

Russian Federation

Appeal Case Update:

The killing of six civilians near Dai, Chechen Republic

Update to EUR 46/016/2005 from 1 May 2005

25 May 2005

Amnesty International is deeply concerned that four members of the Russian military intelligence (GRU) have once again been found not responsible in law for killing civilians. For the second time within just over a year, a jury trial has ruled that Captain Eduard Ulman and three members of his unit did not breach the law when they shot dead six unarmed civilians near the village of Dai in the Chechen Republic on 11 January 2002. In May 2004 a court in Rostov-on-Don had also acquitted the soldiers on grounds that they had been following orders.

Following an order for retrial from the Military Collegiate of the Supreme Court, on 19 May 2005 the men were found not guilty by a jury at the same court in Rostov-on-Don. The jury found that, while the members of the military intelligence unit had killed the six civilians, they had been acting according to the circumstances and had not exceeded their official authority. The question, who gave the order to kill the civilians and whether to give and to carry out such an order is lawful, was not answered during the trial. The head of the special operation in the North Caucasus, Colonel Plotnikov, when interrogated during the trial, reportedly denied having given such orders or any order which may have led to the incident, in which the civilians were killed.

It is clear that the actions, as described in the trial documents, of Eduard Ulman, Aleksandr Perelevskii, Aleksander Kalaganskii and Vladimir Voevodin on 11 January 2002 are serious violations of international human rights and humanitarian law. The Geneva Conventions, including Protocol II, clearly prohibit the wilful killing of civilians and the order that there should be no survivors. The fact that the members of the military intelligence unit received an order to kill the detained civilians – who the court found were unarmed and offered no resistance when detained - does not exempt the four officers from their responsibility for the killing. Chechen President Alu Alkhanov expressed great dismay about the jury's decision. In the Chechen Republic, in Grozny, people rallied in protest against the acquittal. The families of the victims will appeal the decision of the North Caucasus regional court.

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.

Recommended Action:

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

- expressing deep concern about the repeated acquittal of Captain Eduard Ulman, Lieutenant Aleksander Kalaganskii, Sergeant Vladimir Voevodin and Major Alexei Perelevskii;
- expressing deep concern that the commander of the unit, who 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;
- calling on the Russian Federation to observe the provisions of the Rome Statute of the International Criminal Court which represents the current consensus of the international community for definitions and procedures relating to war crimes and crimes against humanity and to which it is a Signatory;
- citing article 25.3(b) of the Rome Statute of the International Criminal Court, which states that a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction

of the Court if that person orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;

- citing article 33 of the Rome Statute of the International Criminal Court, which states that the fact that a crime has been committed by a person pursuant to an order of a Government or a superior, whether military or civilian, shall not relieve that person of criminal responsibility;

- 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.

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

President of the Russian Federation, Vladimir Vladimirovich PUTIN
Kreml, Moscow, Russian Federation

Fax: +7 095 206 85 10 / +7 095 206 51 73 / +7 095 230 24 08 (if someone answers say "fax please")

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
Ul. B. Dimitrovka 15a, 125993 Moscow, GSP-3, Russian Federation

Fax: +7 095 292 8848 (if someone answers say "fax please")

Salutation: Dear Procurator General

Chief Military Procurator of the Russian Federation, Lt.-Gen. Aleksandr SAVENKOV
pereulok Khul'zunova, 14, 103160 Moscow, Russian Federation

Fax: +7 095 247 50 19 (if someone answers say "fax please")

Salutation: Dear Chief Military Procurator

COPIES TO:

Vladimir Lukin, Ombudsman of the Russian Federation

Fax: +7 095 207 76 30

Ella Pamfilova, Chair of the Presidential Council for the development of civil society institutions and human rights

Fax: +7 095 206 48 55

Maj.-Gen. Anatolii Petrochenkov, Chairman of the Military Collegium of the Russian Supreme Court

Fax: +7 095 293 55 84

Sergey Borisovich Ivanov, Minister of Defence of the Russian Federation

Fax: + 7 095 293 83 98

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