



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

FIRST SECTION

DECISION

Application no. 30146/11
Rita Salmanovna USPANOVA
against Russia

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

Linos-Alexandre Sicilianos, *President*,

Anatoly Kovler,

Erik Møse, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 19 April 2011,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Ms Rita Salmanovna Uspanova, is a Russian national, who was born in 1979 and lives in Sernovodsk.

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 15 July 2002 at around 2 a.m. a group of masked and camouflaged men armed with machineguns broke into the applicant’s house in Sernovodsk, the Sunzha District in Chechnya and took the applicant’s

husband, Mr Shadit (also spelt as Shadid) Magomayev, who was born in 1964, away. The intruders used four UAZ vehicles, two VAZ cars and a GAZ-24 lorry. According to witnesses, the vehicles departed in the direction of the Znamenskoye settlement.

A paper pass assigned to UAZ-3962 with the registration number 'C XX 95 rus' was found on the crime scene afterwards. The document provided unhindered passage through checkpoints and was signed by a local military commander.

Five other men, Mr A. Tazuyev, Mr A. Simonenko, Mr A. Israilov, Mr Kh. Gubashev and Mr M. Gazaliyev, were abducted from neighbouring houses on the same night. Mr Gazaliyev was subsequently released.

The applicant, who did not herself witness the abduction, has not seen her husband ever since.

B. Official investigation into the incident

On 17 July 2002 the Achkhoy-Martan district prosecutor's office opened criminal case no. 63049 on account of the abduction of Mr Sh. Magomayev, Mr A. Tazuyev, Mr A. Simonenko, Mr A. Israilov and Mr Kh. Gubashev. On an unspecified date the applicant was granted victim status in the criminal case.

It appears that the investigation attempted to establish the whereabouts of the disappeared men and identify the culprits by sending queries to different law-enforcement authorities, establishing the origin of the vehicles and questioning the applicant, her relatives, neighbours and local officials. The investigation established that the abducted men had not been involved in any criminal activity.

The investigation has been suspended and resumed on several occasions (the last suspension took place on 7 April 2011), without attaining any tangible result. In particular, the investigation remained suspended between April 2004 and July 2007 and July 2007 and March 2010. The applicant's complaint alleging that the investigation was ineffective was dismissed by the Urus-Martan Town Court on 28 March 2011 owing to the investigators' decision of the same date to resume the proceedings.

COMPLAINTS

The applicant complained under Articles 2, 5 and 13 about her husband's unlawful arrest and subsequent disappearance and the failure of domestic authorities to conduct an effective investigation into the events.

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 30 March 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 31 May 2012.

By letter dated 5 June 2012, sent by registered post, the applicant was notified that the period allowed for submission of her observations had expired on 31 May 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

Linos-Alexandre Sicilianos
President