

JULY 2007



# JUSTICE FOR CHECHNYA

The European Court of Human Rights Rules against Russia

H U M A N  
R I G H T S  
W A T C H

Chechen women hold portraits of their missing relatives.  
© 2002 Thomas Dworzak



***“... the Court finds ... that the applicants’ relatives were killed by servicemen and that their deaths can be attributed to the State. It observes that no explanation has been forthcoming from the Russian Government as to the circumstances of the deaths, nor has any ground of justification been relied on by them in respect of any use of lethal force by their agents.”***

—Khashiyev and Akayeva v Russia, judgment of February 25, 2005

# JUSTICE FOR CHECHNYA

The European Court of Human Rights Rules against Russia

## RUSSIA ON TRIAL

In eight recent landmark rulings, the European Court of Human Rights found Russia responsible for serious human rights abuses in Chechnya, where a second military conflict between Russian forces and Chechen rebel groups began in 1999. The court found Russia responsible for executions, torture, enforced disappearances and for failing to properly investigate these crimes, and confirmed the systematic nature of human rights abuses in Chechnya. Given the failure by the Russian government, under the leadership of President Vladimir Putin, to hold its forces accountable for these and other crimes committed in Chechnya, these judgments provided victims and their family members the only avenue to some measure of the justice denied them in Russia. As of May 2007, more than 200 cases from Chechnya were pending before the European Court.

The international community, and in particular the Council of Europe's member states, must insist that Russia implement the final decisions of the court. The European Court judgments on Chechnya obligate the Russian government to both rectify the violations in individual cases and make meaningful policy changes to prevent further abuses. For real change to take place in Chechnya, Russia must find the political will to ensure proper investigations and prosecutions of

crimes committed by its forces. The international community should press Russia to take these crucial steps. Only then will the persistent pattern of abuses cease. This brochure describes the impact of the European Court judgments against Russia and explains what actions the international community should take to ensure that Russia fulfills its obligations before the court and puts an end to human rights abuses in Chechnya.

## BACKGROUND ON CHECHNYA

Russia's second armed conflict in Chechnya in the 1990s began in September 1999, just a few weeks after Vladimir Putin was named prime minister. Russia claimed it was a counterterrorism operation, aimed at liquidating terrorist groups that had found haven in the chaos in Chechnya following the end of the 1994-1996 Chechen war. Five months of indiscriminate bombing and shelling in 1999 and early 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 Chechnya. By March 2000, Russia's federal forces had gained control over most of Chechnya. They began a pattern of classic "dirty war" tactics and human rights abuses that continues to this day. Russian forces arbitrarily detained suspected rebel fighters and collaborators and tortured them to secure confessions or testimony. In some cases, the corpses of those last seen in custody were subsequently found, bearing marks of torture or summary execution. More often, those detained were simply never seen again—they had been forcibly "disappeared."

As open conflict between the Russian military and Chechen rebel fighters subsided, the nature of the conflict changed. Beginning in 2003, Russia adopted a policy known as "Chechenization," under which law enforcement operations, including counterterrorism, increasingly became the responsibility of local Chechen forces loyal to Moscow and under the command of Ramzan Kadyrov. Kadyrov and his forces, known as "Kadyrovsty," have been implicated in serious human rights abuses, including unacknowledged detention, and torture. Although the total number of reported cases of enforced disappearance in Chechnya has decreased in recent

years, hundreds of people "disappeared" by Kadyrov's forces remain unaccounted for. Kadyrov became president of Chechnya in April 2007.

An estimated 3,000-5,000 people have "disappeared" in Chechnya at the hands of state security services, yet not a single official has been held accountable for enforced disappearance. In 2005, Human Rights Watch characterized the widespread "disappearances" in Chechnya as a crime against humanity under international law.



An elderly woman in Chechnya stands outside the ruins of her house destroyed by Russian bombardment.

© 2002 Thomas Dworzak

# WHAT DO THE EUROPEAN COURT JUDGMENTS ON CHECHNYA SAY?

- The European Court determined that Russian security forces committed grave human rights abuses in Chechnya, including murder, enforced disappearance, torture, illegal destruction of property, and violation of privacy during an illegal search.
- In cases involving enforced disappearance, the court found that victims could be presumed dead, since they were abducted by unidentified Russian servicemen without any subsequent acknowledgement of detention and had not been seen in many years. Furthermore, the court found that the Russian authorities failed to provide any explanation for the “disappearances.”
- The European Court determined that Russian officials have been negligent in their investigations into victims’ complaints regarding abuses committed by Russian servicemen. The authorities failed to promptly open investigations or conduct basic investigative steps, such as interrogating witnesses or potential perpetrators identified in video footage or other materials. Victims and their relatives most often received no information or only perfunctory letters about the investigations. Officials repeatedly suspended and reopened investigations for up to six years without producing any results.
- The court determined that the indifference demonstrated by the Russian government, as exemplified in the failed investigations, caused suffering of such gravity as to constitute inhuman treatment of victims’ relatives.
- The European Court found that Russia failed to provide victims the opportunity to achieve justice within Russia. Incomplete and inadequate investigations meant that no perpetrators of abuses were ever identified. In the absence of suspects, no cases were ever referred for trial.
- The court found the Russian authorities in violation of their obligation to cooperate with the court by refusing to submit requested documents. The Russian authorities have repeatedly rebuffed requests from the European Court for documents in cases concerning Chechnya, claiming that domestic law precludes them from doing so because investigations are ongoing or the documents contain state secrets.

# WHAT IS THE SIGNIFICANCE OF THE EUROPEAN COURT JUDGMENTS ON CHECHNYA?

- **Justice:** In the absence of a proper response by the Russian government to abuses committed by its forces, the European Court judgments provide victims and their families with the only chance to achieve some measure of justice. The European Court judgments oblige the Russian government to undertake effective investigations and award monetary compensation to the victims or their relatives.
- **Accountability:** This justice is incomplete, however, as the European Court of Human Rights is not a criminal court and cannot investigate or prosecute perpetrators of the human rights abuses identified in its judgments. The European Court holds the Russian government responsible for the human rights abuses committed by its forces and culpable for failing to conduct adequate investigations into the abuses. The court's decisions obligate the Russian government to investigate and prosecute the crimes in individual cases and reform its investigative and judicial structures to put an end to impunity for its forces.
- **Vindication:** For years, the Russian government denied that its forces perpetrated human rights abuses in these and other cases from Chechnya. The authorities refused to investigate properly the complaints made by victims and denounced reports by Human Rights Watch and others documenting widespread human rights abuses in Chechnya. The European Court rulings provide independent validation of abuses in these specific cases, of the systematic nature of the abuses, and of the lack of accountability for perpetrators.
- **Hope:** The victories in these cases provide hope to thousands of other victims of human rights abuses in Chechnya that they, too, may find justice either through the European Court or, ideally, within a Russian justice system which has rectified the failings identified by the court.
- **Potential to End Abuses:** As a party to the European Convention on Human Rights, Russia is obligated to implement the final judgments of the court. To prevent future abuses, the government must adopt general measures to eliminate the causes of the abuses identified by the court. These measures may include improving the legal and regulatory framework governing the activities of security forces and ensuring that the investigative and judicial system in Chechnya is available to all victims and is capable of responding to abuses.

## HOW ARE THE JUDGMENTS RELEVANT FOR CHECHNYA TODAY?

The first European Court judgments on Chechnya concern enforced disappearances, killings, and torture—all abuses that remain commonplace in Chechnya. The cases involved date back to 2000–2002, yet the judgments identify systemic problems that the Russian government has failed to resolve, despite President Putin’s insistence that the situation in Chechnya is steadily “normalizing.”

Although the conflict between the Russian military and Chechen rebel forces ended several years ago, Russian security forces and pro-Moscow Chechen forces, led by Ramzan Kadyrov and known as “Kadyrovtsy,” are still committing serious human

and torture and ill-treatment in detention committed by these forces in Chechnya. In the majority of cases documented, “Kadyrovtsy” tortured detainees in unlawful secret detention facilities in order to extract confessions or testimony about alleged rebel forces. In other cases, Ministry of Interior personnel of the Second Operational Investigative Bureau (ORB-2) were implicated in torture. Some detainees provided coerced confessions and were later sentenced, and other detainees were released after providing information under duress about alleged rebels. Many other individuals became victims of enforced disappearance. The patterns of detention, torture, and enforced disappearance have changed little since the earliest days of the crisis.

The widespread patterns of abuse in Chechnya persist primarily due to the continued lack of accountability for perpetrators. The Russian government has continuously failed to investigate and prosecute crimes committed by state agents. Regarding torture, Human Rights Watch is aware of only one case in which an official was convicted for physically abusing someone in custody. Not a single person has been held accountable for enforced disappearance. The human rights situation in Chechnya will improve only if Russia fully implements the European Court’s judgments by addressing

individual abuses and taking meaningful actions to prevent further abuse.

Testimony from “Widespread Torture in the Chechen Republic: Human Rights Watch Briefing Paper for the 37th Session UN Committee against Torture”

***“They started kicking me, and then brought an ‘infernal machine’ to give me electric shocks. They attached the wires to my toes and kept cranking the handle to release the current. I couldn’t bear it. I was begging: ‘Give me any paper—I’ll sign it, I’ll sign anything.’”***

—Testimony of “Khamid Kh,” an elderly construction worker, about his torture at the hands of Kadyrovtsy in April 2006. They accused him of providing food and weapons to rebels.

rights abuses in the context of counterterrorism and intelligence operations. In November 2006, Human Rights Watch documented enforced disappearances

## European Court judgments | Torture

### CHITAYEV AND CHITAYEV V RUSSIA

#### Testimony

***“They really wanted me to confess. First they tied me to a chair and kicked me. ... The next day they put wires on my fingers and turned on a machine to give me shocks. They called it a ‘lie detector.’ ... At that moment I wanted to die. I could only think, ‘If I die it will all be over and I won’t feel anything anymore.’”***

—Testimony of Arbi Chitayev, who, in 2000, was detained for six months and tortured in a police station and in the infamous Chernokozovo detention center in Grozny and accused of, among other things, being a rebel fighter and providing materials to other rebels. In *Chitayev and Chitayev v Russia*, the European Court found that Russian forces had tortured Arbi and his brother Adam and held them in unlawful detention for several months. The government also failed to effectively investigate the brothers’ allegations of torture, refusing to conduct forensic examinations or interview officials allegedly responsible.

#### Judgement

*“...the applicants were indisputably kept in a permanent state of physical pain and anxiety ... The Court considers that such treatment was intentionally inflicted on the applicants by agents of the State acting in the course of their duties, with the aim of extracting from them a confession or information about the offences of which they were suspected. ...the Court concludes that, taken as a whole and having regard to its purpose and severity, the ill-treatment at issue was particularly serious and cruel ... and amounted to torture.”*

—*Chitayev and Chitayev v Russia*, judgment of January 18, 2007

## European Court judgments | Disappearances

### IMAKAYEVA V RUSSIA

#### Testimony

*“They came and took my husband a year and half after my son disappeared. ... My husband and I were sleeping, when sometime after six in the morning we heard a loud noise in our courtyard. ... I got up to go outside ... I was terrified by what I saw there – ... Russian soldiers, probably about 20 men, holding machine-guns. Many of them were wearing masks. I was in a panic. I asked, ‘What are you doing? What do you want?’ They yelled at me and told me to be quiet. ... They searched our whole house and held my husband up against the side of the house. ... Then they started to take my husband away. I begged them, ‘Please don’t take him! Please don’t hurt him!’ They forced him into a military vehicle and pushed me away when I tried to go with them. ... I went everywhere, ... but no one would tell me where he was. I even gave them the numbers of three of the [military vehicles], but everywhere they denied that they had taken him. All this time, I have searched and searched for my husband and for my son. I searched as much as I could, through so many tears.”*

—Marzet Imakayeva, wife of Said-Magomed Imakayev and mother of Said-Khuseyn Imakayev, April 9, 2007. In *Imakayeva v Russia*, the European Court of Human Rights found the Russian government responsible for the “disappearances” and deaths of Said-Magomed and Said-Khuseyn, for failing to properly investigate their “disappearances,” for conducting an illegal search of the Imakayev’s home, and for subjecting Marzet Imakayeva to inhuman treatment.

#### Judgement

*“... the stance of the prosecutor's office and other law-enforcement authorities after the news of [Said-Magomed Imakayev’s] detention had been communicated to them ... significantly contributed to the possibility of disappearance, because no necessary actions were taken in the crucial first days or weeks after the detention. Their behaviour in the face of the applicant’s well-established complaints gives a strong presumption of at least acquiescence in the situation and raises strong doubts as to the objectivity of the investigation.”*

—*Imakayeva v Russia*, judgment of November 9, 2006



Russian soldier at a check-point in Chernokozovo, Chechnya.

© 2003 Stanley Greene



Bloody handprints mark the wall of a house where Russian soldiers executed a civilian in Grozny on January 25, 2000.

© 2000 Stanley Greene

## European Court judgments | Executions

# ESTAMIROV AND OTHERS V RUSSIA

### Testimony

*“Some of my relatives and I had left Grozny because of the bombing. We fled to Ingushetia. Our aunt came to visit us and told us that our family home in Grozny had been destroyed. ‘The Russians did it,’ she said. ... I knew something else was wrong, but she didn’t want to tell us. Finally she couldn’t bear it any longer. She told us that [our relatives in Grozny] had been killed. ... They had been shot by Russians. All of them. My elderly father, my brother, my brother’s wife, who was nine months pregnant, and even their son, little Khasan, who was only a year old. They had stayed in Grozny to protect our house. ... The [Russian] soldiers also killed our uncle, who was at our house that day. The Russians shot them all, right in the courtyard of our home. They just came in and killed them for no reason, for nothing.”*

—Sovdat Dakayeva, applicant in *Estamirov and Others v Russia*, April 15, 2007. The European Court determined that Russian forces had executed five members of the Estamirov family during a sweep operation in Grozny in February 2000.

### Judgement

*“The Court is satisfied that the applicants made a prima facie case that their relatives had been killed by [Russian] servicemen on 5 February 2000 and that the Government failed to provide any other satisfactory and convincing explanation of the events.”*

—*Estamirov and Others v Russia* judgment of October 12, 2006

## CASE SUMMARIES :

In addition to the findings of violations described below, in all cases the European Court found that the Russian government had failed to properly investigate the abuses perpetrated by its forces.

### ***Khashiyev and Akayeva v Russia***

*judgment of February 24, 2005*

The mutilated bodies of Magomed Khashiyev's sister and nephew and Roza Akayeva's brother were found with numerous stab and gunshot wounds following a massive "mopping up" operation in the Staropromyslovsky district of Grozny in January 2000. The European Court held the Russian government responsible for their deaths.

### ***Isayeva, Yusupova and Bazayeva v Russia***

*judgment of February 24, 2005*

On October 29, 1999, as residents of Grozny attempted to flee fighting in the capital, the Russian military bombed a civilian convoy. As a result of the aerial bombardment, Medka Isayeva was wounded and her two children and daughter-in-law were killed; Zina Yusupova was wounded by shells in the neck, arm and hip; and Libkan Bazayeva's car containing her family's possessions was destroyed. The European Court found Russia responsible for the deaths and for violating Ms. Bazayeva's right to the peaceful enjoyment of possessions.

### ***Isayeva v Russia***

*judgment of February 24, 2005*

On February 4, 2000, Zara Isayeva lost her son and three nieces during a Russian military aerial and artillery bombardment of the village of Katyr-Yurt. Russian forces had declared the village a "safe zone" for people fleeing fighting taking place in other parts of Chechnya. 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 led to the loss of civilian lives.

### ***Estamirov and Others v Russia***

*judgment of October 12, 2006*

Five members of the Estamirov family, including a one-year-old child and a woman in her ninth month of pregnancy, were executed in a sweep operation by Russian forces in Grozny in 2000. The court held the Russian authorities responsible for the murders.

### ***Imakayeva v Russia***

*judgment of November 9, 2006*

In December 2000, Russian security forces detained Said-Khusein Imakayev. After desperately searching for her son and receiving no meaningful response from the authorities, Marzet Imakayeva and her husband, Said-Magomed, appealed to the European Court in 2002. A few months later, in an unlawful raid on the Imakayev home, security forces abducted Said-Magomed. Marzet Imakayeva never saw her son or husband again. The European Court established that both men must be presumed dead at the hands of Russian forces. The court found that the traumatic nature of the "disappearances" and the government's refusal to conduct an effective investigation constituted inhuman treatment with respect to Marzet Imakayeva.

### ***Luluyev and Others v Russia***

*judgment of November 9, 2006*

The European Court unanimously held Russia responsible for the detention and murder of Nura Luluyeva, a mother of four, whose body was found among 51 corpses in a mass grave located less than one kilometer from the main military base at Khankala, Chechnya. In June 2000, Russian servicemen had detained Nura Luluyeva during a raid on a market in Grozny. Her relatives searched for her for eight months until her body was discovered, in February 2001.

### ***Chitayev and Chitayev v Russia***

*judgment of January 18, 2007*

In the first torture case from Chechnya to be heard by the European Court of Human Rights, the court found that in 2000 Russian forces held two brothers, Adam and Arbi Chitayev, in secret detention and subjected them to torture, including beatings, electric shock, attacks by dogs, and attempted suffocation, at a police station and at the notorious Chernokozovo detention center in Grozny.



Images © 2000 Cable News Network (CNN)

***Bazorkina v Russia***, judgment of July 27, 2006

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 Colonel-General Alexander Baranov order his men to execute Yandiyev and showed several Russian servicemen leading Yandiyev away. He has not been

seen since. The court determined that the Russian government had illegally detained and killed Yandiyev and that they had subjected Fatima Bazorkina to inhuman treatment by failing to respond adequately to her complaints or properly investigate Yandiyev's disappearance.

# WHAT SHOULD THE INTERNATIONAL COMMUNITY DO?

The international community has failed to protect people in Chechnya from widespread human rights abuses. Governments and international organizations have refused to follow up their statements of concern with political, financial or other consequences for Russia. The recent European Court rulings on Chechnya provide an objective assessment of Russia's responsibility for human rights abuses. They present an opportunity for the international community, and especially Council of Europe member states, to prevail on the Russian government to once and for all stop widespread human rights abuses in Chechnya and hold perpetrators accountable.

Specifically, the international community should:

- **Insist that the government of Russia comply fully with the judgments in order to rectify the abuses suffered by the victims and their relatives.**  
Russia should:
  - **Pay in full the compensation and expenses determined by the court;**
  - **Provide family members with all information as to the fate and whereabouts of “disappeared” persons;**
  - **Reopen or open meaningful investigations to identify and prosecute the perpetrators of the violations identified by the court;**
  - **Provide families with any and all information as to the progress of the investigations;**
- **Insist that the government of Russia investigate Major-General Yakov Nedobitko and Major-General Vladimir Shamanov, found by the European Court to be responsible for the military operation in Katyr-Yurt, Chechnya, in February 2000 which involved the “massive use of indiscriminate weapons” leading to the loss of civilian lives.**
- **Insist that the government of Russia investigate Colonel-General Alexander Baranov, whom the European Court acknowledged gave the order to execute Khadzhi-Murat Yandiyev;**
- **Insist that the government of Russia cooperate fully with the European Court of Human Rights in all cases by supplying all requested investigative files, documents and other materials in a timely manner;**

- **Insist that the government of Russia address the systemic problems identified by the European Court to prevent further abuses. Russia should conduct an in-depth inquiry into the conduct of investigations into abuses committed by Russian military servicemen, police and intelligence officials, and other forces in the Chechen Republic to establish why these investigations are so ineffective. The government should ensure that current practice is improved and that investigative and prosecutorial authorities receive appropriate training;**
- **Insist that the government of Russia also 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. Revised policies and amendments to laws should be implemented through appropriate training and oversight;**
- **Insist that the government of Russia undertake an investigation to determine by what means secret detention has been allowed to occur routinely and on a large scale in Chechnya, despite its prohibition under Russian law. This investigation should determine which individual or individuals are responsible for instigating, executing, and condoning this practice;**
- **Insist that the government of Russia close or formalize all secret detention facilities in Chechnya and guarantee regular access to all places of detention to Russian and international monitoring, including by the International Committee of the Red Cross, the Council of Europe’s Committee for the Prevention of Torture and the UN special rapporteur on torture;**
- **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;”**
- **Urge the Committee of Ministers of the Council of Europe to adopt rigorous and comprehensive general measures when it considers Russia’s implementation of the judgments. The Russian government should conduct a detailed examination of the causes of the human rights violations and demonstrate to the committee and to the Russian public how it will address those causes.**



Burial grounds in Ingushetia for some fifty Chechen refugees, many of whom died because of brutal conditions in refugee camps.

© 2002 Stanley Greene



Human Rights Watch is dedicated to defending and protecting the human rights of people around the world. We conduct on-site investigations of human rights abuses in more than seventy countries worldwide and publish our findings in reports that are known for uncompromising accuracy. These reports are used in high-level policy discussions and in the media to shape the public agenda, shame abusers, and press for change. Through this methodology, Human Rights Watch seeks to improve the lives of countless people and secure justice and human dignity for all.

H U M A N  
R I G H T S  
W A T C H

[www.hrw.org](http://www.hrw.org)

# JUSTICE FOR CHECHNYA

The European Court of Human Rights Rules against Russia



**Front cover:** A Chechen woman who fled fighting in Grozny now lives as a refugee in Georgia. Her son was wounded during bombing attacks.

© 2002 Stanley Greene

***“I didn’t believe that there was justice possible for me anywhere in the world. Not in Russia, not in Europe, not anywhere. When they told me that we had won our case [before the European Court] I felt happy. I was able to believe again that justice is possible. I think that this decision can help other people in Chechnya also know that there is justice. That they can go through the court and use civilized methods to find justice.”***

—Arbi Chitayev, April 11, 2007

In 2000, Arbi Chitayev was detained for six months and tortured in a police station and in the infamous Chernokozovo detention center in Grozny. In *Chitayev and Chitayev v Russia*, the European Court found that Russian forces had tortured Arbi and his brother Adam and held them in unlawful detention for several months. The government also failed to effectively investigate the brothers’ allegations of torture, refusing to conduct forensic examinations or interview officials allegedly responsible.