

Russian Federation

Appeal Case Update 2:

The killing of six civilians near Dai, Chechen Republic

AI Index: EUR 46/045/2005

Update to EUR 46/016/2005 from 1 May 2005 and EUR 46/019/2005 from 25 May 2005

7 November 2005

Amnesty International continues to be deeply concerned that impunity for serious human rights violations and war crimes committed in the context of the armed conflict in the Chechen Republic prevails.

A court in the southern Russian town of Rostov-on-Don has twice found four members of the Russian military intelligence unit (GRU) not responsible in law for killing six civilians in January 2002 near the village of Dai, Chechen Republic.

Following the two acquittals the Russian Supreme Court sent back the case for retrial to the same court in the Southern Russian town of Rostov-on-Don, where a third hearing will start in November 2005.

The Chechen families, whose relatives were killed by Eduard Ulman, Aleksandr Perelevskii, Aleksandr Kalaganskii and Vladimir Voevodin, appealed against the previous decisions by the court in Rostov-on-Don. One of the grounds for appeal was the composition of the jury, which consisted solely of ethnic Russians, thereby failing to represent the ethnic diversity of the North Caucasus. The families of those killed as well as Russian human rights organizations have urged the court to include representatives of different ethnic groups from the North Caucasus in the jury.

While awaiting the new trial the four men have not been suspended from their posts in the GRU. According to the lawyer for the families, the majority of the witnesses in the case against the men are serving in the same unit.

Background

Said Alaskhanov, Abdul-Wakhab Satabaev, Shakhban Bakhaev, Khamzat Tuburov, Zainap Dzhavatkhanova and Dzhamlail Musaev (sometimes referred to as Magomed Musaev), six civilians from Chechnya, died on 11 January 2002 after being shot by members of a special unit of the Russian Military Intelligence (GRU). In April 2004 Captain Eduard Ulman, Lieutenant Aleksander Kalaganskii, Sergeant Vladimir Voevodin and the deputy commander of the unit, Major Alexei Perelevskii, were acquitted of the charge of premeditated murder, premeditated destruction of property, and exceeding official duties.

In 2004, the court had heard that while checking cars on the road between the villages of Shatoi and Dai, Captain Eduard Ulman ordered his men to open fire on a civilian car after the driver ignored a request to stop. One passenger, Said Alaskhanov, director of a village school, was killed immediately from the gunfire, and two of the five passengers were wounded. According to the prosecution, the men under the command of Captain Eduard Ulman took the five surviving civilians, Abdul-Wakhab Satabaev, deputy director of the local school, Shakhban Bakhaev, a forester, Khamzat Tuburov, the driver of the vehicle, Zainap Dzhavatkhanova, a pregnant mother of seven and Dzhamlail Musaev, to a nearby abandoned farm building. They administered first aid to the wounded, and detained them there while Captain Ulman reported the incident to Major Alexei Perelevskii by radio, who forwarded the report to the commander of the military unit, who remained unidentified.

The court found that Major Aleksei Perelevskii then passed back to Captain Eduard Ulman a message by radio from the commander of the military unit, ordering him to eliminate the detained civilians. Captain Eduard Ulman passed on this order to his subordinates. According to the prosecution, Captain Ulman ordered his subordinates to tell the five individuals that they were free to leave, and then to shoot them as they walked away. Aleksandr Kalaganskii and Vladimir Voevodin carried out the order and shot and killed Abdul-Wakhab Satabaev, Shakhban Bakhaev, Khamzat Tuburov and Zainap Dzhavatkhanova, put their bodies in the car and set it on fire. Dzhamlail Musaev reportedly escaped but died later from his injuries.

In May 2004 Captain Eduard Ulman, Lieutenant Alexander Kalaganskii, Sergeant Vladimir Voevodin and the deputy commander of the unit, Major Alexei Perelevskii, were acquitted of the charges of premeditated murder, premeditated destruction of property, and exceeding official authority. Following an order for retrial from the Military Collegiate of the Supreme Court, on 19 May 2005 the men were again found not guilty by a jury at the same court.

Despite admitting that they had shot the unarmed civilians in May 2004, Eduard Ulman, Alexander Kalaganskii, Vladimir Voevodin and the deputy commander of the unit, Alexei Perelevskii, were acquitted of the charges of premeditated murder, premeditated destruction of property, and exceeding official authority. Following an order for retrial from the Military Collegiate of the Supreme Court, on 19 May 2005 the men were again found not guilty by a jury at the same court.

Following protests from human rights organizations and authorities in the North Caucasus, the Military Collegiate of the Russian Supreme Court in August 2005 quashed the acquittal for the second time.

Recommended Action:

Please continue to send appeals in Russian or your own language:

- expressing deep concern about the repeated acquittals of Captain Eduard Ulman, Lieutenant Aleksandr Kalaganskii, Sergeant Vladimir Voevodin and Major Alexei Perelevskii;
- expressing deep concern that the commander of the unit, who reportedly gave the order to kill unarmed detained civilians, was never prosecuted for this crime;
- stating that wilful killing, and the order that there shall be no survivors, constitute serious breaches of the laws of war according to the Geneva Conventions and its Protocol II and that the Russian Federation, as a High Contracting Party, has an obligation to prosecute all persons suspected of commissioning or committing these crimes;
- stating that international human rights law as well as Russian law, including Article 42 of the Russian Criminal Code, does not relieve a person of her or her criminal responsibility even when the crime has been committed pursuant to an order;
- pointing out that the killings of Abdul-Wakhab Satabaev, Shakhban Bakhaev, Khamzat Tuburov, Zainap Dzhavatkhanova and Dzamlail Musaev are in violation of Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (the right to life), to which Russia is a party, and that the use of lethal force in the death of Said Alaskhanov raises serious concerns under Article 2;
- condemning the ongoing grave and systematic human rights abuses in the Chechen Republic, and calling on the Russian authorities to take immediate steps to end such violations, including extrajudicial executions, unlawful killings, arbitrary detention, “disappearances” and torture, including rape, and ill-treatment.
- urging that all judges, in particular judges in military courts, are made fully aware of international human rights and humanitarian law principles, and the rules that apply to it.

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APPEALS TO: (Fax machines may be switched off outside office hours – GMT+3)

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e-mail: Please go to the website of the President of the Russian Federation and paste your letter into the space provided:

http://president.kremlin.ru/eng/articles/send_letter_Eng1a.shtml

Salutation: Dear President Putin

Procurator General of the Russian Federation, Vladimir USTINOV
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Salutation: Dear Procurator General

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Salutation: Dear Chief Military Procurator

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and to diplomatic representatives of the Russian Federation accredited to your country.