

Russian Federation: Chechen Republic

Appeal Case:

The killing of six civilians near Dai, Chechen Republic

May 2005

Said Alaskhanov, Abdul-Wakhab Satabaev, Shakhban Bakhaev, Khamzat Tuburov, Zainap Dzhavatkhanova and **Dzhamlail 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). Captain Eduard Ulman, Lieutenant Alexander Kalaganskii, Sergeant Vladimir Voevodin and the deputy commander of the unit, Major Alexei Perelevskii, are currently on trial for a second time, having been acquitted of the charge of premeditated murder, premeditated destruction of property, and exceeding official authority in April 2004 in a military court in Rostov-on-Don.

The North Caucasus district military court in April 2004 heard that the unit had been conducting a special operation against an armed opposition fighter in Chechnya, near the village of Dai on 11 January 2002. The court found 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 Dzhavatkhano

va, a pregnant mother of seven and Dzhamlail Musaev (sometimes referred to as Magomed Musaev), to a nearby abandoned farm building. There they gave 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 command of the military unit.

The court found that Major Aleksei Perelevskii then passed back to Captain Eduard Ulman a message by radio from the command 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 Dzhavatkhano

va, put their bodies in the car and set it on fire. Dzamlail Musaev reportedly escaped but died later from his injuries.

During the first trial in April 2004, the four officers did not deny having killed the civilians, but cited the defence that they had been following orders. They were found not guilty of all charges by the jury.

The acquittals met with widespread criticism. Following an appeal by families of the victims, the Military Collegiate of the Supreme Court of the Russian Federation quashed the verdict in August 2004 and sent the case to the same military court in Rostov-on-Don for re-trial, but with a different jury. The jury for the re-trial has been selected from across Southern Russia and the verdict is expected to be given some time in May 2005.

Background information:

Since its inception in 1999, the second armed conflict in the Chechen Republic has been characterized by widespread and systematic violations of international human rights and humanitarian law. Despite claims from Russian and pro-Moscow Chechen officials that the situation in the Republic is “normalizing”, the conflict and its accompanying human rights abuses continue. Cases of extrajudicial executions, unlawful killings, arbitrary detention, “disappearances” and torture, including rape and ill-treatment are widely reported, with both Russian and Chechen security forces acting with almost complete impunity.

Recommended Action:

Please send appeals to arrive as quickly as possible, in Russian or your own language:

- expressing concern about the original acquittal of Captain Eduard Ulman, Lieutenant Alexander Kalaganskii, Sergeant Vladimir Voevodin and Major Alexei Perelevskii who had relied on the defence that they had been following orders;
- urging that the current trial meets the standards set by international human rights law for an independent and impartial investigation and prosecution;
- urging the Russian authorities to identify all individuals responsible for the killing of Abdul-Wakhab Satabaev, Shakhban Bakhaev, Khamzat Tuburov, Zainap Dzhavatkhanova and Dzamlail Musaev, in particular the command of the military unit who allegedly gave the order to Major Alexei Perelevskii to eliminate the detained civilians;
- 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 appear to be in violation of Article 2 of the European Convention 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
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Fax: +7 095 247 50 19 (if someone answers say "fax please")

Salutation: Dear Chief Military Procurator

COPIES TO:

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

PLEASE SEND APPEALS IMMEDIATELY. Check with the Russia Team at the International Secretariat if sending appeals after 31 May 2005.