



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

FIRST SECTION

DECISION

Application no. 38770/10
Zhansar Abazovna SHALAYEVA
against Russia

The European Court of Human Rights (First Section), sitting on 16 October 2012 as a Committee composed of:

Peer Lorenzen, *President*,

Elisabeth Steiner,

Khanlar Hajiyeu, *judges*,

and André Wampach, *Deputy Section Registrar*

Having regard to the above application lodged on 9 June 2010,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Ms Zhansar Abazovna Shalayeva, is a Russian national, who was born in 1962 and lives in Alkhazurovo. The Russian Government (“the Government”) are represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

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

A. Abduction of the applicant’s relative

On 9 October 2001 the Russian federal forces carried out a sweeping-up operation in the settlement of Alkhazurovo in the Urus-Martan district in Chechnya. At around 8 p.m. a group of armed servicemen in camouflage uniforms broke into the applicant’s family house. They introduced

themselves as servicemen from the military commander's office and took away the applicant's brother-in-law Mr Salamu Shalayev, who was born in 1976.

On the following morning another Alkhazurovo resident, Mr Kh. Sugaipov, was arrested at home by the same servicemen.

According to the applicant, the servicemen had brought both the men to the former cattle farm on the outskirts of Alkhazurovo, where the military units were stationed. The applicant has not seen Mr Salamu Shalayev since his abduction on 9 October 2001.

B. The official investigation into the disappearance

On 26 November 2001 the Urus-Martan district prosecutor's office opened criminal case no. 25151. The investigation established that between 9 and 11 October 2001 the federal forces had conducted a sweeping-up operation in Alkhazurovo. Both arrested men, Mr Shalayev and Mr Sugaipov, had been taken to the troops' headquarters in the former cattle farm on the outskirts of Alkhazurovo.

On 20 March 2003 the applicant was granted victim status. It is unclear whether she contacted the investigative authorities between March 2003 and September 2008.

On 4 September 2008 the investigation was suspended for failure to identify the perpetrators. The applicant challenged this decision before the Achkhoy-Martan District Court. On 7 June 2010 the court rejected her complaint.

COMPLAINTS

The applicant complained under Articles 2, 5 and 13 about her relative's unlawful arrest and subsequent disappearance and the failure of domestic authorities to conduct an effective investigation into the events. Under Article 3 of the Convention she alleged that as a result of the disappearance of her brother-in-law she endured severe mental suffering.

THE LAW

The Court recalls Article 37 of the Convention which, in the relevant part, reads as follows:

"1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that

(a) the applicant does not intend to pursue his application;

...

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires.”

The Court observes that, by letter of 8 February 2012 the Government’s observations were sent to the applicant, who was requested to submit her observations together with any claims for just satisfaction in reply by 13 April 2012.

By letter dated 16 May 2012, sent by registered post, the applicant was notified that the period allowed for submission of her observations had expired on 13 April 2012 and that no extension of time had been requested. The applicant’s attention was drawn to Article 37 § 1 (a) of the Convention, which provides that the Court may strike a case out of its list of cases where the circumstances lead to the conclusion that the applicant does not intend to pursue the application. However, no response has been received.

The Court considers that, in these circumstances, the applicant may be regarded as no longer wishing to pursue her application, within the meaning of Article 37 § 1 (a) of the Convention. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of the case. In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court unanimously

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

André Wampach
Deputy Registrar

Peer Lorenzen
President