



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

FIRST SECTION

Application no. 11059/12
Nizamudin Mingazhudinovich ALIYEV and Madina Gadzhimagomedovna
GADZHIYEVA
against Russia
lodged on 22 February 2012

STATEMENT OF FACTS

THE FACTS

The applicants, Mr Nizamudin Aliyev, who was born in 1960 and Ms Madina Gadzhiyeva, who was born in 1987, are Russian nationals who live in Dagestan. They are represented before the Court by lawyers of the Legal Assistance Astreya, an NGO registered in Moscow. The first applicant is the father of Mr Sirazhudin Aliyev, who was born in 1988, and the second applicant is the wife of Mr Gazimagomed Abdullayev, who was born in 1988.

The facts of the case, as submitted by the parties, may be summarised as follows.

The circumstances of the case

The applicants allege that their relatives were abducted by State agents in the afternoon on 21 January 2012 when driving on a street in Makhachkala, Dagestan. According to the applicants' submission, the two young men were driving in Gazimagomed's *VAZ-Kalina* car to pick up money from a person who owed it to a relative of theirs, when they were stopped by a group of several armed men in the traffic police uniforms who drove in a white Toyota car and a black *VAZ-Priora* car. The men hit Gazimagomed's car with truncheons, forced Sirazhudin and Gazimagomed out, put them separately into their vehicles and drove away. Shortly after that Gazimagomed's car disappeared from the place of the incident. According to the applicants', their relatives were taken to the premises of the Dagestan Centre on Terrorism Counteraction (the CTC) in Makhachkala.

On the same date the applicants complained about the abduction to the Investigations Department of the Leninskiy district prosecutor's office in Makhachkala.

On 28 January 2012 the flat of Gazimagomed's sister was searched by police officers from the CTC.

On 31 January 2012 the Investigations Department initiated a criminal investigation into the abduction under Articles 126 and 162 of the Criminal Code (kidnapping and highway robbery) and the case file was given the number 20150. On 15 and 17 February 2012 the applicants were granted victim status in the criminal case.

According to the applicants, on 2 February 2012 they learnt from unspecified sources that their relatives had been initially detained on the premises of the CTC in Makhachkala, Dagestan, and then, about two days later, taken to the premises of the CTC headquarters in the Stavropol Region.

On 22 February 2012 the applicants requested the Court to apply Rules 39-41. They asked the Court to indicate to the Russian Government under Rule 39 to take prompt and effective measures to protect their relatives against the risk of disappearance and inform them of their relatives' whereabouts. Under Rules 40 and 41 they requested the Court to urgently inform the authorities of the Russian Federation of the introduction of the application and to grant it priority.

On 24 February 2012 the President decided to put factual questions to the Government and requested that they produce relevant documents from the investigation file.

On 5 April 2012 the Government informed the Court that they did not have any information concerning the whereabouts of the applicants' relatives. They provided copies of documents from the investigation file comprising 52 pages and reflecting the measures taken by the prosecutor's office from 21 January to 27 February 2010. The latter included primarily information requests to local law-enforcement bodies, hospitals and detention centres.

The above information was submitted to the applicant for comments. On 18 May 2012 they informed the Court that they maintained their request for the application of Rule 39 of the Rules of Court and alleged that the investigation of the disappearance had been ineffective and that the Government had failed to submit the copies of all the relevant documents. In particular, the applicants stated that the authorities had procrastinated with the opening of the criminal case and had not taken basic investigative measures such as questioning of witnesses and identification of the abductors' vehicles.

Rule 39 was refused on 6 June 2012.

COMPLAINTS

Referring to Articles 5 and 13 of the Convention the applicants allege that their relatives were unlawfully arrested and detained on the suspicion of terrorist activities.

QUESTIONS TO THE PARTIES

1. The Government are requested to inform the Court whether on 21 January 2012 Mr Sirazhudin Aliyev and Mr Gazimagomed Abdullayev were arrested in Makhachkala, Dagestan. If so, have the persons who detained them been identified and questioned in the context of the investigation into their abduction? If the applicants' relatives were arrested, then on what legal basis and what happened to them afterwards? In particular, were they detained after the arrest on the premises of the Dagestan Centre on Terrorism Counteraction (the CTC), and then taken to the premises of the headquarters of the CTC in the Stavropol Region?

2. Were Mr Sirazhudin Aliyev and Mr Gazimagomed Abdullayev deprived of their liberty, within the meaning of Article 5 § 1 of the Convention? If such detention took place, was it in compliance with the guarantees of Article 5 §§ 1 – 5 of the Convention?

3. Have the applicants had at their disposal effective domestic remedies in relation to the alleged violation of Article 5 of the Convention, as required by Article 13 of the Convention?

4. The Government are requested to submit a copy of the entire investigation file in criminal case no. 20150 instituted in connection with the abduction of Sirazhudin Aliyev and Gazimagomed Abdullayev.