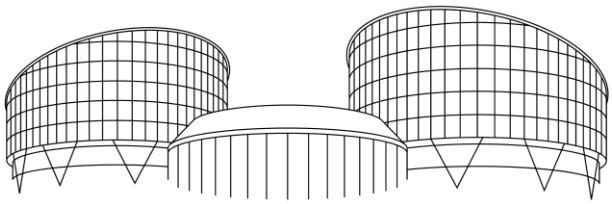

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF KERIMOVA AND OTHERS v. RUSSIA

(Applications nos. 17170/04, 20792/04, 22448/04, 23360/04, 5681/05 and 5684/05)

JUDGMENT

This version was rectified on 30 March 2012 under Rule 81 of the Rules of Court

STRASBOURG

3 May 2011

FINAL

15/09/2011

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

In the case of Kerimova and Others v. Russia**,**

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

Nina Vajić, *President,*
Anatoly Kovler,
Christos Rozakis,
Peer Lorenzen,
Elisabeth Steiner,
Khanlar Hajiyev,
George Nicolaou, *judges,*

and André Wampach, *Deputy Section Registrar,*

Having deliberated in private on 5 April 2011,

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

PROCEDURE

1. The case originated in six applications (nos. 17170/04, 20792/04, 22448/04, 23360/04, 5681/05 and 5684/05) 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 nineteen Russian nationals listed in annex I ("the applicants") on the respective dates indicated therein.

2. The applicants were represented by Ms L. Khamzayeva, a lawyer practising in Moscow. The Russian Government ("the Government") were represented by Mr G. Matyushkin, the Representative of the Russian Federation at the European Court of Human Rights.

3. The applicants complained, in particular, that as result of aerial attacks on the town in which they lived, their family members had died, their lives had been put at risk and their houses and other property had been severely damaged. The applicants relied on Articles 2 and 8 of the Convention and Article 1 of Protocol No. 1.

4. On 29 August 2004, 1 September 2005 and 25 September 2008 respectively the applications were granted priority under Rule 41 of the Rules of Court.

5. On 25 September 2008 the Court decided to join the proceedings in the various applications (Rule 42 § 1) and to give notice of them to the Government. It also decided to rule on the admissibility and merits of the applications at the same time (Article 29 § 1).

6. The Government objected to the joint examination of the admissibility and merits of the applications. Having considered the Government's objection, the Court dismissed it.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicants are residents of the town of Urus-Martan in the Chechen Republic.

A. The facts

8. At the material time all the applicants lived at various addresses in Urus-Martan.

9. The first applicant lived with her family in a block of flats at 224 Kalanchakskaya Street.

10. According to the second applicant, she had owned a private house at 15 Dostoyevskiy Street. In support of her submission, the second applicant adduced a certificate from the Urus-Martan Administration (*администрация г. Урус-Мартан*), dated 2 December 2004, stating that she had lived on real estate measuring 428 square metres at 15 Dostoyevskiy Street. The certificate indicated that the property had been damaged as a result of the military actions in the Chechen Republic in 1999. It did not specify whether the second applicant had any property rights in respect of that estate.

11. According to the third applicant, she had lived with her husband and children in a private house at 25 Mayakovskiy Street. She adduced an extract from a housing inventory (*похозяйственная книга*) issued by the Urus-Martan Administration on 26 March 2009, stating that she had real estate at 25 Mayakovskiy Street and that the property, measuring 40 square meters, had been built or acquired in 1995.

12. According to the fourth applicant, he had lived with his family in a private house at 24 Mayakovskiy Street. He submitted a certificate from the Urus-Martan Administration, dated 3 July 2002, stating that he had lived on real estate measuring 365 square metres at 24 Mayakovskiy Street. The certificate indicated that the property had been damaged as a result of the military actions in the Chechen Republic in 1999. It did not specify whether the fourth applicant had any property rights in respect of that estate. The fourth applicant also adduced an extract from a housing inventory issued by the Urus-Martan Administration on 26 March 2009, stating that he had real estate at 27 Mayakovskiy Street and that the property, measuring 235 square meters, had been built or acquired in 1993.

13. According to the fifth applicant, he had lived with his family in a private house at 19 Dostoyevskiy Street. He submitted a certificate issued by the Urus-Martan Administration on an unspecified date in July 2002, stating that he had lived on real estate measuring 348 square metres at

19 Dostoyevskiy Street. The certificate indicated that the property had been damaged as a result of the military actions in the Chechen Republic in 1999. It did not specify whether the fifth applicant had any property rights in respect of that estate.

14. According to the sixth applicant, he had lived with his family in a private house at 32 Pervomayskaya Street. He submitted a certificate from the Urus-Martan Administration, dated 3 July 2002, stating that he had lived on real estate measuring 310 square metres at 32 Pervomayskaya Street. The certificate indicated that the property had been damaged as a result of the military actions in the Chechen Republic in 1999. It did not specify whether the sixth applicant had any property rights in respect of that estate. The sixth applicant also adduced an extract from a housing inventory issued by the Urus-Martan Administration on 27 March 2009, stating that he had real estate at 46 Pervomayskaya Street and that the property, measuring 300 square meters, had been built or acquired in 1978.

15. The seventh to thirteenth applicants are relatives. The seventh applicant is a brother of Mr Vakha Tselstayev and the husband of the eighth applicant. The ninth applicant is Mr Vakha Tseltsayev's widow, and the tenth and twelfth applicants are their children. The eleventh and thirteenth applicants are Mr Vakha Tseltsayev's children from a previous marriage. According to them, they all lived at 24 Dostoyevskiy Street. The seventh applicant submitted a certificate from the Urus-Martan Administration, dated 3 July 2002, stating that property measuring 224 square metres at 24 Dostoyevskiy Street had been damaged as a result of the military actions in the Chechen Republic in 1999. The certificate did not specify whether the seventh applicant had any property rights in respect of that real estate. The seventh applicant also adduced an extract from a housing inventory issued by the Urus-Martan Administration on 26 March 2009, stating that he had real estate at 73 Pervomayskaya Street and that this property, measuring 32 square meters, had been built or acquired in 2001.

16. The fourteenth to nineteenth applicants are relatives. The fourteenth and fifteenth applicants are spouses, and the parents of Mr Yakub Israilov and of the sixteenth and seventeenth applicants. The eighteenth applicant is the fourteenth applicant's nephew, and the nineteenth applicant is the fourteenth applicant's brother. According to them, they all lived in a private house at 23 Mayakovskiy Street. The fourteenth applicant submitted a certificate from the Urus-Martan Administration, dated 3 July 2002, stating that property measuring 428 square metres at 23 Mayakovskiy Street, had been damaged as a result of the military actions in the Chechen Republic in 1999. The certificate did not specify whether the fourteenth applicant had any property rights in respect of that real estate. The fourteenth applicant also adduced an extract from a housing inventory issued by the Urus-Martan Administration on 27 March 2009, which stated that he had real estate at

23 Mayakovskiy Street and that the property, measuring 60 square meters, had been built or acquired in 1985.

1. Attacks of 2 and 19 October 1999

(a) The applicants' account

17. In early October 1999 the Russian Government commenced a counter-terrorism operation in the Chechen Republic.

18. On 2 October 1999 the federal military air forces attacked the town of Urus-Martan. One of the bombs hit the block of flats at 224 Kalanchakskaya Street, resulting in its complete destruction and human casualties. In particular, eight residents of the block of flats, including the first applicant's husband, Mr Adlan Kerimov, and her brother, Mr Lechi Albigov, were killed, and seven residents, including the first applicant and her three minor children were wounded.

19. On 8 October 1999 the first applicant and her three children were issued with a medical certificate confirming that they had sought and obtained medical assistance in connection with their multiple shrapnel wounds.

20. On 19 October 1999 Urus-Martan again came under aerial attack by the federal forces. The bombing resulted in the deaths of six people and injuries to sixteen people, including the tenth, sixteenth and eighteenth applicants, the destruction of thirteen houses and damage to twenty-seven others.

21. Those killed were:

(a) Mr Makharbi Lorsanov, born in 1942, the third applicant's husband;

(b) Mr Minkail Lorsanov, born in 1980, the fourth applicant's son;

(c) Ms Aminat Abubakarova, born in 1931, the fifth applicant's mother;

(d) Mr Apti Abubakarov, born in 1974, the sixth applicant's son;

(e) Mr Vakha Tseltsayev, born in 1951, a relative of the seventh to thirteenth applicants (see annex II);

(f) Mr Yakub Israilov, born in 1974, a relative of the fourteenth to nineteenth applicants (see annex II).

22. The destroyed and damaged buildings included:

(a) the house at 15 Dostoyevskiy Street in which the second applicant lived;

(b) the house at 25 Mayakovskiy Street in which the third applicant lived;

(c) the house at 24 Mayakovskiy Street in which the fourth applicant lived;

(d) the house at 19 Dostoyevskiy Street in which the fifth applicant lived;

(e) the house at 32 Pervomayskaya Street in which the sixth applicant lived;

(f) the house at 24 Dostoyevskiy Street in which the seventh to thirteenth applicants lived; and

(g) the house at 23 Mayakovskiy Street in which the fourteenth to nineteenth applicants lived.

23. On 19 October 1999 the sixteenth and eighteenth applicants were admitted to Urus-Martan hospital in connection with shrapnel wounds sustained during the air strike. They both submitted medical certificates attesting to their injuries.

24. On 21 October 1999 the tenth applicant sought and obtained medical assistance in connection with a shrapnel wound to his right shoulder sustained on 19 October 1999. An entry to that effect was made on the same date in the register of urgent medical assistance at Urus-Martan hospital.

25. On 3 March 2000 a medical death certificate was issued in respect of the fourth applicant's son. It stated that he had died on 19 October 1999 as a result of multiple shrapnel wounds. On the same date a similar certificate was issued to attest the death on 19 October 1999 of Yakub Israilov, relative of the fourteenth to nineteenth applicants, on account of multiple shrapnel wounds.

26. On 23 March 2001 the Urus-Martan Civil Registration Office issued a death certificate in respect of the sixth applicant's son, stating that the latter had died in Urus-Martan on 19 October 1999.

27. In the period between 12 and 19 August 2002 the Urus-Martan Civil Registration Office issued death certificates in respect of the third applicant's husband, the fourth applicant's son, the fifth applicant's mother, the seventh to thirteenth applicants' relative and the fourteenth to nineteenth applicants' relative. The place and date of their deaths were indicated as Urus-Martan, 19 October 1999.

(b) The Government's account

28. According to the Government, pursuant to Presidential Decree no. 1255c of 23 September 1999, the Russian authorities launched a counter-terrorism operation in the Northern Caucasus for the disarmament and liquidation of illegal armed groups and restoration of constitutional order. The activity of the illegal armed groups was threatening public interests, State security, the territorial integrity of Russia and the lives, rights and freedoms of its citizens in the Chechen Republic and some other areas of the Northern Caucasus.

29. The operation was carried out by the federal armed forces. In late September 1999 the Group "West" was formed under the command of General Major Sh. In the same period the United Air Forces Group was created under the command of General Lieutenant G. In early October 1999 the federal forces commenced the counter-terrorism operation in the Chechen Republic.

30. In the Government's submission, once the campaign in the Chechen Republic had commenced, the authorities, via the mass-media and leaflets, ordered the illegal fighters to stop their criminal activity and lay down arms and warned the local population of the possible use of aircraft and artillery in case of the organised resistance by the illegal armed groups to the federal forces. In response, the rebel fighters offered fierce armed resistance and organised fortified defence in local settlements, prohibiting the residents from leaving their houses and using them as human shields.

31. According to the Government, in the middle of October the town of Urus-Martan was occupied by Islamic extremists – Wahhabis – amounting to over 1,500 persons. In the Government's submission, "almost no local residents remained in Urus-Martan as a result of the violence applied to them by the Wahhabis". The latter based their headquarters in the town and significantly fortified it. In particular, they located their command points in the central part of the town, in school no. 7 and the building of the town administration and kept captives and local residents detained for refusal to collaborate with them in the basements of those buildings. In the Government's submission, there was a camp of captives and slaves in the town. The illegal fighters also had a number of radio relays and television re-transmitters in the town, and they actively used that equipment for detecting movements of the federal forces. On the outskirts, the rebel fighters located their bases and a centre for subversive training, dug trenches and dugouts, filled pits with oil to be able to explode them on the approach of the federal forces, and organised numerous firing posts in residential buildings. The depth of defence extended to three to four quarters from the outskirts towards the town centre. According to the intelligence data, the extremists were not prepared to surrender and planned violent military actions against the federal troops.

32. In October 1999 the illegal armed groups led active military actions against the federal forces, using surface-to-air missile systems and large-calibre firearms against the federal aircraft. In particular, the extremists attacked the federal aircraft from the roofs of high-rise buildings in Urus-Martan with the result that a number of federal planes and helicopters were shot down and the pilots either killed or captured. Such incidents took place on 1, 3 and 4 October 1999. Also, according to the intelligence data, around 18 October 1999 a new group of approximately 300 fighters arrived at Urus-Martan as reinforcements.

33. In those circumstances, on 18 October 1999 General Major Sh. issued order no. 04, which in paragraph 2 prescribed that the federal aircraft resources be assigned for tactical support to the Group "West" and that the illegal fighters' bases, ammunition depots and other important targets outside the reach of the federal artillery fire be destroyed by pinpoint aerial strikes.

34. On 19 October 1999, pursuant to that order, two military SU-24 M planes belonging to military unit no. 11731, each laden with eighteen high-explosive fragmentation aerial bombs of calibre 250-270 kg, at 1.30 p.m. and 1.31 p.m. carried out strikes on concentrations of illegal fighters one kilometre to the east of Urus-Martan. This decision was noted down on the tactical map of the United Air Forces Group of the United Group Alignment.

35. At the same time, the planes also carried out bomb strikes on the extremists' bases in Urus-Martan, including those situated in school no. 7 and the building of the town administration. The planes also bombed rectangle no. 75443 on the eastern outskirts of Urus-Martan where, according to the Government, residential buildings prepared for long-term defence were situated. The residential quarter comprising Dostoyevskiy, Mayakovskiy and Pervomayskaya Streets fell within rectangle no. 75443 and the houses in which the second to nineteenth applicants lived were among the buildings hit by the federal bombers.

2. Official investigation into the attack of 2 October 1999

(a) Information received by the first applicant's representative

36. It does not appear that the first applicant applied personally to law-enforcement agencies in connection with the attack of 2 October 1999. It can be ascertained from the documents submitted that Mr A. Khamzayev, a former resident of Urus-Martan and a lawyer practising in Moscow, complained to various public bodies about this incident on behalf of the first applicant and other victims of the attack of 2 October 1999. He described the circumstances of the strike, listed those killed and wounded and sought to have this incident duly investigated.

37. On 14 April 2001 the Prosecutor's Office of the Urus-Martan District (*прокуратура Урус-Мартановского района* – "the district prosecutor's office") forwarded Mr Khamzayev's complaint to the Temporary Office of the Interior of the Urus-Martan District (*временный отдел внутренних дел Урус-Мартановского района* – "the Urus-Martan VOVD") for examination.

38. On 18 and 22 June 2001 respectively the Military Prosecutor's Office of the North Caucasus Military Circuit (*военная прокуратура Северо-Кавказского военного округа* – "the circuit military prosecutor's office") transmitted Mr Khamzayev's complaint about the attack of 2 October 1999 to the military prosecutor's office of military unit no. 20102 (*военная прокуратура – войсковая часть 20102*) for examination. The latter was requested to reply to Mr Khamzayev by 10 July 2001. On 4 July 2001 the circuit military prosecutor's office forwarded a duplicate of Mr Khamzayev's complaint to the military prosecutor's office of military unit no. 20102. In a letter of 24 August 2001, similar to those of 22 June and

4 July 2001, the circuit military prosecutor's office transmitted one more duplicate of Mr Khamzayev's complaint about the incident of 2 October 1999 to the military prosecutor's office of military unit no. 20102, requesting it to give a reply by 24 September 2001.

39. In a letter of 25 July 2001 the Prosecutor's Office of the Chechen Republic (*прокуратура Чеченской Республики* – "the republican prosecutor's office") informed Mr Khamzayev that they had examined his complaint concerning an air strike of 2 October 1999 on a house at 224 Kalanchakskaya Street, and that on 23 April 2001 criminal proceedings had been brought under Article 167 § 2 of the Russian Criminal Code (aggravated deliberate destruction of, or damage to, property) in that connection. The letter further stated that the case file had been assigned the number 25268 and that the district prosecutor's office was carrying out an investigation into the incident.

40. On 25 August 2001 the Urus-Martan VOVD notified Mr Khamzayev that the district prosecutor's office had opened two criminal cases in connection with an air strike of 2 October 1999 on Kalanchakskaya Street. In particular, on 21 July 2000 criminal case no. 24031 had been opened under Article 105 § 2 of the Russian Criminal Code (aggravated murder), and on 20 October 2000 criminal case no. 24050 had been opened under Article 167 § 2 of the Russian Criminal Code.

41. In a letter of 19 September 2001 the military prosecutor's office of military unit no. 20102 informed Mr Khamzayev that on 20 October 2000 the district prosecutor's office had opened criminal case no. 24050 in connection with the air strike of 2 October 1999 on the southern outskirts of Urus-Martan, and that the investigation was currently pending. The letter also stated that there was no evidence of any involvement in the attack of servicemen from the Russian Ministry of Defence or personnel from the interior troops of the Russian Ministry of the Interior.

42. On 11 October 2001 the district prosecutor's office informed Mr Khamzayev that they had examined his complaints and, in the course of the investigation, would take into account his arguments concerning the actions of the federal servicemen during the attack of 2 October 1999. They also stated that progress reports on the course of the investigation could not be issued for private individuals.

43. On 8 November 2001 the commander of military unit no. 40911 replied to Mr Khamzayev's complaint of 30 October 2001, stating, *inter alia*, that the block of flats at 224 Kalanchakskaya Street had not been listed among the targets selected for a strike by the federal air forces, that the latter had not received any orders to carry out such a strike on 2 October 1999, and that there was no available information as to whether there had been transgression by foreign military aircraft into the airspace of the Russian Federation in October 1999.

44. On 19 March 2004 the republican prosecutor's office replied to Mr Khamzayev's complaint about the district prosecutor's office's failure to act in respect of his requests to institute criminal proceedings in connection with the bomb strike of 2 October 1999. The letter stated, in particular, that on 29 July 2001 the Urus-Martan VOVD had instituted criminal proceedings under Article 167 § 2 of the Russian Criminal Code and that at present the investigation in that case was being conducted by the district prosecutor's office. The letter invited Mr Khamzayev to send his queries concerning the course and results of the investigation to the district prosecutor's office.

45. In a letter of 25 March 2004, upon Mr Khamzayev's request, the Urus-Martan Administration furnished him with a notarised copy of eyewitness statements describing the events of 2 October 1999 and certificates confirming the destruction of property at 222 and 224 Kalanchakskaya Street.

46. On 5 April 2004 the first applicant was granted victims status in case no. 25268.

47. On 22 April 2004 the republican prosecutor's office sent Mr Khamzayev a letter similar to that of 19 March 2004.

48. In a letter of 4 May 2004 the district prosecutor's office informed Mr Khamzayev that, upon his complaint concerning the bomb strike of 2 October 1999, criminal proceedings in case no. 24031 had been instituted on 21 July 2000 under Articles 105 § 2 and 167 § 2 of the Russian Criminal Code, and that on 19 March 2003 this case had been transferred to the military prosecutor's office of the United Group Alignment (*военная прокуратура Объединенной группы войск*) for further investigation.

49. In June 2004 Mr Khamzayev died and Ms L. Khamzayeva, his daughter and the applicants' representative in the proceedings before the Court, replaced him in representing the applicants, and in particular, the first applicant, before the domestic authorities. On an unspecified date she wrote a letter to the military prosecutor's office of the United Group Alignment enquiring, *inter alia*, on behalf of the first applicant about the investigation into the attack of 2 October 1999. It is unclear whether any reply followed.

(b) Information submitted by the Government

50. According to the Government, the law-enforcement authorities of the Chechen Republic had been notified of the aerial attack of 2 October 1999 firstly on 23 September 2000, when a certain Mr E. filed a written complaint about the damage inflicted on his property during that incident to the district prosecutor's office.

51. On 20 October 2000 the district prosecutor's office, upon Mr E.'s complaint, instituted criminal proceedings under Article 167 § 2 of the Russian Criminal Code (aggravated deliberate destruction of, or damage to property) in connection with the infliction of damage on Mr E.'s housing

and property as a result of a bomb strike on 2 October 1999 by "an unidentified plane". The case file was given the number 24050.

52. On 20 December 2000 the district prosecutor's office suspended the investigation in case no. 24050 for failure to establish those responsible. This decision was never challenged or quashed.

53. It appears that on 22 April 2001 a certain Mr K., apparently the first applicant's relative, complained to the Urus-Martan VOVD about the destruction of his property and the deaths and injuries inflicted on several people as a result of the bomb strike of 2 October 1999. Upon this complaint, on 23 April 2001 the Urus-Martan VOVD instituted criminal proceedings under Article 167 § 2 of the Russian Criminal Code. The case file was assigned the number 25268.

54. In the Government's submission, the preliminary investigation in case no. 25268 had been suspended and resumed on several occasions. On the latest occasion it was stayed on 1 September 2004 owing to a failure to establish those responsible. On 28 November 2008 this decision was set aside by a supervising prosecutor and the investigation in the said case was currently pending.

3. Official investigation into the attack of 19 October 1999

55. It does not appear that any of the applicants personally sought an investigation into the events of 19 October 1999. It can be ascertained from the adduced documents that it was Mr Khamzayev who, on the applicants' behalf, actively applied to various public bodies, describing in detail the consequences of the attack.

(a) Replies from military and administrative authorities

56. In the period between April 2000 and November 2001 Mr Khamzayev received a number of similar letters from the commander of the Troops of the North Caucasus Military Circuit (*командующий войсками Северо-Кавказского военного округа*), the Main Headquarters of the Russian Air Forces (*Главный штаб Военно-воздушных сил*), the acting commander-in-chief of the Air Forces (*временно исполняющий обязанности Главнокомандующего Военно-воздушными силами*) and the commander of military unit no. 40911. All of them denied any involvement of their personnel in the alleged attack of 19 October 1999 on Urus-Martan, stating that the federal aircraft had not conducted any flights in the vicinity of Urus-Martan or carried out any bomb-missile strikes in October 1999 or later, and that there was no available information as to whether there had been transgression by foreign military aircraft into the airspace of the Russian Federation in October 1999. According to the letters, air strikes were aimed only at targets which had been pre-selected and identified as military and were situated at a distance of at least two or three kilometres from inhabited areas, and that the accuracy of military

aircraft excluded any possibility of accidental striking of civilian targets. As regards Mr Khamzayev's complaints about unexploded bombs found by the residents, he was invited to apply to "a competent body of the Ministry of the Interior" in the vicinity of his domicile.

57. A letter of an acting head of the Headquarters of military unit no. 40911 dated 15 February 2001 stated, in particular, that the aircraft of the Fourth Army of the Air Force and Counter Missile Defence (*Четвертая Армия Военно-воздушных сил и противоракетной обороны*) had not attacked Urus-Martan or launched an air strike on the residential quarter in question, since they had not possessed any information regarding any military objects in the said area which would warrant such a strike. The letter also stated that the information allegedly received by the first applicant from the military prosecutor's office, to the effect that on 19 October 1999 two SU-25 military aeroplanes had launched an air strike on Urus-Martan, was inaccurate.

58. On 18 December 2001 the Office of the Plenipotentiary Representative of the Russian President in the Southern Federal Circuit (*Аппарат Полномочного представителя Президента РФ в Южном федеральном округе*) informed Mr Khamzayev that there had been no military actions in Urus-Martan in October 1999, that illegal armed formations had no military aircraft or bombs and missiles in their arsenal and that in October 1999 no transgression of foreign military aircraft into the airspace of the Russian Federation had been detected.

59. In a letter of 14 November 2002 the commander-in-chief of the Air Forces also informed Mr Khamzayev that, according to a register of combat air missions (*журнал учета боевых вылетов*) and tactical map (*карта ведения боевых действий*), on 19 October 1999 aircraft of the Russian Air Forces had not carried out any bomb strikes at a distance of one kilometre from the south-eastern outskirts of Urus-Martan.

(b) Criminal proceedings

60. It appears that on 7 April 2000 the military prosecutor's office of military unit no. 20102 decided to dispense with criminal proceedings in connection with the events of 19 October 1999, stating that there was no evidence of involvement of the federal military in the imputed offence, and that the alleged casualties and damage could have been inflicted by fighters of illegal armed formations.

61. On 21 July 2000 the republican prosecutor's office instituted criminal proceedings in connection with the aerial attack of 19 October 1999 on Urus-Martan, the killing of residents and the destruction of property, under Articles 105 § 2 (a) and (e) (killing of two or more persons committed in a socially dangerous manner) and 167 § 2 of the Russian Criminal Code. The case file was assigned the number 24031 and sent to the district prosecutor's office for investigation.

62. Between 21 July 2000 and 7 March 2001 the criminal proceedings were suspended and resumed on three occasions (see paragraphs 104-106 below).

63. On 29 April 2001 the district prosecutor's office referred the file in case no. 24031 to the military prosecutor of military unit no. 20102 for further investigation (see paragraph 108 below). The latter sent the case file to the republican prosecutor's office on 11 May 2001 (see paragraph 109 below).

64. On 24 May 2001, in the context of civil proceedings for compensation instituted before the Basmannyy District Court of Moscow by Mr Khamzayev in respect of his destroyed house, the district prosecutor's office furnished the court with a report on the results of the investigation in criminal case no. 24031. The document stated that on 19 October 1999 an unidentified aircraft had carried out a strike on Urus-Martan, with the result that six residents had died, sixteen had been wounded, thirteen private houses had been destroyed, and twenty-seven houses had been damaged. The republican prosecutor's office had instituted criminal proceedings in this connection on 21 July 2000, in case no. 24031. The events of 19 October 1999 were confirmed by forty-eight witnesses, listed in the report, and by other witnesses, a report on the inspection of the scene of the incident and another on the forensic examination, as well as by other evidence, such as fragments of exploded aerial bombs seized from the territory of Mr Khamzayev's household and a video-recording of the site of the incident, dated 10 November 1999. Finally, the report stated that, given that the illegal armed formations had no aircraft, the criminal case had been sent on three occasions for further investigation to the military prosecutor's office, which had returned it on various grounds; this had protracted the investigation and made it difficult to identify the pilots involved in the attack of 19 October 1999.

65. On 6 June 2001 the investigation was resumed and then stayed on 6 July 2001 (see paragraphs 110-111 below).

66. By a decision of 18 March 2002 the circuit military prosecutor's office refused Mr Khamzayev's request to have criminal proceedings instituted against senior officers from the General Headquarters of the Russian Armed Forces and the Main Headquarters of the Russian Air Forces, who had allegedly provided him with false information concerning the attack of 19 October 1999. The decision referred to statements by a number of officers, who had claimed that Mr Khamzayev's allegations concerning the bombing of Urus-Martan had been thoroughly investigated on several occasions and had proved to be unsubstantiated. In particular, one of the officers stated that he had personally examined the register of combat air missions and tactical map for the relevant period and ascertained that there had been no air strikes on the town of Urus-Martan on 19 October 1999. However, at 1.30 p.m. on that date high-explosive aerial bombs of

calibre 250 kg had been launched against a group of fighters located one kilometre from the south-eastern outskirts of Urus-Martan. The decision concluded that since it had been established that the officers had provided Mr Khamzayev with full and true information, there were no constituent elements of a crime in their actions.

67. On the same date the circuit military prosecutor's office quashed the decision taken by the military prosecutor of military unit no. 20102 on 7 April 2000. The circuit military prosecutor's office stated, in particular, that the decision of 7 April 2000 had been based on explanations by the Head of the Headquarters of the Group "West", Colonel K., and an extract from the register of combat air missions, indicating coordinates which had been attacked by a pair of SU-25 planes on 19 October 1999 and which had been situated at a distance of twenty-seven kilometres from Urus-Martan. The decision of 18 March 2002 went on to say that an inquiry carried out in connection with Mr Khamzayev's complaint against senior high-ranking officers from the General Headquarters of the Russian Armed Forces and the Main Headquarters of the Russian Air Forces had established that no air strikes on the town of Urus-Martan had been planned or carried out on 19 October 1999, and that the closest area attacked by a pair of federal planes on that date had been located one kilometre from Urus-Martan, in an area where members of illegal armed formations had been stationed. The decision concluded that in view of discrepancies in the information obtained, the inquiry could not be said to have been complete, and that therefore the decision of 7 April 2000 should be set aside.

68. On 25 August 2002 the district prosecutor's office resumed the proceedings in case no. 24031. Thereafter in the period between 25 September 2002 and 18 April 2003 the investigation was stayed and resumed eight times (see paragraphs 113, 115-122 below).

69. On 17 November 2003 the investigation into the attack of 19 October 2003 had been terminated with reference to the absence of constituent elements of a crime in the actions of high-ranking military officers (see paragraph 125 below).

70. It appears that Mr Khamzayev then unsuccessfully applied to prosecutors at various levels in an attempt to obtain a copy of the decision of 17 November 2003.

71. In a letter of 15 March 2004 the military prosecutor's office of the United Group Alignment informed Mr Khamzayev that the criminal proceedings in connection with the bomb strike of 19 October 1999 had been discontinued on 17 November 2003 and that a letter informing him of that decision had been sent to him on the same date.

72. On 26 March 2004 the military prosecutor's office of the United Group Alignment further wrote to Mr Khamzayev that the decision to discontinue the criminal proceedings in connection with the attack of 19 October 1999 had been lawful and well-founded, as it had been

established during the investigation that the federal aircraft had bombed fortified command points, bases and ammunition depots of the illegal armed groups rather than any residential areas of Urus-Martan.

73. On 10 May 2004 Mr Khamzayev complained to the Supreme Court of the Chechen Republic about the refusal of the military prosecutor's office of the United Group Alignment to furnish him with a copy of the decision of 17 November 2003, which prevented him from appealing against that decision in court. It is unclear whether this complaint was examined.

74. On 7 June 2004 the Main Military Prosecutor's Office (*Главная военная прокуратура*) transmitted Mr Khamzayev's complaints about the prosecutors to the military prosecutor of the United Group Alignment for examination.

75. On 12 July 2004 the military prosecutor of the United Group Alignment informed Mr Khamzayev that the case file of the investigation opened into the attack of 19 October 1999 on Urus-Martan had been classified as secret, and that it was therefore impossible to provide him with any materials from the file. It also followed from the letter that the criminal proceedings had been discontinued, that Mr Khamzayev was entitled to institute civil proceedings, and that the case file could be submitted to a court upon the latter's order.

76. In two letters of 31 July 2004 the military prosecutor's office of the United Group Alignment informed Mr Khamzayev, in reply to his complaints of 26 April and 26 May 2004, that criminal proceedings instituted in connection with the aerial attack on Urus-Martan on 19 October 1999 had been discontinued on 17 November 2003 in the absence of the constituent elements of a crime in the attack, and that the criminal case file was classified as secret.

77. On 2 August 2004 the military prosecutor's office of the United Group Alignment replied to Mr Khamzayev's complaint of 26 May 2004, stating that the preliminary investigation in case no. 34/00/0008-03 had established that in October 1999 the town of Urus-Martan had been occupied by Islamic extremists, amounting to over 1,500 persons, who had based their headquarters in the town, had fortified it and had not been prepared to surrender, and that in such circumstances the federal command had taken a decision to carry out pinpoint bomb strikes against the bases of illegal fighters in Urus-Martan.

78. In a letter of 10 August 2004 the military prosecutor's office of the United Group Alignment confirmed, in reply to Mr Khamzayev's complaint of 20 April 2004, that the criminal proceedings concerning the attack of 19 October 1999 on Urus-Martan had been terminated. The letter also stated that the case-file materials had been classified as secret.

79. On an unspecified date Ms L. Khamzayeva, who replaced Mr Khamzayev in representing the applicants before the domestic authorities, wrote a letter to the military prosecutor of the United Group

Alignment (*военный прокурор Объединенной группы войск*) inquiring, *inter alia*, on behalf of the second, third, fourth, fifth, sixth, ninth and fifteenth applicants about the investigation into the attack of 19 October 1999. It is unclear whether any reply followed.

(c) Decisions granting victim status to the applicants

80. At various times the district prosecutor's office granted victim status in case no. 24031 to some of the applicants. In particular, the second applicant was declared a victim on 20 August 2002 and a civil claimant on 21 January 2003, the third applicant was declared a victim on 8 September 2000 and on 29 October 2002 she was declared a civil claimant in the criminal proceedings, the fourth applicant was declared a victim on 14 September 2000, the fifth applicant was declared a victim and a civil claimant on 7 September 2000 and 17 September 2002 respectively, the sixth applicant was declared a victim and a civil claimant on 8 September 2000 and 18 September 2002 respectively, the seventh applicant was declared a victim and a civil claimant on 16 September 2000 and 17 September 2002 respectively, the ninth applicant was declared a victim on 7 September 2000, the tenth applicant was granted the victim status on 11 September 2000, the fourteenth applicant was declared a victim and a civil claimant on 8 September 2000 and 17 September 2002 respectively, the sixteenth applicant was granted the victims status on 19 September 2000, the eighteenth applicant was declared a victim on 13 September 2000 and the nineteenth applicant was granted victim status on 14 September 2000.

81. By a decision of 28 October 2002 the district prosecutor's office refused Mr Khamzayev's requests that victim status be granted to the tenth, eleventh, twelfth and thirteenth applicants, stating that under the relevant legal provisions, such status could be granted only to one of the relatives of a deceased person, and that earlier, namely on 7 September 2000, the ninth applicant had already been declared a victim in connection with the death of Mr Vakha Tseltsayev.

4. Property

82. None of the applicants who lived in the houses that were destroyed or damaged during the attack of 19 October 1999 brought civil proceedings for compensation. In their submission, this remedy was ineffective, as on 11 May and 4 October 2001 respectively the domestic courts at two levels of jurisdiction had dismissed as unfounded Mr Khamzayev's claim for compensation for his private house, which was destroyed in that attack (see *Khamzayev and Others v. Russia* (dec.), no. 1503/02, 25 March 2010).

B. Documents submitted by the Government

83. In December 2006, following a communication to them of an application in the case of *Khamzayev and Others* (no. 1503/02) which concerned the federal aerial attack of 19 October 1999 on Urus-Martan, the Government produced a copy of the investigation file in case no. 34/00/0008-03 (initially no. 24031) concerning those events. The materials ran to approximately 1,200 pages and seemed to be a copy of the major part of the case file, if not the entire file.

84. In May 2007, when the present application was communicated to them, the Government were invited to produce copies of the investigation files in the criminal cases opened in connection with the aerial attack of 2 October 1999 on Urus-Martan. In reply, the Government submitted documents running to 28 pages from the investigation file in case no. 24050, materials running to 31 pages from the investigation file in case no. 25268 and documents running to 528 pages in case no. 34/00/0008-03 representing part of the materials submitted in the case of *Khamzayev and Others*. They refused to produce the entire files, stating that it would be inappropriate to do so, given that under Article 161 of the Russian Code of Criminal Procedure, disclosure of the documents was contrary to the interests of the investigation and could entail a breach of the rights of the participants in the criminal proceedings. The Government also submitted that they had taken into account the possibility of requesting confidentiality, but noted that the Court provided no guarantees that once in receipt of the investigation files the applicants or their representative would not disclose the materials in question to the public. According to the Government, in the absence of any possible sanctions for the applicants in the event of their disclosure of confidential information and materials, there were no guarantees as to their compliance with the Convention and the Rules of Court. In the Government's submission, given the large number of applications concerning the events in the Chechen Republic during the counter-terrorism operation, the disclosure of the documents from criminal investigation files would be highly detrimental to the interests of the State and the participants in the criminal proceedings.

85. The materials produced, in so far as relevant, may be summarised as follows.

1. Documents from the investigation file in case no. 24050

86. By a decision 20 October 2000 the district prosecutor's office instituted criminal proceedings upon a complaint of Mr E. about the destruction of his property as a result of a bomb strike on Urus-Martan on 2 October 1999. The proceedings were brought under Article 167 § 2 (aggravated deliberate destruction of, or damage to property) of the Russian Criminal Code.

87. It is clear from the materials submitted that it was only the destruction of Mr E.'s house and property that was being investigated in the context of those proceedings.

88. In a report of 18 June 2001 an expert confirmed that metal fragments found at the scene of the incident at Mr E.'s destroyed house were pieces of an aerial bomb that had exploded.

2. Documents from the investigation file in case no. 25268

89. By a decision of 23 April 2001 the Urus-Martan VOVD instituted criminal proceedings under Article 167 § 2 of the Russian Criminal Code upon a complaint of Mr K. about a federal aerial bomb strike on Urus-Martan on 2 October 1999 resulting in the destruction of two properties and inflicting of deaths on eight persons and injuries on seven persons.

90. By a decision of 8 May 2001 the Urus-Martan VOVD ordered the transfer of case no. 25268 to a military prosecutor's office for further investigation. The decision reiterated that on 2 October 1999, during a bomb attack by the federal air forces, two houses belonging to Mr Kh. Kerimov and Mr A. Kerimov had been destroyed, eight persons had died and seven had been wounded.

91. In a decision of 19 May 2001 the republican prosecutor's office set aside the decision of 8 May 2001, stating that it was premature since the materials of the file contained no conclusive evidence of the federal armed forces' involvement in the incident of 2 October 1999. The decision ordered that the case file be transferred to the district prosecutor's office for investigation.

92. A report of 5 June 2001 reflected the results of an inspection of the scene of the incident at 224 and 226 Kalanchakskaya Street. A brief report attested that the houses were partly destroyed and stated that no photographs had been taken, or any objects found or seized during the inspection.

93. A decision of 23 June 2001 ordered that the criminal proceedings in case no. 25268 be suspended. The decision reiterated that on 2 October 1999, during a bomb attack by the federal air forces, two houses belonging to Mr Kh. Kerimov and Mr A. Kerimov had been destroyed, eight persons had died and seven had been wounded. It then stated that the term of preliminary investigation had expired and that all possible investigative actions had been performed.

94. In a decision of 29 July 2001 a supervising prosecutor ordered the resumption of the investigation. The decision required the investigating authorities to establish and question the victims of the attack, to find and seize fragments of bombs, and to order and carry out expert examinations.

95. A report of 7 August 2001 reflected the results of another inspection of the scene of the incident. It appears that during that inspection metal fragments – supposedly those of an explosive device – were found and seized.

96. By a decision of 15 August 2001 the district prosecutor's office ordered an expert examination of the metal fragments found on 7 August 2001 at the scene of the incident with a view to establishing whether they were pieces of an aerial bomb. It is unclear whether this expert examination was carried out and, if so, what its results were, in the absence of any documents to that effect.

97. It appears that at some point the criminal proceedings were discontinued and then resumed, as by a decision of 1 April 2004 an investigator of the district prosecutor's office took up the case.

98. A decision of 5 April 2004 granted victim status to the first applicant in connection with the death of her husband, Adlan Kerimov, and injuries sustained by her and her children as a result of the bomb attack by the federal air forces on Urus-Martan on 2 October 1999. The first applicant was interviewed by the investigating authorities on the same date.

99. No documents concerning the period after April 2004 have been submitted to the Court.

3. Documents from the investigation file in case no. 34/00/0008-03

(a) Documents relating to the conduct of the investigation and informing the applicants of its progress

100. By a decision of 21 July 2000 the republican prosecutor's office instituted criminal proceedings in connection with Mr Khamzayev's complaint concerning a bomb strike on a residential quarter of Urus-Martan on 19 October 1999, resulting in six persons killed, sixteen wounded, thirteen houses destroyed and twenty-seven damaged. The proceedings were brought under Articles 105 § 2 (aggravated murder) and 167 § 2 (aggravated deliberate destruction of, or damage to property) of the Russian Criminal Code, and the case was transferred to the district prosecutor's office for investigation. The case file was given the number 24031. A letter of the same date informed Mr Khamzayev of the aforementioned decision, without indicating its date.

101. In a letter of 31 August 2000 the republican prosecutor's office drew the attention of the district prosecutor's office to "unprecedented procrastination" of the investigation in case no. 24031. The letter stated, in particular, that for a period of a month the investigator in charge had not performed any investigative action, and had not questioned victims or witnesses. It instructed the district prosecutor's office to revive the investigation and to establish the circumstances of the case. In particular, it was necessary to interview all the victims of the bomb strike in question, to grant them victim status and declare them civil claimants; to question the relatives of those deceased and to grant them victim status; to inspect the scene of the incident using photograph and video devices, and to establish and interview eyewitnesses of the events in question.

102. On an unspecified date in October 2000 the investigator in charge sought the competent prosecutor's authorisation for extension of the term of the preliminary investigation. The relevant decision listed the findings made by the investigation up to that time. It referred, in particular, to statements of a number of residents of the quarter that had come under attack on 19 October 1999 who, being eyewitnesses to the incident, insisted that the military planes had been flying at a low altitude and that the pilots could therefore have clearly seen that they were targeting a residential quarter. The decision further referred to the residents' statements to the effect that no illegal fighters had ever lived in their quarter and that property occupied by the rebel fighters had been located on the outskirts of Urus-Martan and by that time had already been hit by federal bombers, and that therefore there had been no reason to bomb a residential quarter inhabited by civilians. The decision went on to note that during the inspection of the scene of the incident large metal fragments of aerial bombs had been found and that, in addition, unexploded bombs were still lying in the courtyards of a number of properties. The decision stated that the evidence obtained proved the involvement of the federal air forces in the attack of 19 October 1999, this finding being confirmed by eyewitness statements, photographs and video-recordings, evaluation reports attesting to the inflicted damage and a report on the inspection of the scene of the incident.

103. In a letter of October 2000 (the exact date is illegible), the military prosecutor's office of military unit no. 20102 returned the case file to the republican prosecutor's office stating that a number of formal requirements had not been complied with. The latter referred the case file to the district prosecutor's office on 30 October 2000 ordering it to remedy the defects.

104. A decision of 21 January 2001 by the district prosecutor's office ordered the suspension of the criminal proceedings. It stated that all possible investigative measures had been performed but it had not been possible to establish who was responsible.

105. In a decision of 7 February 2001 a supervising prosecutor set aside the decision of 21 January 2001 as unfounded and premature. It ordered that the investigation be resumed, that eyewitnesses to the attack be questioned and that the results of medical forensic examinations and ballistic tests be included in the case file.

106. In a decision of 7 March 2001 the district prosecutor's office ordered a suspension of the criminal proceedings in case no. 24031, stating that all investigative measures indicated in the supervising prosecutor's decision of 7 February 2001 had been carried out, but it had not been possible to establish who was responsible.

107. In a letter of 14 April 2001 the district prosecutor's office replied to Mr Khamzayev that his request for certified copies of the decisions instituting criminal proceedings in case no. 24031 and extending the term of preliminary investigation "had no basis in law" and therefore could not be

granted. The letter also indicated that the term of the preliminary investigation into the said criminal case had been extended until 21 January 2001 and that on 10 October 2000 it had been sent to a military prosecutor's office, which had returned it on 26 October 2000 because of procedural defects. The letter went on to say that ballistic tests had been ordered in the case on 16 November 2000; however, those tests had not yet been carried out. It then noted that on 21 January 2001 the investigation had been suspended, then resumed on 7 February 2001 and again stayed on 7 March 2001. The letter also assured Mr Khamzayev that his requests in the present case would be included in the case file and taken into consideration during further investigation.

108. In a decision of 29 April 2001 the district prosecutor's office ordered that the case file be transferred to the military prosecutor's office of military unit no. 20102 for further investigation. The decision stated that it had been established that the destruction of houses and other property and the deaths and injuries of residents of Urus-Martan on 19 October 1999 had been due to an aerial strike by aircraft of the federal armed forces. This fact had been confirmed by witnesses and victims and by the inspection of the site of the incident, where fragments of aerial bombs and missiles had been found. The involvement of federal military personnel in that attack was obvious, since the illegal armed formations had no aircraft, and the case file therefore had to be transferred to the military prosecutor for further investigation, in order to identify the military unit and military personnel who had committed the offence in question.

109. In a letter of 11 May 2001 the military prosecutor's office of military unit no. 20102 transmitted the case file to the republican prosecutor's office. The letter stated that the district prosecutor's office's conclusion that on 19 October 1999 Urus-Martan had come under a bomb strike was based on contradictory witness statements and had no objective confirmation. The letter pointed out, in particular, that whilst some of the witnesses had stated that they had seen planes that had allegedly carried out the strike, some other witnesses had indicated that they had not been able to see planes as on the day in question it had been cloudy and misty. Moreover, according to the letter, there were also discrepancies in witness statements concerning the overall number of planes that had allegedly participated in the attack and their colour. The letter went on to note that the origin of the ammunition fragments seized from two of the properties that had allegedly come under the attack on 19 October 1999 (see paragraph 133 below) had not been established and it had not been ascertained how it was possible for those fragments still to be found a year after the attack. At the end, the letter stated that at the same time the command of the United Groups Alignment and the Russian Ministry of Defence had reported that on 19 October 1999 the federal aircraft had not carried out any strikes on Urus-Martan.

110. By a decision of 6 June 2001 the district prosecutor's office resumed the investigation.

111. A decision of 6 July 2001 ordered that criminal proceedings be suspended owing to the failure to establish the alleged perpetrators and that the case file be transferred to the military prosecutor's office. The decision was similar to that of 29 April 2001. It stated, in particular, that the involvement of the federal aircraft in the attack had been established by eyewitness statements and results of ballistics tests, which had confirmed that fragments found on the scene of the incident had been those of artillery shells and aerial bombs. It also stated that an unexploded aerial bomb had remained on the ground near the house at 15 Dostoyevskiy Street since the attack of 19 October 1999.

112. In a letter of 15 May 2002 the republican prosecutor's office returned case no. 24031 to the district prosecutor's office for investigation. The letter stated that upon the study of the case-file materials it had been established that the investigation had been carried out with flagrant violations of the procedural law, with the result that the military prosecutor's office had refused to take over the case. The letter then listed in detail the procedural breaches during the inspection of the scene of the incident and the seizure and examination of ammunition fragments found there and stated that as a result of those breaches the seized splinters could not be admitted in evidence. The letter further noted that to date no medical forensic examinations had been conducted in respect of those deceased and wounded in the attack of 19 October 1999, that those who had suffered pecuniary damage had not been declared civil claimants and that contradictions in eyewitness statements had not yet been resolved. The letter also stated that although the case had repeatedly been returned to the district prosecutor's office because of all those shortcomings, they had not been remedied.

113. By a decision of 25 August 2002 the district prosecutor's office resumed the criminal proceedings.

114. In a letter of 25 August 2002 the district prosecutor's office forwarded to Mr Khamzayev certified copies of decisions granting victim status to the second, fourth to seventh and fourteenth applicants and a certified copy of a decision declaring the second applicant a civil claimant. The letter also informed Mr Khamzayev that none of the remaining applicants had ever sought to be declared civil claimants in that case.

115. A decision of 25 September 2002 ordered that the investigation be stayed. The decision stated briefly that all possible investigative measures had been taken but that it had not been possible to establish the alleged perpetrators.

116. By a decision of 1 October 2002 the district prosecutor's office resumed the investigation. The decision stated that, as requested by Mr Khamzayev, it was necessary to question as witnesses a number of high-

ranking military officers who had participated in the counter-terrorism operation in the Chechen Republic.

117. A decision of 1 November 2002 ordered the suspension of the criminal proceedings. It stated that after the reopening of the investigation on 1 October 2002, the investigating authorities had sent a request to interview a number of high-ranking officers, carried out an expert's examination of an orchard that one of the residents had lost during the attack in question and declared two other persons victims. Therefore, according to the decision, all possible investigative actions had been taken.

118. A decision of 10 January 2003 set aside the decision of 1 November 2002 as unfounded, stating that the instructions of the republican prosecutor's office to remedy the procedural breaches had not been complied with. In particular, there had been breaches of procedural law in the seizure of ammunition fragments, which were therefore inadmissible evidence. Moreover, medical forensic examinations of those deceased and wounded had not been conducted and a number of persons who had suffered losses as a result of the incident had not been declared civil claimants in the case. Also, the contradictions in eyewitnesses' descriptions of the attack had not been resolved. The decision thus ordered that the proceedings be resumed.

119. A decision of 10 February 2003 ordered the suspension of the criminal proceedings. It listed investigative measures taken in January 2003, including the seizure of splinters, ordering their expert examination, granted the status of civil claimant to the victims and concluded that all the investigative actions that had been possible in the absence of those responsible had been carried out.

120. A decision of 15 February 2003 ordered that the investigation be resumed. The decision indicated that a number of investigative actions should be carried out in the case, and namely medical forensic examination of the deceased and wounded. In a letter of February 2003 (the exact date is unclear), Mr Khamzayev was informed of the recent developments in the case.

121. By a decision of 15 March 2003 the criminal proceedings in case no. 24031 were adjourned owing to the failure to establish the alleged perpetrators.

122. By a decision of 18 April 2003 a prosecutor of the military prosecutor's office of the United Group Alignment ordered that the investigation be resumed. It can be ascertained that at this stage the case was assigned the number 34/00/0008-03.

123. On the same date the military prosecutor's office of the United Group Alignment informed the district prosecutor's office of this decision and invited it to notify those declared victims of the reopening of the case. In another letter of the same date the military prosecutor's office of the

United Group Alignment apprised Mr Khamzayev of its decision to resume the investigation.

124. In a decision of 18 April 2003 the investigator in charge sought the authorisation of a competent prosecutor to extend the term of preliminary investigation until 18 August 2003. The decision stated that a large number of investigative actions should be taken. In particular, it was necessary to question high-ranking officers in command of the counter-terrorism operation in the Chechen Republic; to identify and interview an officer in charge of the operation in Urus-Martan on 19 October 1999, an officer in command of the pilots who had carried out bomb strikes on Urus-Martan on the date in question and the pilots themselves; to examine and, if necessary, seize relevant military documents, including a register of combat air missions and tactical maps; to examine the materials of inquiries carried out by the military authorities in connection with Mr Khamzayev's complaints about the attack; to conduct expert examinations, including a medical forensic examination of those deceased and wounded in the incident under investigation, and to perform other necessary investigative actions.

125. A decision of 17 November 2003 terminated the criminal proceedings in case no. 34/00/0008-03. It provided a description of the situation in the Chechen Republic and, more specifically, in the vicinity of Urus-Martan in late September – October 1999 and an account of the aerial attack of 19 October 1999 identical to those submitted by the Government (see paragraphs 28-35 above).

126. The decision referred, in particular, to witness interviews of Mr Af. and Mr Chay., intelligence officers, who had carried out reconnaissance in Urus-Martan in the relevant period. They both stated that the town had been occupied by the Wahhabis, who had significantly fortified it and prepared for long-term defence. According to them, the depth of defence extended to three to four quarters from the outskirts towards the town centre; the fighters had dug trenches and dugouts, filled pits with oil to be able to explode them on the approach of the federal forces, and organised numerous firing posts in residential buildings. Mr Af. also stated that the majority of the local residents had left the town, and that an insignificant number of residents remaining in Urus-Martan had been forcibly kept by the extremists who had used them as human shields. The decision also referred to statements of Mr Kh., a resident of Urus-Martan, who pointed out, in particular, that at the material time more than half of the civilian residents had left the town because of persecutions by illegal fighters, who had detained, robbed, killed and used as human shields those residents who had shown resistance to them.

127. The decision also quoted the conclusions of the operative and tactical expert examination (see paragraph 159 below) to the effect that the decision to carry out the aerial strike in question had been well-founded and timely and that the relevant military authorities had taken measures to

minimise casualties among civilian residents of Urus-Martan. It then concluded that there had been no elements of criminal offences punishable under Articles 105 § 2 and 167 § 2 of the Russian Criminal Code in the actions of General Major Sh. and General Lieutenant G. and that therefore the criminal proceedings against them should be discontinued.

(b) Documents relating to investigative measures

128. In a request of 29 July 2000 the district prosecutor's office instructed the Urus-Martan VOVD to establish and interview the victims of the attack of 19 October 1999, relatives of those deceased; to grant them victim status and the status of civil claimant in the case; to inspect carefully the scene of the incident; to take photographs and to make a video-recording of the site, and, if possible, to seize exhibits, including fragments of bombs, to carry out ballistic tests and to perform other necessary investigative actions.

129. In a letter of the same date the district prosecutor's office requested the military prosecutor's office of military unit no. 20102 to send them material of an inquiry into Mr Khamzayev's complaint concerning the attack of 19 October 1999.

130. In letters of 24 August 2000 the district prosecutor's office reminded the Urus-Martan VOVD and the military prosecutor's office of military unit no. 20102 of its requests of 29 July 2000, stating that to date they had not been complied with.

131. Decisions taken in the period between 7 and 19 September 2000 granted victim status to the third to seventh, ninth, tenth, fourteenth, sixteenth, eighteenth and nineteenth applicants (see paragraph 80 above). As can be ascertained from the decisions, the said applicants were apprised of them on the same dates.

132. Reports of 3 and 5 October 2000 on the inspection of the scene of the incident described in detail the state of a number of properties that had come under the aerial attack of 19 October 1999. In particular, the reports attested to the damage inflicted on the properties and possessions inside them. They also described bomb craters on the plots of land where the properties were situated and indicated that during the inspection metal shrapnel resembling fragments of an artillery shell had been found and seized. Among the damaged properties, the reports mentioned the second applicant's property at 15 Dostoyevskiy Street, the seventh applicant's property at 24 Dostoyevskiy Street and the fourteenth applicant's property at 23 Mayakovskiy Street. The reports referred to the aforementioned applicants as the owners of the properties. Photographs taken during the inspection of the scene of the incident were enclosed with the reports. They represented a number of damaged properties, including those of the fifth, sixth, seventh and fourteenth applicants.

133. By two similar decisions of 5 October 2000 the investigator in charge ordered the seizure of metal fragments resembling pieces of an aerial bomb or an artillery shell from two of the properties that had come under the attack of 19 October 1999.

134. A decision of 16 November 2000 ordered an expert examination of metal fragments found at the scene of the incident with a view to establishing their origin. It does not appear that any expert examination was carried out pursuant to that decision, as on 6 June 2001 the investigator in charge ordered another expert examination of those fragments. An expert report of 25 June 2001 confirmed that the fragments in question were pieces of artillery shells, aerial bombs and ammunition, the origin of which it had not been possible to establish.

135. Reports of 9 February 2001 attested respectively to the seizure and examination of a videotape, with a record of the results of the attack of 19 October 1999.

136. In a decision of 9 February 2001 the investigator in charge ordered a medical forensic examination with a view to establishing the cause of death of Apti Abubakarov, Aminat Abubakarova, Vakha Tseltsayev, Makharbi Lorsanov, Yakub Israilov and Minkail Lorsanov as well as the degree of damage caused to the health of a number of persons wounded during the attack of 19 October 1999, including the second, tenth and sixteenth applicants.

137. Decisions taken in the period between 17 and 18 September 2002 declared the fifth, sixth, seventh and fourteenth applicants civil claimants in the case. The said applicants each submitted to the investigating authorities a claim describing the property lost during the attack of 19 October 1999 and indicating its overall value and the amount of non-pecuniary damage suffered by them. They were notified of the decisions granting them the status of civil claimant on the same dates.

138. In a request of 17 October 2002 the district prosecutor's office instructed the military prosecutor's office of the Moscow Garrison to interview as witnesses a number of high-ranking military officers about the circumstances of the attack of 19 October 1999. Mr Khamzayev was notified of that request by a letter of the same date.

139. A decision of 29 October 2002 declared the third applicant a civil claimant in the case. Decisions of 21 January 2003 declared the second and fourteenth applicant civil claimants in the case. The relevant applicants were apprised of the decisions on the same dates.

140. Decisions of 17 January 2003 ordered the seizure of pieces of shrapnel from several residents of the quarter that had come under attack on 19 October 1999, the seventh and fourteenth applicants being among their number. Reports of the same date described the splinters seized.

141. A decision of 19 January 2003 ordered that the splinters seized on 17 January 2003 be included in the case file as evidence. A report of the

same date described the results of the examination of those splinters by the investigator in charge.

142. A decision of 25 January 2003 ordered an expert examination of the pieces of shrapnel seized on 17 January 2003 with a view to establishing their origin.

143. In a letter of 17 February 2003 the district prosecutor's office requested the Urus-Martan Administration to establish a competent commission to assess damage inflicted on the individual houses during the attack of 19 October 1999 and to draw up evaluation reports.

144. In another letter of the same date the district prosecutor's office informed the military commander's office of the Urus-Martan District (*военный комендант Урус-Мартановского района*) that after the bomb strike of 19 October 1999 two unexploded bombs remained lying on the plots of land at two private properties and invited the military commander's office to take measures to dispose of those bombs. A similar letter was sent to the military commander's office of the Chechen Republic (*военный комендант Чеченской Республики*) on 26 February 2003.

145. Decisions of 16 February 2003 ordered a medical forensic examination of those wounded during the attack of 19 October 1999, including the second and eighteenth applicants.

146. In a letter of 27 February 2003 an expert informed the investigator in charge that a medical forensic examination could be carried out only on the basis of original medical documents and in the presence of the persons in respect of whom such examination had been ordered. The expert thus returned the orders for medical forensic examination and enclosed certificates to the investigator in charge stating that it was impossible to conduct the required examination on the basis of those documents.

147. On 4 March 2003 the investigator in charge requested Urus-Martan hospital to adduce medical files of the six residents of Urus-Martan killed during the incident of 19 October 1999.

148. According to a report of 23 April 2003, on the date in question the register of the combat air missions of the federal forces in the Chechen Republic for the period between 8 and 27 October 1999 and the tactical map for the period between 13 and 26 October 1999 were examined by the investigating authorities. The report then described in detail the entries made in those documents as regards the air combat missions on 19 October 1999. It also indicated that, according to those documents, Urus-Martan had not been attacked by the federal aircraft on the date in question and that the only targets hit that day had been located at distances of one and twenty-two kilometres from the town.

149. A report of 30 April 2003 reflected the result of the examination of the register of military actions of the aircraft of the United Group Alignment (*журнал боевых действий авиации ОГВ*) for the period from 29 September 1999 to 20 January 2000. According to the report, on

19 October 1999 two entries had been made in the register; they concerned two attacks by federal military helicopters against illegal fighters who had been located about forty kilometres from Urus-Martan. There was no other information regarding the events of 19 October 1999 in the register.

150. As can be ascertained from a report of 5 May 2003, which is barely legible, on that date the investigating authorities examined the register of military actions of the United Group Alignment comprising the period between 25 September and 29 November 1999. It appears that in the register there were no entries to the effect that any aerial strikes had been carried out on Urus-Martan on 19 October 1999.

151. In a letter of 16 May 2003 the district prosecutor's office forwarded to the military prosecutor's office of the United Group Alignment medical certificates attesting the injuries received by residents of Urus-Martan during the attack of 19 October 1999. The letter also indicated that in Urus-Martan hospital there were no medical files of those who had been killed during the strike. It further stated that the district prosecutor's office was unable to send to the military prosecutor's office of the United Group Alignment forty-one splinters seized at the scene of the incident as those splinters had been sent for an expert examination and had not been given back by experts. Lastly, the letter stated that three aerial bombs found at the scene of the incident had been destroyed by specialists.

152. In letters of 31 May and 5 June 2003 the investigator in charge requested relevant military units to provide information on the identity of the pilots who had carried out bomb strikes at a distance of one kilometre from Urus-Martan on 19 October 1999.

153. In letters of 3 June 2003 the investigator in charge requested various competent authorities to provide information as to whether the residents of Urus-Martan listed in that letter had been involved in the activities of illegal armed groups. The list of names included those killed during the attack of 19 October 1999 as well as those who had been granted victim status in connection with that incident. On 29 October 2003 the Russian Federal Security Service replied that four persons included in the list had participated in the activities of the illegal armed groups.

154. In two letters of 10 June 2003 the acting commander of military unit no. 22290 – an air-force unit that had participated in military operations in the vicinity of Urus-Martan in the relevant period – stated in reply to the military prosecutor of the United Group Alignment that it was not possible to submit their unit's tasking schedule (*плановая таблица*) for 19 October 1999 as it had been destroyed in November 2000, given that pursuant to a relevant order of the Russian Ministry of Defence its storage time had been one year. The letters went on to say that in the relevant period no register of orders received and given had been maintained, no register of combat air missions had been maintained, no register of military actions had been maintained and no tactical map had been maintained. The letters also stated

that the means of objective control – testorograms and photographs – for 19 October 1999 had been unavailable as they had been destroyed a year after that date, as prescribed in a relevant order of the Russian Ministry of Defence, and no tape-recordings were available as they had only been kept for three months. Lastly, the letters indicated that the register of the commander's military orders and the map for the commander's orders for military actions had been sent to Rostov-on-Don in December 2000.

155. An expert report of 20 June 2003 stated that the metal fragments seized on 17 January 2003 (see paragraph 140 above) were pieces of industrially manufactured metal objects that had been destroyed by explosion of a contact charge and that some of them might be fragments of ammunition.

156. A report of 2 July 2003 on the examination of a video-recording of the process of excavation and destruction of unexploded aerial bombs that had remained after the attack of 19 October 1999 stated that it had been established that they had been highly explosive bombs of 250-270 kg calibre.

157. In a letter of 3 July 2003 the commander of military unit no. 11731, which at the relevant time was participating in military actions in the vicinity of Urus-Martan, stated that all the documents relating to operations in October 1999, and, namely, a register of orders given and received, a register of combat air missions, a register of military actions, combat orders, pilots' reports on their missions and a tactical map, had been destroyed on 13 December 2001 as they had lost their practical value and had had no historical or scientific value.

158. By a decision of 20 October 2003 the investigator in charge ordered an examination by operative and tactical expert with a view to establishing whether there had been any shortcomings in the organisation and execution of a bomb strike in the vicinity of Urus-Martan on 19 October 1999 on the part of the commander of the Group "West", General Major Sh., and the commander of the United Air Forces Group, General Lieutenant G.

159. A report of 16 November 2003 gave the results of the operative and tactical experts' examination. The experts stated that General-Major Sh.'s decision to carry out bomb strikes on 19 October 1999 on fortified points and bases of illegal armed groups and on their radio and electronic facilities had been well-founded and timely, as at that time the town of Urus-Martan had been occupied by illegal fighters, amounting to over 1,500 persons, who had fortified it and had not been prepared to surrender and who had been reinforced with a new group of around 300 illegal fighters a day before the attack. According to the experts, any other methods of action by federal forces, such as a ground attack, storming, forcing out, would have led to unjustified losses among them. The experts also stated that, when organising the bomb strike in question the command of the Group "West" had taken certain measures with a view to minimising civilian casualties. In

particular, according to the report, the military authorities had opted for pinpoint strikes, which had resulted in only six people being killed and seventeen wounded, four of the latter belonging to illegal armed groups. On the other hand, considerable losses had been caused to the illegal fighters who, as a result, had subsequently, on 7 and 8 December 1999, surrendered the town without fighting with the result that there had been no casualties among the federal armed forces. The report thus concluded that the actions of General Major Sh. and General Lieutenant G. had complied with all relevant instructions and regulations, including the Infantry Field Manual, that the decision to carry out a strike on 19 October 1999 had been reasonable and that the federal aircraft had been used in Urus-Martan on 19 October 1999 pursuant to competent officers' decision and taking into account the existing situation and intelligence data.

(c) Witness interviews

160. The case file contains written explanations given on 18 March 2000 by Mr K. – the Head of the Headquarters of the Group "West" – to the prosecutor of military unit no. 20102. According to them, during the period of 19-20 October 1999 the Group "West" had been entrusted with a mission to force out illegal armed groups from the town of Urus-Martan. In Mr K.'s submission, in order to avoid casualties among civilian residents of Urus-Martan, the federal command had repeatedly applied to them with a request for the Wahhabis to discontinue their resistance and leave the town and had warned the residents that otherwise the Wahhabis would be destroyed by artillery fire and aerial attacks. Therefore, according to Mr K., the civilians residing in Urus-Martan had been warned; however, given that the illegal fighters had not surrendered, pinpoint bomb strikes had been carried out on their bases. In Mr K.'s submission, bomb strikes had been carried out by the military aircraft on the basis of information obtained by the latter's intelligence service. Mr K. also noted that in December 1999 the federal forces had blocked Urus-Martan for further "sweeping-up" operations. During a witness interview of 18 April 2003 Mr K. stated that he could not give any explanations regarding the events of 19 October 1999, as he did not remember anything. He also stated as regards his written explanations of 18 March 2000 that the signatures on that document were his, but that he did not remember that he had actually stated what was written there. He added that at present he was unable to comment on those explanations given that more than three years had elapsed since the date when they had been given.

161. In their explanations of 4-6 July 2000 a number of eyewitnesses, including the fifth, sixth, ninth and fourteenth applicants, described the attack of 19 October 1999, stating that on the date in question, approximately between 12.30 and 1.30 p.m., two Russian military planes had arrived and that one of them had carried out strikes outside the territory

of Urus-Martan, whereas the other one had bombed the residential quarter in which the eyewitnesses lived. The fifth applicant and Mr A., another resident of the quarter that had come under the attack, also stated that the residents of Urus-Martan had not been warned about any bomb strikes.

162. During witness interviews in the period from 7 September to 4 October 2000 the second to seventh, ninth, tenth, fourteenth, sixteenth, eighteenth and nineteenth applicants described the circumstances of the attack of 19 October 1999. Fifty-one other residents of the quarter that had come under the attack were also questioned during the period between 7 September and 5 October 2000 and gave similar accounts of the incident in question. In the period between 7 and 12 July 2001 nine residents, including the nineteenth applicant, were again interviewed in connection with the incident.

163. In explanations of 12 March 2001, Mr Z. – a senior officer of military unit no. 45881 – stated that, according to that unit's tactical map, the town of Urus-Martan had not come under aerial attacks in the period between 18 and 27 October 1999, and that on 19 October 1999 at 1.30 p.m. high-explosive 250 kg aerial bombs had been launched against a group of fighters located one kilometre from the south-eastern outskirts of Urus-Martan. As regards the information in the register of combat air missions (see paragraph 177 below), Mr Z. stated that the coordinates mentioned there had been situated twenty-six to twenty-seven kilometres from Urus-Martan. During a witness interview of 12 November 2002 Mr Z. confirmed that he had been seconded to the Chechen Republic at the material time but stated that from 11 October to 28 November 1999 he had been on leave outside the territory of the Chechen Republic, and therefore he had never participated in the planning and organisation of the aerial attack of 19 October 1999. He added that he could not be a witness in the case concerning that incident, as he had been serving in a military unit other than that which had participated in that attack.

164. In a witness interview of 21 January 2003 Mr M., at the material time a First Deputy Head of the General Headquarters of the Russian Armed Forces, stated that, as far as he knew, during the counter-terrorism operation in the Chechen Republic no bomb or missile strikes, or any other aerial attacks had been planned or carried out on inhabited settlements. According to Mr M., such strikes had been carried out only on pre-selected targets relating to the activities of illegal armed groups.

165. In his witness interview of 25 January 2003 Mr Mikh., at the relevant time the Deputy Commander-in-Chief of the Russian Air Forces, stated that he had not given any orders to carry out a bomb strike on the town of Urus-Martan on 19 October 1999, and that he was unaware of any bombing of Urus-Martan by federal aircraft.

166. During questioning of the same date Mr Ch., a Deputy Head of the Chief Headquarters and the Head of the Operative Administration of the Air Forces, made similar statements.

167. In a witness interview of 24 April 2003 Mr A., a high-ranking military officer who at the material time had been seconded to the Chechen Republic, stated that he knew nothing of a bomb strike on Urus-Martan on 19 October 1999 and was therefore unable to provide any relevant information in that respect. He was also unable to give any explanation as regards his reply of 15 February 2001 to Mr Khamzayev's complaint concerning the attack of 19 October 1999 (see paragraph 57 above).

168. In a witness interview of the same date Mr B., a high-ranking officer who at the relevant time had been seconded to the Chechen Republic, stated that he knew nothing about the attack of 19 October 1999 on Urus-Martan as in that period he had been in charge of operations in another area of the Chechen Republic. He was unable to provide any information other than that indicated in his reply to Mr Khamzayev dated 23 November 2000 to the effect that the federal air forces had never bombed Urus-Martan.

169. During questioning on 25 April 2003 Mr G., at the material time the Commander of the United Air Forces Group in the Chechen Republic (see paragraph 29 above), stated that he did not remember the events of October 1999, as much time had elapsed since them, and that all the actions of the federal air forces for that period had been recorded in the register of combat air missions and tactical map.

170. During questioning on 29 April 2003 Mr P., a high-ranking military officer seconded to the Chechen Republic at the material time, made similar statements.

171. On 9 and 10 June 2003 the investigating authorities questioned a number of officers of the federal air forces who had taken part in military operations in the vicinity of Urus-Martan at the relevant time. Two pilots, Par. and Mak., who in the relevant period had been seconded to the Chechen Republic and served in military unit no. 22290, stated that in October 1999 they had received an order from their commander, Colonel Mar., to carry out strikes in pre-selected rectangles on targets representing illegal armed groups on the northern and north-western outskirts of Urus-Martan. According to the pilots, when carrying out the strikes they used missiles rather than aerial bombs given that the targets had been located very close to the town. The pilots stated that they had not used aerial bombs during their combat mission and had not carried out any strikes on residential quarters of Urus-Martan. They also insisted that any technical errors during the strikes, deviation from pre-selected targets and accidental striking had not been possible.

172. In his witness interview of 16 June 2003 Mr Iv., who in the relevant period had been seconded to the Chechen Republic as an officer of the

Russian Ministry for Emergency Situations, stated that he had participated in deactivation of unexploded bombs that had remained, *inter alia*, in Mayakovskiy Street in Urus-Martan after the attack of 19 October 1999. He confirmed that on 2 and 3 April 2003 two unexploded aerial bombs had been excavated and then taken away and destroyed.

173. During questioning on 2 and 3 July 2003 four pilots, Pog., Ab., D. and Sh., who at the material time had been seconded to the Chechen Republic and served in military unit 11731, stated that they had performed a flight in a group of four planes on 19 October 1999 to the southern mountainous area of the Chechen Republic. According to Mr Pog., the planes had been laden with aerial bombs of calibre 250 or 500 kg. The pilots also stated that the results of the bombing had been recorded by means of objective control devices – video recorders and photographic cameras – and after the flight had been given to a commanding officer. The pilots insisted that they had been instructed to launch bombs in an area situated at a distance of no less than three kilometres from any inhabited settlement and that they had never carried out any strikes on Urus-Martan. They also stated that they had never heard of any such incidents, as in that case an internal investigation should have been carried out and those responsible should have been punished.

174. The case file also contains witness statements of Mr S., a pilot of a federal plane that had been shot down by rebel fighters on 4 October 1999 with the result that the other pilot of that plane had died and Mr S. had been captured by fighters. Mr S. stated that on the date in question they had been given orders to search for another federal plane that had been shot down by extremists the previous day, and then described the incident of 4 October 1999.

(d) Other documents

175. The case file contains evaluation reports (*дефектные акты*) drawn up by the Urus-Martan Administration on 21 January 2000 in respect of the properties at 15, 19 and 24 Dostoyevskiy Street. The reports referred to the second, fifth and seventh applicants respectively as the owners of those properties and listed in detail the damage inflicted thereon.

176. As can be ascertained, at some point the second, fourteenth and nineteenth applicants filed with the investigating authorities a claim listing in detail their possessions lost during the bomb strike and indicating their value and the overall amount of pecuniary damage suffered.

177. An extract from a register of combat air missions signed by Mr K. (see paragraph 160 above) indicated that on 19 October 1999, between 3 and 3.10 p.m., a pair of SU-25 planes had carried out a bomb strike in a rectangle with coordinates [X] and [Y], that a truck with illegal fighters had been destroyed in a rectangle with coordinates [X1] and [Y1] and that a car with illegal fighters had also been destroyed.

178. A telegram of 17 November 2000 sent by a commanding officer of military unit 41001 stated that in October 1999 the targets selected for aerial strikes included illegal fighters' bases, their fortified points, their ammunition depots, and the like, that during the relevant period the residential quarter in which the applicants lived had not been selected as a target, that on 19 October 1999 no pilots had been given an order to carry out a bomb strike on that quarter, and that no such strike had taken place on the date in question.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Domestic law

1. Code of Criminal Procedure

179. Until 1 July 2002 criminal-law matters were governed by the 1960 Code of Criminal Procedure of the RSFSR. On 1 July 2002 the old Code was replaced by the Russian Code of Criminal Procedure ("the CCP").

180. Article 125 of the CCP provides that the decision of an investigator or prosecutor to dispense with or terminate criminal proceedings, and other decisions and acts or omissions which are liable to infringe the constitutional rights and freedoms of the parties to criminal proceedings or to impede citizens' access to justice, may be appealed against to a district court, which is empowered to examine the lawfulness and grounds of the impugned decisions.

181. Article 161 of the CCP enshrines the rule that information from the preliminary investigation may not be disclosed. Paragraph 3 of the same Article provides that information from the investigation file may be divulged with the permission of a prosecutor or investigator and only in so far as it does not infringe the rights and lawful interests of the participants in the criminal proceedings and does not prejudice the investigation. It is prohibited to divulge information about the private lives of participants in criminal proceedings without their permission.

2. Civil Code

182. By virtue of Article 151 of the Russian Civil Code, if certain actions impairing an individual's personal non-property rights or encroaching on other incorporeal assets have caused him or her non-pecuniary damage (physical or mental suffering), the court may require the perpetrator to pay pecuniary compensation for that damage.

183. Article 1069 provides that a State agency or a State official will be liable towards a citizen for damage caused by their unlawful actions or

failure to act. Compensation for such damage will be awarded at the expense of the federal or regional treasury.

3. Suppression of Terrorism Act

184. The Federal Law on Suppression of Terrorism of 25 July 1998 (*Федеральный закон от 25 июля 1998 г. № 130-ФЗ «О борьбе с терроризмом»* – "the Suppression of Terrorism Act"), as in force at the relevant time, provided as follows:

Section 3. Basic Concepts

"For the purposes of the present Federal Law the following basic concepts shall be applied:

... 'suppression of terrorism' shall refer to activities aimed at the prevention, detection, suppression and minimisation of consequences of terrorist activities;

'counter-terrorism operation' shall refer to special activities aimed at the prevention of terrorist acts, ensuring the security of individuals, neutralising terrorists and minimising the consequences of terrorist acts;

'zone of a counter-terrorism operation' shall refer to an individual terrain or water surface, means of transport, building, structure or premises with adjacent territory where a counter-terrorism operation is conducted; ... "

Section 21. Exemption from liability for damage

"On the basis of the legislation and within the limits established by it, damage may be caused to the life, health and property of terrorists, as well as to other legally protected interests, in the course of a counter-terrorism operation. However, servicemen, experts and other persons engaged in the suppression of terrorism shall be exempted from liability for such damage, in accordance with the legislation of the Russian Federation."

4. Presidential and governmental decrees

185. Presidential Decree no. 2137 of 30 November 1994 "On Measures Aimed at Restoration of Constitutional Lawfulness and Order within the Territory of the Chechen Republic" prescribed that a group of federal forces should be created for disarmament and liquidation of illegal armed groups in the Republic. This Decree was annulled by a Presidential Decree of 11 December 1994.

186. Presidential Decree no. 2166 of 9 December 1994 "On Measures Aimed at Suppression of the Activity of Illegal Armed Groups within the Territory of the Chechen Republic and the Zone of the Chechen-Ingush Conflict" prescribed that the Russian Government should use all means at the State's disposal to ensure the State's security, lawfulness, rights and

freedoms of citizens, public order, fight against crime and disarmament of all illegal armed groups.

187. Governmental Decree no. 1360 of 9 December 1994 indicated a number of measures of a general character which various Russian ministries should take for the successful implementation of Presidential Decree no. 2166 of 9 December 1994.

188. Presidential Decree no. 898 of 5 September 1995 provided, *inter alia*, for a lump-sum payment of 20,000 Russian roubles (RUB) to the families of individuals who had died as a result of the hostilities in the Chechen Republic. The Decree also stated that individuals who had incurred pecuniary losses, including those who had lost their home, should be paid compensation, and entrusted the Russian Government with the task of making the relevant payments to those concerned.

189. In Decree no. 510 of 30 April 1997 the Russian Government established that residents of the Chechen Republic who had lost their housing and/or other possessions during the hostilities in the Republic and who, no later than 12 December 1994, had left permanently for another region, were entitled to compensation.

190. Decree no. 1255c of the Russian President "On Measures Aimed at Increasing the Effectiveness of Counter-Terrorism Operations within the Territory of the North-Caucasian Region of the Russian Federation" of 23 September 1999 provided that the United Group Alignment be formed in the North-Caucasian region from units and detachments of the Russian armed forces, those of the interior troops and departments of the Russian Ministry of the Interior, departments of the Russian Ministry for Emergency Situations, those of the Federal Security Service and the Federal Guard Service. The decree also empowered the commander of the United Group Alignment to take decisions that were binding for all the forces forming the United Group Alignment.

191. Governmental Decree no. 404 of 4 July 2003 established the right of all permanent residents of the Chechen Republic who had lost their housing and any possessions therein after 12 December 1994 to receive compensation in the amount of RUB 300,000 for the housing and RUB 50,000 for the other possessions.

B. Practice of the Russian courts

192. On 14 December 2000 the Basmanny District Court of Moscow delivered a judgment in civil proceedings brought by a Mr Dunayev, who claimed that the block of flats in which he had lived had collapsed during heavy shelling of Grozny by the federal armed forces in January 1995 and sought compensation for pecuniary and non-pecuniary damage in that connection. While acknowledging the fact that Mr Dunayev's property, including his apartment in the block of flats, had been destroyed as a result

of an attack in 1995, the court noted, *inter alia*, that under Articles 1069-1071 and 1100 of the Russian Civil Code, the State was liable for damage caused only by unlawful actions on the part of its agents. It further held that the military operation in the Chechen Republic had been launched by virtue of relevant presidential and governmental decrees, which had been found to be constitutional by the Russian Constitutional Court and were still in force. Accordingly, the court concluded that the actions of the federal armed forces in the Chechen Republic had been lawful and dismissed Mr Dunayev's claim for compensation (see *Dunayev v. Russia*, no. 70142/01, § 8, 24 May 2007).

193. On 4 July 2001 the Basmanny District Court of Moscow dismissed a claim against the Ministry of Finance brought by a Mr Umarov, who stated that his house and other property had been destroyed during massive air strikes and artillery shelling of Grozny by the federal armed forces in October and November 1999 and sought compensation for pecuniary and non-pecuniary damage in that connection. The court acknowledged the fact that Mr Umarov's private house and other belongings had been destroyed as a result of the hostilities in 1999 to 2000. It held, however, that under Article 1069 of the Russian Civil Code, the State was liable for damage caused only by unlawful actions on the part of its agents. It noted that the military operation in the Chechen Republic had been launched by virtue of relevant presidential and governmental decrees, which had been found to be constitutional by the Russian Constitutional Court, except for two provisions of the relevant governmental decree. In that connection the court noted that the two provisions had never been applied to Mr Umarov, and therefore no unlawful actions on the part of State bodies had ever taken place to warrant compensation for damage inflicted on his property. On 12 April 2002 the Moscow City Court upheld that judgment on appeal (see *Umarov v. Russia* (dec.), no. 30788/02, 18 May 2006).

194. By a default judgment of 3 December 2001 the Leninskiy District Court of Stavropol dismissed a claim brought by a Ms Trapeznikova against a number of federal ministries in so far as she alleged that the block of flats in which she had lived had been destroyed by a missile during an attack by the federal armed forces on Grozny in January 2000 and sought compensation for the destroyed flat and belongings that had been in it. She also sought compensation for non-pecuniary damage. The court noted, *inter alia*, that under Article 1069 of the Russian Civil Code, the State was liable for damage caused only by unlawful actions on the part of its agents. It further found that the actions of the Russian federal troops in the Chechen Republic had been lawful, as the military operation in the Chechen Republic had been launched under relevant presidential and governmental decrees, which had been found to be constitutional by the Russian Constitutional Court. The court concluded that there were no grounds to grant Ms Trapeznikova's claim for pecuniary damage and that her claim for

compensation for non-pecuniary damage could not be granted either, in the absence of any fault or unlawful actions on the part of the defendants. The judgment was upheld on appeal by the Stavropol Regional Court on 30 January 2002 (see *Trapeznikova v. Russia*, no. 21539/02, § 30, 11 December 2008).

THE LAW

I. THE GOVERNMENT'S OBJECTION REGARDING COMPLIANCE WITH THE SIX-MONTH RULE

195. The Government argued that the third to nineteenth applicants had failed to comply with the six-month requirement established in Article 35 § 1 of the Convention. They stated that the criminal proceedings in case no. 34/00/0008-03 had been discontinued on 17 November 2003 owing to the absence of constituent elements of a crime in federal officers' actions. In their submission, the relevant decision had established the absence of any grounds to hold the relevant officials criminally responsible for the alleged violations of the applicants' rights which, in its turn, indicated that there had been no grounds for the applicants to receive compensation in civil proceedings. Accordingly, in the Government's view, the decision of 17 November 2003 should be regarded as the final domestic decision for the applicants' complaints under Articles 2 and 8 of the Convention and Article 1 of Protocol No. 1, and therefore the applicants should have lodged their applications within six months after the date on which that decision had been taken, that is before 18 May 2004. The Government further pointed out that, as could be ascertained from the Court's stamp on the application forms submitted by the third to nineteenth applicants, it had received those applications on 1, 14, 15 and 23 June 2004 and 7 February 2005 respectively, that is outside the six-month period that ended on 18 May 2004.

196. The applicants disagreed with the Government's objection. They insisted that they had never been informed of the decision of 17 November 2003 by which the criminal proceedings in connection with the attack of 19 October 1999 had been discontinued, nor had they been furnished with a copy. Moreover, the materials of the investigation opened into the attack of 19 October 1999 had been classified, and the applicants could not have gained access to the investigation file at any stage.

197. The Court reiterates at the outset that, pursuant to Article 35 § 1 of the Convention, it may only deal with a matter within a period of six months from the final decision in the process of exhaustion. If no remedies are

available or if they are judged to be ineffective, the six-month period in principle runs from the date of the act complained of (see *Hazar and Others v. Turkey* (dec.), nos. 62566/00 et seq., 10 January 2002). Special considerations may apply in exceptional cases where an applicant first avails himself of a domestic remedy and only at a later stage becomes aware, or should have become aware, of the circumstances which make that remedy ineffective. In such a situation, the six-month period may be calculated from the time when the applicant becomes aware, or should have become aware, of those circumstances (see *Bulut and Yavuz v. Turkey* (dec.), no. 73065/01, 28 May 2002).

198. In the present case, the Court observes that the Government suggested that the applications by the third to nineteenth applicants should be regarded as having been lodged with the Court on the dates on which the Court received those applications. The Court sees no reason to adopt such a restrictive approach in the present case, given that it is clear from the materials in its possession that the applicants acted in good faith, namely that they dispatched their applications within a few days after filling in the forms. In such circumstances, the Court considers it reasonable to accept the dates indicated by the applicants in their application forms as the introduction dates for the relevant applications. It is therefore satisfied that application no. 20792/04 was lodged by the third applicant on 11 May 2004, application no. 22448/04 was lodged by the fourth and fifth applicant on 14 May 2004, application no. 23360/04 was lodged by the sixth applicant on 24 April 2004, application no. 5681/05 was lodged by the seventh to thirteenth applicants on 20 January 2005 and application no. 5684/05 was lodged by the fourteenth to nineteenth applicants on 20 January 2005.

199. In any event, the Court is not persuaded that in the present case the six-month period should be calculated from 17 November 2003, the date of the decision to discontinue the criminal proceedings in connection with the incident of 19 October 1999, as suggested by the Government.

200. It notes, first of all, that the Government did not convincingly demonstrate and, in particular, it does not appear from the file of the criminal investigation in case no. 34/00/0008-03, that any of the applicants, or their representative in the domestic proceedings (Mr Khamzayev), were apprised immediately or even shortly after that decision had been taken. The materials in the Court's possession reveal that the first letter that mentioned the decision in question and indicated its date was sent to Mr Khamzayev by the military prosecutor's office of the United Group Alignment on 15 March 2004 (see paragraph 71 above). The Court is unable to attach much weight to the fact that this letter indicated that Mr Khamzayev had allegedly been informed of the decision of 17 November 2003 in a letter of the same date, given that this latter letter is missing from the materials of the criminal investigation in case no. 34/00/0008-03, which appears to represent a copy

of the entire file, and it is not mentioned in the list of documents from that file, as submitted by the Government.

201. Moreover, once aware of the decision of 17 November 2003 Mr Khamzayev for some time attempted, albeit unsuccessfully, to obtain a copy with a view to appealing against it before a court under Article 125 of the Russian Code of Criminal Procedure (see paragraph 73 above). The Court further observes that in June 2004 Mr Khamzayev died and another lawyer, Ms Khamzayeva, replaced him in representing the applicants and, for her part, attempted to obtain information concerning the investigation, also in vain (see paragraph 79 above). Against this background, it finds that the applicants' representatives, once apprised of the decision in question, made genuine steps to obtain a copy of that decision to be able to appeal against it before a court, which they could reasonably consider an effective remedy at that stage.

202. The Court further observes that, as can be ascertained from the documents in its possession, it was in a letter of 12 July 2004 that the authorities, for the first time, informed Mr Khamzayev, who had died by that moment, that the case file of the investigation into the attack of 19 October 1999 had been classified as secret, and that it was impossible to provide him with any materials from that file (see paragraph 75 above). The Court considers it reasonable to assume that it was only upon the receipt of that letter that the applicants' new representative (Ms Khamzayeva) could have realised the futility of the efforts to obtain a copy of the decision of 17 November 2003. Therefore, in the Court's view, it is only after the date on which the applicants' representative received the letter of 12 July 2004 that the six-month time-limit should, in principle, run in the present case.

203. In addition, the Court does not find it unlikely in the circumstances of the present case that additional delays in communication between the applicants and their representatives, and in particular, in informing the applicants of the latest developments in their case, may have been caused by Mr Khamzayev's death and his replacement by another representative and by the fact that the representatives had their practice in Moscow whereas the applicants lived in the Chechen Republic. Overall, the Court cannot reach the conclusion that any of the third to nineteenth applicants failed to comply with the time-limit established in Article 35 § 1 of the Convention in the present case.

204. In the light of the foregoing, the Court finds that the Government's objection regarding the non-compliance of the third to nineteenth applicants with the six-month rule should be dismissed.

II. THE GOVERNMENT'S OBJECTION REGARDING EXHAUSTION OF DOMESTIC REMEDIES

A. Submissions by the parties

1. The Government

205. The Government argued that the applicants had failed to exhaust the available domestic remedies. They pointed out, in particular, that in the context of criminal proceedings opened respectively in connection with the events of 2 and 19 October 1999, the first to seventh, ninth, tenth, fourteenth, sixteenths, eighteenth and nineteenth applicants had been granted the status of victim and their procedural rights, including the right established in Article 125 of the Russian Code of Criminal Procedure (see paragraph 180 above), to challenge in court the actions or omissions of the investigating authorities during the investigation, had been explained to them. The Government, moreover, contended that the other applicants, being interested parties in the proceedings, could also have made use of that remedy, even though they had not been formally recognised as victims. However, to date none of the applicants had availed themselves of that remedy. In order to demonstrate the effectiveness of the remedy invoked by them, the Government relied on court decisions adopted in unrelated sets of proceedings, by which domestic courts had either quashed decisions of investigating authorities to discontinue criminal proceedings, or had ordered the investigating authorities to grant claimants access to investigation files, in cases concerning the abduction of those claimants' relatives.

206. The Government further alleged that it was also open to the applicants to seek compensation for damage in civil proceedings, irrespective of the decisions taken during the criminal investigations into the events in question. They insisted that, when examining a civil claim for compensation for damage sustained as a result of a criminal offence, a domestic court was entirely independent of decisions taken by the investigating authorities and courts in the context of criminal proceedings in connection with that offence. The Government pointed out, more specifically, that the applicants could seek compensation for pecuniary damage under Article 1069 of the Russian Civil Code (see paragraph 183 above), and compensation for non-pecuniary damage under Article 151 of the same Code (see paragraph 182), but that to date they had not made use of that remedy. The Government insisted that the remedy advanced by them would be effective in the applicants' situation and relied on a number of court decisions taken in unrelated sets of proceedings, including decisions awarding damages to the first applicant in *Khashiyev and Akayeva v. Russia* (nos. 57942/00 and 57945/00, judgment of 24 February 2005) in connection

with the death of his relatives in the Chechen Republic; a court decision awarding compensation to a claimant for damage sustained as a result of unlawful actions by a prosecutor's office and court decisions awarding compensation to a claimant for damage sustained as a result of ill-treatment by prison authorities.

207. Lastly, the Government contended that the applicants were also entitled to extra-judicial compensation in accordance with Presidential Decree no. 898 of 5 September 1995 (see paragraph 188 above), Governmental Decree no. 510 of 30 April 1997 (see paragraph 189 above) and Governmental Decree no. 404 of 4 July 2003 (see paragraph 191 above). The Government pointed out that the latter decree provided for compensation in the amount of RUB 300,000 for lost housing and RUB 50,000 for the other possessions. They argued that these amounts would suffice for the purchase of housing in the Southern Federal Circuit. According to the Government, thousands of individuals who had received that compensation had purchased flats in various regions adjacent to the Chechen Republic. However, to date the applicants had not availed themselves of that remedy.

2. The applicants

208. The applicants disputed the Government's objection. They contended that the authorities had pursued a policy of human rights violations during the counter-terrorism operation in the Chechen Republic which had rendered any potentially effective remedies inadequate and illusory in their case. They pointed out that the Government had failed to give any examples of the competent national authorities' taking a decision favourable to claimants in a situation comparable to their own.

209. The applicants stated, more specifically, as regards their alleged failure to appeal in court against the actions or omissions of the investigating authorities under Article 125 of the Russian Code of Criminal Procedure, that they had not been properly informed of the conduct of the investigation in the criminal cases concerning the events of 2 and 19 October 1999. In particular, victim status had been granted to them either with a considerable delay, or not granted at all; their procedural rights had never been explained to them, and the investigating authorities had not duly apprised them of procedural decisions taken during the investigation. In particular, in the applicants' submission, they had never been provided with a copy or even informed of the decision of 17 November 2003 by which the criminal proceedings in connection with the attack of 19 October 1999 had been discontinued. Moreover, the materials of the case opened into the attack of 19 October 1999 had been classified, and they could not gain access to the investigation file at any stage. The applicants thus insisted that they had in fact been excluded from the criminal proceedings and had had

no realistic opportunity to lodge court complaints under Article 125 of the Russian Code of Criminal Procedure.

210. The applicants further alleged that they were not required to pursue civil proceedings, as in the absence of any meaningful findings in the context of the criminal investigation, all their attempts to bring a civil claim for compensation in respect of pecuniary and non-pecuniary damage would be bound to fail. In this connection they also pointed out that by virtue of section 21 of the Suppression of Terrorism Act (see paragraph 184 above), servicemen and other persons involved in fighting terrorism were exempt from any liability for damage they might inflict during a counter-terrorism operation. The applicants argued that, in any event, a civil-law remedy was incapable of leading to the identification and punishment of those responsible, as required by the Court's settled case-law in relation to complaints similar to theirs.

211. The applicants also submitted that the extra-judicial compensation referred to by the Government was paid without regard to the value of the lost property, and therefore could not provide adequate redress. The applicants thus argued that it should not be regarded as an effective remedy either.

B. The Court's assessment

212. The Court reiterates that the rule of exhaustion of domestic remedies under Article 35 § 1 of the Convention obliges applicants to use first the remedies which are available and sufficient in the domestic legal system to enable them to obtain redress for the breaches alleged. The existence of the remedies must be sufficiently certain both in theory and in practice, failing which they will lack the requisite accessibility and effectiveness. Article 35 § 1 also requires that complaints intended to be brought subsequently before the Court should have been made to the appropriate domestic body, at least in substance and in compliance with the formal requirements and time-limits laid down in domestic law and, further, that any procedural means that might prevent a breach of the Convention should have been used. However, there is no obligation to have recourse to remedies which are inadequate or ineffective (see *Aksoy v. Turkey*, 18 December 1996, §§ 51-52, *Reports of Judgments and Decisions* 1996-VI; *Akdivar and Others v. Turkey*, 16 September 1996, §§ 65-67, *Reports* 1996-IV; and, more recently, *Cennet Ayhan and Mehmet Salih Ayhan v. Turkey*, no. 41964/98, § 64, 27 June 2006).

213. The Court has emphasised that the application of the rule of exhaustion of domestic remedies must make due allowance for the fact that it is being applied in the context of machinery for the protection of human rights that the Contracting States have agreed to set up. Accordingly, it has recognised that Article 35 § 1 must be applied with some degree of

flexibility and without excessive formalism. It has further recognised that the rule of exhaustion is neither absolute nor capable of being applied automatically; for the purposes of reviewing whether it has been observed, it is essential to have regard to the circumstances of the individual case. This means, in particular, that the Court must take realistic account not only of the existence of formal remedies in the legal system of the Contracting State concerned but also of the general context in which they operate, as well as the personal circumstances of the applicant. It must then examine whether, in all the circumstances of the case, the applicant did everything that could reasonably be expected of him or her to exhaust domestic remedies (see *Akdivar and Others*, cited above, § 69; *Aksoy*, cited above, §§ 53-54; and *Tanrıkulu v. Turkey* [GC], no. 23763/94, § 82, ECHR 1999-IV).

214. As regards the applicants' alleged failure to appeal against procedural decisions taken in the context of the criminal proceedings concerning the events of 2 and 19 October 1999 under Article 125 of the Russian Code of Criminal Procedure, the Court observes that the legal instrument referred to by the Government became operational on 1 July 2002 and that the applicants were clearly unable to have recourse to this remedy prior to that date. As regards the period thereafter, the Court considers that this limb of the Government's objection raises issues which are closely linked to the question of the effectiveness of the investigation, and it would therefore be appropriate to join this matter to the merits and to address it in the examination of the substance of the applicants' complaints under Article 2 of the Convention.

215. As regards the Government's argument that the applicants had not sought compensation in civil proceedings, the Court reiterates that, when an individual formulates an arguable claim in respect of killing, torture or destruction of property involving the responsibility of the State, the notion of an "effective remedy", in the sense of Article 13 of the Convention, entails, in addition to the payment of compensation where appropriate, a thorough and effective investigation capable of leading to the identification and punishment of those responsible and including effective access by the complainant to the investigative procedure (see *Kaya v. Turkey*, 19 February 1998, § 107, *Reports* 1998-I; *Aksoy*, cited above, § 98; *Menteş and Others v. Turkey*, 28 November 1997, § 89, *Reports* 1997-VIII; and *Çaçan v. Turkey* (dec.), no. 33646/96, 28 March 2000).

216. In the light of these principles, and in so far as the Government may be understood to argue that the applicants failed to seek compensation for their relatives' deaths through a civil procedure, the Court points out that, as it has already found in a number of similar cases, this procedure by itself cannot be regarded as an effective remedy in the context of claims brought under Article 2 of the Convention. A civil court is unable to conduct any independent investigation and is not capable, without the benefit of the conclusions of a criminal investigation, of making any meaningful findings

as to the identity of the perpetrators of fatal assaults, still less of attributing responsibility. Furthermore, a Contracting State's obligation under Articles 2 and 13 of the Convention to conduct an investigation capable of leading to the identification and punishment of those responsible in cases of fatal assault might be rendered illusory if, in respect of complaints under those Articles, an applicant would be required to pursue an action leading only to an award of damages (see *Khatsiyeva and Others v. Russia*, no. 5108/02, § 112, 17 January 2008 and the authorities cited therein). In the light of the above, the Court finds that the applicants were not obliged to pursue a civil remedy and that the Government's objection in this part should therefore be dismissed.

217. Similarly, in so far as the Government invoked a civil-law remedy in respect of the third to nineteenth applicants' complaints under Article 8 of the Convention and Article 1 of Protocol No. 1, the Court considers, in the light of the principles restated in paragraph 215 above, that the only potentially effective domestic remedy in the circumstances would be an adequate criminal investigation. If a civil claim were to be regarded as a legal action to be exhausted in respect of the complaints of a violation of Article 8 and Article 1 of Protocol No. 1 as a result of State agents' actions, the State's obligation to pursue those guilty of such serious breaches might be superseded thereby (see *Çaçan* (dec.), cited above).

218. Moreover, it appears that, in any event, the applicants' civil claim for damages for their destroyed or damaged homes and possessions would hardly have had any prospects of success. Indeed, Article 1069 of the Russian Civil Code invoked by the Government establishes the rules on compensation for damage inflicted by representatives of the State and provides that State agents are liable only for damage caused by unlawful actions or failure to act on their part. In the circumstances of the present case, where the investigation into the attack of 19 October 1999 ended with a decision of 17 November 2003 stating that the federal officers' actions had been justified, the applicants' civil claim for damages would be bound to fail. The Government, for their part, appear to have confirmed such a conclusion, albeit in a rather controversial manner. On the one hand, they advanced an argument about the applicants' alleged failure to avail themselves of a civil procedure to obtain compensation for their damaged property, whereas, on the other hand, they argued in their objection regarding the applicant's compliance with the six-month rule that "the decision of 17 November 2003 had established the absence of any grounds to hold the relevant officials criminally responsible for the alleged violations of the applicants' rights which, in its turn, indicated that there had been no grounds for the applicants to receive compensation in civil proceedings" (see paragraph 195 above).

219. The Court also refers to the practice of the Russian courts, which have consistently refused to award any compensation for damage caused by

the federal forces during the conflict in the Chechen Republic, stating that the latter's actions had been lawful as the counter-terrorism operation in the region had been launched under relevant presidential and governmental decrees, which had not been found to be unconstitutional (see paragraphs 192-194 above). The Court finds even more relevant in the circumstances of the present case the fact that on 11 May and 4 October 2001, respectively, the domestic courts at two levels of jurisdiction rejected as unsubstantiated Mr Khamzayev's claim for compensation for his private house, which had also been destroyed in the attack of 19 October 1999 (see paragraph 82 above).

220. With this in mind, the Court rejects the Government's argument that it was open to the applicants to file a civil claim for compensation in respect of their damaged housing and property, as the right in question was illusory and devoid of substance. In sum, the Court finds the alleged remedy inadequate and ineffective, given that it was clearly incapable of leading to the identification and punishment of those responsible, or even to any financial award in the circumstances of the present case. It therefore rejects this part of the Government's objection.

221. Lastly, as regards the Government's argument that the applicants could have received extra-judicial compensation for their lost property, the Court notes firstly that Governmental Decree no. 510 of 30 April 1997, referred to by the Government, concerns the payment of compensation in respect of property that had been destroyed before 12 December 1994, and is therefore clearly irrelevant in the present case. As regards Governmental Decree no. 404 of 4 July 2003, which afforded a right to compensation to permanent residents of the Chechen Republic, it is clear from the relevant legal instrument that the compensation in question is paid without regard to the particular circumstances in which the property was lost, that is to say, irrespective of whether State agents were responsible for the destruction. Moreover, the value of the lost property is not taken into account either, since the overall amount paid for lost housing and other possessions cannot exceed RUB 350,000 (approximately EUR 9,000). In such circumstances, the Court is not persuaded that the compensation referred to by the Government can be regarded as an effective remedy for the violation alleged.

222. To sum up, the Court joins the Government's objection, in so far as it refers to criminal-law remedies, to the merits of the applicants' complaints under Article 2 of the Convention. It further dismisses the Government's objection in so far as it concerns the applicants' alleged failure to have recourse to civil-law remedies and extra-judicial compensation.

III. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

223. The applicants, with the exception of the second applicant, complained of the deaths of their relatives as a result of the aerial attacks by the federal forces on Urus-Martan on 2 and 19 October 1999. They also alleged that the strikes by federal troops with high-explosive aerial bombs against heavily populated residential areas of Urus-Martan on 2 and 19 October 1999 had put their lives at real risk. Lastly, they argued that there had been no effective investigation into those incidents. The applicants referred to Article 2 of the Convention, which reads as follows:

> "1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
>
> 2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:
>
> (a) in defence of any person from unlawful violence;
>
> (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
>
> (c) in action lawfully taken for the purpose of quelling a riot or insurrection."

A. Admissibility

224. The Court reiterates that it has already dismissed the Government's objections as to the admissibility of the applications as regards the compliance with the six-month rule and the exhaustion criterion, in so far as this latter concerned the civil law remedies. Furthermore, the Court finds that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Alleged failure to protect the right to life

(a) Submissions by the parties

(i) As regards the incident of 2 October 1999

225. The first applicant insisted that the State had breached Article 2 of the Convention in respect of herself and her deceased husband and brother –

Mr Adlan Kerimov and Mr Lechi Albigov. In so far as the Government had justified the use of force in the present circumstances by the need to halt the criminal activity of illegal fighters and detain them, the first applicant argued that the use of military aircraft could not be regarded as a suitable method for effecting an arrest. She further contended that the authorities had not exercised due care in planning and controlling the attack of 2 October 1999. In particular, the first applicant alleged that there had been no information of any threat to the residents of Urus-Martan on the part of the illegal armed groups, and that the civilians had been unprepared for the attack in question. She also argued that the authorities had chosen to use indiscriminate weaponry without giving due consideration to any other alternatives to the use of force.

226. The Government submitted that the counter-terrorism operation launched in September 1999 within the territory of the Chechen Republic had been aimed at the suppression of criminal activity and detention of members of illegal armed groups. According to the Government, each particular operation in the context of the global counter-terrorism operation had been planned very carefully on the basis of information obtained using means of intelligence, including aircraft, with a view to minimising casualties among civilians and federal servicemen. At the same time, the illegal armed groups, in the Government's submission, had fortified the town of Urus-Martan and had been showing violent armed resistance to the authorities, using high-calibre machine-guns and surface-to-air mobile missile systems, and positioning that weaponry, *inter alia*, on the roofs of houses. According to the Government, on 1, 3 and 4 October 1999 federal planes and helicopters had been hit by the illegal fighters. Their actions had posed a real danger to the lives or health of servicemen, law-enforcement officers and local residents. In such circumstances, in the Government's view, the use of aircraft for pinpoint bomb strikes on places with a concentration of illegal fighters and their firing posts had been no more than absolutely necessary and proportionate.

227. As regards, more specifically, the events of 2 October 1999, the Government stated that the investigation into that incident had been commenced and that, to date, it had established on the basis of witness statements that on the date in question unidentified planes had carried out a bomb strike on the central part of Urus-Martan with the result that, *inter alia*, a number of persons, including the first applicant's husband and brother, had been killed and a number of persons, including the first applicant and her children, had been wounded. The Government also submitted that the investigation was currently ongoing and that it would be premature to hold the State responsible for that incident until the completion of the investigation.

(ii) As regards the incident of 19 October 1999

228. The third to nineteenth applicants ("the relevant applicants") argued that the attack of 19 October 1999 had not been planned or controlled by the authorities so as to minimise the risk to the lives of civilians. According to them, the residents of Urus-Martan had not been informed beforehand of the attack of 19 October 1999 or of possible ways to ensure their evacuation, etc.

229. The relevant applicants also argued, with reference to the findings in the decision of 17 November 2003 by which the criminal proceedings into that attack had been discontinued, that the only pre-selected target representing a concentration of illegal fighters had been situated one kilometre to the east of Urus-Martan, whilst all the other strikes carried out on that date, including the strike on the residential quarter in which they and their deceased relatives had lived, had not been authorised or in any way reflected in relevant military documentation and had therefore, in the relevant applicants' view, been spontaneous. The relevant applicants also contended that those strikes could not have been explained by any imminent risk to the lives of the pilots who had carried them out, given the absence of any information that the federal forces had on that date been attacked by illegal fighters.

230. The relevant applicants pointed out that the Russian Government had never declared martial law or a state of emergency within the territory of the Chechen Republic. They thus argued that the use of indiscriminate lethal weaponry during peacetime and without prior evacuation of civilians had been incompatible with the authorities' obligation to exercise the necessary degree of care expected from them in a democratic society. In particular, the bombing of a residential quarter using highly explosive bombs could not be justified by a mere reference to the alleged presence of illegal fighters there. The relevant applicants thus argued that in the present case the use of lethal force resulting in their relatives' deaths had been grossly disproportionate and insisted that the respondent Government had violated their right to life and that of their deceased relatives.

231. The Government acknowledged that the federal air strike on Urus-Martan on 19 October 1999 had resulted in human casualties and in the destruction of or damage to a number of houses. They insisted, however, that there had been no violation of Article 2 of the Convention in the present case.

232. The Government noted that in the case of *Isayeva v. Russia* the Court had accepted that "the situation that existed in Chechnya at the relevant time called for exceptional measures by the State in order to regain control over the republic and to suppress the illegal armed insurgency" and that "given the context of the conflict in Chechnya at the relevant time, those measures could presumably include the deployment of army units

equipped with combat weapons, including military aviation and artillery" (see *Isayeva v. Russia*, no. 57950/00, § 180, 24 February 2005).

233. They further pointed out, with reference to findings of the domestic investigation in the present case, that from the beginning of the counter-terrorism operation in late September 1999 to early December 1999 the town of Urus-Martan had been occupied by illegal fighters, amounting to over 1,500 persons, who had based their headquarters on civilian premises in the town, had fortified them and had not been prepared to surrender. They had been showing active resistance and had been leading large-scale military actions using heavy weaponry, including surface-to-air missile systems. Moreover, shortly before the attack of 19 October 1999, a new group of approximately 300 illegal fighters had arrived in the town for reinforcement. Such circumstances, in the Government's submission, had rendered necessary the pinpoint aerial strikes against the bases of illegal fighters in Urus-Martan which had been carried out on 19 October 1999.

234. The Government insisted that the attack in question had been planned and controlled so as to minimise any risk to the lives of civilians in Urus-Martan. They argued, with reference to witness statements of Mr Kh., a resident of Urus-Martan (see paragraph 126 above), that at the time of the strike less than half of the civilian population had remained in the town, as the major part of the residents had fled from the extremists. The Government further stated that of all available methods, the military authorities had opted for pinpoint strikes, which had enabled the federal forces to minimise the risk of civilian casualties. Indeed, the attack of 19 October 1999 had resulted in only six people being killed and seventeen wounded, four of the latter belonging to illegal armed groups, in a town where there had been many more civilian residents. On the other hand, considerable losses had been caused to the illegal fighters who, as a result, had subsequently, on 7 and 8 December 1999, surrendered the town without resistance, with the result that there had been no casualties among the federal armed forces.

235. The Government further referred to witness statements of a number of high-ranking military officers who, in the relevant period, had been in command of the federal forces in the Chechen Republic. Those officials, when interviewed during the investigation, had stated that aerial bomb strikes had been aimed at, and had been carried out exclusively in respect of, clearly identified military targets, such as concentrations of illegal fighters, their bases or means of transport. The Government also asserted that the federal military authorities had informed the local population, via the local mass-media and leaflets, of a possible use of the aircraft and artillery in case of organised armed resistance on the part of illegal armed groups.

236. The Government thus insisted that in the circumstances the use of force by the federal forces was no more than absolutely necessary in order

to eliminate danger to the local population emanating from the illegal armed groups and that it was impossible to eliminate that danger by any other means. In particular, the use of ground troops would have led to unacceptable losses on the part of the federal armed forces. In the Government's submission, the actions of the relevant military personnel had fully complied with the Suppression of Terrorism Act, and the investigating authorities had reached a well-founded conclusion that those actions had been justified in the circumstances.

237. In the Government's view, the present case could be distinguished from the cases of *Isayeva and Others v. Russia* (nos. 57947/00, 57948/00 and 57949/00, 24 February 2005), and *Isayeva v. Russia*, (no. 57950/00, 24 February 2005), since in the present case the military targets in Urus-Martan, their danger to the residents and the necessity of their destruction were obvious, whilst the consequences of the attack in question were less serious than those in the cases cited.

(b) The Court's assessment

(i) General principles

238. The Court reiterates that Article 2, which safeguards the right to life and sets out the circumstances where deprivation of life may be justified, ranks as one of the most fundamental provisions in the Convention, from which in peacetime no derogation is permitted under Article 15. The situations where deprivation of life may be justified are exhaustive and must be narrowly interpreted. The use of force which may result in the deprivation of life must be no more than "absolutely necessary" for the achievement of one of the purposes set out in Article 2 § 2 (a), (b) and (c). This term indicates that a stricter and more compelling test of necessity must be employed than that normally applicable when determining whether State action is "necessary in a democratic society" under paragraphs 2 of Articles 8 to 11 of the Convention. Consequently, the force used must be strictly proportionate to the achievement of the permitted aims. In the light of the importance of the protection afforded by Article 2, the Court must subject deprivations of life to the most careful scrutiny, particularly where deliberate lethal force is used, taking into consideration not only the actions of State agents who actually administer the force but also all the surrounding circumstances including such matters as the planning and control of the actions under examination (see *McCann and Others v. the United Kingdom*, 27 September 1995, §§ 146-50, Series A no. 324; *Andronicou and Constantinou v. Cyprus*, 9 October 1997, § 171, *Reports* 1997-VI; and *Oğur v. Turkey* [GC], no. 21594/93, § 78, ECHR 1999-III).

239. In addition to setting out the circumstances where deprivation of life may be justified, Article 2 implies a primary duty on the State to secure the right to life by putting in place an appropriate legal and administrative

framework defining the limited circumstances in which law-enforcement officials may use force and firearms, in the light of the relevant international standards (see *Makaratzis v. Greece* [GC], no. 50385/99, §§ 57-59, ECHR 2004-XI, and *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, § 96, ECHR 2005-VII). Furthermore, the national law regulating policing operations must secure a system of adequate and effective safeguards against arbitrariness and abuse of force and even against avoidable accident (see *Makaratzis*, cited above, § 58). In particular, law-enforcement agents must be trained to assess whether or not there is an absolute necessity to use firearms, not only on the basis of the letter of the relevant regulations, but also with due regard to the pre-eminence of respect for human life as a fundamental value (see *Nachova and Others*, cited above, § 97).

240. The same applies to an attack where the victim survives but which, because of the lethal force used, amounts to attempted murder (see *Makaratzis*, cited above, §§ 49-55, *Isayeva and Others v. Russia*, nos. 57947/00, 57948/00 and 57949/00, § 171, 24 February 2005, and *Isayeva*, cited above, § 175).

(ii) Application in the present case

241. The Court observes at the outset that the Government acknowledged that the aerial attack of 19 October 1999 had been carried out by federal forces. They, however, disputed their responsibility for the attack of 2 October 1999, stating that the domestic investigation was still pending and that the circumstances of that incident had not yet been established. They argued that this latter strike had been carried out by "unidentified aircraft". The Court, having regard to the fact that the Government acknowledged that the strike of 2 October 1999 had been carried out by planes, does not find convincing their argument that the identity of those planes remained unknown, as presumably military aircraft are held in the exclusive possession of the State, and, more specifically, of the Russian Armed Forces. Moreover, an expert's report of 18 June 201 confirmed that metal fragments found at the scene of the incident of one of the residents' houses destroyed in the attack of 2 October 1999 were splinters from an exploded aerial bomb (see paragraph 88 above), a type of weapon that is also presumably held in the exclusive possession of the State. It is furthermore clear from the adduced documents that the domestic investigation, in so far as it was being conducted by the civilian authorities, was based on the assumption that on the date in question Urus-Martan had come under a bomb attack by the federal forces (see paragraphs 90 and 93 above). The Court therefore finds it established that the attack of 2 October 1999 was also carried out by aircraft belonging to the federal armed forces.

242. The Court further observes that, as a result of the attack of 2 October 1999, the first applicant's husband and brother were killed and

she herself was wounded. During the attack of 19 October 1999 the third applicant's husband, the fourth applicant's son, the fifth applicant's mother, the sixth applicant's son, the seventh to thirteenth applicants' relative and the fourteenth to nineteenth applicants' relative were killed and the tenth, sixteenth and eighteenth applicants wounded. This brings the relevant complaint, in respect of both the applicants' deceased relatives and themselves, within the ambit of Article 2 (see paragraph 240 above). It is therefore for the State to account for the use of lethal force on both occasions in the present case, and, in particular, to demonstrate that that force was used in pursuit of one of the aims set out in paragraph 2 of Article 2 of the Convention and that it was absolutely necessary and therefore strictly proportionate to the achievement of one of those aims.

243. In this connection, the Court notes first of all that its ability to assess the circumstances surrounding the attack of 2 October 1999, including the planning and control of the operation in question, the actions of the federal servicemen who actually administered the force, and the legal or regulatory framework in place, is severely hampered by the manifest unwillingness of the respondent Government to cooperate with the Court and their failure to submit any documents or information regarding this attack.

244. As regards the strike of 19 October 1999, although the Government were more cooperative and gave more explanations in that respect, the Court is still unable to see the full and clear picture of that incident. Whilst describing in general a complex situation in Urus-Martan and referring to a need to break the resistance of illegal fighters who had entrenched themselves in the town, the Government did not provide any details concerning the planning and control of the strike of 19 October 1999 and remained silent as regards the actions of the federal servicemen who participated in that attack. They also failed to submit documents concerning that attack, such as copies of plans of the operation, orders, reports on its results, or the like. In this latter respect, the Court finds it open to critisism that a number of such documents or other important sources of information, such as photographs and tape-recordings, that appear to have been directly relevant to that attack, were destroyed a year, or even three months, after the attack in question with reference to a relevant order of the Russian Ministry of Defence (see paragraphs 154 and 157 above). In the Court's view, such time-limits for storage of information concerning the planning, control, performance and results of large-scale military actions, in particular aerial bomb attacks, which may entail multiple deaths or injuries, massive destruction or damage to property, or other drastic consequences, are too tight to be accepted as adequate.

245. The Court further observes that the Government argued that pinpoint aerial strikes on Urus-Martan in the relevant period had been necessary to enable the federal forces to regain control over Urus-Martan

and to suppress the criminal activity of illegal armed groups, who had put up active and organised resistance to the federal forces, had occupied and fortified the town and had been prepared for long-term defence. The Government also argued that it was not possible to fulfil that purpose in any way other than by involving federal aircraft. In their submission, all other methods, such as, for example, an attack or storming by land troops would have led to considerable losses among federal servicemen.

246. The Court is aware of the difficult situation in the Chechen Republic at the material time, which called for exceptional measures on the part of the State to suppress the illegal armed insurgency (see *Khatsiyeva and Others*, cited above, § 134, or *Akhmadov and Others v. Russia*, no. 21586/02, § 97, 14 November 2008). Those measures could presumably comprise the deployment of armed forces equipped with combat weapons, including military aircraft (see *Isayeva and Others*, cited above, § 178, or *Isayeva*, cited above, § 180), and could entail, as a regrettable but unavoidable consequence, human casualties. Bearing in mind the difficulties involved in policing modern societies, the unpredictability of human conduct and the operational choices which must be made in terms of priorities and resources, the obligation to protect the right to life must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities (see, *mutatis mutandis*, *Makaratzis*, cited above, § 69, and *Mahmut Kaya v. Turkey*, no. 22535/93, § 86, ECHR 2000-III).

247. In the present case, having regard to the Government's submissions on the situation in Urus-Martan in the relevant period, the Court considers that their argument to the effect that the use of land troops would have involved unjustified casualties is not without foundation. In particular, the Court takes into account the Government's arguments, corroborated by witness statements of a number of federal servicemen, that the town had been occupied by a considerable number of well-equipped extremists, armed with a range of large-yield weaponry, who were in fact conducting large-scale military actions against the federal forces, including attacks on federal aircraft, and had turned the town into a fortress, having dug trenches and dugouts, having filled pits with oil to be able to explode them on the approach of the federal forces, and having extended the depth of defence to three or four quarters from the outskirts towards the town centre (see paragraphs 126, 159 and 174 above).

248. Against this background and in the light of the principles stated in paragraph 246 above, the Court may be prepared to accept that the Russian authorities had no choice other than to carry out aerial strikes in order to be able to take over Urus-Martan, and that their actions were in pursuit of one or more of the aims set out in paragraph 2 (a) and (c) of Article 2 of the Convention. It is, however, not convinced, having regard to the materials at its disposal, that the necessary degree of care was exercised in preparing the

operations of 2 and 19 October 1999 in such a way as to avoid or minimise, to the greatest extent possible, the risk of a loss of life, both for persons at whom the measures were directed and for civilians (see *McCann*, cited above, § 194).

249. In the above connection, the Court notes first of all that for several years the military authorities insistently denied the very fact that the attacks had taken place or the existence of any plans, tasks or orders to carry out strikes on the residential quarters in question, in respect both of the incident of 2 October 1999 (see paragraph 43 above) and of that of 19 October 1999 (see paragraphs 56-59 and 178 above), which cannot but cast doubt on the Government's argument that the pinpoint strikes had been duly organised.

250. Furthermore, when referring to the need to break the rebel fighters' resistance, the Government did not indicate whether the authorities had had any information as to the presence of any fighters, or their fortified points, or other military targets in the residential quarter that had come under the federal attack of 2 October 1999, and, if so, whether that information was clear and reliable, and whether the authorities exercised the necessary care in evaluating it. Similarly, as regards the aerial attack of 19 October 1999, while claiming that the residential quarter that had been hit on the date in question had comprised residential buildings prepared for long-term defence, the Government did not explain in any detail, whether, before making a decision to carry out an aerial strike, the competent authorities had thoroughly verified that information, and whether they knew which particular residential buildings had been prepared for defence, and whether any fighters had been located there. The Government remained silent as to whether the military authorities had had any information to the effect that the houses in which the relevant applicants had lived and which had come under the attack had been listed among such buildings, and whether any specific order had been given to bomb them.

251. It is also clear from the Government's submissions and the adduced documents that the authorities were aware of the presence of some civilians in Urus-Martan at the relevant time (see paragraphs 31, 126 and 234 above), even if their number was insignificant. It fell therefore to the authorities to verify, to the extent possible, whether any civilians were present in buildings presumably selected as targets for aerial strikes, particularly when it came to attacking residential quarters. It does not appear, however, that any such precautions were taken before striking the residential quarters in which the applicants lived.

252. Moreover, it does not appear that the authorities took, or considered taking, any meaningful steps to inform the civilian inhabitants of Urus-Martan of the attacks beforehand or to secure their evacuation. The Court is not persuaded by the Government's argument that the authorities had informed the local population via leaflets and local mass-media of possible aerial strikes and artillery shelling in case of organised armed resistance on

the part of the illegal armed groups located in Urus-Martan. It notes, in particular, that Mr K., a high-ranking officer, who gave explanations to that effect, later refused to confirm them alleging that he could no longer recall the events in question (see paragraph 160 above). In any event, in a situation where, as acknowledged by the Government, the authorities knew that the residents who had remained in the town were, in fact, prevented from leaving by the illegal fighters who intended to use them as human shields (see paragraphs 30 and 126 above), the measures referred to by the Government could hardly be regarded as adequate. It is true that the evacuation of inhabitants in a situation where they were held hostage by fighters might have been particularly difficult, but the Government did not demonstrate that the authorities had taken any steps at all in that direction, that they had attempted to organise a safe exit for civilians, to negotiate their evacuation with the fighters, or the like.

253. In the light of the foregoing, the Court is struck by the Russian authorities' choice of weapon in the present case. It is clear from the relevant reports that both strikes on residential quarters of Urus-Martan had been carried out using aerial bombs (see paragraphs 88, 156 and 172 above), this being a high-explosive indiscriminate type of weapon. In particular, the Government acknowledged that during the attack of 19 October 1999 high-explosive fragmentation bombs of calibre 250-270 kg were used (see paragraph 34 above). The Court has already held that using this kind of weapon in a populated area is impossible to reconcile with the degree of caution expected from a law-enforcement body in a democratic society. As was rightly pointed out by the applicants, no martial law or state of emergency had ever been declared in the Chechen Republic, and no derogation had been made under Article 15 of the Convention. The attacks in question therefore have to be examined against a normal legal background. Even when faced with a situation where the population of the town was held hostage by a large group of well-equipped and well-trained fighters, the authorities' primary aim should have been to protect lives from unlawful violence. The use of indiscriminate weapons stands in flagrant contrast to this aim and cannot be considered compatible with the requisite standard of care that should be exercised in operations involving the use of lethal force by State agents (see *Isayeva*, cited above, § 191).

254. In this connection, the Court finds some indication in witness statements of federal pilots who participated in aerial operations in the vicinity of Urus-Martan in October 1999 that the use of missiles, as opposed to the use of high-explosive aerial bombs, might have been more appropriate in the circumstances (see paragraphs 171 and 173 above). The Court cannot speculate as to whether the damage caused could have been diminished if the federal aircraft had used missiles during the attacks of 2 and 19 October 1999. However, it regrets the absence of any explanation on the part of the Government in this connection.

255. The Court further notes discrepancies between the fact of striking Urus-Martan with aerial bombs and the fact that, according to those statements of federal pilots, they had apparently been instructed to launch such bombs at a distance of no less than three kilometres from any inhabited settlement (see paragraph 173 above), and that apparently the targets situated closer than three kilometres were to be hit with missiles (see paragraph 171 above). Nor does it overlook the relevant applicants' argument that, as is apparent from the military documents, the only target that had been indicated as pre-selected in the attack of 19 October 1999 was located at a distance of one kilometre from Urus-Martan (see paragraphs 34, 66 and 67 above), whereas the residential quarter that came under attack on that date had not been mentioned in any of those documents at all.

256. Irrespective of whether the aforementioned discrepancies between the actual conduct of the federal pilots and the official instructions or orders apparently given to them should be regarded as defects in the legal framework governing operations such as those in the present case, or as defects in the planning and control of the attacks under examination, or should be attributed to the federal pilots who actually administered the force, the foregoing considerations in paragraphs 243-254 above are sufficient to enable the Court to conclude that the authorities failed to exercise appropriate care in the organisation and control of the operations of 2 and 19 October 1999. It therefore does not consider it necessary to examine separately the question whether an appropriate legal framework was in place and whether the actions of the pilots who participated in the attack were compatible with the requirements of Article 2 of the Convention.

257. In sum, the Court considers that the bombing with indiscriminate weapons of residential quarters of Urus-Martan inhabited by civilians was manifestly disproportionate to the achievement of the purposes listed under Article 2 § 2 (a) and (c). It therefore finds that the respondent State failed in its obligation to protect the right to life of the first applicant, and third to nineteenth applicants, and the right to life of Mr Adlan Kerimov – the first applicant's husband, Mr Lechi Albigov – the first applicant's brother, Mr Makharbi Lorsanov – the third applicant's husband, Mr Minkail Lorsanov – the fourth applicant's son, Ms Aminat Abubakariva – the fifth applicant's mother, Mr Apty Abubakarov – the sixth applicant's son, Mr Vakha Tseltsayev – a relative of the seventh to thirteenth applicants, and Mr Yakub Israilov – a relative of the fourteenth to nineteenth applicants.

258. There has accordingly been a violation of Article 2 of the Convention on that account.

2. Alleged ineffectiveness of the investigation

(a) Submissions by the parties

(i) As regards the incident of 2 October 1999

259. The first applicant stated that the investigation in the present case fell foul of the requirements of effectiveness established in Article 2 of the Convention. She argued that, given that the attack of 2 October 1999 had resulted in multiple deaths of civilians, the authorities should, of their own motion, have opened an investigation into that incident immediately after it had occurred, whereas in practice the investigation had not been opened until more than a year later. Moreover, the criminal proceedings in question had been instituted only in connection with the destruction of property and it remained unclear whether the deaths of the applicant's relatives had been investigated at all at any stage. The first applicant also contended that numerous complaints and requests filed by her representative on her behalf in the course of the investigation had remained unanswered, that she had been granted victim status only three years after the relevant criminal case had been opened and that the investigating authorities had never informed her or her representative about the conduct of the investigation or furnished her with copies of any procedural decisions taken in that case. She also indicated that to date the investigation had been pending for several years without producing any tangible results.

260. The Government argued that the authorities had opened cases nos. 24050 and 25268 in connection with the attack of 2 October 1999, and that in the course of the investigation in those cases measures had been, and were being, taken to establish comprehensively the circumstances of the incident in question. In their submission, the length of the investigation could be explained by the fact that in the period when the events in question had taken place the active military actions had still been underway, and therefore the lives of the investigating officers had been in danger. The Government also submitted that the first applicant had never sought to be granted victim status or to be given information concerning the investigation in any of the aforementioned cases. Nevertheless, she had been declared a victim in case no. 25268 and interviewed regarding the incident of 2 October 1999. The Government further submitted that at present the criminal proceedings in this latter case were pending and insisted that the Russian authorities had complied with their obligation to carry out an effective investigation as required by Article 2 of the Convention.

(ii) As regards the incident of 19 October 1999

261. The relevant applicants contended that the Government had failed to carry out an adequate, effective and timely investigation into the

circumstances of the incident of 19 October 1999. They submitted that the authorities should have immediately become aware of the consequences of a bomb attack involving multiple deaths and destruction of property and should have commenced an investigation in that connection immediately after those events had taken place. In reality, the criminal proceedings into the attack of 19 October 1999 had not been initiated until ten months later. The relevant applicants further alleged that they had not been properly informed of the course of the investigation, and that they could not have actively participated in the investigation given that it had been carried out by the military prosecutor's office located in the main federal military base of Khankala, which civilians could not easily have accessed. The relevant applicants thus insisted that the authorities had failed in their obligation to conduct an effective investigation into the incident of 19 October 1999.

262. The Government submitted that the investigating authorities had taken all possible measures to establish the circumstances of the incident of 19 October 1999. In particular, they had interviewed a large number of eyewitnesses to the attack, including the relevant applicants and public officials. They had also inspected the scene of the incident and carried out a number of expert's examinations, including a forensic medical examination of the victims. In the Government's submission, the length of the investigation could be explained by the fact that in the period when the events in question took place the active military actions had still been underway, and there had been a risk for the lives of the investigating officers. They insisted that the investigation in question had been adequate and effective.

(b) The Court's assessment

(i) General principles

263. The Court reiterates that the obligation to protect the right to life under Article 2 of the Convention, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention", requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force, in particular by agents of the State. The investigation must be effective in the sense that it is capable of leading to a determination of whether the force used in such cases was or was not justified in the circumstances (see *Kaya*, cited above, § 87) and to the identification and punishment of those responsible (see *Oğur*, cited above, § 88).

264. In particular, the authorities must take the reasonable steps available to them to secure the evidence concerning the incident, including, *inter alia*, eyewitness testimony, forensic evidence and, where appropriate, an autopsy which provides a complete and accurate record of injury and an

objective analysis of clinical findings, including the cause of death (see, concerning autopsies, for example, *Salman v. Turkey* [GC], no. 21986/93, § 106, ECHR 2000-VII; concerning witnesses, for example, *Tanrıkulu*, cited above, § 109; and concerning forensic evidence, for example, *Gül v. Turkey*, no. 22676/93, § 89). Any deficiency in the investigation which undermines its ability to establish the cause of death or the person responsible may risk falling foul of this standard.

265. Furthermore, there must be an implicit requirement of promptness and reasonable expedition (see *Yaşa*, cited above, §§ 102-04, and *Mahmut Kaya*, cited above, §§ 106-07). It must be accepted that there may be obstacles or difficulties which prevent progress in an investigation in a particular situation. However, a prompt response by the authorities in investigating the use of lethal force may generally be regarded as essential in maintaining public confidence in the maintenance of the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts.

266. For the same reasons, there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory. The degree of public scrutiny required may well vary from case to case. In all cases, however, the victim's next-of-kin must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests (see *Shanaghan v. the United Kingdom*, no. 37715/97, §§ 91-92, 4 May 2001).

(ii) As regards the incident of 2 October 1999

267. It appears that some degree of investigation was carried out into the attack of 2 October 1999. The Court must assess whether that investigation met the requirements of Article 2 of the Convention. It notes in this connection that its knowledge of the criminal proceedings at issue is very limited in view of the respondent Government's refusal to submit copies of the investigation files, save for a few documents, in the cases opened in connection with that attack, or to provide a detailed account of investigative steps, if any, taken by the authorities. Drawing inferences from the respondent Government's conduct when evidence was being obtained (see *Ireland v. the United Kingdom*, 18 January 1978, § 161, Series A no. 25), the Court will assess the merits of this complaint on the basis of the information available in the light of those inferences.

268. The Court notes, first of all, that criminal proceedings in connection with the attack of 2 October 1999 were not instituted until more than a year later, on 20 October 2000. In this connection the Government alleged that the competent authorities were notified of this incident only on 23 September 2000, when a certain Mr E. complained to the district prosecutor's office of the damage he had sustained during that attack. They also argued that at that time active military actions had been ongoing and that this had complicated the conduct of the investigation.

269. In so far as the Government may be understood to be arguing that, prior to 23 September 2000, the authorities were unaware of the incident of 2 October 1999, the Court finds such an argument implausible. In the Court's opinion, the results of a large-scale attack involving federal aircraft should normally become known to the authorities immediately after such an attack. It falls to the State to ensure that State agents who participated in the attack duly report on it, and that the competent authorities, including those in charge of it, ascertain its results without delay. The Court does not overlook the Government's argument that at the relevant time active warfare was ongoing and that on the date of the incident in question Urus-Martan was occupied by illegal fighters. However, it notes that, as pointed out by the Government, the town had been overtaken by the federal forces no later than on 7 and 8 December 1999, and therefore the authorities could and should have become aware of the results of the attack of 2 October 1999 at that time. The Government did not advance any explanation as to why the authorities had remained passive, and had left without investigation an incident that resulted in multiple deaths and the destruction of property, from the time when they had regained control over the town of Urus-Martan until 20 October 2000. Such a considerable delay between the incident and the beginning of the investigation into it cannot but significantly undermine the effectiveness of the investigation.

270. It furthermore does not appear that any significant investigative steps had been taken in the course of the aforementioned criminal proceedings, which were adjourned on 20 December 2000, that is two months after they had been commenced, and, as can be ascertained from the Government's submissions, have remained suspended since that date. Another set of criminal proceedings in connection with the attack of 2 October 1999 was initiated by another law-enforcement agency on 23 April 2001, that is more than eighteen months after the incident in question. The Court, leaving open the question of the apparent lack of coordination among law-enforcement agencies, which at different times conducted separate investigations into the same incident, notes that in both cases the investigation was carried out only into the destruction of property. It does not appear that the deaths of eight residents of Urus-Martan, including the first applicant's two relatives, in the attack of 2 October 1999 were investigated at all until 5 April 2004, when the first applicant was granted victim status in connection with her husband's death and injuries sustained by her in that attack, even though it is clear that the authorities were aware of the killing of the residents from the beginning of the investigation (see paragraphs 89, 90 and 93 above).

271. It furthermore does not appear that a medical forensic examination of those deceased and wounded was ever performed. Moreover, in the absence of any reliable information and documents, it is not unlikely that a

number of other essential investigative measures were either delayed or were not taken at all.

272. The Court further notes a considerable delay in granting the first applicant victim status, which could have afforded her minimum procedural safeguards. It is sceptical about the Government's argument that the first applicant had never requested to be declared a victim in that case, as it is clear from the documents in its possession that Mr Khamzayev, acting on behalf of those affected by the strike of 2 October 1999, including the first applicant, applied on numerous occasions to various authorities describing the incident in question, listing victims of that incident and seeking to have it investigated (see paragraph 36 above). The Court reiterates that the authorities must act of their own motion, once the matter has come to their attention, and that they cannot leave it to the initiative of the next-of-kin either to lodge a formal complaint or to take responsibility for the conduct of any investigative procedures (see, for example, *Hugh Jordan v. the United Kingdom*, no. 24746/94, § 105, ECHR 2001-III (extracts)). It fell therefore to the authorities to take the necessary investigative steps in the present case, and in particular to grant victim status to those concerned without undue delay.

273. The materials in the Court's possession also reveal that the first applicant received scant and conflicting information on the investigation. In fact, it appears that she was informed only of the dates on which investigation in cases nos. 24050 and 25268 had been commenced. At least on two occasions the authorities, in their replies to the complaints of the applicant's representative, referred, apparently by mistake, to the investigation in criminal case no. 24031 opened into the attack of 19 October 1999 (see paragraphs 40 and 48 above). It does not appear that any meaningful information concerning the course of the investigation was provided. Moreover, a request of the first applicant's representative to update him on the course of the investigation was refused by the investigating authorities (see paragraph 42 above). The Court thus considers that the first applicant was, in fact, excluded from the criminal proceedings and was unable to have her legitimate interests upheld.

274. Lastly, the Court observes that the investigation in case no. 25268, in which the first applicant was granted victim status, was pending from 23 April 2001 until at least the end of 2008, during which period it was stayed and reopened on several occasions, as indicated by the Government. In particular, as can be ascertained from the Government's submissions, it remained suspended from 1 September 2004 until 28 November 2008. The Government did not advance any plausible explanation for such a considerable period of inactivity.

275. Against that background, the Court notes, in respect of the Government's argument concerning the first applicant's alleged failure to appeal before a court against the actions or omissions of the investigators

under Article 125 of the Russian Code of Criminal Procedure, that the Government did not indicate which particular actions or omissions the first applicant should have challenged. It further notes that in a situation where the effectiveness of the investigation was undermined from a very early stage by the authorities' failure to take necessary and urgent investigative measures, where the investigation was repeatedly stayed and reopened, and where the first applicant was not duly informed of the conduct of the investigation, it is highly doubtful that the remedy invoked by the Government would have had any prospects of success. Moreover, the Government have not demonstrated that this remedy would have been capable of providing redress in the first applicant's situation – in other words, that it would have rectified the shortcomings in the investigation and would have led to the identification and punishment of those responsible for the incident of 2 October 1999. The Court thus considers that in the circumstances of the case it has not been established with sufficient certainty that the remedy advanced by the Government would have been effective within the meaning of the Convention. The Court finds that the first applicant was not obliged to pursue that remedy, and that this limb of the Government's relevant objection should therefore be dismissed.

276. In the light of the foregoing, and with regard to the inferences drawn from the respondent Government's submission of evidence, the Court further concludes that the authorities failed to carry out a thorough and effective investigation into the circumstances surrounding the aerial attack of 2 October 1999 during which the first applicant's husband and brother were killed and she was wounded. It accordingly holds that there has been a violation of Article 2 of the Convention on that account.

(iii) As regards the incident of 19 October 1999

277. In so far as the investigation into the federal attack of 19 October 1999 is concerned, the Court notes that the criminal proceedings in connection with that incident were not brought until 21 July 2000, that is more than nine months after the events in question. In line with its finding in paragraph 269 above with regard to the investigation into the strike of 2 October 1999, the Court considers that, even if the authorities did not have a realistic opportunity to commence the investigation into the attack of 19 October 1999 immediately after that incident, once they had taken over the town of Urus-Martan on 7 and 8 December 1999, they were under an obligation to enquire about the results of that attack and to institute criminal proceedings in that connection. The Court also finds that the authorities' failure to act for such a prolonged period significantly undermined the effectiveness of the investigation. Indeed, it is clear from the materials produced that a number of important items of evidence which might have been directly relevant to the attack in question, such as registers of orders given and received, registers of combat air missions, registers of military

actions, tactical maps, tasking schedules, combat orders, reports on executed combat missions, photographs and tape-recordings, were destroyed a year, or even three months, after the attack (see paragraphs 154 and 157 above).

278. Furthermore, once started, the investigation was plagued with inexplicable delays and shortcomings in respect of the most trivial steps. In particular, within a period of one month after the investigation was commenced, the investigating authorities had taken no investigative measures at all (see paragraph 101 above). Furthermore, the scene of the incident was not inspected until 3 and 5 October 2000 (see paragraph 132 above). Also, an expert's examination of splinters seized from the scene of the incident on 5 October 2000 was not carried out until 25 June 2001 (see paragraph 134 above). The Court also finds it striking that it was not until 2 and 3 April 2003, that is almost three years after the beginning of the investigation, that the authorities finally took measures to dispose of unexploded bombs that remained lying in the courtyards of individual houses after the attack (see paragraph 172 above), although they were aware of the presence of those bombs for all that time (see paragraphs 102, 111 and 144 above). It appears that the relevant requests by the applicants' representative were ignored by the authorities (see paragraph 56 above).

279. The Court further notes that a number of essential measures were not taken at all. In particular, it is clear that no medical forensic examination of those deceased and wounded was carried out at any stage of the investigation, although instructions to that end were repeatedly given by supervising prosecutors (see paragraphs 105, 112, 118 and 120 above). The Court further considers that the investigation can only be described as inadequate since, as can be ascertained from the materials in the Court's possession, it failed to establish the identity of the pilots who had participated in the attack of 19 October 1999.

280. The ineffectiveness of the investigation, the incompetence and manifest failure of the investigators and other law-enforcement bodies to take practical measures aimed at resolving the incident were acknowledged by superior prosecutors on several occasions (see paragraphs 101, 112 and 118 above). The Court specifically notes the obvious unwillingness of the military authorities to assume responsibility for the strike in question and to investigate that incident properly. Indeed, for several years the military authorities denied that the attack had taken place at all (see paragraphs 56, 57 and 59 above), and a military prosecutor's office refused to institute criminal proceedings in respect of the attack of 19 October 1999, even though no meaningful inquiry into that incident appears to have been carried out before the decision to dispense with criminal proceedings was taken (see paragraph 67 above). Moreover, after such proceedings had been brought by the civilian authorities, on several occasions the military authorities refused to take over the investigation, returning the case file to

the civilian authorities under various pretexts (see paragraphs 64 and 109 above).

281. The Court also notes delays in granting victim status to the relevant applicants. It furthermore does not appear that before, or even after, those decisions were taken, the relevant applicants, or their representative, Mr Khamzayev, were duly informed of the course of the investigation. It is also clear that they were unable at any stage to gain access to the case file, given that it was classified (see paragraphs 75 and 78 above). Moreover, it does not appear that the relevant applicants, or their representative, were ever furnished with a copy of the decision of 17 November 2003 by which the criminal proceedings regarding the attack of 19 October 1999 were discontinued. The Court thus considers that the relevant applicants were, in fact, excluded from the criminal proceedings and were unable to have their legitimate interests upheld.

282. Against this background, and having regard to the Government's argument concerning the relevant applicants' alleged failure to appeal to a court, under Article 125 of the Russian Code of Criminal Procedure, against actions or omissions of the investigating authorities in the context of the investigation into the attack of 19 October 1999, the Court notes that the Government failed to indicate which particular actions or omissions the relevant applicants should have challenged.

283. In so far as the Government referred to the relevant applicants' alleged failure to challenge in a court the decision of 17 November 2003, the Court reiterates that, in principle, an appeal against a decision to discontinue criminal proceedings may offer a substantial safeguard against the arbitrary exercise of power by the investigating authority, given a court's power to annul such a decision and indicate the defects to be addressed (see, *mutatis mutandis*, *Trubnikov v. Russia* (dec.), no. 49790/99, 14 October 2003). Therefore, in the ordinary course of events such an appeal might be regarded as a possible remedy where the prosecution has decided not to investigate the claims. The Court, however, has strong doubts that this remedy would have been effective in the present case. The materials in its possession reveal that the authorities only notified the relevant applicants' representative of the decision of 17 November 2003, but did not furnish him with a copy. Moreover, he made it clear that he needed a copy of the decision of 17 November 2003 to be able to appeal against it in a court, but his request to that effect was explicitly refused by the authorities (see paragraphs 73 and 75 above).

284. In the Court's view, in such circumstances the relevant applicants could hardly have been expected to apply to a court. Indeed, it is highly questionable whether, in the absence of a copy of the decision of 17 November 2003, the relevant applicants, or their representative, would have been able to detect possible defects in the investigation and bring them to the attention of a domestic court, or to present, in a comprehensive

appeal, any other arguments that they might have considered relevant. In other words, in the circumstances of the present case, the relevant applicants would have had no realistic opportunity effectively to challenge the decision of 17 November 2003 before a court. Accordingly, the Court considers that it has not been established with sufficient certainty that the remedy advanced by the Government had a reasonable prospect of success (see, in a similar context, *Chitayev and Chitayev v. Russia*, no. 59334/00, §§ 140-41, 18 January 2007). The Court therefore dismisses the Government's objection regarding the exhaustion of domestic remedies in so far as it relates to this part of the application.

285. In the light of the foregoing, the Court further concludes that the authorities failed to carry out a thorough and effective investigation into the circumstances of the attack of 19 October 1999 in which the relevant applicants' relatives died and their own lives were put at risk. There has therefore been a violation of Article 2 of the Convention on that account.

IV. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

286. The second to nineteenth applicants ("the relevant applicants") complained that the infliction of damage on their private houses in the attack of 19 October 1999 had infringed their rights under Article 8 of the Convention and Article 1 of Protocol No. 1. Those provisions, in so far as relevant, read as follows:

Article 8

"Everyone has the right to respect for his private and family life, his home ...

There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Article 1 of Protocol No. 1

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Submissions by the parties

287. In so far as the Government seem to have contested the relevant applicants' title to the property which, according to them, they had lost as a result of the strike of 19 October 1999, the relevant applicants pointed out that their title to the destroyed houses had never been called into doubt by any of the authorities at the domestic level. They also referred to the extracts from the Inventory drawn up by the Urus-Martan Administration (see paragraphs 11-16 above) to confirm that they had owned those houses.

288. The relevant applicants further maintained that their right to respect for their home guaranteed by Article 8 of the Convention and their right to peaceful enjoyment of possessions under Article 1 of Protocol No. 1 had been violated, given that their houses and other property had been severely damaged during the federal attack of 19 October 1999 and that the authorities had eventually discontinued the criminal proceedings in that connection owing to the absence of elements of a crime in federal servicemen's actions, thus in fact depriving the relevant applicants of an opportunity to obtain compensation for the damage sustained.

289. The Government pointed out, first of all, that the relevant applicants had not adduced any documents proving their title to the houses, or any detailed description of the property allegedly lost by them. The Government argued that it was incumbent on the relevant applicants to have their property rights confirmed under domestic law by the competent national authorities. They further argued that the alleged interference with the relevant applicants' rights secured by Article 8 of the Convention and Article 1 of Protocol No. 1 had been lawful, as the counter-terrorism operation in the Chechen Republic, in the context of which the strikes of 19 October 1999 had been executed, had been launched and carried out on the basis of Presidential Decrees nos. 2137, 2166 and 2155c of 30 November and 9 December 1994 and 23 September 1999 respectively, Governmental Decree no. 1360 of 9 December 1994, and the Suppression of Terrorism Act of 25 July 1998. In the Government's submission, the aforementioned decrees, except for certain provisions, had been found compatible with the Russian Constitution by the Russian Constitutional Court. The Government insisted that all the aforementioned legal instruments had met the requirements of foreseeability and accessibility.

290. They further insisted that the strikes resulting in the damage to or destruction of the relevant applicants' homes and property had been necessary in order to suppress the criminal activity of members of illegal armed groups, protect the rights and freedoms of Russian citizens and to maintain public order. Lastly, the Government submitted that the relevant applicants could have obtained extra-judicial compensation for the alleged damage or sought damages in civil proceedings.

B. The Court's assessment

1. Admissibility

(a) Scope of the Court's examination under Article 1 of Protocol No. 1 to the Convention

291. The Court observes at the outset that the Government disputed the relevant applicants' property rights to the real estate which had come under the federal aerial attack on 19 October 1999, stating that the relevant applicants had not submitted any reliable documents to confirm their title to the property in question, nor had they had it established by the competent national authorities.

292. The Court notes that the third and fourteenth applicants produced extracts from a housing inventory issued by the Urus-Martan Administration. These documents confirmed that the properties which the aforementioned applicants had indicated as having come under attack on 19 October 1999 had been built or acquired on various dates prior to that attack (see paragraphs 11 and 16 above). The Court is therefore satisfied that those applicants were the rightful owners of the properties in question. On the other hand, the Court cannot take into account similar extracts submitted by the other applicants, as the addresses mentioned in those documents differ from the addresses where, according to them, their destroyed houses had been located.

293. The Court further observes that the second, fourth, fifth, sixth and seventh applicants submitted certificates issued by the Urus-Martan Administration confirming that those applicants had lived in properties at the addresses which the said applicants indicated in their applications to the Court, and that those properties had been damaged as a result of the military actions in the Chechen Republic (see paragraphs 10-15 above). It is true that these latter certificates provided no information as to whether the applicants mentioned in them had title to those properties; however, they gave a clear indication that the properties had been damaged during the military actions. It is therefore not unlikely that any documents confirming those applicants' title to the houses were destroyed together with their possessions during the attack. Moreover, the Court takes into account the relevant applicants' argument that neither the investigating nor any other authorities had ever disputed their title to those properties at the domestic level. In the Court's opinion, the investigating authorities could, and should have taken measures to establish the rightful owners of the properties when investigating the damage sustained by them. It further notes that not only the investigating authorities, but also other domestic authorities, never called into doubt the relevant applicants' title to the properties in question, but in fact referred to a number of applicants as the owners (see paragraphs 132 and 175 above).

In such circumstances, the Court is satisfied that the second, fourth, fifth, sixth and seventh applicants were the rightful owners of the damaged houses, as indicated by them, at the relevant time.

294. In the light of the foregoing, the Court finds that the second, third, fourth, fifth, sixth, seventh and fourteenth applicants can claim to be "victims" of the alleged violation of Article 1 of Protocol No. 1 in so far as they complained about the infliction of damage on their houses. The Court notes that their relevant complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds (see also paragraphs 195-222 above). It must therefore be declared admissible.

295. As regards the remaining applicants, the Court observes that they submitted no evidence in support of their complaint under Article 1 of Protocol No. 1. It therefore finds that their relevant complaint is unsubstantiated and must therefore be declared inadmissible in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

(b) Scope of the Court's examination under Article 8 of the Convention

296. The Court observes that the relevant applicants' argument to the effect that they lived in the properties which they indicated as having come under attack on 19 October 1999 remained undisputed by the Government. In such circumstances, the Court is satisfied that the relevant applicants can claim to be "victims" of the alleged violation of their rights under Article 8 of the Convention.

297. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds (see also paragraphs 195-222 above). It must therefore be declared admissible.

2. Merits

298. The Court notes at the outset that the Government seem to have acknowledged that the federal aerial attack on 19 October 1999 had resulted in the damage inflicted on the private houses indicated by the relevant applicants. It is therefore clear that there was an interference with the relevant applicants' rights secured by Article 8 of the Convention and with the rights of the second to seventh and fourteenth applicants secured by Article 1 of Protocol No. 1. The Court has now to examine whether this interference met the requirement of lawfulness, pursued a legitimate aim and was proportionate to the aim pursued.

299. The Government argued that the interference in question had been lawful, as the counter-terrorism operation in the Chechen Republic, in the context of which the bomb strike of 19 October 1999 had been carried out, had been commenced pursuant to Presidential Decrees nos. 2137, 2166 and 2155c of 30 November and 9 December 1994 and 23 September 1999

respectively. They also referred to the Suppression of Terrorism Act as a legal basis for the alleged interference.

300. The Court notes first of all that Presidential Decree no. 2137 of 30 November 1994 was annulled by the Russian President in another decree of 11 December 1994 (see paragraph 185 above). Therefore it clearly cannot be regarded as a legal basis for the interference at issue.

301. As regards the other legal provisions relied on by the Government, the Court reiterates, as it has previously noted in other cases concerning the conflict in the Chechen Republic, that the Suppression of Terrorism Act and, in particular, its section 21, which releases State agents participating in a counter-terrorism operation from any liability for damage caused to, *inter alia*, "other legally protected interests" (see paragraph 184 above), and the Presidential Decree of 23 September 1999 (see paragraph 190 above), while vesting wide powers in State agents within the zone of the counter-terrorism operation, do not define with sufficient clarity the scope of those powers and the manner of their exercise so as to afford an individual adequate protection against arbitrariness (see *Khamidov v. Russia*, no. 72118/01, § 143, ECHR 2007-XII (extracts)). In the Court's view, similar considerations are applicable to Presidential Decree no. 2166 of 9 December 1994 (see paragraph 186 above) and Governmental Decree no. 1360 of 9 December 1994 (see paragraph 187 above), which prescribed some general measures to be taken in order to suppress the criminal activity of illegal armed fighters and to maintain public order.

302. In the Court's opinion, the legal instruments invoked by the Government, are formulated in vague and general terms and cannot serve as a sufficient legal basis for such a drastic interference as the infliction of damage on an individual's housing and property. The Government's reference to the aforementioned legal instruments cannot replace specific authorisation of an interference with an individual's rights under Article 8 of the Convention and Article 1 of Protocol No. 1, delimiting the object and scope of that interference and drawn up in accordance with the relevant legal provisions. The provisions in question are not to be construed so as to create an exemption for any kind of limitations of personal rights for an indefinite period of time and without setting clear boundaries for the security forces' actions (see, *mutatis mutandis*, *Imakayeva v. Russia*, no. 7615/02, § 188, ECHR 2006-XIII (extracts)).

303. For the aforementioned reasons, the Court is also unable to regard General Major Sh.'s order no. 04 (see paragraph 33 above) as a sufficient legal basis for the interference with the relevant applicants' rights secured by Article 8 and with the rights of the second to seventh and fourteenth applicants secured by Article 1 of Protocol No. 1. While directing the federal forces to destroy military targets, such as illegal fighters' bases, ammunition depots, etc., this order does not appear to have specifically authorised the federal servicemen to inflict damage on the aforementioned

applicants' housing and property and, in any event, it contained no guarantees against an arbitrary use of force that might result in damage to, or destruction of, an individual's private property.

304. The Court thus concludes, in view of the above considerations and in the absence of an individualised decision or order which clearly indicated the grounds and conditions for inflicting damage on the relevant applicants' homes and the property of the second to seventh and fourteenth applicants, and which could have been appealed against in a court, that the interference with the relevant applicants' rights under Article 8 of the Convention and the rights of the second to seventh and fourteenth applicants was not "lawful", within the meaning of these Articles. In view of this finding the Court does not consider it necessary to examine whether the interference in question pursued a legitimate aim and was proportionate to that aim.

305. It thus finds that there has been a violation of Article 8 of the Convention, in so far as the second to nineteenth applicants' rights were concerned, and a violation of Article 1 of Protocol No. 1, in so far as the rights of the second to seventh and fourteenth applicants were concerned, on account of the infliction of damage on these applicants' homes and property in the federal aerial attack of 19 October 1999.

V. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

306. Lastly, the applicants, save for the first applicant, complained that the destruction of their houses in the attack of 19 October 1999 also infringed their rights under Article 2 of Protocol No. 4 to the Convention, which reads as follows:

> "1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
>
> 2. Everyone shall be free to leave any country, including his own.
>
> 3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
>
> 4. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society."

307. The Court, leaving aside the question of the second to nineteenth applicants' compliance with the requirements set out in Article 35 § 1 of the Convention, finds that the circumstances of the present case do not disclose any interference with their rights secured by this Convention provision. It follows that this part of the application is manifestly ill-founded and must

be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention (see *Khamzayev and Others* (dec.), cited above).

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

308. 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."

A. Pecuniary damage

1. The applicants

(a) Loss of earnings and burial expenses

309. Some of the applicants claimed compensation in respect of the loss of the financial support which their deceased relatives would have provided for them. They based their calculations on average amounts of their deceased relatives' monthly income and the average life expectancy in Russia. Some of the applicants also sought reimbursement of the expenses they had incurred in connection with the burial of their relatives who had been killed.

310. In particular, the first applicant claimed 47,000 euros (EUR) under this head. She alleged that her deceased husband, Mr Adlan Kerimov, had run his own business and earned approximately 10,000 Russian roubles (RUB, approximately EUR 240) per month. According to her, she could have counted on eighty per cent of those earnings until her minor children reached their majority, and thereafter could have received one half of her husband's income.

311. The third applicant claimed EUR 7,200 in respect of the lost earnings of her deceased husband, Mr Makharbi Lorsanov, stating that he had run his own business, which had brought him an average income of EUR 100 per month. According to her, she could have received fifty per cent of that amount. She also claimed EUR 250 for the reimbursement of burial expenses.

312. The fourth applicant claimed EUR 2,000, stating that he was an old-age pensioner and could have counted on financial support from his son, Mr Minkail Lorsanov, in the amount of at least ten per cent of the latter's monthly income of EUR 170. He also sought EUR 300 for the reimbursement of burial expenses.

313. The fifth applicant claimed EUR 200 in compensation for the expenses he had incurred in connection with the burial of his mother, Ms Aminat Abubakarova.

314. The sixth applicant sought an amount of EUR 4,500 representing ten percent of the earnings – equal to EUR 250 per month – of his deceased son, Mr Apti Abubakarov, for a given period of time, and EUR 300 in respect of burial expenses.

315. The ninth applicant claimed EUR 18,000, stating that her deceased husband, Mr Vakha Tseltsayev, had run his own business and earned approximately EUR 150 per month. According to her, she could have counted on eighty per cent of those earnings until her minor children reached their majority, and thereafter she could have received one half of her husband's income.

316. Lastly, the fourteenth and fifteenth applicants claimed EUR 4,500, stating that their deceased son, Mr Yakub Israilov, would have given them at least ten per cent of his monthly income, amounting to approximately EUR 250.

(b) Damage to property

317. The second to nineteenth applicants sought compensation for pecuniary losses they had incurred as a result of the damage inflicted on their properties during the attack of 19 October 1999. The second to sixth applicants based their calculations on information from the State Committee of Statistics to the effect that the average price of one square metre of housing at the end of the year 2003 was equal to RUB 16,320 (approximately EUR 400). The seventh to nineteenth applicant based their calculations on information from the State Committee of Statistics to the effect that the average price of one square metre of housing at the end of the year 2004 was equal to RUB 20,809.90 (approximately EUR 500). The second to nineteenth applicants also sought compensation for their household belongings that had been lost in the houses.

318. In particular, the second applicant claimed EUR 199,741 for the destroyed property, and EUR 14,000 for the possessions therein.

319. The third applicant sought EUR 84,000 for her damaged house and EUR 15,000 for her lost belongings.

320. The fourth applicant claimed EUR 173,425 for his damaged house and EUR 12,000 for the household belongings.

321. The fifth applicant claimed EUR 165,348.60 for the damaged house and EUR 20,000 for the possessions therein.

322. The sixth applicant sought EUR 146,559.40 for his damaged house and EUR 12,000 for the household belongings.

323. The seventh applicant claimed EUR 99,773 for the damaged house and EUR 20,000 for the household belongings destroyed in it. The eighth applicant claimed EUR 15,000 for her personal belongings and those of her

children destroyed in the house. The ninth applicant sought EUR 20,000 for her personal belongings and those of her children destroyed in the house. The tenth applicant claimed EUR 2,000 for his possessions lost in the house and EUR 15,000 for the injuries which he had sustained as a result of the attack of 19 October 1999 and which had caused his partial disability. The eleventh and twelfth applicants each sought EUR 2,000 for their personal belongings lost in the house.

324. The fourteenth applicant sought EUR 190,637.50 for his destroyed house and EUR 10,000 for the household belongings lost therein. The fifteenth applicant claimed EUR 10,000 for her personal belongings destroyed in the house. The sixteenth applicant claimed EUR 7,000 for his personal belongings destroyed in the house and EUR 15,000 for the injuries which he had sustained as a result of the attack of 19 October 1999 and which had caused his partial disability. The seventeenth applicant claimed EUR 10,000 for his personal belongings lost in the house. The eighteenth applicant claimed EUR 7,000 for his personal belongings destroyed in the house and EUR 15,000 for the injuries which he had sustained as a result of the attack of 19 October 1999 and which had caused his partial disability. The nineteenth applicant sought EUR 16,375.50 for the damage inflicted on his house and on the possessions of himself, his mother, wife and children in that house.

2. The Government

325. The Government disputed the applicants' claims under this head as speculative and unsubstantiated. They pointed out, in particular, that, in so far as the claims regarding compensation for the lost financial support were concerned, the relevant applicants had failed to submit any documents confirming their deceased relatives' actual income when the latter had been alive, and that they had not applied any reliable methods of calculation. They also submitted that the applicants could obtain compensation for the loss of their breadwinners at the domestic level.

326. The Government further argued that the applicants had failed to corroborate their claims for compensation for their lost property as to the quantity and value of the allegedly lost possessions, with any documentary or other evidence.

3. The Court's assessment

327. The Court reiterates that there must be a clear causal connection between the pecuniary damage claimed by an applicant and the violation of the Convention (see, among other authorities, *Çakıcı v. Turkey* [GC], no. 23657/94, § 127, ECHR 1999-IV). It has found a violation of Article 2 on account of the deaths of the relatives of the first and third to nineteenth applicants and a violation of Article 1 of Protocol No. 1 on account of the

damage inflicted on the property of the second to seventh and fourteenth applicants' during the bomb strikes by the federal forces. The Court has no doubt that there is a direct link between those violations and the pecuniary losses alleged by the applicants.

328. In particular, the Court finds that there is a direct causal link between the violation of Article 2 in respect of the first, third, fourth, sixth, ninth, fourteenth and fifteenth applicants' relatives and the loss by them of the financial support which their relatives could have provided. The Court further finds that the loss of earnings applies to dependants and considers it reasonable to assume that those deceased would have had some earnings and that the aforementioned applicants would have benefited therefrom. Having regard to the applicants' submissions, the Court considers it reasonable to assume that their deceased relatives must indeed have had some income and could have provided financial support to the applicants. It further does not consider the amounts sought by the third, fourth, sixth, fourteenth and fifteenth applicants excessive, and finds it appropriate to grant this part of those applicants' claims in full. On the other hand, the Court is not persuaded that the amounts claimed by the first and ninth applicants are reasonable. Having regard to these considerations, the Court considers it appropriate to award EUR 15,000 to the first applicant, EUR 7,200 to the third applicant, EUR 2,000 to the fourth applicant, EUR 4,500 to the sixth applicant, EUR 15,000 to the ninth applicant, and EUR 4,500 to the fourteenth and fifteenth applicants jointly, in so far as this part of their claim is concerned.

329. The Court further considers it reasonable to assume that the third, fourth, fifth and sixth applicants indeed incurred some expenses related to the burial of their deceased relatives. It does not consider the amounts claimed by them in that connection excessive, and finds it appropriate to grant this part of the said applicants' claims in full. It awards accordingly EUR 250 to the third applicant, EUR 300 to the fourth applicant, EUR 200 to the fifth applicant and EUR 300 to the sixth applicant by way of compensation for the expenses they incurred in connection with their deceased relatives' burial.

330. As regards the lost property, the Court rejects, first of all, the nineteenth applicant's claim for compensation in respect of a house which had allegedly been owned by him and which was allegedly destroyed or damaged during the attack of 19 October 1999. It notes in this respect that it has rejected as inadmissible the nineteenth applicants' complaint about the alleged violation of his rights under Article 1 of Protocol No. 1 (see paragraph 295 above). There is therefore no reason to make him any award in this respect.

331. The Court further notes that, in support of their claims for compensation for their houses, the second, third, fourth, fifth, sixth, seventh and fourteenth applicants relied on the certificates issued by the Urus-

Martan Administration indicating the surface area of their houses that had been damaged in the federal attack on 19 October 1999 (see paragraphs 10-16 above). They also relied on the information concerning the value of a square metre of residential premises at the end of the years 2003 and 2004 (see paragraph 317 above). In this latter respect, the Court notes that the applicants did not adduce the document allegedly issued by the State Committee of Statistics to which they referred, nor did they provide more details regarding the statistical information relied on by them. In particular, they did not explain what type of housing it concerned, in what region, etc. The Court is therefore unable to accept this information as a reliable basis for calculating the actual value of the applicants' houses and making an assessment of the amounts to be awarded in this connection. In such circumstances, the Court considers it appropriate to award, on an equitable basis, to each of the second, third, fourth, fifth, sixth, seventh and fourteenth applicants, the sum of EUR 20,000 for their damaged houses.

332. The second to nineteenth applicants also submitted claims for compensation in respect of various household belongings which they had lost as a result of the bombing of 19 October 1999. In this respect the Court notes, first of all, that it has rejected as inadmissible the eighth to thirteenth and fifteenth to nineteenth applicants' complaint about the alleged violation of their rights under Article 1 of Protocol No. 1 (see paragraph 295 above). Accordingly, their claim in this part cannot be granted. In so far as this claim has been lodged by the second to seventh and fourteenth applicants, the Court observes that the Government did not dispute the existence of the property in question before the attack. It finds it reasonable to assume that the second to seventh and fourteenth applicants possessed that property, and that therefore certain awards should be made in that respect. In the absence of any independent and conclusive evidence as to the quantity and the exact value of the property in question, on the basis of equitable principles, the Court therefore awards EUR 8,000 to each of the second, third, fourth, fifth, sixth, seventh and fourteenth applicants in this respect.

333. In the light of the foregoing, the Court awards the following overall amounts in respect of pecuniary damage, plus any tax that may be chargeable on these amounts:

(a) EUR 15,000 to the first applicant;
(b) EUR 28,000 to the second applicant;
(c) EUR 35,450 to the third applicant;
(d) EUR 30,300 to the fourth applicant;
(e) EUR 28,200 to the fifth applicant;
(f) EUR 32,800 to the sixth applicant;
(g) EUR 28,000 to the seventh applicant;
(h) EUR 15,000 to the ninth applicant;
(i) EUR 28,000 to the fourteenth applicant, and
(j) EUR 4,500 to the fourteenth and fifteenth applicants jointly.

B. Non-pecuniary damage

334. The applicants sought various amounts for non-pecuniary damage, stating that they had suffered severe emotional distress, anxiety and trauma as a result of a violation of the right to life of their close relatives and their own right to life, together with the damage inflicted on their property and on account of the indifference demonstrated by the Russian authorities during the investigation into these events.

335. In particular, each of the applicants claimed EUR 50,000 for a violation of their right to life. The first applicant also sought EUR 30,000 in respect of each of her children for a violation of their right to life. Each of the first, third, fourth, fifth and ninth applicants claimed EUR 50,000 for each of their deceased relatives. Each of the sixth, fourteenth and fifteenth applicants sought EUR 100,000 for the death of their sons. Each of the tenth to thirteenth applicants sought EUR 25,000 for the death of their father. Lastly, each of the second to nineteenth applicants claimed EUR 10,000 for a violation of their rights secured by Article 8 of the Convention.

336. The Government disputed the applicants' claims under this head as excessive.

337. The Court firstly notes that it cannot take into account the first applicant's claim in respect of her children since they are not applicants in the present case (see *Kaplanova v. Russia*, no. 7653/02, § 144, 29 April 2008, and *Dzhabrailova v. Russia*, no. 1586/05, § 104, 9 April 2009). It further rejects the second applicant's claim, in so far as she sought compensation for an alleged violation of her right to life, as she has never claimed to be a victim of the violation alleged, and the Court has accordingly made no finding to that effect.

338. The Court observes that it has found a violation of Article 2 of the Convention on account of the killing in federal aerial attacks of the relatives of the first and third to nineteenth applicants, putting their lives at risk, and the Russian authorities' failure to carry out an effective investigation into those attacks. It has further found a violation of Article 8 of the Convention on account of the damage inflicted in the attack of 19 October 1999 on the second to nineteenth applicants' homes and a violation of Article 1 of Protocol No. 1 because of the damage inflicted in that attack on the property of the second to seventh and fourteenth applicants. The applicants must have suffered anguish and distress as a result of all these circumstances, which cannot be compensated for by a mere finding of a violation. Having regard to these considerations, the Court awards, on an equitable basis, EUR 120,000 to the first applicant, EUR 10,000 to the second applicant, EUR 70,000 to each of the third to sixth applicants, EUR 25,000 to each of the seventh, tenth to thirteenth, sixteenth and seventeenth applicants, EUR 20,000 to each of the eighth, eighteenth and nineteenth applicants, EUR 45,000 to the ninth applicant, and EUR 40,000 to each of the

fourteenth and fifteenth applicants, plus any tax that may be chargeable on these amounts.

C. Costs and expenses

339. The first applicant also claimed EUR 4,800 for the costs and expenses incurred before the Court. That amount included research work and preparation of documents by her representative at a rate of EUR 150 per hour. The remaining applicants did not submit any claims under this head.

340. The Government submitted that, according to the Court's case-law, the applicants were only entitled to reimbursement of costs and expenses that had actually been incurred and were reasonable as to quantum.

341. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, the first applicant was represented by Ms L. Khamzayeva throughout the proceedings before the Court. The hourly rate of the first representative's work indicated by her appears to be reasonable and to reflect the expenses actually incurred by the first applicant. It further notes that this case has been rather complex and has required a certain amount of research work. Having regard to the amount of research and preparation carried out by the first applicant's representative, the Court does not find the claim excessive.

342. In these circumstances, the Court awards the first applicant the overall amount of EUR 4,800, as claimed by her, together with any tax that may be chargeable to her. This amount shall be payable to the representative directly.

D. Default interest

343. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Joins to the merits* the Government's objections concerning the exhaustion of domestic remedies in its part relating to criminal-law remedies and *dismisses* it;

2. *Declares* the complaints under Articles 2 and 8 of the Convention, and the complaint under Article 1 of Protocol No. 1 in so far as it was lodged

by the second to seventh and fourteenth applicants, admissible and the remainder of the applications inadmissible;

3. *Holds* that there has been a violation of Article 2 of the Convention as regards the deaths of Adlan Kerimov, Lechi Albigov, Makharbi Lorsanov, Minkail Lorsanov, Aminat Abubakarova, Apty Abubakarov, Vakha Tseltsayev and Yakub Israilov and the failure by the respondent State to protect the right to life of the first and third to nineteenth applicants;

4. *Holds* that there has been a violation of Article 2 of the Convention on account of the authorities' failure to carry out an adequate and effective investigation into the circumstances of the incidents that resulted in the deaths of Adlan Kerimov, Lechi Albigov, Makharbi Lorsanov, Minkail Lorsanov, Aminat Abubakarova, Apty Abubakarov, Vakha Tseltsayev and Yakub Israilov and put the lives of the first and third to nineteenth applicants at risk;

5. *Holds* that there has been a violation of the second to nineteenth applicants' rights secured by Article 8 of the Convention and a violation of Article 1 of Protocol No. 1 to the Convention, in so far as the rights of the second to seventh and fourteenth applicants are concerned;

6. *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 following amounts:

(i) EUR 15,000 (fifteen thousand euros) to each of the first and ninth applicants, EUR 28,000 (twenty-eight thousand euros) to each of the second, seventh and fourteenth applicants, EUR 35,450 (thirty-five thousand four hundred and fifty euros) to the third applicant, EUR 30,300 (thirty thousand three hundred euros) to the fourth applicant, EUR 28,200 (twenty-eight thousand two hundred euros) to the fifth applicant, EUR 32,800 (thirty-two thousand eight hundred euros) to the sixth applicant, and EUR 4,500 (four thousand five hundred euros) to the fourteenth and fifteenth applicants jointly, all these amounts to be converted into Russian roubles at the rate applicable at the date of settlement, in respect of pecuniary damage;

(ii) EUR 120,000 (one hundred and twenty thousand euros) to the first applicant, EUR 10,000 (ten thousand euros) to the second applicant, EUR 70,000 (seventy thousand euros) to each of the third to sixth applicants, EUR 25,000 (twenty-five thousand euros) to each of the seventh, tenth to thirteenth, sixteenth and seventeenth

applicants, EUR 20,000 (twenty thousand euros) to each of the eighth, eighteenth and nineteenth applicants, EUR 45,000 (forty-five thousand euros) to the ninth applicant, and EUR 40,000 (forty thousand euros) to each of the fourteenth and fifteenth applicants, all these amounts to be converted into Russian roubles at the rate applicable at the date of settlement, in respect of non-pecuniary damage;

(iii) EUR 4,800 (four thousand eight hundred euros), to be converted into Russian roubles at the rate applicable at the date of settlement and transferred to Ms L. Khamzayeva's bank account, in respect of costs and expenses;

(iv) any tax, including value-added tax, that may be chargeable to the applicants on the above amounts;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

7. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 3 May 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach
Deputy Registrar

Nina Vajić
President

ANNEX I

Application no. 17170/04 lodged on 5 March 2004:

1. Ms Roza Asuldiyevna Kerimova, born in 1966;
2. Ms Mesish Yunusovna Khasayeva, born in 1925;

Application no. 20792/04 lodged on 11 May 2004:

3. Ms Zura Kobzuyevna Bertayeva, born in 1941;

Application no. 22448/04 lodged on 14 May 2004:

4. Mr Nurdy Lorsanov, born in 1936;
5. Mr Abdulla Khamidovich Abubakarov, born in 1953;

Application no. 23360/04 lodged on 24 April 2004:

6. Mr Abdulkhamid Khumidovich Abubakarov, born in 1948;

Application no. 5681/05 lodged on 20 January 2005:

7. Mr Khavazhi Alamatovich Tseltsayev, born in 1963;
8. Ms Makka Aslambekovna Tseltsayeva (Saidova), born in 1971;
9. Ms Tamara Sultanovna Tseltsayeva, born in 1967;
10. Mr Shamil Vakhayevich Tseltsayev, born in 1984;
11. Ms Aza Vakhayevna Tseltsayeva, born in 1976;
12. Ms Zaza Vakhayevna Tseltsayeva, born in 1986;
13. Mr Zelimkhan Vakhayevich Tseltsayev, born in 1980;

Application no. 5684/05 lodged on 20 January 2005:

14. Mr Lema Akhmedovich Israilov, born in 1950;
15. Ms Nura Magamedovna[1] Israilova, born in 1952;
16. Mr Aslanbek Lemayevich Israilov, born in 1978;
17. Mr Ayub Lemayevich Israilov, born in 1973;
18. Mr Abu-Rakhman Lechayevich Israilov, born in 1983;
19. Mr Borz-El Akhmetovich Israilov, born in 1965.

[1] Rectified on 30 March 2012: the text was "Ms Nura Magomedovna …"

ANNEX II

No.	Applicant's name	Relatives killed	Address of property damaged
1.	Ms Roza Asuldiyevna Kerimova	Mr Adlan Kerimov, husband; Mr Lechi Albigov, brother	
2.	Ms Mesish Yunusovna Khasayeva		15 Dostoyevskiy Street
3.	Ms Zura Kobzuyevna Bertayeva	Mr Makharbi Lorsanov, husband	25 Mayakovskiy Street
4.	Mr Nurdy Lorsanov	Mr Minkail Lorsanov, son	24 Mayakovskiy Street
5.	Mr Abdulla Khamidovich Abubakarov	Ms Aminat Abubakarova, mother	19 Dostoyevskiy Street
6.	Mr Abdulkhamid Khumidovich Abubakarov	Mr Apti Abubakarov, son	32 Pervomayskaya Street
7.	Mr Khavazhi Alamatovich Tseltsayev	Mr Vakha Tseltsayev, brother	24 Dostoyevskiy Street
8.	Ms Makka Aslambekovna Tseltsayeva	Mr Vakha Tseltsayev, brother-in-law	
9.	Ms Tamara Sultanovna Tseltsayeva	Mr Vakha Tseltsayev, husband	
10.	Mr Shamil Vakhayevich Tseltsayev	Mr Vakha Tseltsayev, father	
11.	Ms Aza Vakhayevna Tseltsayeva	Mr Vakha Tseltsayev, father	
12.	Ms Zaza Vakhayevna Tseltsayeva	Mr Vakha Tseltsayev, father	
13.	Mr Zelimkhan Vakhayevich Tseltsayev	Mr Vakha Tseltsayev, father	
14.	Mr Lema Akhmedovich Israilov	Mr Yakub Israilov, son	23 Mayakovskiy Street
15.	Ms Nura Magamedovna[1] Israilova	Mr Yakub Israilov, son	
16.	Mr Aslanbek Lemayevich Israilov	Mr Yakub Israilov, brother	
17.	Mr Ayub Lemayevich Israilov	Mr Yakub Israilov, brother	
18.	Mr Abu-Rakhman Lechayevich Israilov	Mr Yakub Israilov, cousin	
19.	Mr Borz-El Akhmetovich Israilov	Mr Yakub Israilov, nephew	

[1] Rectified on 30 March 2012: the text was "Ms Nura Magomedovna …"

ANNEX III

No.	The applicant's name	Awards in respect of pecuniary damage, EUR					Awards in respect of non-pecuniary damage, EUR
		Financial support	Burial expenses	Houses	Household belongings	Overall amounts	
1.	Ms Roza Asuldiyevna Kerimova	15,000				15,000	120,000
2.	Ms Mesish Yunusovna Khasayeva			20,000	8,000	28,000	10,000
3.	Ms Zura Kobzuyevna Bertayeva	7,200	250	20,000	8,000	35,450	70,000
4.	Mr Nurdy Lorsanov	2,000	300	20,000	8,000	30,300	70,000
5.	Mr Abdulla Khamidovich Abubakarov		200	20,000	8,000	28,200	70,000
6.	Mr Abdulkhamid Khumidovich Abubakarov	4,500	300	20,000	8,000	32,800	70,000
7.	Mr Khavazhi Alamatovich Tseltsayev			20,000	8,000	28,000	25,000
8.	Ms Makka Aslambekovna Tseltsayeva						20,000
9.	Ms Tamara Sultanovna Tseltsayeva	15,000				15,000	45,000
10.	Mr Shamil Vakhayevich Tseltsayev						25,000
11.	Ms Aza Vakhayevna Tseltsayeva						25,000
12.	Ms Zaza Vakhayevna Tseltsayeva						25,000
13.	Mr Zelimkhan Vakhayevich Tseltsayev						25,000
14.	Mr Lema Akhmedovich Israilov	4,500 (jointly)		20,000	8,000	28,000*	40,000
15.	Ms Nura Magamedovna[1] Israilova						40,000
16.	Mr Aslanbek Lemayevich Israilov						25,000
17.	Mr Ayub Lemayevich Israilov						25,000
18.	Mr Abu-Rakhman Lechayevich Israilov						20,000
19.	Mr Borz-El Akhmetovich Israilov						20,000

∗ This amount does not comprise the amount of EUR 4,500 which is to be awarded jointly to the fourteenth and fifteenth applicants

[1] Rectified on 30 March 2012: the text was "Ms Nura Magomedovna …"