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

THIRD SECTION

DECISION

Application no. 34387/16
M.M.
against Russia

The European Court of Human Rights (Third Section), sitting on 13 December 2016 as a Committee composed of:

Helena Jäderblom, *President,*
Dmitry Dedov,
Branko Lubarda, *judges,*

and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 16 June 2016,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr M.M., is a Kyrgyz national who was born in 1963. The President decided that the applicant's identity should not be disclosed to the public (Rule 47 § 4). He was represented before the Court by Mr S. Magomedov, a lawyer practising in Makhachkala.

2. The Russian Government ("the Government") were represented by Mr G. Matyushkin, the Representative of the Russian Federation to the European Court of Human Rights.

3. On 16 June 2016 Mr Magomedov requested, under Rule 39 of the Rules of Court, that the Court prevent the applicant's removal to Kyrgyzstan, referring to a risk of treatment contrary to Article 3 of the Convention at the hands of Kyrgyz authorities.

4. On 20 June 2016 the Court decided to suspend examination of the request until the applicant had supplied the necessary supporting documents (a list of the missing documents was provided in the letter). The deadline for submitting the documents together with a duly completed application form was set for 18 July 2016.

5. On 17 July 2016 some – but not all – of the requested documents were submitted to the Court, but no application form was received.

6. On 20 July 2016 the request for an interim measure was denied by the Court due to the absence of the requested documents. At the same time the representative was informed that if the applicant submitted the requested documents he could ask for his request to be reconsidered.

7. Between 20 and 28 July 2016 the Court received no letters from either the applicant or his representative.

8. On 28 July 2016 Mr Magomedov submitted a new request for an interim measure under Rule 39 of the Rules of Court. However, no application form was received by the Court.

9. On 29 July 2016 the Court decided, in the interests of the parties and the proper conduct of the proceedings before it, to indicate to the Government, under Rule 39, that the applicant should not be removed from the territory of Russia for the duration of the proceedings before the Court.

10. The Court also decided, under Rule 54 § 2 (b), that notice of the application should be given to the Government and that they should be invited to submit written observations on the admissibility and merits of the case. The time-limit for submission of the observations was to be reckoned from the date on which the applicant's application form had been forwarded to the Government. The applicant was repeatedly asked to forward the completed application form to the Court before 26 August 2016.

11. Between 29 July and 5 October 2016 the Court received no letters from either the applicant or his representative.

12. On 5 October 2016 the Russian Government submitted a letter to the Court. In the relevant part it read as follows:

> "... It appears that the application form has not been submitted to the Court so far. Moreover, the Russian Government draw the Court's attention to the fact that on 28 July 2016, i.e. before the indication of interim measures by the Court and notification of the Government of the above application, the decision on the applicant's expulsion was enforced.
>
> Finally, so far the applicant's representative has not presented any evidence confirming the fact that he maintains contact with the applicant and that the applicant is still willing to pursue the above application before the Court.
>
> In the light of the above circumstances, the Russian Government do not find it necessary to submit their observations on the applicant's complaints and believe that the above application should not be examined by the Court."

13. On 11 October 2016 the Court sent a letter to the applicant's representative stating that no reply to its letter of 29 July 2016 requesting him to submit the duly completed application form had been received. Mr Magomedov was asked to inform the Court whether the applicant wished to maintain his application and to submit the documents referred to in the above letter before 28 October 2016.

14. On 27 October 2016 the applicant's representative submitted the following letter to the Court:

> "I hereby notify the Court that the communication with the Applicant was lost after he has been expelled to Kyrgyzstan. Accordingly, we estimate that the continuation of the case is unnecessary."

15. No application form had been submitted to the Court.

THE LAW

16. In the light of the foregoing, and in the absence of any special circumstances regarding respect for the rights guaranteed by the Convention or its Protocols, the Court, in accordance with Article 37 § 1 (a) of the Convention, considers that it is no longer justified to continue the examination of the application.

17. In view of the above, it is appropriate to strike the case out of the list and to discontinue the application of Rule 39 of the Rules of Court.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases.

Done in English and notified in writing on 19 January 2017.

Fatoş Aracı
Deputy Registrar

Helena Jäderblom
President