

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

Conseil de l'Europe – *Council of Europe*

Strasbourg, France

REQUÊTE
APPLICATION

Akhmedov v. Russia

présentée en application de l'article 34 de la Convention européenne des Droits de l'Homme,
ainsi que des articles 45 et 47 du règlement de la Cour
*under Article 34 of the European Convention on Human Rights
and Rules 45 and 47 of the Rules of Court*

IMPORTANT: La présente requête est un document juridique et peut affecter vos droits et obligations.

This application is a formal legal document and may affect your rights and obligations.

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I. THE PARTIES

A. THE APPLICANT

- | | |
|--|--|
| 1. Name of the Applicant | Akhmedov (see passport – annex, doc. 1) |
| 2. First name
Sex: | Alikhan Bislanovich |
| 3. Nationality | RF |
| 4. Occupation | unemployed |
| 5. Date and place of birth | |
| 6. Permanent address | |
| 7. Telephone | - |
| 8. Present address (if different from 6) | - |
| 9. Name of representatives | Igor Kalyapin, Olga Sadovskaya, Roemer
Lemaître (see power of attorney – annex, doc
2) |
| 10. Occupation of the representative | Lawyers of NGO “Committee Against
Torture” |
| 11. Address of representative | R.F., Nizhniy Novgorod, 603000,
Gruzinskaya Street 7b |
| 12. Telephone
Fax | +7 8314 331404
+7 8314 336101 |

B. THE HIGH CONTRACTING PARTY

13. The Russian Federation

INTRODUCTION

14.1 Relevant case law of the Court:

Mikheyev v. Russia (no. 77617/01, 26 January 2006)

II. STATEMENT OF FACTS

- 14.2 Alikhan Bislanovich Akhmedov (hereinafter *applicant*) lives in Grozny, Chechnya. He is currently unemployed. At the time of the events described below the applicant was an officer in the crime detection unit of the Zavodskoy department of internal affairs in Grozny (hereinafter *Zavodskoy police station*).
- 14.3 He complains that he was illegally deprived of his liberty and subjected to inhuman and degrading treatment amounting to torture by officers of the Chechen OMON on 19 November 2007.
- 14.4 Unless indicated otherwise, this statement of facts is based on the applicant's statements to the domestic authorities and to his representatives before the Court. (annex docs. 3a to 3d)

Conviction of the applicant

- 14.5 On 18 November 2007 the applicant and his colleagues I.L. Arsamerzuyev (an officer of the crime detection unit of the Zavodskoy department of internal affairs) and Kh.Kh. Zhuzhayev (the head of the crime detection unit of the Zavodskoy department of internal affairs) apprehended S.-E.R. Mazayev, an officer of the Chechen OMON, on suspicion of murder. Mazayev was freed on the next day. The murder remains unsolved.
- 14.6 On 27 November 2008 the Zavodskoy district court convicted the applicant, Arsamerzuyev and Zhuzhayev under Article 286(3)a of the RF Criminal Code for abuse of office concerning the ill-treatment of Mazayev and sentenced each to a suspended 3 year prison sentence. (annex doc. 4)

Ill-treatment of the applicant

- 14.7 In the evening of 19 November 2007 the applicant, Arsamerzuyev and a colleague (A.V. Lorsanov) sat in a café near the Zavodskoy police station. At approximately 6 p.m. 6 to 8 armed police officers dressed in camouflage uniforms bearing the letters "OMON" entered the café. The leader of the group, Bislan Saidkhasanov, ordered the applicant and Arsamerzuyev to follow him. The applicant and Arsamerzuyev refused. One OMON officer, R.Kh. Saydulayev, fired in front of the applicant's feet but accidentally injured himself from a ricochet bullet.

- 14.8 The OMON forcibly placed the applicant and Arsamerzuyev in unmarked cars. An OMON officer who sat next to the applicant in the back seat placed the applicant's gun against the applicant's temple threatening to shoot the applicant if he dared to move. The OMON officer sitting in the front right seat of the car turned around and hit the applicant in the face with the butt of his gun.
- 14.9 The OMON first drove to city hospital no. 9 to seek treatment for the wounded Saydulayev. In front of the hospital the OMON officers took the applicant out of the car and started beating him on various parts of his body in front of passers-by. They then threw the applicant in the trunk of the car and drove to the OMON headquarters located in the Leninskiy district of Grozny. (hereinafter *OMON base*)
- 14.10 At the OMON base two OMON officers (S. Utsyev and B. Kovrnukayev) tied the applicant's hands behind his back and hung him from a tree with a rope. Numerous OMON officers started hitting the applicant with their fists and feet on various parts of the body. The applicant repeatedly lost conscience. Each time he lost conscience the OMON officers poured cold water over the applicant. The OMON officers verbally abused the applicant. One OMON officer extinguished two cigarettes on the applicant. The applicant estimated that the torture lasted between 1,5 and 3 hours. One OMON officer filmed the torture with a mobile phone. The OMON tortured Arsamerzuyev in the same way. In the course of the domestic investigation the applicant reiterated that he would be able to identify all his tormentors from a line-up.
- 14.11 The OMON officers took the applicant and Arsamerzuyev down from the tree and placed them in the middle of the parade ground. There, in front of some 80 OMON officers, A.G. Tsakayev, the head of the Chechen OMON, stated that nobody can touch an OMON officer and, if he dares to do so, he will await the same fate as the applicant and Arsamerzuyev. (annex doc. 3d)
- 14.12 The OMON officers then placed the applicant and Arsamerzuyev in a basement. They handcuffed the applicant to a radiator and started beating him again. Approximately 30 minutes later the OMON took the applicant and Arsamerzuyev from the basement and handed them over to the internal security department [управление собственной безопасности] of the Interior Ministry of Chechnya

(hereinafter *internal security department*) who took statements from the applicant and Arsamerzuyev. (annex docs. 3a & 5a)

14.13 The applicant and Arsamerzuyev were then handed to the head of the Zavodskoy police station (A.Sh. Sakazov) who incarcerated them in the temporary detention unit of the Zavodskoy police station. (hereinafter *IVS*) Sakazov and his deputy (Dediyev) told the applicant and Arsamerzuyev that they were put in the IVS “for their own safety.”

14.14 The applicant’s account is corroborated by

- statements from Arsamerzuyev; (annex docs. 5a-b)
- decision of 22 November 2007 ordering a forensic medical examination of the applicant stating that “on 21 November 2007 [the applicant] was brought to the Chechen prosecutor’s office... with visible bodily injuries on his face.” (annex doc. 6)
- forensic medical report no. 1837 concerning the examination of the applicant on 26 November 2007 noting the following injuries “under the left eye bruise of yellowish blue color measuring 3x5 cm. On the left cheekbone, on the front surface of the upper third of the right shoulder abrasions with partially peeled off crusts measuring 3x2cm to 5x4 cm. On the front surface of the upper third of the right and left leg abrasions measuring 3x3 cm covered with a thick dark red crust that has partially peeled off.” The forensic expert concluded that those injuries were caused by blunt hard objects in the time frame described by the applicant. (annex doc. 7)
- forensic medical report no. 1861 listing Arsamerzuyev’s injuries; (annex doc. 8)
- witness statements of 1 employee (Abakayeva) and 3 clients (Alsultanov, Khachukayev, Mukhtarov) present in the café when the applicant and Arsamerzuyev were apprehended. (annex docs. 9 & 10a to c) Alsultanov, Khachukayev, Mukhtarov testified they did not notice any officer of the internal security department at the café.

14.15 The applicant’s account is partly contradicted by OMON officers Akayev, Akhsultanov, Artsuyev, Mamayev, Seydkhasanov and Sokuyev. (annex docs. 11a-b, 12, 13a-b, 14a-b, 15a-b & 16a-b) They confirmed that in the evening of 19

November 2011 they used physical force to deliver the applicant and Arsamerzuyev to the OMON base. However, they alleged that Mamayev was in command of the group and that they were accompanied by an officer of the internal security department. (A.A. Bisultanov) Bisultanov reported that M.A. Kadyrov, the deputy head of the internal security department, had given the order to deliver the applicant and Arsamerzuyev to the internal security department. (annex doc. 17)

- 14.16 The OMON officers' version of events is inconsistent and incomplete. It does not explain why the applicant was not directly brought to the internal security department but first taken to the OMON base. Although the OMON officers alleged an officer from the internal security department (Bisultanov) was present, none of the clients in the café – themselves police officers – remembered an officer from the internal security department. The OMON officers' version provides no explanation for the applicant's and Arsamerzuyev's numerous injuries. It appears Bisultanov was never questioned in the course of the criminal investigation. Although 5 OMON officers (Akayev, Artsuyev, Mamayev, Seydkhasanov and Sokuyev) were questioned in the course of the criminal investigation none of them were questioned concerning the ill-treatment of the applicant and Arsamerzuyev. Finally, the domestic authorities opened a criminal case having established that "unidentified OMON officers" had ill-treated the applicant and Arsamerzuyev. (see §14.21 below)

Official investigation into applicant's complaint about torture

- 14.17 On 20 November 2007 investigator Lobov of the Zavodskoy District Investigative Committee of the city of Grozny reported that the actions of the OMON *vis-à-vis* the applicant constituted a crime under Article 286(3) of the RF Criminal Code. (annex doc. 18)
- 14.18 On the same day investigator Lobov decided that the case was beyond the scope of his territorial competence because the OMON base was located in another district of the city. Lobov transferred the case to the Leninskiy Interdistrict Investigative Committee of the city of Grozny. (annex doc. 19)
- 14.19 On 22 November 2007 investigator Israilov of the Leninskiy Interdistrict Investigative Committee of the city of Grozny reported that the actions of the OMON *vis-à-vis* the applicant constituted a crime under Article 286(3) of the RF

Criminal Code. (annex doc. 20) Despite this Israilov did not open a criminal case until 11 days later. (see § 14.21 below)

- 14.20 On 23 November 2007 the Zavodskoy district court remanded the applicant in custody in connection with the ill-treatment of Mazayev. (annex doc. 21) The judgment stated that the applicant had been officially arrested at 9:20 p.m. on 21 November 2007.
- 14.21 On 3 December 2007 at 3:20 p.m. investigator Israilov opened criminal case no. 10123 under Article 286(3) of the RF Criminal Code against unidentified members of the Chechen OMON. (annex doc. 22)
- 14.22 On the same day at 5:05 p.m. the same investigator refused to open a criminal case under Article 286(1) of the RF Criminal Code against unidentified members of the Chechen OMON. (annex doc. 23) Still on the same day, the head of the Leninskiy Interdistrict Investigative Committee of the city of Grozny quashed the refusal. (annex doc. 24)
- 14.23 On 19 December 2007 an internal police inquiry concluded that the applicant was neither illegally deprived of his liberty nor ill-treated by the Chechen OMON. (annex doc. 25) At the same time the internal police inquiry found that the applicant had ill-treated Mazayev and recommended the applicant's dismissal from the police force.
- 14.24 On 23 December 2007 the deputy head of the Leninskiy Interdistrict Investigative Committee of the city of Grozny instructed the investigator to conduct a number of investigative measures by 23 January 2008 at the latest. (annex doc. 26) The list included
- on-site verification of the applicant's testimony in the café and at the OMON base (point 6 in the list)
 - interrogate officer Bisultanov of the internal security department (point 10 in the list)
 - interrogate the deputy head of the internal security department (M.A. Kadyrov) who allegedly ordered the applicant's (and Arsamerzuyev's) apprehension (point 12 in the list)

- interrogate OMON officers Seydkhasanov, Sokuyev, Mamayev, Artsuyev, Akayev and Akhsultanov (point 13 in the list)
- in case contradictions arise between the statements of the applicant (and Arsamerzuyev) and the OMON officers, conduct confrontations between them. (point 15 in the list)

- 14.25 On 10 January 2008 the applicant was given victim status in criminal case no. 10123. (annex doc. 27)
- 14.26 On 19 January 2008 investigator Madayev of the Leninskiy Interdistrict Investigative Committee of the city of Grozny requested A.G. Tsakayev, the head of the Chechen OMON, to send him Seydkhasanov, Sokuyev, Mamayev, Artsuyev, Akayev and Akhsultanov for interrogation. (annex doc. 28) It appears no reply was received.
- 14.27 On 1 February 2008 investigator Madayev obtained a statement from OMON officer Seydkhasanov. (annex doc. 15b) Investigator Madayev did not pose any questions to Seydkhasanov concerning the applicant's ill-treatment. Seydkhasanov's statement is word for word identical to the statement Seydkhasanov gave to the internal security department on 20 November 2007. (annex doc. 15a)
- 14.28 On 4 February 2008 investigator Madayev obtained a statement from OMON officer Sokuyev. (annex doc. 16b) Investigator Madayev did not pose any questions to Sokuyev concerning the applicant's ill-treatment. Sokuyev's statement is word for word identical to the statement Sokuyev gave to the internal security department on 19 November 2007. (annex doc. 16a)
- 14.29 On 3 March 2008 investigator Madayev suspended the investigation in criminal case no. 10123. (annex doc. 29)
- 14.30 On 26 March 2008 the deputy head of the Leninskiy Interdistrict Investigative Committee of the city of Grozny quashed the decision of 3 March 2008 because it was premature. (annex doc. 30) The deputy head once more ordered the investigator to execute the instructions he had given on 23 December 2007 (annex doc. 31) (see § 14.24 above)

- 14.31 On 29 March 2008 investigator Madayev re-send his request of 19 January 2008 to the head of the Chechen OMON. (annex doc. 32) It appears no reply was received.
- 14.32 On 30 March 2008 investigator Madayev obtained a statement from OMON officer Artsuyev. (annex doc. 13b) Investigator Madayev did not pose any questions to Artsuyev concerning the applicant's ill-treatment. Artsuyev's statement is word for word identical to the statement Artsuyev gave to the internal security department on 19 November 2007. (annex doc. 13a)
- 14.33 On 27 April 2008 investigator Madayev again suspended the investigation in criminal case no. 10123. (annex doc. 33)
- 14.34 On 30 May 2008 the deputy head of the Leninskiy Interdistrict Investigative Committee of the city of Grozny quashed the decision of 27 April 2008 because it was premature. (annex doc. 34)
- 14.35 On 2 June 2008 investigator Madayev obtained a statement from OMON officer Akayev. (annex doc. 11b) Investigator Madayev did not pose any questions to Akayev concerning the applicant's ill-treatment. Akayev's statement is word for word identical to the statement Akayev gave to the internal security department on 20 November 2007. (annex doc. 11a)
- 14.36 On 30 June 2008 investigator Madayev again suspended the investigation in criminal case no. 10123. (annex doc. 35)
- 14.37 On 25 July 2008 the head of the Leninskiy Interdistrict Investigative Committee of the city of Grozny quashed the decision of 30 June 2008 because it was premature. (annex doc. 36)
- 14.38 On 3 August 2008 investigator Madayev obtained a statement from OMON officer Mamayev. (annex doc. 14b) Investigator Madayev did not pose any questions to Mamayev concerning the applicant's ill-treatment. Mamayev's statement is word for word identical to the statement Mamayev gave to the internal security department on 20 November 2007.¹ (annex doc. 14a)
- 14.39 On 25 August 2008 investigator Madayev again suspended the investigation in criminal case no. 10123. (annex doc. 37)

¹ Near the end of the statement part of a sentence was apparently omitted due to a clerical error.

- 14.40 On 10 September 2008 the deputy head of the Leninskiy Interdistrict Investigative Committee of the city of Grozny quashed the decision of 25 August 2008 because it was premature. (annex doc. 38)
- 14.41 On 11 October 2008 investigator Madayev again suspended the investigation in criminal case no. 10123. (annex doc. 39)
- 14.42 On 26 November 2008 the deputy prosecutor of Chechnya highlighted numerous shortcomings in the investigation and demanded the Leninskiy Interdistrict Investigative Committee of the city of Grozny to remedy them. (annex doc. 40)
- 14.43 On 10 December 2008 the deputy head of the Leninskiy Interdistrict Investigative Committee of the city of Grozny quashed the decision of 11 October 2008 because it was premature. (annex doc. 41)
- 14.44 On 19 December 2008 investigator Khuchiyev of the Leninskiy Interdistrict Investigative Committee of the city of Grozny requested A.G. Tsakayev, the head of the Chechen OMON, to send him several OMON officers for interrogation. (annex doc. 42) It appears no reply was received.
- 14.45 Between 19 December 2008 and 26 December 2008 investigator Khuchiyev obtained statements from 1 employee (Abakayeva) and 3 clients (Alsultanov, Khachukayev, Mukhtarov) of the café where the applicant and Arsamerzuyev were apprehended. (annex docs. 9 & 10a to c) The statements of Alsultanov and Khachukayev are word for word identical.
- 14.46 On 11 January 2009 investigator Khuchiyev suspended the investigation in criminal case no. 10123. (annex doc. 43)
- 14.47 On an unspecified date in 2009 the decision of 11 January 2009 was quashed.
- 14.48 On 11 December 2009 the investigation in criminal case no. 10123 was again suspended. The applicant has no copy of the decision.
- 14.49 On 3 February 2012 the deputy prosecutor of the Leninskiy district of the city of Grozny quashed the decision of 11 December 2009 because it was premature. (annex doc. 44)

- 14.50 On 27 March 2012 investigator Khuchiyev conducted a detailed interrogation of the applicant. (annex doc. 3d)
- 14.51 On 29 March 2012 investigator Khuchiyev again suspended the investigation in criminal case no. 10123. (annex doc. 45)
- 14.52 On 28 April 2012 the deputy head of the Leninskiy Interdistrict Investigative Committee of the city of Grozny quashed the decision of 29 March 2012 because it was premature. (annex doc. 46) On 4 May 2012 the deputy head instructed the investigator to conduct within 5 days the investigative measures which had been ordered in 2007 and 2008 but had still not been conducted. (annex doc. 47)
- 14.53 On 6 May 2012 investigator Khuchiyev send two letters to the head of the Chechen OMON. (annex doc. 48a & b) It appears no reply was received.
- 14.54 On 9 May 2012 investigator Khuchiyev again suspended the investigation in criminal case no. 10123 without conducting a single investigative measure. (annex doc. 49)
- 14.55 On 27 September 2012 the head of the Leninskiy Interdistrict Investigative Committee of the city of Grozny quashed the decision of 9 May 2012 because it was premature. (annex doc. 50)
- 14.56 On 9 November 2012 investigator Sagayev of the Leninskiy Interdistrict Investigative Committee of the city of Grozny suspended the investigation in criminal case no. 10123 without conducting a single investigative measure. (annex doc. 51)
- 14.57 On 18 February 2013 the deputy prosecutor of the Leninskiy district of the city of Grozny quashed the decision of 9 November 2012 because it was premature. (annex doc. 52)
- 14.58 On 22 February 2013 and 4 March 2013 investigator Khuchiyev send letters to the head of the Chechen OMON. (annex doc. 53a & b) It appears no reply was received. On 22 February 2013 Khuchiyev's superior also wrote to the Chechen Interior Minister. (annex doc. 54) It appears no reply was received.

- 14.59 On 23 March 2013 investigator Khuchiyev again suspended the investigation in criminal case no. 10123 without conducting a single investigative measure. (annex doc. 55)
- 14.60 On 12 February 2013 the Grozny Leninskiy district court rejected the applicant's complaint under Article 125 of the RF Code of Criminal Procedure concerning the procrastination of the investigative authorities in the criminal investigation into the applicant's ill treatment. (annex doc. 56)
- 14.61 On 19 March 2013 the Supreme Court of Chechnya rejected the applicant's appeal against the judgment of 12 February 2013. (annex doc. 57)

III. STATEMENT OF ALLEGED VIOLATIONS OF THE CONVENTION AND/OR PROTOCOLS AND OF RELEVANT ARGUMENTS

1) **ADMISSIBILITY**

A. **Adoption of the right to file an individual petition**

15

15.1 The Government of the Russian Federation ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms on 5 May 1998, and so recognized the authority of the European Court to accept applications from individuals concerning violations of the provisions of the Convention by its agencies (according to Article 34 of the Convention).

B. **Victim**

15.2 The applicant files this application with the Court on behalf of himself.

C. **Submission regarding Article 35(1) of the Convention**

15.3 The applicant submits that this application has been filed with the Court in accordance with the requirements of Article 35(1).

Exhaustion of domestic remedies

15.4 The applicant submits that he has exhausted domestic remedies before filing this application with the Court.

15.5 On 12 February 2013 the district rejected the applicant's complaint under Article 125 of the Code of Criminal Procedure against the procrastination of the investigative authorities in the criminal investigation into the applicant's ill-treatment. (annex doc. 56) On 19 March 2013 the Supreme Court of Chechnya confirmed the judgment of the lower court. (annex doc. 57) Therefore, the applicant submits that the domestic remedy provided in Article 125 of the RF Code of Criminal Procedure proved ineffective because it failed to restore the applicant's rights.

15.6 The applicant will address the ineffectiveness of the domestic remedies, in particular the authorities' ineffective investigation into his complaints of torture and illegal detention in § 15.13 to 15.17 below.

Six months rule

15.7 The applicant submits that he has filed this application within 6 months of the final domestic decision, namely the appeal judgment of the Supreme Court of Chechnya of 19 March 2013.

2) MERITS OF THE CASE

15.8 The applicant submits that the following Articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms have been violated in this case:

Article 3: the applicant was subjected to inhuman and degrading treatment amounting to torture by the Chechen OMON on 19 November 2007 and the respondent State failed to conduct an effective investigation into the ill-treatment;

Article 5(1) illegal deprivation of liberty between 9:00 p.m. on 19 November 2007 and 9:20 p.m. on 21 November 2011;

Article 13 (in conjunction with Article 3): no effective remedy against the violation of Article 3.

A. Article 3

Establishment of the facts

15.9 The applicant submits that he had no injuries before his apprehension by the Chechen OMON at 6 p.m. on 19 November 2007. The applicant made repeated, consistent and detailed complaints about his illegal detention and torture. He formulated those complaints from the first available opportunity, namely on 19 November 2007. (see § 14.12 above)

15.10 The applicant's account of events is corroborated by the following

- Arsamerzuyev's testimony; (see § 14.12 above)
- testimonies from 1 employee and 3 clients of the café where the applicant was apprehended; (see § 14.14 above)
- forensic report no. 1837; (see § 14.14 above)

15.11 The applicant's account of events is further corroborated by the investigative authorities' decision of 3 December 2007 to open a criminal case. The document established [установил] that "unidentified OMON officers" had ill-treated the

applicant and Arsamerzuyev. (see § 14.21 above) The criminal investigation did not put forward any alternative explanation for the applicant's injuries. The OMON officers' version of events, adopted by the internal police inquiry, is inconsistent and incomplete. (see § 14.16 above) The internal police inquiry is moreover not an effective investigative mechanism because it lacks independence from the body to which the perpetrator belongs.

- 15.12 Bearing in mind the State's obligation to account for injuries caused to persons under its control in custody and in view of the absence of a convincing and plausible explanation by the authorities for the applicant's injuries, the applicant invites the Court to find that he has established beyond reasonable doubt that he suffered ill-treatment on 19 November 2007.

Ineffectiveness of the domestic investigation

- 15.13 The applicant submits that the domestic investigation fell far short of the standard for an effective investigation set out by the Court in § 107 to 110 of *Mikheyev v. Russia*. (cited above)
- 15.14 The applicant submits that the domestic authorities waited almost 2 weeks before opening a formal criminal case although an investigator had already concluded on 20 November 2007 that the applicant had been ill-treated. (see § 14.17 above)
- 15.15 The applicant notes that the investigative authorities on 11 occasions (3 March 2008, 27 April 2008, 30 June 2008, 25 August 2008, 11 October 2008, 11 January 2009, 11 December 2009, 29 March 2012, 9 May 2012, 9 November 2012 & 23 March 2013) suspended the criminal case but that 10 out of 11 suspensions were ruled unlawful because the investigation was incomplete.
- 15.16 The applicant further submits that the investigative authorities utterly failed to conduct a meaningful investigation. The investigator did not conduct the investigative measures which had been repeatedly ordered by his superiors, see § 14.24 for details. Although the investigator obtained statements from 5 OMON officers, he questioned none of them concerning the ill-treatment of the applicant and Arsamerzuyev. It is doubtful the investigator even spoke to the 5 OMON officers in person because the statements of the 5 OMON officers obtained by the

investigator are all word for word identical to their statements given to the internal security department.

15.17 Bearing in mind the State's procedural obligation to conduct an effective investigation into a substantial violation of Article 3, the applicant invites the Court to find that the domestic authorities failed to effectively investigate his complaint about illegal detention and ill-treatment in police custody .

15.18 In view of this finding the applicant submits that this application is not inadmissible for non-exhaustion of domestic remedies (see above § 15.4)

Ill-treatment of the applicant was torture

15.19 The applicant submits that his ill-treatment as detailed in the statements of facts and summarized in § 15.9 to 15.10 above, amounted to torture for the following reasons:

- the applicant was under the total control of the State after 6 p.m. on 19 November 2007 but instead of being afforded protection while under the control of the State he was severely ill treated;
- the applicant did not provoke the OMON officers or put up any resistance to the authorities and even if the Court were to find that the applicant resisted, the OMON officers clearly used disproportionate force;
- the applicant was severely ill-treated for several hours as described in the statement of facts;
- as a result of the ill-treatment the applicant suffered numerous injuries;
- the applicant received no appropriate medical assistance for his injuries while under police control.

15.20 In light of all the above the applicant invites the Court to find that his ill-treatment by the Chechen OMON on 19 November 2007 amounted to torture in violation of Article 3 of the Convention..

B. Article 5(1)*Establishment of the facts*

15.21 The applicant submits that he was apprehended at 6:00 p.m. on 19 November 2007. According to the judgment remanding the applicant in custody (annex doc. 21) he was officially arrested by an investigator at 9:20 p.m. on 21 November 2007.

Deprivation of liberty was illegal

15.22 The applicant submits that his detention between 9:00 p.m. on 19 November 2007 and 9:20 p.m. on 21 November 2007 was illegal because the applicant had initially been deprived of his liberty at 6:00 p.m. on 19 November 2007 and accordingly should have been officially arrested by the investigator within 3 hours in accordance with Article 92(1) of the RF Code of Criminal Procedure.

15.23 In light of the above, the applicant invites the Court to find that he was deprived of his liberty in violation of Article 5(1) of the Convention.

B. Article 13 (in conjunction with 3)

15.24 The applicant submits that he did not have at his disposal an effective remedy in respect of his complaint about a violation of Article 3 of the Convention.

15.25 The applicant submits that in accordance with §§ 140-141 of *Mikheyev v. Russia*, (cited above) in addition to the payment of compensation where appropriate, an effective remedy implies a thorough and effective investigation capable of leading to the identification and punishment of those responsible for the ill-treatment.

15.26 The applicant has already demonstrated that the domestic authorities failed to carry out an effective investigation into his complaints about ill-treatment on 19 November 2007, see §§ 15.13 to 15.17 above.

15.27 In light of the above, the applicant invites the Court to find that he was denied an effective remedy in violation of Article 13 of the Convention.

15.28 In light of all the above, the Applicant respectfully asks the European Court of Human Rights to find a violation of Articles 3 (torture and lack of effective

investigation into torture allegations), 5(1) (deprivation of liberty) and 13 (in conjunction with Article 3) (lack of effective remedy) of the Convention.

IV. STATEMENT RELATIVE TO ARTICLE 35 § 1 OF THE CONVENTION

16 *Final decision (date, court or authority and nature of decision)*

16.1 19 March 2013 - Supreme Court of Chechnya (appeal judgment on 125 complaint)

17 **Other decisions (list in chronological order, giving date, court or authority and nature of decision for each of them)**

17.1 12 February - Grozny Leninskiy district court (judgment on 125 complaint)

17.2 11 decisions of the investigative authority to suspended the criminal case + superior authority's decisions annulling 10 out 11 of these suspensions decisions.
For details, see § 15.15 above.

18 **Is there or was there any other appeal or other remedy available to you which you have not used? If so, explain why you have not used it.**

18.1 No.

V. STATEMENT OF THE OBJECT OF THE APPLICATION

19 The applicant insists on an unbiased investigation into his allegations; a finding by the European Court of Human Rights that provisions of the Convention have been violated, in particular Articles 3, 5(1) and 13 (in conjunction with Article 3); and a guarantee of safety for the applicant and those who have assisted him in pursuing this case.

19.1 In connection with Article 41 of the Convention, the applicant requests reparation as follows:

- a Material damage
- b Moral damage
- c Expenses for filing this application

The applicant will submit detailed claims in connection with these items later.

VI. STATEMENT CONCERNING OTHER INTERNATIONAL PROCEEDINGS

20 Have you submitted the above complaints to any other procedure of international investigation or settlement? If so, give full details.

20.1 No.

VII. LIST OF DOCUMENTS

21

21.1 see attachment

VIII. DECLARATION AND SIGNATURE

I hereby declare that, to the best of my knowledge and belief, the information I have given in the present application form is correct.

Place: Nizhniy Novgorod, Russian Federation

Date: 24 June 2013

Igor Kalyapin

Olga Sadovskaya

Roemer Lemaître

Annex

- 1 passport
- 2 power of attorney
- 3a statement of the applicant
- 3b statement of the applicant
- 3c statement of the applicant
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- 4 judgment of 27 November 2008
- 5a statement of Arsamerzuyev
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- 6 decision of 22 November 2007
- 7 forensic medical report no. 1837
- 8 forensic medical report no. 1861
- 9 statement of Abakayeva
- 10a statement of Alsultanov
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- 11a statement of Akayev
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- 13a statement of Artsuyev
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- 14a statement of Mamayev
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- 15a statement of Seydkhasanov
- 15b statement of Seydkhasanov
- 16a statement of Sokuyev
- 16b statement of Sokuyev
- 17 report of Bisultanov
- 18 report of 20 November 2007
- 19 decision of 20 November 2007
- 20 report of 22 November 2007
- 21 judgment of 23 November 2007
- 22 decision of 3 December 2007
- 23 decision of 3 December 2007
- 24 decision of 3 December 2007
- 25 report of internal police inquiry
- 26 instruction of 23 December 2007
- 27 decision of 10 January 2008
- 28 letter of 19 January 2008
- 29 decision of 3 March 2008
- 30 decision of 26 March 2008
- 31 instruction of 26 March 2008
- 32 letter of 29 March 2008
- 33 decision of 27 April 2008
- 34 decision of 30 May 2008
- 35 decision of 30 June 2008
- 36 decision of 25 July 2008
- 37 decision of 25 August 2008
- 38 decision of 10 September 2008
- 39 decision of 11 October 2008
- 40 instruction of 26 November 2008
- 41 decision of 10 December 2008

42 letter of 19 December 2008
43 decision of 11 January 2009
44 decision of 3 February 2012
45 decision of 29 March 2012
46 decision of 28 April 2012
47 decision of 4 May 2012
48a letter of 6 May 2012
48b letter of 6 May 2012
49 decision of 9 May 2012
50 decision of 27 September 2012
51 decision of 9 November 2012
52 decision of 18 February 2013
53a letter of 22 February 2013
53b letter of 4 March 2013
54 letter of 22 February 2013
55 decision of 23 March 2013
56 125 judgment of 12 February 2013
57 125 appeal judgment of 19 March 2013