/02), Judgment of 3 July 2008  
Takhayeva and Others v. Russia, (App. 23286/04), Judgment of 18 September 2008  
Mezhidov v. Russia, (67326/01), Judgment of 25 September 2008  
Akhmadova and Akhmadov v. Russia, (App. 20755/04), Judgment of 25 September 2008  
Lyanova and Aliyeva v. Russia, (Apps. 12713/02 and 28440/03), Judgment of 2 October 2008  
Rasayev and Chankayeva v. Russia, (App. 38003/03), Judgment of 2 October 2008  
Khalidova and Others v. Russia, (App. 22877/04), Judgment of 2 October 2008  
Albekov and Others v. Russia, (App. 68216/01), Judgment of 9 October 2008  
Zulpa Akhmatova and Others v. Russia, (App. 13569/02 and 13573/02), 9 October 2008  
Yusupova and Zaurbekov v. Russia, (App. 22057/02), Judgment of 9 October 2008  
Salatkhanov v. Russia, (App. 17945/03), Judgment of 16 October 2008 [no violation]  
Magomed Musayev and Others v. Russia, (App. 8979/02), Judgment of 23 October 2008  
Turova and Others v. Russia, (App. 29958/04), Judgment of 6 November 2008  
Khadzhialiyev and Others v. Russia, (App. 3013/04), Judgment of 6 November 2008  
Magamadova and Iskhanova v. Russia, (App. 33185/04), Judgment of 6 November 2008  
Shaipova and Others v. Russia, (App.10796/04), Judgment of 6 November 2008  
Akhmadov and Others v. Russia, (App. 21586/02), Judgment of 14 November 2008  
Umayeva v. Russia, (App. 1200/03), Judgment of 4 December 2008  
Gandaloyeva v. Russia, (App. 14800/04), Judgment of 4 December 2008  
Tagirova and Others v. Russia, (App. 20580/04), Judgment of 4 December 2008  
Musikhanova and Others v. Russia, (App. 27243/03), Judgment of 4 December 2008  
Ilyasova and Others v. Russia, (App. 1895/04), Judgment of 4 December 2008  
Bersunkayeva v. Russia, (App. 27233/03), Judgment of 4 December 2008  
Akhmadova and Others v. Russia, (App. 3026/03), Judgment of 4 December 2008  
Askharova v. Russia, (App. 13566/02), Judgment of 4 December 2008  
Nasukhanova and Others v. Russia, (App. 5285/04), Judgment of 18 December 2008  
Dangayeva and Taramova v. Russia, (App. 1896/04), Judgment of 8 January 2009  
Abdulkadyrova and Others v. Russia, (App. 27180/03), Judgment of 8 January 2009  
Dzhamayeva and Others v. Russia, (App. 43170/04), Judgment of 8 January 2009  
Shakhgiriyeva and Others v. Russia, (App. 27251/03), Judgment of 8 January 2009  
Zakriyeva and Others v. Russia, (App. 20583/04), Judgment of 8 January 2009  
Arzu Akhmadova and Others v. Russia, (App. 13670/03), Judgment of 8 January 2009  
Medova v. Russia, (App. 25385/04), Judgment of 15 January 2009  
Abdurzakova and Abdurzakov v. Russia, (App. 35080/04), Judgment of 15 January 2009  
Zaurbekova and Zaurbekova v. Russia, (App. 27183/03), Judgment of 22 January 2009

Dolsayev and Others v. Russia, (App. 10700/04), Judgment of 22 January 2009  
Sambiyev and Pokayeva v. Russia, (App. 38693/04), Judgment of 22 January 2009  
Khaydayeva and Others v. Russia, (App. 1848/04), Judgment of 5 February 2009  
Idalova and Idalov v. Russia, (App. 41515/04), Judgment of 5 February 2009  
Khadisov and Tsechoyev v. Russia, (App. 21519/02), Judgment of 5 February 2009  
Ayubov v. Russia, (App. 7654/02), Judgment of 12 February 2009  
Bantayeva and Others v. Russia, (App. 20727/04), Judgment of 12 February 2009  
Meshayeva and Others v. Russia, (App. 27248/03), Judgment of 12 February 2009  
Sagayev and Others v. Russia, (App. 4573/04), Judgment of 26 February 2009  
Vagapova and Zubirayev v. Russia, (App. 21080/05), Judgment of 26 February 2009  
Astamirova and Others v. Russia, (App. 27256/03), Judgment of 26 February 2009  
Khalitova v. Russia, (App. 39166/04), Judgment of 5 March 2009  
Elsiyev and Others v. Russia, (App. 21816/03), Judgment of 12 March 2009  
Dzhambekova and Others v. Russia, (App. 27238/03 and 35078/04), Judgment of 12 March 2009  
Khadayeva and Others v. Russia, (App. 5351/04), Judgment of 12 March 2009  
Dzhabayeva v. Russia, (App. 13310/04), Judgment of 2 April 2009  
Saydaliyeva and Others v. Russia, (App. 41498/04), Judgment of 2 April 2009  
Dokuyev v. Russia, (App. 6704/03), Judgment of 2 April 2009  
Dzhabrailova v. Russia, (App. 1586/05), Judgment of 9 April 2009  
Gaziyeva and Others v. Russia, (App. 15439/05), Judgment of 9 April 2009  
Dokayev and Others v. Russia, (App. 16629/05), Judgment of 9 April 2009  
Malsagova v. Russia, (App. 27244/03), Judgment of 9 April 2009  
Israilova and Others v. Russia, (App. 4571/04), Judgment of 23 April 2009  
Gakiyev and Gakiyeva v. Russia, (App. 3179/05), Judgment of 23 April 2009  
Khachukhayev v. Russia, (App. 28148/03), Judgment of 23 April 2009  
Alaudinova v. Russia, (App. 32297/05), Judgment of 23 April 2009  
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## “Who Will Tell Me What Happened to My Son?”

### Russia’s Implementation of European Court of Human Rights Judgments on Chechnya

As of September 2009, the European Court of Human Rights has issued 115 judgments in cases concerning serious human rights violations in Chechnya. In nearly all cases, the court has held Russia responsible for the most grave of violations including enforced disappearances, extrajudicial executions, torture, and for failing to properly investigate these crimes.

Although the Russian government has paid compensation awarded by the court to victims and their relatives, it has not fully implemented the judgments: it has failed to conduct effective investigations and bring those responsible to account.

Human Rights Watch research to examine Russia’s implementation of European Court judgments in 33 cases has found that no perpetrator in these cases has been brought to justice, even in cases in which the European Court determined that those responsible are known or could be known, and in some instances are even named in its judgments.

Investigations into the violations continue to be plagued by numerous shortcomings including failure to inform the aggrieved parties about the investigation and provide access to criminal case files; inexplicable delays; and legal obstacles preventing investigators from accessing key evidence held by Russian military or security services.

In several cases, investigative authorities have even flatly contested the European Court’s findings of state responsibility for the violations.

Impunity for human rights violations fuels ongoing abuses in Chechnya and in other parts of Russia. To end these abuses, it is essential that the Russian government bring those responsible to justice.

Human Rights Watch calls on the Russian government to implement fully the European Court judgments and to bring ongoing investigations to meaningful conclusions by identifying and prosecuting perpetrators of violations found by the court.

#### ***“Who Will Tell Me What Happened to My Son?”***

HUMAN RIGHTS WATCH TELEPHONE INTERVIEW  
WITH FATIMA BAZORKINA, JULY 30, 2009.

*Cover photo: Chechen women hold portraits of their missing relatives.*

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