



THIRD SECTION

**CASE OF SELIPETOVA v. RUSSIA**

*(Application no. 7786/15)*

JUDGMENT

STRASBOURG

12 October 2021

*This judgment is final but it may be subject to editorial revision.*



**In the case of Selipetova v. Russia,**

The European Court of Human Rights (Third Section), sitting as a Committee composed of:

Georgios A. Serghides, *President*,

Anja Seibert-Fohr,

Frédéric Krenc, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the application (no. 7786/15) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Russian national, Ms Lyudmila Ivanovna Selipetova (“the applicant”), on 5 February 2015;

the decision to give notice to the Russian Government (“the Government”) of the application;

the parties’ observations;

Having deliberated in private on 21 September 2021,

Delivers the following judgment, which was adopted on that date:

## INTRODUCTION

1. The present case concerns the effectiveness of the criminal investigation of the applicant’s son’s death during his compulsory military service.

## THE FACTS

2. The applicant was born in 1953 and lives in Taganrog, Rostov Region. The applicant was represented by Ms T.I. Sladkova, a lawyer practising in Moscow.

3. The Government were initially represented by Mr G. Matyushkin and Mr M. Galperin, Representatives of the Russian Federation to the European Court of Human Rights, and then by their successor in that office, Mr M. Vinogradov.

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

5. On 20 June 2007 the applicant’s son, Mr V.S., was called up for compulsory military service. From July 2007 he served in military unit no. 66431 in Vladikavkaz, Republic of North Ossetia.

6. On 7 August 2008 the applicant was informed of her son’s death.

## I. INITIAL INVESTIGATION INTO THE DEATH OF THE APPLICANT'S SON

7. On 7 August 2008 a criminal investigation into possible incitement to suicide was opened. An investigator inspected the scene of the incident and questioned V.S.'s direct commander, Junior Sergeant K. The latter stated that on the night of 6 August 2008 their platoon had been deployed to the south exit of the Roki tunnel connecting North and South Ossetia. V.S. took over guard duty at a fire position. Soon afterwards K. and other soldiers heard the sound of a shot. They did not understand from where the sound had come and took cover. About a minute later they heard another shot and ran to V.S.'s fire position. There they found V.S. sitting in the trench, with blood on his face and holding his rifle vertically in his right hand. The nozzle was directed upwards, about fifty centimetres away from his head. V.S.'s hand was close to the trigger, and some time later the rifle went off for a third time. The officers removed the rifle and administered first aid to the soldier. He was then placed in a vehicle and taken to receive medical attention but died during transportation. K. described V.S. as a lively, outgoing person who had had no disagreements with other soldiers or with his commanding officers. As far as he was aware, V.S. had no known personal or family issues. His regular medical check-ups had revealed no injuries. K. believed that V.S. had been in high spirits when he had taken over guard duty; he had reassured his commanding officer that he was "not just a young conscript".

8. In August and September 2008 forensic experts performed a number of examinations of the deceased's body and the rifle and issued their reports.

## II. FIRST DECISION TO TERMINATE THE INVESTIGATION

9. On 13 March 2009 the criminal investigation was suspended for lack of suspects by a decision that was backdated to 7 October 2008. On 17 March 2009 the suspension decision was quashed.

10. The applicant was informed of the investigation into her son's death when she was questioned as a witness on 1 April 2009.

11. On 7 April 2009 the case was transferred to a new investigator on account of "numerous violations and delays" attributed to the previous investigator.

12. In April and May 2009 another two forensic reports were issued, including one on V.S.'s psychological state prior to his death.

13. On 8 June 2009 the criminal investigation was closed. The investigator relied on the expert reports and witness statements given by V.S.'s parents and neighbours. He dismissed the parents' allegations of

possible ill-treatment or murder as unfounded and concluded that the conscript had taken his own life.

### III. SECOND DECISION TO TERMINATE THE INVESTIGATION

14. On 23 July 2009 the applicant lodged a complaint with the military investigating authorities about the lack of information regarding the investigation into her son's death. On 25 August 2009 the applicant lodged a further complaint, asking, *inter alia*, for information about the decision to terminate the investigation. On 11 September 2009 the local military prosecutor's office informed the applicant that it had instructed the investigator to re-examine the decision to close the criminal investigation into her son's death.

15. On 15 October 2009 the applicant lodged a request to be granted victim status in the criminal investigation and to be provided with access to the case file.

16. On 30 October 2009 the decision of 8 June 2009 to close the investigation was quashed as incomplete and unfounded; in particular, with the exception of one witness, no other soldiers had been questioned, none of V.S.'s medical records had been examined, and the exact place of death had not been determined.

17. On 11 January 2010 the investigation was resumed. On 21 January 2010 the applicant was granted victim status.

18. On 11 February 2010 the criminal investigation was closed again. The wording of that decision essentially replicated that of the earlier decision of 8 June 2009.

### IV. THIRD DECISION TO TERMINATE THE INVESTIGATION

19. On 27 April 2010 the applicant was provided with access to the case file. After she lodged another complaint with the military investigating authorities, the criminal investigation was reopened on 15 October 2010 on the grounds that the investigator had failed to comply with the instruction to rectify the deficiencies in his investigation.

20. On 10, 12 and 15 November 2010 the investigator questioned three soldiers who had been on guard duty at other fire positions on 6 August 2008. All described the events in question in a manner similar to that in which K. had described them. None of the witnesses could suggest any reason for suicide.

21. On 23 November 2010 experts issued an additional report on the psychological state of V.S. before his death.

22. On 25 November 2010 the case was closed again. The decision mainly repeated the earlier decisions to terminate the investigation, with additional references to the three witness statements and the second

psychological report. Given the lack of any evidence suggesting ill-treatment or murder, the investigator again concluded that V.S. had killed himself.

#### V. FOURTH DECISION TO TERMINATE THE INVESTIGATION

23. In February 2011 the applicant learned of the decision of 25 November 2010 to close the case. In May 2011 she studied the case file. The applicant contested the above decision before a first instance court. On 12 November 2012 the superior investigating authorities quashed the decision of 25 November 2010. The investigator in charge was instructed to provide the applicant with certain information related to the expert examinations and reports. On 13 November 2012 the Vladikavkaz Garrison Military Court closed the proceedings on the grounds that by that date the contested decision had been quashed.

24. On 16 January 2013 the investigation was resumed. On 7 and 8 February 2013 two more witnesses were questioned. Their statements essentially repeated K.'s description of the events.

25. The applicant was given the opportunity to examine the orders for the expert examinations and the expert reports. On 16 February 2013 the case was closed again, with the same conclusion. The decision to terminate the investigation relied on the same evidence, with the addition of the two witness statements.

#### VI. FIFTH AND SIXTH DECISIONS TO TERMINATE THE INVESTIGATION

26. The applicant was not informed of the decision of 16 February 2013 to close the case. In May 2013 she enquired about the progress of the investigation and was informed that it had been terminated. The applicant lodged a complaint before a first instance court contesting the decision to terminate the investigation. On 14 April 2014 the Vladikavkaz Garrison Military Court dismissed her complaint. On 19 June 2014 the North Caucasus Military Circuit Court, acting on appeal, remitted the case for fresh examination. On 7 July 2014 the court proceedings were terminated on the grounds that on the same date the investigating authorities had quashed the contested decision.

27. On 7 August 2014 the criminal investigation was closed again on the same grounds as the previous investigation with reference to the same evidence.

28. On an unspecified date the applicant lodged a complaint contesting the decision to close the case before a court. On 20 February 2015 the court proceedings were terminated on the grounds that by that date the investigating authorities had already quashed the contested decision.

29. On 19 March 2015 the criminal investigation was closed for the final time.

## VII. COMPENSATION FOR UNREASONABLE LENGTH OF THE INVESTIGATION

30. On 16 January 2015 the North Caucasus Military Circuit Court allowed in part a fresh complaint lodged by the applicant regarding the alleged delays in the investigation and awarded her 100,000 Russian roubles (RUB) – about 1,300 euros (EUR)). On 8 April 2015 that award was upheld on appeal.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

31. The applicant complained that the investigation of her son's death was ineffective, in breach of the requirements of Article 2 of the Convention, which reads as follows:

“1. Everyone's right to life shall be protected by law. ...”

#### **A. Admissibility**

32. The Court notes that the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

#### **B. Merits**

33. The applicant complained that the investigation had not been prompt and thorough – it had been suspended, closed and resumed on several occasions, which in itself may disclose a serious deficiency in the domestic prosecution system. The repeated remittals for further investigation had been ordered on the grounds that the investigation had been incomplete. There had been unexplained delays, which had caused difficulties in the identifying and questioning of witnesses who had served with the applicant's son, as by that stage they had already been discharged from the military. The public scrutiny requirement was also not complied with, as the applicant had only been granted victim status about a year and a half after the initiation of the investigation and had been informed about, for instance, that expert reports had been ordered only after they had been completed, rather than being given the possibility in advance to put her questions to them.

34. The Government submitted that the investigation of V.S.'s death had been effective. The investigators had examined various versions of events and had established that the death had resulted from the soldier's own actions, which had not been prompted by any violence or other ill-treatment towards him. Those conclusions had been based on witness statements, expert reports and other evidence. The Government acknowledged that, regrettably, the investigation had suffered from unreasonable delays. The applicant was informed of the opening of the criminal investigation only in March 2009 and she was granted victim status only on 21 January 2010. The Government submitted that the decision to terminate the investigation had been quashed on several occasions on the grounds that it had been incomplete and owing to the need to verify additional elements of circumstances surrounding the death of the applicant's son.

35. The Court reiterates that an investigation is "effective" if it is independent, adequate, thorough, objective, impartial, open, and prompt (see *Mustafa Tunç and Fecire Tunç v. Turkey* ([GC], no. 24014/05, §§ 169-82, 14 April 2015, and *Perevedentsevy v. Russia*, no. 39583/05, § 105, 24 April 2014).

36. The investigation in respect of the present case – as agreed by the parties (see paragraphs 33 and 34 above) and confirmed by the national authorities (see paragraphs 9 and 30 above) – was not prompt, and lasted overall six years and seven months. It suffered from several delays and remittals for re-examination owing to the incompleteness of the investigation (see paragraphs 9, 16 and 20 above); such repeated remittals themselves disclosed serious deficiencies in the criminal investigation (see *Korogodina v. Russia*, no. 33512/04, § 58, 30 September 2010, and *Mityaginy v. Russia*, no. 20325/06, § 58, 4 December 2012). The Court also notes that during the initial stage of the investigation, only one military serviceman, K., had been questioned as a witness (see paragraph 7 above). Three more witnesses were questioned only in 2010 (that is to say about two years later – see paragraph 20 above), and another two in 2013 (five years later – see paragraph 24 above). Such a lack of diligence in identifying and questioning witnesses could not but have hampered the efficiency of the criminal investigation. Furthermore, the applicant was granted victim status only about one and a half years after the opening of the investigation, and only after she had complained about her lack of such status (see paragraphs 15 and 17 above). During that period of time the applicant was unable to use her procedural rights such as, for instance, to access the case file and to put her questions to forensic experts before they had provided their reports. Even after being granted victim status the applicant was not always informed of decisions taken within the framework of the criminal investigation (see paragraphs 23 and 26 above).



37. The foregoing considerations are sufficient to enable the Court to conclude that the criminal investigation of the applicant's son's death was not effective.

38. There has accordingly been a violation of Article 2 of the Convention under its procedural limb.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

39. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

40. The applicant asked the Court to award her just satisfaction in respect of non-pecuniary damage in whatever amount that the Court considered appropriate.

41. The Government submitted that if the Court were to find a violation of the Convention it should award just satisfaction in an amount determined by the established case-law.

42. The Court awards the applicant 18,700 euros (EUR) in respect of non-pecuniary damage, plus any tax that may be chargeable to the applicant.

43. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

## FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 2 of the Convention under its procedural limb;
3. *Holds*
  - (a) that the respondent State is to pay the applicant, within three months, EUR 18,700 (eighteen thousand seven hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
  - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period, plus three percentage points.

SELIPETOVA v. RUSSIA JUDGMENT

Done in English, and notified in writing on 12 October 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

{signature\_p\_2}

Olga Chernishova  
Deputy Registrar

Georgios A. Serghides  
President