



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

FIRST SECTION

Application no. 33539/12
Zukhra MUTAYEVA and Ayshat ISMAILOVA
against Russia
lodged on 2 June 2012

STATEMENT OF FACTS

THE FACTS

The applicants, Ms Zukhra Mutayeva, who was born in 1980, and Ms Ayshat Ismailova, who was born in 1971, are Russian nationals who live in Dagestan. They are represented before the Court by Mr Dokka Itslayev, a lawyer practising in Grozny.

The first applicant is the wife of Mr Kamil Mutayev, who was born in 1976, and the second applicant is his sister.

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

The circumstances of the case

According to the applicants, between 2010 and 2012, their relative Kamil Mutayev had been detained on at least three occasions by representatives of law-enforcement agencies on the suspicion of illegal activities and subsequently released. In particular, in 2010 he had been detained on remand for about six months on the suspicion of illegal possession of fire-arms and use of force against a representative of the State and then subsequently sentenced to two years of suspended imprisonment.

The applicants allege that Kamil Mutayev was abducted by State agents at about 1 p.m. on 2 May 2012 from Shamil Street in the centre of the town of Kizilyurt, Dagestan, in the presence of a number of local residents. He and his twelve-year old son Muradis were driving in their car when they were blocked by two silver-coloured 'VAZ-Priora' cars, one of which had the official registration number containing digits '78'. Eight masked men in black uniforms, armed with pistols and machine guns, got out of the *Priora*

cars, knocked Kamil Mutayev off his feet and forced him in one of their vehicles. They threatened his son with fire-arms and ordered him to stay away. The abduction took place in about two hundred metres from the district department of the interior and the public prosecutor's office.

Within one hour of the events, on 2 May 2012, the applicants complained about the abduction to the Kizilyurt department of the interior (the OVD). On 14 May 2012 the applicants complained about the events to the Kizilyurt town prosecutor's office. On the same date the latter initiated a criminal investigation into the abduction. The applicants were informed thereof on 24 May 2012.

Following the applicant's request to apply Rule 39, on 8 June 2012 the Court requested the Government to submit information concerning Mr Mutayev's possible detention by the authorities as well as documents reflecting the investigation into the matter. On 6 July 2012 the Government informed the Court that they did not have any information concerning the whereabouts of the applicants' relative and stated that the investigation was under way.

The Government did not dispute the facts as presented by the applicants. They provided copies of documents from the investigation file on 43 pages reflecting the measures taken by the investigation from 14 May to 27 June 2012. According to the information supplied by the local police to the investigators, Mr Kamil Mutayev was a member of an illegal armed group, belonged to an extremist religious movement and, therefore, most probably, staged his abduction.

The above information was submitted to the applicants for comments. On 27 September 2012 they informed the Court that they had nothing to add either to their request for the application of Rules 39-41 or to comment on the information furnished by the Government.

COMPLAINTS

Referring to Articles 5 and 13 of the Convention the applicants allege that their relative was unlawfully arrested and detained on the suspicion of terrorist activities. They complain that his detention took place under life-threatening circumstances and that they have not had any news of his whereabouts for a significant period of time.

QUESTIONS

1. The Government are requested to inform the Court whether on 2 May 2012 Mr Kamil Mutayev was arrested in Kizilyurt, Dagestan. If so, have the persons who detained him been identified and questioned in the context of the investigation into his abduction? If the applicants' relative was arrested, then on what legal basis and what happened to him afterwards?

2. Has the right to life, as guaranteed by Article 2 of the Convention, been violated in respect of Mr Kamil Mutayev? Having regard to the procedural protection of the right to life under Article 2 of the Convention (see *Salman v. Turkey* [GC], no. 21986/93, § 104, ECHR 2000-VII), was the investigation conducted by the domestic authorities into the abduction of Mr Kamil Mutayev sufficient to meet their obligation to carry out an effective investigation, as required by Article 2 of the Convention?

3. Was Mr Kamil Mutayev deprived of his 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?

4. Have the applicants had at their disposal effective domestic remedies in relation to the alleged violation of Articles 2 and 5 of the Convention, as required by Article 13 of the Convention?

5. The Government are requested to submit a copy of the entire investigation file in criminal case no. 207127 instituted in connection with the abduction of Mr Kamil Mutayev.