



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

FIRST SECTION

DECISION

Application no. 62235/09
Lida Khamzatovna GAYSANOVA
against Russia

The European Court of Human Rights (First Section), sitting on 27 August 2013 as a Chamber composed of:

Isabelle Berro-Lefèvre, *President*,

Mirjana Lazarova Trajkovska,

Julia Laffranque,

Linos-Alexandre Sicilianos,

Erik Møse,

Ksenija Turković,

Dmitry Dedov, *judges*,

and Søren Nielsen, *Section Registrar*,

Having regard to the above application lodged on 25 November 2009,

Having regard to the decision of 23 February 2010 to grant priority to the application under Rule 41 of the Rules of Court,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Ms Lida Gaysanova, is a Russian national, who was born in 1946 and lives in the town of Nazran. She was represented before the Court by lawyers of the EHRAC/Memorial Human Rights Centre, NGOs with offices in Moscow and London. The Russian Government ("the Government") were represented by Mr G. Matyushkin, the Representative of the Russian Federation at the European Court of Human Rights.

A. The circumstances of the case

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

3. The applicant is the mother of Ms Zarema Gaysanova, born in 1969.

1. The background to the case

4. The applicant's property at 7 Second Darvina Lane in the village of Kalinin in the Leninskiy District of Grozny in the Chechen Republic comprises a house and a shed with a courtyard. At the time of the events described below, the house, heavily damaged during one of the Chechen military campaigns, was under reconstruction. The applicant's daughter, Zarema Gaysanova, who worked for the Grozny office of the Refugees' Council, a Dutch NGO, would regularly stay at the property for short and for longer periods of time.

*2. Disappearance of Zarema Gaysanova***(a) The applicant's account**

5. The applicant did not witness the abduction of her daughter. Her account of those events is based on information obtained from her neighbours in the village of Kalinin.

6. On 31 October 2009, while Zarema Gaysanova was at the applicant's property at Second Darvina Lane, the law-enforcement authorities launched a special operation in the village, aimed at eliminating members of illegal armed groups. During the operation, a man hid out in the applicant's property, which was blocked and shelled and caught fire. While the house was burning down, Zarema Gaysanova was pushed into a UAZ vehicle and taken away. After the house had burned to the ground, law-enforcement officers recovered a man's body. Shortly thereafter, the President and the Minister of the Interior of the Chechen Republic, Mr R. Kadyrov and Mr R. Alkhanov, arrived at the property. Mr Kadyrov, among other things, gave an interview to the local media, saying that a member of illegal armed groups had been "liquidated" in the applicant's house.

7. The applicant has had no news of Zarema Gaysanova since her disappearance.

(b) Information submitted by the Government

8. In their reply to the Court's request for information of 27 November 2009, the Government stated that the criminal case file concerning Zarema Gaysanova's disappearance (see below) contained information suggesting that on 31 October 2009 a special operation had been conducted in Kalinin. However, there was no indication that the applicant's daughter had been arrested in the course of that operation.

9. In their observations of 16 September 2010, the Government submitted that on 31 October 2009 the law-enforcement authorities had not carried out a “special operation”, but rather “operational and search activities” (*оперативно-розыскные мероприятия*). In conducting them, they had blocked A.Kh., a member of illegal armed groups, in 7 Second Darvina Lane and had “liquidated” him. Zarema Gaysanova had not been seen or arrested during those measures.

3. Press coverage of the special operation in the Kalinin village

10. On 31 October 2009 the press office of the Ministry of the Interior of the Chechen Republic (hereinafter “the MVD”) published information on its official website concerning the special operation conducted in Kalinin. The text of the press release, in so far as relevant, read as follows:

“Today, in the course of a special operation in a house in the Leninskiy District of Grozny, [MVD] officers located and liquidated a member of illegal armed groups. [In response to] the officers’ request to surrender his weapons the criminal offered armed resistance. In the ensuing fighting the house where the criminal was hiding out was set on fire ... The criminal was liquidated.

According to the Minister of the Interior, Ruslan Alkhanov, the fighting continued for fifteen minutes ...

...

‘The special operation aimed at liquidating the member of illegal armed groups was headed up by the President of the Chechen Republic Ramzan Kadyrov himself ... At the present moment a group of investigators is working at the crime scene’ ... ”

11. The press release was accompanied by a video, posted on the same website. It showed, from different angles, a red-brick house under reconstruction burning down; several dozen armed men wearing green/khaki and black and blue spotted camouflage uniforms surrounding the house, pointing their guns and moving around; firemen extinguishing the fire; a fire engine and several other vehicles parked near the burning house; and a number of armed men in camouflage uniforms and several plain-clothed men gathered in the vicinity. The applicant furnished a CD with a recording of the above video. She identified the burning building on the video as her house, namely 7 Second Darvina Lane in the village of Kalinin.

4. Proceedings concerning A.Kh.

12. On 31 October 2009 an investigator from the Leninskiy inter-district investigating department of the Investigative Committee with the Prosecutor’s Office of the Russian Federation in the Chechen Republic (hereinafter “the Leninskiy investigating department” or “the investigating department”) reported to his superiors that at 3.30 p.m. that day he had been informed about the “liquidation” of A.Kh., a member of illegal armed

groups, at 7 Second Darvina Lane in the Leninskiy District of Grozny. A.Kh. had been located at the above address at about 3 p.m.

13. According to the crime scene inspection report of 31 October 2009, from 4 p.m. to 6.45 p.m. that day the investigator, with the assistance of an expert and in the presence of three attesting witnesses, inspected the crime scene.

14. By letter of 7 November 2009 the investigating department informed the Minister of the Interior that at about 3 p.m. on 31 October 2009 the law-enforcement authorities had located A.Kh. at 7 Second Darvina Lane in the Leninskiy District of Grozny. A.Kh. had offered armed resistance to the law-enforcement officers and had been “liquidated” as a result of the ensuing fighting. The Minister was asked to examine the circumstances of A.Kh.’s “liquidation” and to inform the investigators of any decisions taken.

15. By decision of 10 November 2009 the investigating department refused to institute criminal proceedings into A.Kh.’s death, on the grounds that he had resisted arrest and that the law-enforcement officers had acted in self-defence. The decision referred to statements by five residents of Second Darvina Lane, including the applicant. The neighbours stated, among other things, that Zarema Gaysanova and her brother Ibragim had resided at 7 Second Darvina Lane and that their house had been under reconstruction. At about 3 p.m. on 31 October 2009 police officers had sealed off the area, including the applicant’s house. They had opened fire and the house had burned down. The applicant submitted that at about 6 p.m. on 31 October 2009 she had received a call from her neighbour, R.M. He had told her that a special operation had been carried out in the village, during which a man had entered her property, her house had been burnt down and her daughter had been pushed into a UAZ vehicle and taken to an unknown destination. The decision did not specify which law-enforcement agencies had carried out the operation.

5. Investigation into the disappearance of Zarema Gaysanova

(a) Information and documents submitted by the Government

16. Upon a request by the President of the First Section, on 10 and 21 December 2009 the Government submitted information and 160 pages of documents from case file no. 66094, opened into Zarema Gaysanova’s disappearance, for the period between 1 November and 5 December 2009. The documents submitted had double numbering.

17. Following a request by the Court to submit an entire copy of case file no. 66094 at the communication stage, the Government furnished a further 608 pages of documents for the period between 1 November 2009 and 11 May 2010. The documents were not numbered and the Government did not provide a separate index listing them. That set of materials contained new documents relating to the period between 1 November and 5 December

2009, which had not been submitted in December 2009. A significant number of documents, including interview records of witnesses, such as those of the applicant's neighbours from Second Darvina Lane, were submitted only in part, that is to say only pages containing the names and addresses of the witnesses were provided. Some of the documents were illegible and some, while identical in content, had different dates on them. In so far as the information contained in those materials was legible, it can be summarised as follows.

(i) Opening of the investigation

18. By letter of 3 November 2009 the acting prosecutor of the Leninskiy District of Grozny forwarded a complaint by the applicant dated 1 November 2009 about the abduction of her daughter to the investigating department, instructing the latter to examine it.

19. On 8 November 2009 the Leninskiy investigating department extended the time-limit for the examination of the applicant's complaint until 15 November 2009. The decision stated that the investigators had interviewed the applicant and sent various queries to the Leninskiy District Department of the Interior (hereinafter "the Leninskiy ROVD") and that further steps were to be taken, such as inspecting the crime scene and identifying and interviewing possible witnesses, including the applicant's neighbour R.M. and the officers who had conducted the special operation on 31 October 2009.

20. On 10 November 2009 the Leninskiy ROVD forwarded the applicant's complaint about her daughter's abduction to the Leninskiy investigating department. In the applicant's submission, in the complaint to the ROVD and explanatory letter, both of which were dated 1 November 2009, the date had been changed from "1" to "9" November.

21. On 16 November 2009 the Leninskiy investigating department launched an investigation into the abduction of Zarema Gaysanova under Article 126 § 2 of the Criminal Code (aggravated abduction). The case file was assigned the number 66094. The decision stated that at about 5.30 p.m. on 31 October 2009 unidentified persons in camouflage uniforms, driving a UAZ vehicle, had abducted Zarema Gaysanova from 7 Second Darvina Lane in the Leninskiy District of Grozny, and had taken her to an unknown destination. On the same date the applicant was granted victim status in the proceedings.

(ii) Interviewing of witnesses

22. After the investigation was opened, the authorities interviewed a significant number of witnesses, including the applicant's neighbours, the workers who had been carrying out the reconstruction of the applicant's house, some police officers from the Argun Department of the Interior (hereinafter "the Argun OVD"), who had participated in the special

operation, the firemen who had put out the fire at the applicant's house after the operation, Zarema Gaysanova's colleagues, the applicant's relatives in Nazran, and a number of other people.

23. According to the applicant's "explanations" (*объяснение*) of 9 November 2009, she stated that, before being abducted, her daughter had resided at 7 Second Darvina Lane, which was under reconstruction. Zarema had worked for the Grozny office of the Dutch Refugees' Council. The applicant's son Ibragim had stayed with Zarema on several occasions. Between 6 and 7 p.m. on 31 October 2009 the applicant's neighbour, R.M., had told her over the phone that at about 3.30 p.m. that day the law-enforcement authorities had conducted a special operation in the village. In the course of the operation a man had rushed into the applicant's courtyard, her house had been burnt to the ground and her daughter had been forced into a UAZ vehicle and taken to an unknown destination.

24. A further decision granting the applicant victim status was issued on 10 December 2009. Interviewed that day, the applicant stated, among other things, that between 10 and 11 a.m. on 31 October 2009 she had spoken to her daughter on the phone about the re-roofing of the house, which was being done by workers that day. The applicant had tried to call her daughter after lunch, but there had been no answer. At about 6.40 p.m. that day the applicant's neighbour R.M. had told the applicant over the phone that officers of the police or the military forces had carried out a special operation in the village, during which her house had been burnt down and a man's body had been recovered. In conducting the operation, the officers involved had stopped residents from leaving their houses. R.M. had seen through a window that several officers, wearing camouflage uniforms and armed with assault rifles, had pushed a woman wearing a well-worn pink dressing gown into a UAZ vehicle and taken her to an unknown destination. R.M. had recognised Zarema Gaysanova by what she had been wearing. In the applicant's submission, another neighbour, Z.S., had told her that one of the men in a camouflage uniform, who had been in Z.S.' house during the operation, had asked over his radio transceiver "whether the others had shown the body to the woman". At the same moment Z.S. had heard a woman shouting, at which point the man had asked his colleagues if they had put the woman into the car, which they had confirmed. After that the man had told Z.S. that "they had killed the devil", that Z.S. could now relax and that they were leaving. While at Z.S.' house, the camouflaged man had asked her numerous questions about the Gaysanov family, their connections and occupations. The applicant also submitted that R.M. resided in Moscow and that on 31 October 2009 he had come to Kalinin to visit his brother A.M.

25. Most of the neighbours interviewed by the investigators confirmed that a special operation had taken place at Second Darvina Lane on 31 October 2009 and that the area had been sealed off by the security forces,

but denied having seen Zarema Gaysanova being taken away. T.Kh.A., who lived at 12 Second Darvina Lane, was interviewed on 11 May 2010. She stated that at about 3.30 p.m. on 31 October 2009 she had seen a large group of men on the street armed with assault rifles and wearing spotted camouflage uniforms, and also a UAZ vehicle. One of the officers had ordered her to get back inside the house and to close the door. Shortly thereafter, she had heard intensive gunfire and had seen no. 7 burning down. Sometime later, police officers had come to her house to question her, among other things, as to whether she had known Zarema, Ibragim Gaysanov's sister.

26. Construction workers A.Yu.Zh., A.A.D., A.V.L., B.I.B and A.Yu.A. confirmed that since the end of 2009 they had been doing work on the applicant's house, where Zarema Gaysanova, and occasionally her brother Ibragim, had lived. The workers said that the last time they had seen Zarema was on 31 October 2009, and that they had learnt about the special operation that evening. When they had arrived at the applicant's house at about 11 a.m. on 1 November 2009, there had been a large group of law-enforcement officers inspecting the property and the surrounding area. The officers had asked the workers questions about the owners of the house and if they knew anything about their connections and habits, without taking down any notes. According to the workers, they had learnt about Zarema's abduction from the police officers gathered at the property on 1 November 2009. When re-interviewed by the investigators at later dates, some of the workers changed their version of events and stated that they had learnt about the abduction from the applicant.

27. Another construction worker, A.M.B., submitted that after lunch on 31 October 2009 Zarema Gaysanova had returned home with a taxi driver, Yu.A.B. After Yu.A.B. had left, he and Zarema had talked in the shed over a cup of tea, and at about 3.10 p.m. she had gone in the house, and he had carried on working. Some ten minutes later he had heard heavy footsteps in the courtyard and had seen seven unmasked men in camouflage uniforms, all armed with assault rifles. One of them had asked him in Chechen: "Where has he gone?", to which A.M.B. had replied: "Who are you talking about? I am working here". Shortly thereafter something had exploded inside the house, after which there had been intensive gunfire. A.M.D. had heard someone shout in Chechen: "Throw grenades, protect our men!" The officers had been shooting at the house, shouting "Allah Akbar!". A.M.D. had shouted to them: "Why are you shooting at the house? There is a woman inside!", but no one had paid any attention. After the shooting had stopped, A.M.D. had managed to make his way outside the courtyard, where he had seen officers sealing off the area. The officers had appeared ready for a further shootout. An officer at the gate had ordered him to leave. Several moments later A.M.B. had called Zarema Gaysanova on her mobile phone, but there had been no answer.

28. The taxi driver Yu.A.B. stated that at about noon on 31 October 2009 he had picked up Zarema Gaysanova to take her shopping, and had seen some workers, including A.M.D., repairing the roof. He had brought her back home at around 1 p.m. That evening he had met A.M.B., who had told him about the special operation at Second Darvina Lane. At about 8.30 p.m. Yu.A.B. had called Zarema, but her mobile phone had been switched off.

29. Seven police officers from the Argun OVD stated that at about 4.30 p.m. on 31 October 2009, ten of them had been deployed to 7 Second Darvina Lane following a tip-off that A.Kh., a member of illegal armed groups, had been hiding out there. Upon arrival some of them had surrounded the house and others had lain in wait in the courtyard of a neighbouring property. Officers of other law-enforcement authorities had also participated in the operation. A.Kh. had been asked to surrender, but had opened fire. A grenade had exploded in the yard, after which there had been intensive gunfire and the house had been stormed. The house had caught alight, and firemen had subsequently put out the fire. The burnt remains of a man had been recovered from inside. All police officers denied having seen Zarema Gaysanova or knowing anything about her abduction.

(iii) Further investigative steps

30. In the course of the investigation the authorities took an important number of investigative steps, such as (i) inspecting the crime scene on several occasions; (ii) requesting various State bodies to provide information on Zarema Gaysanova's possible arrest or detention in detention facilities in the Chechen Republic and the neighbouring regions, and the existence of pending criminal proceedings against her or her possible involvement with members of illegal armed groups; (iii) verifying whether she had left the Chechen Republic by plane or train; (iv) publishing information in the regional media about the search for her; and (v) tapping her mobile phone between 21 and 31 October 2009.

31. It appears that those measures did not allow the investigators to establish the whereabouts of the applicant's daughter.

32. On 11 December 2009 the investigators received an operational report (*оперативная сводка*) from the MVD concerning the events of 31 October 2009. In so far as relevant, the document read as follows:

"...

Leninskiy District. Military clash.

At 6.15 p.m. on 31 October 2009 the [MVD] front desk was informed ... that at 3.30 p.m. on 31 October 2009 in a deserted half-ruined house at 7 Second Darvina Lane, Grozny ... officers from the Argun [OVD], the Leninskiy [ROVD], the 8th Company of the 2nd Regiment of the [MVD] Traffic Police and the head of the Argun town administration office's security service had blocked a member of illegal armed

groups, who had offered armed resistance during his apprehension and had been liquidated. ...

Present [during the operation]: Minister of the Interior R.Sh.A.; deputy Minister of the Interior R.L.E; chief of the Grozny criminal police Sh.; chief of the Department of the Interior Ir.; chief of the criminal police of the Department of the Interior Is.; chief of the public security police of the Department of the Interior Ba., his deputy Bu.; acting chief of the Criminal Investigation Directorate of the Department of the Interior M.; an investigator from the Leninskiy investigating department A.; the [entire] operational investigating group of the [MVD], the operational investigating group of the Department of the Interior, the Leninskiy District [of Grozny] operational investigating group of the Temporary Alignment of Departments of the Ministry of the Interior of the Russian Federation in the North Caucasian Region..."

33. On 5 April 2010 the investigators informed their superiors that they had been unable to interview the President of the Chechen Republic, Mr Kadyrov, who had, in the applicant's submission, headed up the special operation on 31 October 2009. It was proposed that the investigators' superiors take steps to agree a place and time with him for that investigative measure to be carried out.

(iv) Information concerning the pace of the investigation

34. On 5 December 2009 the Leninskiy investigating department issued a formal warning (*представление*) in respect of the chief of the Leninskiy ROVD. The document stated that the ROVD had failed to carry out any of the investigative measures indicated by the investigating department, thereby hampering the investigation and precluding it from establishing the circumstances of Zarema Gaysanova's abduction. The chief of the ROVD was instructed to take the necessary steps to remedy those shortcomings and to consider issuing disciplinary proceedings against those responsible for the inaction. On 9 December 2009 the investigators issued a further order for the attention of the ROVD, stressing that their earlier instructions had not been complied with and urging the chief of the ROVD to oversee the matter.

35. On 7 December 2009 the investigation in case no. 66094 was entrusted to investigating department no. 2 (Serious Crimes) of the Investigating Committee with the Prosecutor's Office of the Russian Federation in the Chechen Republic (hereinafter "investigating department no. 2").

36. On 9 December 2009 it was decided that the investigation was to be conducted by a group of investigators because there was evidence to suggest that members of security forces had been implicated in the abduction of Zarema Gaysanova. The group was to consist of investigators from the Leninskiy investigating department, investigating department no. 2 and officers from the Leninskiy ROVD.

37. On 11 January 2010 the time-limit for the investigation in case no. 66094 was extended beyond two months, owing to the number of

investigative steps to be taken. The decision also stated that the investigation was severely hampered by the persistent refusal of the law-enforcement authorities involved in the operation of 31 October 2009 to provide information about their officers who had participated in it.

38. By letter of 27 January 2010 the investigators asked the Minister of the Interior to personally oversee the execution of the requests they had addressed to his subordinates in connection with the investigation in case no. 66094. The letter stressed that the Leninskiy ROVD, the Argun OVD, the 8th Company of the 2nd Regiment of the MVD Traffic Police and the Minister himself had persistently disregarded the investigators' repeated requests for information concerning the officers who had participated in the special operation on 31 October 2009. Moreover, officers M.A.B, D.R.V, I.D.G. and R.Z.A. of the Argun OVD, who as a result of the investigation had been established as having taken part in the operation, had blatantly refused to be interviewed. The Minister was asked to look into the matter and to initiate disciplinary action where appropriate in connection with the above.

39. On 16 June and 30 September 2010 the investigation was suspended.

40. In the Government's submission, the investigation in case no. 66094 is pending.

(b) Information submitted by the applicant

41. The applicant stated that, as of February 2010, she had received no specific information on the investigation into her daughter's disappearance and that she had learnt about its progress from the documents the Government submitted to the Court.

6. The applicant's complaints about the investigation

42. On 30 April and 30 August 2010 the applicant complained to the Leninskiy District Court of Grozny that the investigators had refused to grant her access to the case file concerning the investigation into her daughter's disappearance.

43. By decisions of 11 May and 5 October 2010 the court granted the applicant's complaints.

B. Relevant domestic law

44. For a summary of the relevant domestic law see *Aslakhanova and Others v. Russia* (nos. 2944/06, 8300/07, 50184/07, 332/08 and 42509/10, §§ 43-59, 18 December 2012).

COMPLAINTS

45. The applicant complained under Article 5 of the Convention that her daughter's arrest and ensuing detention by State agents, as well as the domestic authorities' failure to take effective measures to safeguard her against the risk of disappearance by properly investigating her abduction, had violated Article 5 of the Convention, taken as a whole.

46. She also complained under Article 13 of the Convention that she had not had effective remedies in respect of her complaints under Article 5.

THE LAW

47. The applicant complained under Articles 5 and 13 of the Convention about the disappearance of her daughter and of a lack of effective remedies. Upon giving notice of the application to the Government the Court decided, of its own motion, to put questions as to whether the above set of facts had given rise to a violation of Articles 2 and 3 of the Convention and Article 13 taken in conjunction with Article 2. These provisions read as follows:

Article 2

"1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection."

Article 3

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

Article 5

"1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- (a) the lawful detention of a person after conviction by a competent court;

(b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

(d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.”

Article 13

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

A. Submissions by the parties

48. The Government emphasised that on 31 October 2009 the law-enforcement authorities had not conducted a “special operation” (*специальная операция*), but rather “operational and search activities” (*оперативно-разыскные мероприятия*) at 7 Second Darvina Lane. They submitted that none of the Argun OVD officers or neighbours had seen Zarema Gaysanova on the premises or being arrested by the law-enforcement authorities. Her body had not been recovered and there was no evidence to suggest that she was dead. The numerous investigative steps taken by the national authorities indicated that the investigation into the disappearance satisfied the Convention requirement of effectiveness.

With reference to the case of *Szula v. the United Kingdom* ((dec.), no. 18727/06, 4 January 2007), the Government submitted that the applicant did not enjoy an absolute right to have the perpetrators of the crime prosecuted or convicted. She had been granted victim status in connection with the investigation into her daughter's disappearance and the national authorities had properly secured her effective participation in those proceedings. Contrary to the applicant's submission, she had had effective domestic remedies in respect of her complaints at her disposal.

49. Analysing in detail various statements by witnesses and, in particular, the officers who had participated in the special operation on 31 October 2009, the applicant stressed that her daughter had disappeared from an area which had been sealed off by the law-enforcement authorities. She argued that there existed evidence "beyond reasonable doubt" that Zarema Gaysanova's disappearance had been attributable to the actions of State agents and that she was to be presumed dead. In the applicant's submission, there had been unjustified delays in opening the proceedings in case no. 66094 and the investigators had not enjoyed practical independence. By September 2010 they had neither identified nor interviewed all the law-enforcement officers involved in the special operation and the police were, in essence, sabotaging the investigation. No attempts had been made to establish which vehicles had been used on 31 October 2009 and to which law-enforcement authorities they belonged. The applicant had been obliged to apply to the authorities to take basic investigative steps. Contrary to the Government's submission, she had not been provided with sufficient information on the developments in the investigation and had had to raise the matter before the national courts. There had been a systemic failure on the part of the authorities to investigate disappearances in Chechnya.

50. The applicant further submitted that her daughter's unacknowledged detention constituted a grave violation of the Convention. Lastly, she argued that the ineffectiveness of the criminal investigation into the disappearance undermined the effectiveness of any other remedies that may have existed.

B. The Court's assessment

51. In the light of the parties' submissions, the Court finds that the application raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. It concludes that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other grounds for declaring them inadmissible have been established.

For these reasons, the Court unanimously

Declares the application admissible, without prejudging the merits of the case.

Søren Nielsen
Registrar

Isabelle Berro-Lefèvre
President