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European Court rules against Russia in right to life and extradition cases

Today, the European Court of Human Rights found Russia to have violated the European Convention on Human Rights in the cases of *Khambulatova v Russia* (No. 33488/04) and *Elmuratov v Russia* (No. 66317/09). *Khambulatova* concerns the death of the applicant's son in police custody in Chechnya in 2004. *Elmuratov* is about the unlawful detention of the applicant during extradition proceedings. The applicants in both cases were represented by the European Human Rights Advocacy Centre (EHRAC), based at London Metropolitan University, and the Russian NGO, Memorial HRC.

Khambulatova v Russia

On the night of 17-18 March 2004, the applicant, Amnat Khambulatova, and her son, Timur Khambulatov, were at home in the village of Saveliyevskaya in Chechnya when 10-15 armed men in camouflage uniforms broke into their house. They seized a bottle-shaped object wrapped in foil which was later alleged by the authorities to be a home-made explosive device that Timur had confessed to making. Timur was handcuffed and taken away in a vehicle. The following morning he was found dead in his cell.

The Government submitted that Timur had fallen to the floor during questioning and never regained consciousness. Relying on an autopsy report it argued that the cause of death was a pre-existing heart condition and that the multiple non-life threatening injuries sustained in the 24-hours before death (caused by blows from hard, blunt items to the head, body and extremities) therefore had no direct causal link to his death. His mother's request for an independent forensic examination was refused. Despite requests by the Court, the Government did not disclose the majority of the casefile.

The Government's case included significant inconsistencies: officers who had transported Timur to the police station stated that no force had been used upon him whereas the head of internal security at the Chechen Ministry of the Interior stated that such force had been used by officers during the journey in self-defence (although this statement was later retracted). Witnesses stated they had seen Timur being kicked and a doctor's assistant who had seen Timur whilst still alive stated that he had been 'beaten up' and that she thought he had died of internal bleeding.

However, the European Court relying on the content of the autopsy report put forward by the Government ruled that it could not conclude that the authorities were responsible for Timur's death. Instead it found a violation of the procedural limb of Article 2 (right to life) as Russia had failed to carry out an effective criminal investigation into Timur's death: it noted a three-month delay in opening the investigation and a failure to follow-up witness statements in which police officers were said to have been seen kicking and hitting Timur. A violation of Article 3 (prohibition of inhuman treatment) was also found as Russia did not offer a plausible explanation for the injuries Timur sustained in the hands of State agents.

The Court awarded Amnat Khambulatova 35,000 euros in damages.

Elmuratov v Russia

Ziyudullo Elmuratov is an Uzbek migrant who has been living in St. Petersburg since February 2008. On 28 March 2008, an Uzbek court ordered his arrest on suspicion of having committed aggravated theft of cattle and on 10 April 2008 his name was placed on a wanted list. On 27 April 2009, Russian police arrested Ziyudullo and on 28 April 2009 he was placed in custody by order of the Krasnogvardeyskiy District

Prosecutor's Office pending extradition. Ziyudullo's applications for asylum and temporary asylum on the grounds of the poor conditions of detention of detainees in Uzbekistan were rejected. His extradition was suspended by an indication of interim measures from the European Court. He was released from custody on 27 April 2010 on expiration of the maximum detention period.

The European Court found that the applicant had failed to substantiate his claim that extradition to Uzbekistan would be in violation of Article 3 of the Convention but did find that Russia had breached his rights under Article 5 (right to liberty and security) as his placement in custody was not authorised by a Russian Court and there was no court decision extending his detention at the required time. Furthermore, he did not have at his disposal any procedure by which to request judicial review of the lawfulness of his detention.

The Court awarded Ziyudullo Elmuratov 25,000 euros in damages.

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