



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF N.A. AND OTHERS v. RUSSIA

(Applications nos. 48523/19 and 4 others – see appended list)

JUDGMENT

Art 2 (substantive and procedural) • Life • Disappearance of applicants' relatives after their abduction and detention by State agents in Chechnya • Backdrop of gross human rights violations in Chechnya • Prima facie case established • Presumed death, in absence of any plausible justification, attributable to the State • Ineffective investigation • Systemic failure to investigate disappearances and abductions in Chechnya extended more generally to ineffectiveness of investigations therein in respect of Art 2 and 3 complaints and involving allegations against State agents
Art 3 (substantive and procedural) • Ill-treatment of the brother of one of the applicants in detention amounting to inhuman and degrading treatment and ineffective investigation in that regard • Mental suffering caused by disappearance of applicants' relatives
Art 5 § 1 • Lawful arrest or detention • Detention of applicants' relatives unacknowledged and without legal basis
Art 13 (+ Art 2) • Lack of effective remedy

STRASBOURG

21 November 2023

FINAL

21/02/2024

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of N.A. and Others v. Russia,

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Pere Pastor Vilanova, *President*,

Jolien Schukking,

Yonko Grozev,

Georgios A. Serghides,

Peeter Roosma,

Ioannis Ktistakis,

Andreas Zünd, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the applications (nos. 48523/19, 49533/19, 13837/20, 40452/20 and 49902/20) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by the Russian nationals listed in the appendix (“the applicants”);

the decision to give notice to the Russian Government (“the Government”) of the complaints concerning Articles 2, 3, 5 and 13 of the Convention and to declare the remainder of the applications inadmissible;

the decisions not to disclose the applicants’ names in applications nos. 48523/19, 49533/19 and 49902/20;

the parties’ observations;

the decision of the President of the Section to appoint one of the elected judges of the Court to sit as an *ad hoc* judge, applying by analogy Rule 29 § 2 of the Rules of Court (see *Kutayev v. Russia*, no. 17912/15, §§ 5-8, 24 January 2023);

Having deliberated in private on 31 October 2023,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns several complaints of abduction perpetrated by State agents in Chechnya between 2016 and 2020 and the lack of an effective investigation into the matter.

THE FACTS

2. The applicants were represented by lawyers from the non-governmental organisations (NGOs) Memorial Human Rights Centre, Stichting Russian Justice Initiative, Astreya and Committee Against Torture. The Government were initially represented by Mr M. Galperin, former Representative of the Russian Federation to the European Court of Human Rights, and subsequently by Mr M. Vinogradov, his successor in that office.

3. The applicants are Russian nationals. They are relatives of six men who were allegedly arrested by State agents in Chechnya and then disappeared. The applicants' personal details and their kinship to the missing men are set out in the appendix.

4. The events complained of in applications nos. 48523/19, 49533/19 and 49902/20 are linked to the same events as *A.A. and Others v. Russia* ([Committee], no. 37008/19, 14 December 2021), in which the Court found that between December 2016 and January 2017 five of the applicants' relatives had been abducted and executed by State agents in Chechnya.

I. INFORMATION PERTAINING TO APPLICATIONS Nos. 48523/19, 49533/19 AND 49902/20

A. Background information

5. Between the middle of December 2016 and the end of January 2017 the Chechen authorities detained a number of persons suspected of involvement in an attack on a police officer (see *A.A. and Others v. Russia*, cited above, §§ 5-10) or because of their alleged homosexuality.

6. According to the applicants, during the night of 25 to 26 January 2017 a mass execution of at least twenty-seven and up to fifty-six of the detained men, including four relatives (Mr T.M., Mr Kh.Kh., Mr Sh.Yu. and Mr M.S.) of the applicants in applications nos. 48523/19, 49533/19 and 49902/20, took place at the Akhmat Kadyrov police regiment in Grozny. The men executed were suspected either of the involvement in terrorism-related activities or of being homosexuals (*ibid.*).

7. The incidents were investigated by a Russian newspaper, *Novaya Gazeta*, which published several reports describing the abductions and the execution. The articles were based on two detailed documents obtained from undisclosed sources in the Chechen police, which contained information on the identity and the circumstances of the arrest of the individuals detained between the middle of December 2016 and the end of January 2017. In one of the documents the names of the applicants' abducted relatives were listed among the victims, while the other contained a table with photographs of the victims which had been taken by the police shortly after their arrest. In one of the photographs Mr Sh.Yu. was handcuffed to a radiator.

8. In connection with the above-mentioned publications, between 19 and 21 September 2017 the High Commissioner for Human Rights in the Russian Federation, Ms T. Moskalkova, visited Chechnya with high-ranking law-enforcement officials.

9. For more information concerning the above-mentioned allegations of forced disappearances and extrajudicial executions of individuals because of their alleged homosexuality, see *Lapunov v. Russia*, no. 28834/19, §§ 67-75, 12 September 2023.

B. Abductions of the applicants' relatives

1. Abduction of Mr T.M.

10. According to the applicants, on 10 January 2017 a group of men in camouflage uniforms arrived at Mr T.M.'s house, forced him into the boot of one of their vehicles and took him away. The perpetrators also took with them two mobile telephones and a tablet computer. The whereabouts of Mr T.M. remain unknown.

2. Abduction of Mr Kh.Kh.

11. According to the applicants, on 24 December 2016 a group of up to twelve armed men in black uniforms from the "Terek" Special Rapid Response Police Unit arrived at the house of Mr Kh.Kh., handcuffed him and forced him into their vehicle. They took his national passport and two mobile telephones and then drove off. The whereabouts of Mr Kh.Kh. remain unknown.

3. Abduction of Mr Sh.Yu.

12. According to the applicants, on 9 January 2017 a group of armed police officers arrested Mr Sh.Yu. in his house in Argun and took him away. His whereabouts remain unknown.

4. Abduction of Mr M.S.

13. According to the applicants, on 24 December 2016 a group of armed policemen, some of whom wore the black uniform of the Special Rapid Response Police Unit, arrested Mr M.S. at his house, telling the applicants that they were taking him to the police headquarters in Grozny. They then took M.S.'s computer and mobile telephone, handcuffed him and took him away. His whereabouts remain unknown.

C. Subsequent relevant events

14. In its judgment in *A.A. and Others v. Russia* ([Committee], no. 37008/19, 14 December 2021), the Court has given credit to the statements of the applicants in that case, namely that on 8 February 2017 they and other relatives of the abducted persons had been invited to a meeting with the authorities in a community centre in Shali, Chechnya. The meeting, at which several hundred persons had been present, had been conducted by the chief of the second unit of the Kadyrov regiment, the head of the Shali district police department and other officials. The officials had intimidated the relatives of the abducted men, telling them that their other family members

would disappear if any complaints of abduction were lodged (see *A.A. and Others v. Russia*, cited above, §§ 25-26).

15. According to the applicants, on 17 May 2017 police officers forced Mr Sh.Yu.'s brother, Mr Yu., to write "explanations" on behalf of his missing relative stating that he had not been arrested. In September 2017 Mr Yu. was forced to meet with the High Commissioner for Human Rights, Ms T. Moskalkova, posing as his missing brother, Sh.Yu. Owing to their resemblance, Ms Moskalkova did not notice the deception (*ibid.*, § 26; see also paragraph 8 above).

16. On 17 January 2018 the evening news broadcast of Grozny TV showed the Chechen President, Ramzan Kadyrov, speaking at a meeting with officials from the Ministry of the Interior in Chechnya and the National Guard. Mr Kadyrov announced a blood feud against criminal partners of terrorists, including their relatives who were filing complaints of abduction with the authorities, and promised "to break the backbones" of enemies of Chechnya, implying that human rights defenders were working for the benefit of those enemies and had "offended Chechnya in an attempt to provoke us [the authorities]".

II. INQUIRY INTO THE ALLEGATIONS

A. Refusals to open a criminal case

17. On 18 April 2017 the *Novaya Gazeta* newspaper requested the Main Investigative Department of the Russian Investigative Committee in the North Caucasus Federal Circuit ("the investigators") to open a criminal case into the abduction and extrajudicial execution of a number of residents of Chechnya, including Mr T.M., Mr Kh.Kh., Mr Sh.Yu. and Mr M.S., which had taken place between December 2016 and January 2017.

18. On 19 April 2017, in reply to the newspaper's request, the investigators initiated a pre-investigation inquiry into the allegations.

19. On 20 April 2017 the investigators questioned a journalist from *Novaya Gazeta*, Ms E. Milashina, who provided them with a detailed account of the events and the list of the executed men, which included the names of the applicants' missing relatives. She stated that the arrests had been carried out by the police and that the detainees had been detained in secret prisons, whose addresses she gave to the investigators during the questioning. Ms Milashina was also ready to provide the list of witnesses and victims if the authorities guaranteed their personal safety; however, no such guarantees were given.

20. On various dates between May and July 2017 the applicants lodged official complaints with the authorities, alleging that their relatives had been abducted by law-enforcement officers and referring to, *inter alia*, witness statements and information provided by *Novaya Gazeta*.

21. On an unspecified date in May 2017 the investigators visited the locations of the alleged secret prisons and questioned eighteen police officers. No detainees were found at those locations and the officers unanimously denied having any information pertaining to the allegations.

22. On 17 May 2017, taking into account the above and the statement made by Mr Yu. (see paragraph 15 above), the investigators refused to open a criminal case into the abductions of the missing men, including the applicants' four relatives.

23. On 26 May 2017 the investigators' superiors overruled the above-mentioned refusal as premature and ill-founded and ordered an additional inquiry. Subsequently, on six more occasions between 29 June and 25 December 2017, the investigators refused to open a criminal case. Each of the refusals was overruled and on each of those occasions, when criticising the investigators, their superiors pointed to the investigators' failure to comply with previously issued instructions, including the need to question local police officers about the alleged arrests and extrajudicial killings; to check whether the officers mentioned by relatives of the missing men had indeed participated in the arrest of their family members; to question all family members of the missing persons; to investigate all of the alleged secret prisons mentioned by Ms Milashina; to examine the criminal cases opened against twenty of the men on the list of missing persons; to question the chiefs of the police stations and their deputies who, according to the relatives of the abducted men, had been involved in the incidents; to examine registration logs at the police stations where the missing men might have been detained; to examine the social circles of the missing men and their social media accounts.

24. On 25 December 2017, having taken none of the above-mentioned steps, the investigators once again refused to open a criminal case. On 20 January 2018 their superiors overruled the refusal, citing the investigators' repeated failure to take the above-mentioned steps.

25. On 9 February 2018 the investigators refused, for the eighth time, to open a criminal case for lack of proof that the alleged criminal offences had taken place.

B. Relevant information

26. At the end of June and the beginning of July 2017 criminal cases were opened against Mr Kh.Kh., Mr M.S. and Mr T.M. on suspicion of their participation in an illegal armed group in Syria. Similar cases were opened against nineteen other missing men. Their names were put on an international wanted list. No steps were taken by the authorities to investigate the missing men's alleged departure from Russia to Syria (see also *A.A. and Others*, cited above, §§ 29-30).

C. Appeal against the refusals to open a criminal case

27. On 13 November 2018 the *Novaya Gazeta* publishing house and lawyers representing the families of two missing men appealed against the last refusal to the Yessentuki Town Court in the Stavropol Region (see paragraph 25 above). They argued that the decision had been unlawful, premature and ill-founded on account of the perfunctory nature of the inquiry. In particular, the statement of Mr Sh.Yu. obtained by the investigators had not actually been given by the man himself, but by his brother, Mr Yu. A photograph of the handcuffed Mr Sh.Yu., which had been taken shortly after his allegedly unlawful arrest and then published by *Novaya Gazeta*, was enclosed. They further argued that there was no evidence that Mr Kh.Kh., Mr S.M. and Mr T.M. had either crossed the Russian border or entered Syria. The appeal set out an extensive list of contradictions in the evidence and various flaws in the investigative steps. It stressed that the Chechen law-enforcement authorities had forced the families of the missing men to cease attempts to establish their whereabouts.

28. On 14 December 2018 the Yessentuki Town Court dismissed the appeal, concluding that the refusal to open a criminal case had been well-founded.

29. On 22 December 2018 a lawyer representing *Novaya Gazeta* and several victims of the alleged crimes challenged the above-mentioned judgment before the Stavropol Regional Court, which on 12 March 2019 dismissed the appeal and upheld the lower court's finding (ibid, §§ 39-42).

30. The applicants, except for those in application no. 49902/20, decided not to participate in the appeals out of fear, due to intimidation by the authorities (see paragraphs 14 and 16 above).

31. No criminal case has been opened into the disappearance of the relatives of the applicants in applications nos. 48523/19, 49533/19 and 49902/20. Their whereabouts remain unknown.

III. ABDUCTION OF THE APPLICANTS' RELATIVES AND RELEVANT INFORMATION PERTAINING TO APPLICATIONS Nos. 13837/20 AND 40452/20

A. Disappearance of Mr Aliyev (application no. 13837/20)

32. On or before 10 February 2020 Mr Nillan Aliyev went from Dagestan to neighbouring Chechnya with his two friends, Mr S.M. and Mr Kh.A. They stayed at a hostel in Grozny. On 10 February 2020 the applicant spoke with her son by telephone; she attempted to reach him by telephone on 11 and 12 February 2020, but to no avail.

33. Between 17 and 19 February 2020 an anonymous caller informed the applicant by telephone that her son Nillan was being detained in the

Oktyabrskiy district police station in Grozny. At the beginning of March 2020 a young woman called the applicant saying that she had found Mr Aliyev's mobile telephone and wanted to return it to her. The applicant transmitted that information to the investigators in Dagestan (see paragraph 37 below).

34. On 11 March 2020 the applicant learned from publications in the local media that her son Nillan and his two friends had been detained by the Chechen law-enforcement authorities after posting a video on Instagram on 11 or 12 February 2020 in which they had criticised the Chechen President, Ramzan Kadyrov, calling him, among other things, "a bearded puppet".

B. Investigation into the disappearance of Mr Aliyev

35. On 12 February 2020 the applicant complained about her son's disappearance to the authorities in Dagestan, which on an unspecified date in February 2020 opened a criminal case into the matter. On 13 February 2020 a friend of the three missing men also complained of their disappearance from Grozny, Chechnya, to the police in Derbent, Dagestan.

36. On 21 February 2020 police officers from Derbent went to Grozny and interviewed the staff of the hostel where the applicant's son had been staying.

37. On 26 February 2020 the Chechnya Investigative Committee opened an inquiry into the disappearance of the three men and, on 26 March 2020, opened criminal case no. 120029600250000006 under Article 105 of the Criminal Code (murder).

38. On 27 March 2020 the investigators' superiors issued orders to the investigators, instructing them to take a number of steps in the criminal case, such as obtaining CCTV footage from the hostel and other places where the missing men had been seen in Grozny, questioning their friends and relatives and obtaining a copy of the video in which they had allegedly criticised the Chechen President. Those orders were not complied with.

39. From the documents submitted to the Court it appears that the investigation into the criminal case concerning the disappearance of Mr Aliyev is still ongoing; the circumstances of his disappearance remain unelucidated and his whereabouts unknown.

C. Disappearance of Mr Umarov (application no. 40452/20)

40. At about 5.25 p.m. on 18 July 2020 officers from Grozny police station no. 1 (also known as the Leninskiy district police station) arrived at Mr Movsar Umarov's place of work and took him away in a Jeep with the registration number K302PA RUS. At about 9 p.m. on the same day another group of police officers took away Mr Umarov's Lada Priora car.

41. On 19 July 2020 the applicant went to the police station, where an officer named Is. told him that Movsar Umarov had been arrested for

watching videos of an opposition blogger who had criticised the Chechen authorities. On 20 July 2020 the applicant found out that Movsar Umarov had been transferred to the “Polk” police unit at 10 Federativnaya Street in Grozny. The applicant and his relatives were told that they could pass on food to him.

42. On 7 August 2020 the applicant and his relatives were told to come to the “Polk” police unit, where, in a room with up to ten police officers present, they saw Movsar Umarov, who had a fresh burn injury of 3 by 1.5 cm on his arm. He looked thin, pale and depressed and did not speak.

43. One of the officers, who identified himself as Dzhabrail, told the applicant and his relatives that Movsar Umarov had been “pardoned” by the Chechen President Kadyrov and spared execution. Movsar Umarov would therefore need to assist the police with a special operation to apprehend two men, one from Dagestan and another one from Ingushetia. If Movsar did that, he would be released. If not, then the police would fabricate a criminal case against him, he would end up serving a lengthy prison sentence and the applicant and his other relatives would lose their jobs.

44. On 11 August 2020 Movsar Umarov called his wife and told her that he would be released later that day. However, he never returned home. On 16 or 17 August 2020 Movsar Umarov’s wife, Ms A.G., learned that his car, which was being kept at the police unit on Federativnaya Street, had disappeared from the premises.

45. On 18 August 2020 the applicant and his relatives were told to come to police station no.1, where the officer who had spoken with them at the “Polk” police unit on 7 August 2020 informed them that Movsar Umarov had absconded. The applicant asked why, then, Movsar Umarov was neither being sought by the police as a criminal on the run nor declared missing, but the officer could not give any explanations.

46. On 24 August 2020 the head of police station no.1, Officer I.K., told Movsar Umarov’s mother that her son had absconded, having thwarted the police operation.

D. Investigation into the disappearance of Mr Umarov

47. On 21 August 2020 the applicant lodged a complaint that Mr Umarov had been abducted and on 28 August 2020 an inquiry into his disappearance was initiated by the Zavodskoy district investigative committee in Grozny.

48. On various dates in September 2020 six police officers from police station no. 1 and three officers from the “Polk” unit gave statements to the inquiry; all of them denied that Mr Umarov had either been brought to their stations or detained on their premises. On 15 September 2020 the investigators examined the place where Mr Umarov had allegedly been detained at the “Polk” unit. No evidence was collected. When interviewed,

two colleagues of Mr Umarov stated that they had not been at work on 18 July 2020.

49. On 28 September 2020 the Chechnya Investigative Committee opened criminal case no. 12002960003000037 under Article 105 of the Criminal Code (murder) to investigate the disappearance of Mr Umarov.

50. On 30 September 2020 the applicant's representatives requested that the investigators take a number of steps, including questioning the applicant, Movsar Umarov's wife and his mother; identifying the owners of black vehicles used by the abductors; identifying Officer Is. from police unit no.1; and questioning the three officers, Mr Bi., Mr M. and Mr Ba., whom the applicant had identified as being present during his last meeting with Movsar Umarov on 7 August 2020 at the "Polk" unit and whose photographs were enclosed with the request.

51. On 7 and 8 October 2020 the investigators granted the applicant, the wife of Movsar Umarov and his mother victim status in the criminal case and questioned them. All of them confirmed the version of the events as submitted in their application to the Court. In addition, the applicant stated that he was able to identify three of the officers who had been present during the meeting with Movsar Umarov on 7 August 2020 at the "Polk" police unit. Those statements were not verified by the investigators.

52. The investigation in the criminal case was suspended on several occasions, for the last time on 27 July 2021. The applicant and his relatives repeatedly requested access to the criminal case file but the requests were continually rejected by the investigators. The applicant repeatedly appealed against those refusals, but to no avail, as on 21 December 2022 the Chechnya Supreme Court upheld the last refusal to grant the applicant access to the criminal case file.

53. It appears that the investigation is still ongoing, the circumstances of Movsar Umarov's disappearance remain unelucidated and his whereabouts remain unknown.

RELEVANT LEGAL FRAMEWORK

54. For a summary of the relevant domestic law, see *Dalakov v. Russia* (no. 35152/09, §§ 51-53, 16 February 2016), and *Turluyeva v. Russia* (no. 63638/09, §§ 56-74, 20 June 2013).

THE LAW

I. JOINDER OF THE APPLICATIONS

55. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. JURISDICTION

56. The Court observes that the facts giving rise to the alleged violations of the Convention occurred prior to 16 September 2022, the date on which the Russian Federation ceased to be a party to the Convention and that a significant proportion of the subsequent investigation took place also before that date. The Court therefore decides that it has jurisdiction to examine the present application (see *Fedotova and Others v. Russia* [GC], nos. 40792/10 and 2 others, §§ 68-73, 17 January 2023, and, *mutatis mutandis*, *Pivkina and Others v. Russia* (dec.), nos. 2134/23 and 6 others, §§ 56-57, 6 June 2023).

III. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

57. The applicants complained that their relatives had disappeared after being abducted by State agents and that the authorities had failed to investigate the matter effectively, in violation of Article 2 of the Convention, the relevant part of which reads as follows:

“1. Everyone’s right to life shall be protected by law ...”

A. Admissibility

58. In respect of applications nos. 48523/19, 49533/19 and 49902/20, the Government stated that the applicants had failed to challenge the last refusal to open a criminal case in the domestic courts. The Government did not comment on the admissibility or merits of applications nos. 13837/20 and 40452/20.

59. The applicants contested the Government’s submission.

60. The Court observes that in applications nos. 48523/19, 49533/19 and 49902/20, the appeal against the refusal to open a criminal case was lodged in respect of all the missing men (see *A.A. and Others v. Russia* ([Committee], no. 37008/19, §§ 39 and 48, 14 December 2021; see also paragraph 4 above). Nevertheless, it considers that the question of whether the applicants have exhausted the domestic remedy referred to by the Government is closely linked to the merits of the applicants’ complaint under Article 2 of the Convention. The Court therefore decides to join it to the merits, which it will examine below. As to the Government’s failure to comment on the admissibility or merits of applications nos. 13837/20 and 40452/20, the Court recalls that the respondent Government’s abstention from further participation in the proceedings does not release them from the duty to cooperate with the Court and does not prevent the Court from continuing with the examination of applications where it retains jurisdiction. The Court may draw such inferences as it deems appropriate from a party’s failure or refusal to participate effectively in the proceedings (Rule 44C of the Rules of Court)

(see *Svetova and Others v. Russia*, no. 54714/17, §§ 29-31, 24 January 2023, and *Glukhin v. Russia*, no. 11519/20, §§ 42-43, 4 July 2023).

61. The Court notes that the applicants' complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

1. The parties' submissions

62. The applicants in all of the applications alleged that their relatives had disappeared after being abducted by State agents and that the ensuing investigation had been ineffective.

63. The Government submitted that the allegations of abduction in applications nos. 48523/19, 49533/19 and 49902/20 were unfounded, as the applicants' relatives had voluntarily left to join illegal armed groups in Syria, and that the investigation into the applicants' allegations had complied with the Convention standards. Furthermore, the applicants had impeded the investigation by informing the authorities more than six months after the incidents and by giving inconsistent statements to the investigators.

64. The Government did not comment on the merits of applications nos. 13837/20 and 40452/20.

2. The Court's assessment

(a) Alleged violation of the procedural limb of Article 2 of the Convention

65. A summary of the relevant principles concerning allegations of abduction and murder perpetrated by State agents can be found in *Dalakov v. Russia* (no. 35152/09, §§ 61-65, 16 February 2016), and *Estemirova v. Russia* (no. 42705/11, §§ 63-64, 31 August 2021).

66. The Court observes that no fully fledged criminal investigation into the disappearance of the applicants' relatives was carried out in respect of applications nos. 48523/19, 49533/19 and 49902/20 and that the investigations in the criminal cases relating to applications nos. 13837/20 and 40452/20 are still ongoing. The Government furnished part of the contents of the inquiry files in applications nos. 48523/19, 49533/19 and 49902/20 and no documents in respect of applications nos. 13837/20 and 40452/20. Despite the limited number of documents, the Court is able to examine the case on the merits and to conclude that the investigation in all of the cases at hand fell below the Convention standards for the following reasons.

67. The Court established in *Aslakhanova and Others v. Russia* (nos. 2944/06 and 4 others, §§ 219-21, 18 December 2012) that there had been a systemic failure to investigate unacknowledged detentions and disappearances perpetrated in Chechnya between 1999 and 2006 and after

that period. Considering the cases of disappearances in the region adjudicated by the Court after *Aslakhanova and Others* (see, among the latest examples, *A.A. and Others v. Russia*, cited above, and *Gasanova and Others v. Russia* [Committee], no. 45900/19, 10 January 2023), the reactions of the Committee of Ministers of the Council of Europe over the years (see, among the latest decisions, CM/Del/Dec(2021)1411/H46-31 and CM/Del/Dec(2022)1436/H46-24), as well as numerous reports by NGOs and international organisations on human rights violations in Chechnya (see, among other authorities, *Kutayev v. Russia*, no. 17912/15, § 100, 24 January 2023), the Court recognises that the systemic problem persists and extends not only to cases of disappearances and abductions, but more generally to the ineffectiveness of the investigations in Chechnya carried out in respect of the complaints under Articles 2 and 3 of the Convention and involving allegations against State agents.

(i) *Applications nos. 48523/19, 49533/19 and 49902/20*

68. Although the Government stated that the authorities had been unaware of the abductions for half a year on account of the long period of inaction on the part of the applicants (see paragraph 63 above), the evidence presented to the Court allows it to establish that the authorities became aware of the disappearance of the applicants' relatives, along with a number of other persons, on 19 April 2017 at the latest (see paragraph 18 above).

69. As to the Government's reference to inconsistencies in the applicants' statements given during the inquiry, the investigators had the opportunity to verify that information by obtaining further evidence but no steps were taken in that direction (see *A.A. and Others v. Russia*, cited above, § 56). The information gathered by the investigators should have led to the opening of a fully fledged criminal investigation, which is necessary in any case involving allegations of deprivation of life perpetrated by State agents and conflicting versions of events, as in the present case (see *Dalakov*, cited above, §§ 69-72). To this end the Court reiterates that the obligation to investigate under Article 2 of the Convention applies to cases where a person has disappeared in circumstances which may be regarded as life-threatening (see paragraph 76 below).

70. With regard to the Government's objection of non-exhaustion of domestic remedies, in the light of the above and considering the eight refusals to open a fully fledged investigation (see paragraph 25 above), the remedy referred to by the Government appears to have been devoid of any purpose, given that the refusals to open a criminal case were consistently found to be deficient by the investigators' superiors (see paragraph 24 above; see also *Devyatkin v. Russia*, no. 40384/06, § 30, 24 October 2017, and, for a similar situation, *Uzhakhov and Albagachiyeva v. Russia* [Committee], no. 76635/11, § 78, 23 June 2020). Accordingly, the Court finds that the

applicants were not obliged to pursue the remedy referred to by the Government and dismisses their objection under this head.

(ii) Applications nos. 13837/20 and 40452/20

71. From the applicant's submissions in application no. 13837/20 it appears that no steps were taken either to identify the man who had informed the applicant of Nillan Aliyev's detention at the police station (see paragraph 33 above) or to examine its premises and registration logs to find out whether he had been detained there. The compulsory orders of the investigators' superiors prescribing the investigators to take basic steps to elucidate the circumstances of the crime have still not been complied with (see paragraph 38 above).

72. As to application no. 40452/20, the investigation in the criminal case was opened after an unexplained delay of more than one month after the formal complaint had been lodged, the applicant's and his relatives' statements concerning the direct involvement of State agents in the abduction of Movsar Umarov and his subsequent detention on State premises were not verified and the victims' access to the criminal case file was consistently refused.

(iii) Conclusion

73. In view of the foregoing and considering the absence of any submissions by the Government in applications nos. 13837/20 and 40452/20, and also keeping in mind the systemic nature of the persistent problem of the ineffectiveness of investigations in Chechnya in respect of allegations of abductions perpetrated by State agents (see paragraph 67 above), the Court finds that the investigation into the disappearance of the applicants' relatives, Mr T.M., Mr Kh.Kh., Mr Sh.Yu., Mr M.S., Mr Aliyev and Mr Umarov, was ineffective.

(b) Alleged violation of the substantive limb of Article 2 of the Convention

74. For a summary of the principles relating to the establishment of facts concerning matters in dispute, see *El-Masri v. the former Yugoslav Republic of Macedonia* ([GC], no. 39630/09, §§ 151-53, ECHR 2012) and in respect of the distribution of the burden of proof, see *Turluyeva v. Russia* (no. 63638/09, § 85, 20 June 2013).

75. In applications nos. 48523/19, 49533/19 and 49902/20 the Government disputed that the applicants' relatives had been abducted by State agents and had remained missing, while in applications nos. 13837/20 and 40452/20 the Government did not comment on the applicants' allegations. The key issue in each case is therefore to establish whether the applicants made a prima facie case for abduction by State agents.

76. The Court observes that the Government’s assertion that the applicants’ missing relatives in applications nos. 48523/19, 49533/19 and 49902/20 had voluntarily left for Syria is not substantiated by any evidence (see, for the same situation, *A.A. and Others v. Russia*, cited above, § 63) and no explanations were given by the Government as to the disappearance of the applicants’ relatives in applications nos. 13837/20 and 40452/20. Taking into account detailed and consistent submissions by the applicants and other relevant material (ibid, §§ 63-64), the Court is satisfied that the applicants in all the applications have made a prima facie case that their relatives were abducted by State agents and have been missing since then, as alleged by the applicants. Following its findings in a number of cases where similar detention by State agents was regarded as life-threatening (for recent examples, see *S.A. and Others v. Russia* [Committee], no. 2297/15, § 63, 14 January 2020; *A.A. and Others v. Russia*, cited above, § 65; and *Gasanova and Others*, cited above, §§ 8-10), the Court finds that the lack of information concerning the fate of Mr T.M., Mr Kh.Kh., Mr Sh.Yu., Mr M.S., Mr Aliyev and Mr Umarov several years after their disappearance supports this assumption. Accordingly, the evidence available permits the Court to establish to the requisite standard of proof that they must be presumed dead following their unacknowledged detention by State agents.

77. That being so, and in the absence of any plausible justification put forward by the Government, the Court finds that the death of Mr T.M., Mr Kh.Kh., Mr Sh.Yu., Mr M.S., Mr Aliyev and Mr Umarov should be attributed to the State.

(c) Conclusion

78. There has therefore been a violation of Article 2 of the Convention in its substantive and procedural aspects.

IV. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

79. The applicants complained of a violation of Article 3 of the Convention on account of their mental suffering caused by the disappearance of their relatives. The applicant in application no. 40452/20 also complained of ill-treatment of his brother Movsar Umarov by his abductors and the authorities’ failure to investigate it. Article 3 reads as follows:

Article 3

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

80. In respect of applications nos. 48523/19, 49533/19 and 49902/20, the Government asserted that the complaints were manifestly ill-founded. They did not comment on the admissibility and merits of the complaint in applications nos. 13837/20 and 40452/20.

81. The applicants contested the Government's submissions.

A. Admissibility

82. The Court notes that these complaints are linked to those examined above under Article 2 and must therefore likewise be declared admissible.

B. Merits

1. Alleged ill-treatment of Movsar Umarov

83. The applicant alleged that, drawing inferences from Movsar Umarov's condition when he had seen him at the "Polk" police unit (see paragraph 42 above), he had reasonable grounds to conclude that his brother had been subjected to treatment in breach of Article 3 of the Convention.

84. The Court reiterates that allegations of ill-treatment must be supported by appropriate evidence. To assess this evidence, the Court adopts the standard of proof "beyond reasonable doubt" but adds that such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see *Ireland v. the United Kingdom*, 18 January 1978, Series A no. 25, pp. 64-65, § 161 *in fine*).

85. The Court already established that Mr Umarov has been detained by State agents, following which he disappeared and must be presumed dead (see paragraph 76 above). Furthermore, the Court has no reasons to doubt the applicant's submissions that at the time of his arrest Movsar Umarov was in apparently good health (see paragraph 40 above) and that subsequently the applicant and his relatives saw him at the police station looking pale and with a fresh burn injury on his arm (see paragraph 42 above).

86. Considering that the Government failed to put forward any plausible explanations as to the origins of the burn injury received by Movsar Umarov after this arrest, and taking into account the circumstances of his unacknowledged detention (see also paragraph 94 below), the Court considers that the evidence before it enables it to find beyond reasonable doubt that Mr Umarov was ill-treated while in the hands of State agents (see, for example, *Khambulatova v. Russia*, no. 33488/04, §§ 108-09, 3 March 2011).

87. It follows that there has been a violation of Article 3 of the Convention under its substantive limb in that the applicant's brother Movsar Umarov was subjected to inhuman and degrading treatment in breach of this provision.

2. Alleged lack of investigation into Movsar Umarov's ill-treatment

88. As to the complaint regarding the authorities' failure to duly investigate the ill-treatment of Movsar Umarov, for the reasons stated above

in paragraph 73 in relation to the procedural obligation under Article 2 of the Convention, the Court concludes that the Government have failed to conduct an effective investigation into Mr Umarov's ill-treatment (see *Gelayevy v. Russia*, no. 20216/07, § 131, 15 July 2010).

89. Accordingly, there has been a violation of Article 3 under its procedural limb.

3. The applicants' mental suffering

90. The Court has found on numerous occasions that a situation of enforced disappearance gives rise to a violation of Article 3 of the Convention in respect of the close relatives of the victim on account of the distress and anguish that they suffered, and continue to suffer, as a result of their inability to ascertain the fate of their missing family members and of the manner in which their complaints have been dealt with (see *Adzhigitova and Others v. Russia*, no. 2593/08, § 227, 22 June 2021; *Aslakhanova and Others*, cited above, §§ 131-33, 18 December 2012; and *A.A. and Others v. Russia*, cited above, § 69). It therefore finds a violation of Article 3 of the Convention on that account in respect of the applicants.

V. ALLEGED VIOLATION OF ARTICLES 5 AND 13 OF THE CONVENTION

91. The applicants complained of a violation of Article 5 of the Convention on account of the unlawfulness of their abducted relatives' detention and a violation of Article 13 on account of the lack of domestic remedies in respect of their complaints under Article 2 of the Convention. The relevant provisions read as follows.

Article 5

"1. Everyone has the right to liberty and security of person ..."

Article 13

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority ..."

92. The Government submitted that the applicants' complaints in applications nos. 48523/19, 49533/19 and 49902/20 were unsubstantiated. They did not comment on the admissibility and merits of the complaints in applications nos. 13837/20 and 40452/20.

93. The Court notes that the complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds and must therefore be declared admissible.

94. The Court confirms that since it has been established that Mr T.M., Mr Kh.Kh., Mr Sh.Yu., Mr M.S., Mr Aliyev and Mr Umarov were detained by State agents without any legal grounds or acknowledgment of such detention, this constitutes a particularly serious violation of Article 5 of the Convention (see *Tsakoyevy v. Russia*, no. 16397/07, § 142, 2 October 2018, and *A.A. and Others v. Russia*, cited above, § 70). The Court accordingly finds a violation of that Article in respect of the applicants' missing relatives.

95. The Court further finds that the applicants did not have an effective domestic remedy at their disposal for their grievances under Article 2 of the Convention, in breach of Article 13 of the Convention (see *Aslakhanova and Others*, cited above, § 157).

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

96. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

97. The applicants' claims in respect of pecuniary damage, costs and expenses and the amounts awarded are set out in the appendix. The applicants left the determination of the amount of the award in respect of non-pecuniary damage to the Court's discretion.

98. The Government contested the claims in applications nos. 48523/19, 49533/19 and 49902/20 as unfounded.

99. In respect of pecuniary damages claimed, the Court recalls that loss of earnings applies to close relatives of the disappeared persons, including spouses, elderly parents and children (see, among other authorities, *Imakayeva v. Russia*, no. 7615/02, § 213, ECHR 2006-XIII (extracts); as well as *Ortsuyeva and Others v. Russia*, no 3340/08, § 119, 22 November 2016; and *Murdalovy v. Russia*, no. 51933/08, § 108, 31 March 2020. Having regard to the documents in its possession, the Court awards the amounts indicated in the appendix in respect of pecuniary and non-pecuniary damage and costs and expenses.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Holds* that it has jurisdiction to deal with the applicants' complaints as they relate to facts that took place before 16 September 2022;

3. *Joins* to the merits the Government's preliminary objection concerning the exhaustion of domestic remedies in applications nos. 48523/19, 49533/19 and 49902/20 and *dismisses* it;
4. *Declares* the applications admissible;
5. *Holds* that there has been a substantive and procedural violation of Article 2 of the Convention in respect of Mr T.M., Mr Kh.Kh., Mr Sh.Yu., Mr M.S., Mr Aliyev and Mr Umarov on account of their enforced disappearance;
6. *Holds* that there has been a substantive and procedural violation of Article 3 of the Convention in respect Mr Movsar Umarov on account of his ill-treatment;
7. *Holds* that there has been a violation of Article 3 of the Convention in respect of each of the applicants on account of their mental suffering caused by the disappearance of their relatives;
8. *Holds* that there has been a violation of Article 5 of the Convention in respect of Mr T.M., Mr Kh.Kh., Mr Sh.Yu., Mr M.S., Mr Aliyev and Mr Umarov on account of their unlawful detention;
9. *Holds* that there has been a violation of Article 13 of the Convention in conjunction with Article 2 of the Convention;
10. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the amounts indicated in the appendix in respect of pecuniary and non-pecuniary damage and costs and expenses, plus any tax that may be chargeable to the applicants, the amounts in respect of costs and expenses to be paid into the account of the applicants' representatives as indicated by the applicants;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on those amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
11. *Dismisses* the remainder of the applicants' claims for just satisfaction.

N.A. AND OTHERS v. RUSSIA JUDGMENT

Done in English, and notified in writing on 21 November 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova
Deputy Registrar

Pere Pastor Vilanova
President

N.A. AND OTHERS v. RUSSIA JUDGMENT

APPENDIX

No.	Application no. Date of application Case title	Applicant Year of birth Place of residence	Kinship to the abducted person	Represented by	Pecuniary damage claimed and amount awarded by the Court	Amount awarded by the Court in respect of non-pecuniary damage	Costs and expenses claimed and awarded
1	no. 48523/19 12/09/2019 N.A. and S.K. v. Russia	(1) Ms N.A. 1960 Shali, Chechnya	Mother of Mr T.M.	Memorial Human Rights Centre	Amount claimed: 19,926 euros (EUR) Amount awarded: EUR 10,000 (ten thousand euros) to the first applicant	EUR 60,000 (sixty thousand euros) to the first applicant	Claimed: EUR 11,977 and 9,713 pounds sterling (GBP) Awarded: EUR 12,000 to the first and second applicants jointly
		(2) Mr S.K. 1958 Prigorodnoye, Chechnya	Father of Mr Kh.Kh.		Amount claimed: EUR 13,608 Amount awarded: EUR 7,000 (seven thousand euros) to the second applicant		
2	no. 49533/19 12/09/2019 S.Y. and Others v. Russia	(1) Mr S.Y. 1956 Kurchaloy, Chechnya	Father of Mr Sh.Yu.	Stichting Russian Justice Initiative / Astreya	Amount claimed: 480,123 Russian roubles (RUB) (about EUR 6,000) Amount awarded: EUR 5,000 (five thousand euros) to the first applicant	EUR 60,000 (sixty thousand euros) to the first, second, third, fourth, fifth, sixth and seventh applicants jointly	Claimed: EUR 4,150 Awarded: EUR 3,000 to the first, second, third, fourth, fifth, sixth and seventh applicants jointly

N.A. AND OTHERS. v. RUSSIA JUDGMENT

No.	Application no. Date of application Case title	Applicant Year of birth Place of residence	Kinship to the abducted person	Represented by	Pecuniary damage claimed and amount awarded by the Court	Amount awarded by the Court in respect of non-pecuniary damage	Costs and expenses claimed and awarded
		<p>(2) Ms Kh.Yu. 1958 Kurchaloy, Chechnya</p>	<p>Mother of Mr Sh.Yu.</p>		<p>Amount claimed: RUB 562,532 (about EUR 8,200)</p> <p>Amount awarded: EUR 6,000 (six thousand euros) to the second applicant</p>		
		<p>(3) Ms Z.Sh. 1988 Argun, Chechnya</p>	<p>Wife of Mr Sh.Yu.</p>		<p>Amount claimed: RUB 1,819,820 (about EUR 26,400)</p> <p>Amount awarded: EUR 16,000 (sixteen thousand euros) to the third applicant</p>		
		<p>(4) Mr I.Yu. 2008 Argun, Chechnya</p>	<p>Son of Mr Sh.Yu.</p>		<p>Amount claimed: RUB 162,376 (about EUR 2,400)</p> <p>Amount awarded: EUR 2,000 (two thousand euros) to the fourth applicant</p>		

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No.	Application no. Date of application Case title	Applicant Year of birth Place of residence	Kinship to the abducted person	Represented by	Pecuniary damage claimed and amount awarded by the Court	Amount awarded by the Court in respect of non-pecuniary damage	Costs and expenses claimed and awarded
		(5) Ms Z.Yu. 2009 Argun, Chechnya	Daughter of Mr Sh.Yu.		Amount claimed: RUB 188,001 (about EUR 2,700) Amount awarded: EUR 2,000 (two thousand euros) to the fifth applicant		
		(6) Ms M. Yu. 2013 Argun, Chechnya	Daughter of Mr Sh.Yu.		Amount claimed: RUB 264,874 (about EUR 3,800) Amount awarded: EUR 3,000 (three thousand euros) to the sixth applicant		
		(7) Ms S.Yu. 2015 Argun, Chechnya	Daughter of Mr Sh.Yu.		Amount claimed: RUB 304,165 (about EUR 4,400) Amount awarded: EUR 4,000 (four thousand euros) to the seventh applicant		

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No.	Application no. Date of application Case title	Applicant Year of birth Place of residence	Kinship to the abducted person	Represented by	Pecuniary damage claimed and amount awarded by the Court	Amount awarded by the Court in respect of non-pecuniary damage	Costs and expenses claimed and awarded
3.	no. 49902/20 09/11/2020 A.S. and S.A. v. Russia	(1) Mr A. S. 1998 Bamberg, Germany (2) Ms S.A. 1957 Bamberg, Germany	Brother of Mr M.S., who was born in 1993 Mother of Mr M.S.	Stichting Russian Justice Initiative / Astreya	Amount claimed by the second applicant only: RUB 1,276,080 (about EUR 13,600) Amount awarded: EUR 7,000 (seven thousand euros) to the second applicant	EUR 60,000 (sixty thousand euros) to the first and second applicants jointly	Claimed: EUR 6,099 Awarded: EUR 3,000 to the first and second applicants jointly
4.	no. 13837/20 16/03/2020 Kazimova v. Russia	Ms Nargiz KAZIMOVA 1963 Derbent, Dagestan	Mother of Mr Nillan Aliyev, who was born in 1989	Stichting Russian Justice Initiative / Astreya	Amount claimed: 1,553,664 RUB (about EUR 17,000) Amount awarded: EUR (about EUR 9,000)	EUR 60,000 (sixty thousand euros)	Claimed: EUR 4,066 Awarded: EUR 3,000
5.	no. 40452/20 14/09/2020 Umarov v. Russia	Mr Musa UMAROV 1988 Naurskaya, Chechnya	Brother of Mr Movsar Umarov, who was born in 1986	Committee Against Torture	-	EUR 60,000 (sixty thousand euros)	-