



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

THIRD SECTION

**CASE OF KHUDOROSHKO v. RUSSIA**

*(Application no. 3959/14)*

JUDGMENT

Art 2 (substantive) • Positive obligations • Failure to take appropriate measures to protect the life of a Russian Navy conscript who committed suicide as the result of hazing practices  
Art 13 (+ Art 2) • Lack of effective remedy establishing liability on the part of State for acts or omissions leading to the Art 2 breach

STRASBOURG

18 January 2022

**FINAL**

**18/04/2022**

*This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.*



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

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

Georges Ravarani, *President*,

Georgios A. Serghides,

Dmitry Dedov,

María Elósegui,

Anja Seibert-Fohr,

Peeter Roosma,

Andreas Zünd, *judges*,

and Milan Blaško, *Section Registrar*,

Having regard to:

the application (no. 3959/14) 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 Yekaterina Ivanovna Khudoroshko (“the applicant”), on 19 December 2013;

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

the parties’ observations;

Having deliberated in private on 7 December 2021,

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

## INTRODUCTION

1. The present case concerns a conscript’s suicide as a result of being subjected to hazing practices in the Russian Navy and the refusal of the applicant’s claim for compensation for her son’s death.

## THE FACTS

2. The applicant was born in 1973 and lives in Ust-Tarka, Novosibirsk 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, former Representative of the Russian Federation to the European Court of Human Rights, and later by his successor in that office, Mr M. Vinogradov.

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

### I. THE APPLICANT’S SON’S DEATH

5. On 9 November 2010 the applicant’s son, S.Kh., was called up for compulsory military service. Psychological examinations performed on

1 November and 14 December 2010 did not indicate any suicidal tendencies. From 6 January 2011 Seaman S.Kh. served in military unit no. 09762, which was located on the Kamchatka peninsula.

6. On 28 April 2011 at about 2 p.m. S.Kh. was found dead in a basement hanging from a noose made with a belt.

## II. INTERNAL INQUIRIES INTO THE DEATH

7. Lt Colonel G. carried out an internal inquiry into the reasons for Seaman S.Kh.'s suicide. He found that in January 2011 Seaman S.Kh. had complained to his mother of being bullied and had asked her for 1,000 Russian roubles (RUB) to give to a senior conscript, Seaman Ch. Certain other junior soldiers had also asked their parents for money to give to senior conscripts. Lt Colonel G. also established that during the period between January and March 2011 medical assistants had submitted to the unit commanders several reports regarding bruises found on the bodies of twenty-two younger conscripts during their medical check-ups. However, the unit commanders had failed to investigate the origin of the bruises or to take any other steps. Lt Colonel G. concluded that the commanding officers had failed to ensure order, discipline and a safe environment for military servicemen. He recommended (i) that a number of educational activities be organised in order to ensure military discipline and safe conditions for the performance of military service, (ii) replacing 75% of the conscripts in the unit; and (iii) deciding on the responsibility of military servicemen for breaches of the rules governing relations between servicemen of equal rank.

8. Upon the completion of another internal inquiry, on 30 April 2011 Rear Admiral M. found that hazing practices were common in military unit no. 09762. For example, senior conscripts regularly extorted money from younger ones. He added that the causes of bruising reported on twenty-two soldiers had not been investigated. Rear Admiral M. held that the unit commanders had failed to comply with the rules governing money transfers to military personnel, and that that failure had facilitated the unhampered extortion of money from junior conscripts. He also found that the commanding officers of the military unit had failed to take general or individual measures to prevent suicides among the servicemen, which had contributed to Seaman S.Kh.'s suicide. Rear Admiral M. concluded that Seaman S.Kh.'s death had resulted from a neuro-psychological crisis caused by his inability to withstand the moral and physical pressure placed on him by other military servicemen. A criminal case against Seaman Ch. was initiated; a number of officers were subjected to disciplinary procedures.

9. On 1 July 2011 the military prosecutor's office of the Petropavlovsk-Kamchatsk Garrison requested that the military commanders rectify certain breaches of law. In particular, they pointed out that: medical check-ups had not been performed properly – data about soldiers' injuries

had not been entered into the unit's journal; the unit commanders had not ensured that the journal was properly maintained; and information about bruises found on some soldiers had not been investigated. According to the military prosecutor's office, during medical check-ups on 30 March and 14 April 2011 the medical assistant of the military unit had found and reported bruises on Seaman S.Kh.'s body. However, the unit's senior officers had failed to take any action in that regard.

### III. CRIMINAL PROCEEDINGS AGAINST SEAMAN CH.

10. On 11 May 2011 Seaman Ch. was charged with extortion and breaches of the rules governing relations between servicemen of equal rank.

11. On 1 November 2011 forensic experts issued a post-mortem psychological report in respect of S.Kh. They concluded that he had not been suffering from any psychological disorder. In their opinion, S.Kh. had taken his own life as a result of pressure that had been put on him by Seaman Ch.

#### A. First round of the proceedings

12. On 10 September 2012 the 35th Garrison Military Court ("the Garrison Court") found that S.Kh. had been subjected to hazing rituals in his military unit. In particular, he had been forced "to pull a hundred" (*тянуть сотку*) – a tradition requiring a younger soldier to comply with all requests (including demands for money) made by a senior soldier during the latter's final hundred days before his discharge from the army. The Garrison Court found Seaman Ch. guilty of extortion and of breaches with serious consequences (namely Seaman S.Kh.'s death) of the rules governing relations between servicemen of equal rank.

13. On 9 November 2012 the Tikhookeanskiy Fleet Military Court ("the Circuit Court") quashed, on appeal, the judgment of 10 September 2011 for violation of Seaman Ch.'s right to legal assistance and remitted the case to the first-instance court for retrial.

#### B. Second round of the proceedings

14. On 19 March 2013 a second report on Seaman S.Kh.'s psychological state before his death was ordered. The report concluded that Seaman Ch.'s actions could not have been the only reason for S.Kh.'s suicide.

15. On 23 April 2013 the Garrison Court, citing the latest psychological report, found no direct causal link between Seaman Ch.'s actions (viewed on their own) and S.Kh.'s suicide. It convicted Seaman Ch. of extortion and of a simple breach without serious consequences of the rules governing relations between servicemen of equal rank.

16. The Garrison Court dismissed the applicant's civil claim against the State in respect of non-pecuniary damage. It held that the authorities' alleged failure to act had not been an object of the examination of the criminal charges against Seaman Ch.

17. On 28 June 2013 the Circuit Court, disagreeing with the Garrison Court, ruled, on appeal, that Seaman Ch.'s unlawful actions had caused S.Kh.'s suicide. In particular, it found that, in accordance with the tradition of "pulling a hundred", Seaman Ch. had regularly forced Seaman S.Kh. to comply with requests unrelated to military service and to engage in physical exercise (at times other than those scheduled for that purpose), and had subjected Seaman S.Kh. to physical violence in order to extort money from him. The Circuit Court referred to the above-mentioned expert opinion of 1 November 2011, which stated that Seaman S.Kh.'s conflict with Seaman Ch. and the resulting humiliation had caused Seaman S.Kh.'s frustration and an eventual emotional crisis, which could have contributed to the decision to take his life. The Circuit Court believed the subsequent expert opinion dated 19 March 2013 did not contradict those conclusions. The Circuit Court accordingly found Seaman Ch. guilty of extortion and of breaches with serious consequences of the rules governing relations between servicemen of equal rank. Seaman Ch. was sentenced to five years' imprisonment.

18. The Circuit Court also dismissed the applicant's civil claim against the State for compensation on the grounds that S.Kh.'s suicide had resulted from the unlawful actions of Seaman Ch., who had not been acting under the orders of the unit commanders.

### **C. Cassation complaints**

19. The applicant lodged a cassation complaint against the Circuit Court's decision of 28 June 2013. She complained, among other things, about the dismissal of her claim for compensation.

20. On 28 October 2013 the Circuit Court, sitting as a single judge, dismissed the applicant's cassation complaint. As for the applicant's claim for compensation, the judge agreed with the conclusion of the decision of 28 June 2013. He considered that the military authorities would have been liable for damage caused by a military serviceman only if the latter had been carrying out his service-related duties or had acted based on military authorities' orders. Moreover, military authorities would only be liable if it had been established that the damage had been caused directly due to [their] fault. The judge held that none of the above circumstances had been established. Lastly, the judge noted that "failure of the military unit's commanding officers to properly carry out their duties in respect of education of military servicemen, maintenance of the military discipline and prevention of its breaches did not constitute grounds to conclude that those

actions (or failure to act) had directly caused the alleged non-pecuniary damage”.

21. On 31 July 2014 the Supreme Court of the Russian Federation, sitting as a single judge, examined a second cassation complaint lodged by the applicant. He found meritorious the argument that the State could be held responsible for the actions of one of its active military servicemen and referred the cassation complaint to the Presidium of the Circuit Court for examination.

22. On 8 October 2014 the Presidium of the Circuit Court dismissed the applicant’s claim for compensation on the grounds that Seaman Ch. had committed his unlawful actions not in the interests or at the order of the State. The Presidium also held that the alleged deficiencies in the organisation of military service in military unit no. 09762 “could not constitute grounds” for obliging the military authorities to pay compensation. On 25 December 2015 the Supreme Court of the Russian Federation upheld the Circuit Court’s decision of 8 October 2014.

## RELEVANT LEGAL FRAMEWORK AND PRACTICE

### I. RELEVANT DOMESTIC LAW ON PSYCHOLOGICAL ASSESSMENT AND ASSISTANCE

#### A. Need for a legal framework on prevention of suicide

23. According to an instruction on the prevention of suicide issued in 1996 by the Ministry of Defence of the Russian Federation (“Directive 18”), suicide in the armed forces represented a serious problem. 80% of suicides were committed by conscripts or contractual military servicemen during the first year of service. 60% of suicides were committed by hanging, although the number of suicides committed with firearms during sentry duty had also increased. Among the reasons for suicide were the following: poor living conditions and poor conditions of military service (various aspects), interpersonal conflicts, and breaches of rules on relations between servicemen (the phenomenon of “hazing” or *dedovschina*). According to Directive 18, the effectiveness of suicide prevention was negatively affected by the underappreciation of and the lack of a systemic approach to the issue, the lack of relevant statistics, and the absence of proper investigations into and analysis of suicide attempts. Directive 18 instructed the relevant authorities to devise a system of psychological assistance in order to ensure psychological health and to prevent suicide among military servicemen.

## **B. The system of psychological assessment and assistance**

24. The relevant domestic legislation in force at the material time (the Charter on Sentry Duty, adopted by Presidential Decree no. 2140 of 14 December 1993; the 1997 Guide to Psychological Work in the Russian Armed forces (in peacetime); and the Russian Ministry of Defence's Decree no. 50 of 26 January 2000 on the Introduction of the Guide to Professional Psychological Screening in the Armed Forces of the Russian Federation) established a system of psychological assessment and assistance in the armed forces. It was to be carried out by psychologists and other responsible officers. The system was designed to determine people's ability to perform particular military jobs and, also, to identify people suffering from psychological issues, to provide them with psychological assistance and to prevent suicide. People had to pass a psychological assessment before and during their military education or service, at regular intervals and upon each transfer. In cases involving psychological issues, including suicide risk, certain limitations were placed on eligibility for military education or service and on access to weapons. Moreover, military students or servicemen with psychological issues were to be placed under special supervision and required to follow an individual plan of corrective and preventive activities or treatment. Psychological assistance was also available upon request to all military students and servicemen.

## **II. RELEVANT COUNCIL OF EUROPE AND OTHER MATERIAL**

25. On 20 October 2004 Human Rights Watch, an NGO, published a report entitled "The Wrongs of Passage: Inhuman and Degrading Treatment of New Recruits in the Russian Armed Forces". The report documented hazing practices in the armed forces and their consequences on the basis of three years of research undertaken in several regions across Russia. For more details of the report see *Perevedentsevy v. Russia*, no. 39583/05, § 70, 24 April 2014.

26. In July 2005 the Human Rights Ombudsman of Russia published a special report on abuse in the armed forces. The report called attention to hazing practices in the armed forces, which had resulted in the deaths and suicides of military servicemen.

27. On 26 March 2006 the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe issued a report entitled "Human Rights of Members of the Armed Forces" (Doc. 10861), which described the situation in the Russian armed forces as "extremely worrying". It noted, in particular, that "every year deaths occur among young conscripts who have been ill-treated, subjected to initiation rites, suffered accidents, committed suicide or suffered untreated illnesses".



28. On 11 April 2006 the Parliamentary Assembly of the Council of Europe issued Recommendation 1742 (2006) on the human rights of members of the armed forces requesting the member States “to ensure genuine and effective protection of the human rights of members of the armed forces, and ... to urgently adopt ... the requisite measures to put an end to the scandalous situations and practices of bullying in the armed forces ...”.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLES 2, 3 AND 13 OF THE CONVENTION

29. The applicant complained under Articles 2 and 3 of the Convention of her son’s ill-treatment and death during his compulsory military service. The applicant furthermore complained under Article 13 in conjunction with Articles 2 and 3 of the Convention that the domestic courts had dismissed her claim against the State for compensation for non-pecuniary damage. Article 2, 3 and 13 of the Convention provide, where relevant, as follows:

#### **Article 2**

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

#### **Article 3**

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

#### **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. Admissibility**

30. 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**

#### *1. Submissions of the parties*

31. The applicant submitted that her son had taken his own life as a result of having been subjected to hazing practices, a widespread and

well-known phenomenon in the Russian armed forces, also known as *dedovshchina*. The State authorities had been well aware of the existence of the *dedovshchina* problem both in general and within the applicant's son's military unit; however, they had failed to take any steps to remedy the situation. In particular, the unit's commanding officers had failed to undertake any measures in response to information that they had received about bruises found on soldiers during their regular medical check-ups. The applicant submitted that the State authorities had failed to protect the life of her son and, therefore, were under an obligation to pay compensation. The applicant did not complain about lack of an effective investigation of her son's death under the procedural limb of Article 2 of the Convention.

32. The Government submitted that the applicant's son had been properly tested and had demonstrated a high level of neuro-psychological resilience and a low suicide risk. Moreover, he had never applied for psychological assistance on his own initiative. Although on 30 March and 14 April 2011 medical assistants had discovered bruises on his chest and underarm area, the applicant's son had never complained to the military commanders of having suffered any violence exerted at the hands of other military servicemen. His mother, who had learned about her son's difficulties in the unit from his letters, had also not submitted any complaints to the authorities. Given the fact that no such complaints had ever been lodged, the military authorities had not been aware of and had therefore not been able to prevent the events that had led to the applicant's son's suicide. The Government concluded, therefore, that they had complied with the requirements set out by Articles 2 and 3 of the Convention. The Government submitted that the applicant had had an effective remedy available to her, in that she could have lodged a claim for compensation for non-pecuniary damage caused by Seaman Ch. They referred to twenty-five domestic court decisions delivered in the period between 2012 and 2016 convicting military servicemen for breaches of the rules governing relations between military servicemen of equal rank and allowing claims lodged by the victims for compensation to be paid by the convicted servicemen.

## 2. *The Court's assessment*

### (a) **Substantive limb of Article 2 of the Convention**

33. The Court will examine the matter in the light of the relevant general principles, as summarised in *Perevedentsevy v. Russia* (no. 39583/05, §§ 90-94, 24 April 2014), and, *mutatis mutandis*, *Fernandes de Oliveira v. Portugal* ([GC], no. 78103/14, §§ 104-12, 31 January 2019), and *Kurt v. Austria* ([GC], no. 62903/15, §§ 157-160, 15 June 2021). The Court will also rely on the material on *dedovshchina* in the Russian military forces summarised in the case of *Perevedentsevy* (cited above, §§ 70-73).

34. The Court observes that the domestic legislation has established a system for the provision of psychological assessment and assistance in the armed forces (see paragraphs 23-24 above) that is designed, *inter alia*, to identify people suffering from psychological issues, to provide them with psychological assistance and to prevent suicide. On the basis of the material provided to the Court, the general system of psychological assessment and assistance in the armed forces as such does not appear to contain any deficiencies that could have contributed to the death of the applicants' son.

35. However, the Court notes that the domestic regulatory framework does not appear to contain any special procedures or safeguards designed to protect victims and denouncers of hazing, bullying or other forms of ill-treatment in the armed forces from the risks of subsequent retaliation, self-harm or other events threatening their safety.

36. The Court reiterates that its review of the domestic regulatory framework is not an abstract one, but rather one that assesses the manner in which it was applied in each specific case (see *Lopes de Sousa Fernandes v. Portugal* [GC], no. 56080/13, § 188, 19 December 2017). The Court also reiterates that the "quality of law" requirements under Articles 3, 5 and 8 of the Convention, where the negative aspect of the respective rights is at stake, aim to avoid all risks of arbitrariness. By contrast, the purpose of the regulatory framework requirement under Article 2 of the Convention is to provide the necessary tools for the protection of a person's life, so the lack of a written policy or another deficiency does not in itself warrant a finding that Article 2 of the Convention was breached (see *Fernandes de Oliveira*, cited above, § 119). The deficiency must be shown to have operated to the detriment of the person in question (*ibid.*, § 107). The Court will now examine whether the above-mentioned lacuna in the domestic legislation operated to the detriment of the applicant's son.

37. In the context of individuals undergoing compulsory military service, the Court has previously had occasion to emphasise that, as with persons in custody, conscripts are within the exclusive control of the authorities of the State, since any events in the army lie wholly, or in large part, within the exclusive knowledge of the authorities, and that the authorities are under a duty to protect them. However, such an obligation must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities, bearing in mind the unpredictability of human conduct and the operational choices which must be made in terms of priorities and resources. Accordingly, not every claimed risk to life can entail a Convention requirement for the authorities to take operational measures to prevent that risk from materialising (see *Malik Babayev v. Azerbaijan*, no. 30500/11, § 66, 1 June 2017, with further references).

38. The Court, as well as the Parliamentary Assembly of the Council of Europe (see paragraph 28 above) has required the States to take appropriate

measures to combat hazing practices in their armed forces (see *Mosendz v. Ukraine*, no. 52013/08, § 113, 17 January 2013, and *Perevedentsevy*, cited above, §§ 99-100). The respondent State itself had established, on the basis of the statistics available to them, that breaches of the rules governing relations between military servicemen were one of the reasons for someone running a higher risk of suicide (see paragraph 23 above). The Human Rights Ombudsman of Russia issued a special report in 2005 on the issue of hazing and bullying practices in the armed forces, which were leading to damage to health and loss of life (see paragraph 26 above).

39. On the basis of the above the Court concludes that, in general, the State authorities were aware of the issue of hazing (*dedovshchina*) in the armed forces and the risks arising therefrom (including the risk of suicide).

40. As regards the particular circumstances of the present case, the Court notes that in the course of the internal inquiries and criminal proceedings against Seaman Ch. the domestic authorities established that the applicant's son had been subjected to hazing practices, including physical violence and extortion of money, as a result of which he had killed himself (see paragraphs 7-9 and 17 above).

41. Equally, the domestic authorities established that for a period of at least three months before the applicant's son's suicide, younger conscripts in military unit no. 09762, including the applicant's son, had had bruises on their bodies, which had been recorded and reported by medical workers to the unit's commanding officers (see paragraph 7 above). The domestic investigation concluded that hazing practices had been common in the military unit in question and that there had been a direct link between those practices and the applicant's son's death (see paragraph 8 above).

42. The documents submitted to the Court indicate that the military unit's commanders were or should have been aware that younger conscripts, including the applicant's son, had been subjected to hazing practices and of the ensuing risks to their health and lives. Accordingly, the military authorities were required to take measures to prevent those risks from materialising or at least minimise them.

43. While the Court cannot conclude with certainty that matters would have turned out differently if the authorities had acted otherwise, it reiterates that the test under Article 2 of the Convention does not require it to be shown that "but for" the failing or omission on the part of the authorities the death in question would not have occurred. Rather, what is important – and what is sufficient to engage the responsibility of the State under that article – is that the reasonable measures that the domestic authorities failed to take could have had a real prospect of altering the outcome or mitigating the harm (see *Bljakaj and Others v. Croatia*, no. 74448/12, § 124, 18 September 2014, with further references).

44. In the present case it does not appear that any steps whatsoever to address the problem of hazing in the military unit in question have been

taken by the military authorities prior to S.Kh.'s suicide. For instance, the military unit's commanders did not investigate the medical workers' reports about bruises on younger conscripts' bodies; did not attempt to separate younger and older conscripts or undertake other reasonable measures. The Court concludes that, although the military authorities knew or should have known that the applicants' son had been subjected to hazing practices and of the ensuing risks to his health and life (including the risk of suicide), they failed to take appropriate measures to prevent or at least minimise such risks from materialising.

45. There has therefore been a violation of Article 2 of the Convention under its substantive limb.

**(b) Article 3 of the Convention**

46. Having regard to the above finding it does not appear necessary to examine separately the applicant's complaint under Article 3 of the Convention.

**(c) Article 13 of the Convention**

47. The Court reiterates that where an alleged failure on the part of the authorities to protect persons from the acts of others is concerned, Article 13 of the Convention requires that there should be available to the victim or the victim's family a mechanism for establishing any liability on the part of State officials or bodies for acts or omissions involving a breach of their rights under the Convention (see, for instance, *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 149, ECHR 2014, and *Tagayeva and Others v. Russia*, nos. 26562/07 and 6 others, § 620, 13 April 2017, both with further references). Furthermore, in the case of a breach of Articles 2 and 3 of the Convention, which rank as the most fundamental provisions of the Convention, compensation for non-pecuniary damage flowing from the breach in question should in principle be part of the range of available remedies (see, *mutatis mutandis*, *Z and Others v. the United Kingdom* [GC], no. 29392/95, § 109, ECHR 2001-V, and *Keenan v. the United Kingdom*, no. 27229/95, § 130, ECHR 2001-III; and, for instance, *Poghosyan and Baghdasaryan v. Armenia*, no. 22999/06, §§ 44-48, ECHR 2012, and *Mirzoyan v. Armenia*, no. 57129/10, §§ 78-83, 23 May 2019). The Court itself will often award just satisfaction, recognising pain, stress, anxiety and frustration as rendering appropriate compensation for non-pecuniary damage (see *McGlinchey and Others v. the United Kingdom*, no. 50390/99, § 66, ECHR 2003-V).

48. The Court has found a breach of Article 2 of the Convention (see paragraph 29 above) under its substantive limb. The applicant's complaint

in this regard is therefore “arguable” for the purposes of Article 13 in connection with Article 2 of the Convention.

49. The Court notes the domestic courts’ argument that the State bore no responsibility for the unlawful actions of Seaman Ch. because they had been committed not in the interests of or on the orders of the State authorities (see paragraph 22 above). However, the applicant’s complaint concerns neither criminal charges against nor civil claims to Seaman Ch., but the State’s alleged responsibility for the failure to prevent the applicant’s son’s suicide in the context of *dedovschina*. Accordingly, a civil claim for compensation from Seaman Ch. was not an effective remedy capable to establish any degree of liability on the part of the State (see, *mutatis mutandis*, *O’Keeffe v. Ireland* [GC], no. 35810/09, § 179, ECHR 2014 (extracts); *Sašo Gorgiev v. the former Yugoslav Republic of Macedonia*, no. 49382/06, § 53, ECHR 2012 (extracts)); and *Gerasimenko and Others v. Russia*, nos. 5821/10 and 65523/12, § 82, 1 December 2016). It does not appear that in the present case the applicant had been offered any other mechanism for establishing liability on the part of State officials or bodies for acts or omissions leading to a breach of Article 2 of the Convention, and for obtaining a compensation for non-pecuniary damage flowing from such breach.

50. Therefore, the Court considers that in the present case the applicant did not have an effective domestic remedy available to her as regards her complaint under the substantive limb of Article 2 of the Convention.

51. There has therefore been a violation of Article 13 of the Convention.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

52. 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.”

### A. Damage

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

54. The Government submitted that, if the Court finds a violation of the Convention, it should award the level of compensation established by case-law.

55. The Court awards the applicant 26,000 euros in respect of non-pecuniary damage, plus any tax that may be chargeable.

**B. Costs and expenses**

56. The applicant did not submit any claims in respect of the costs and expenses.

**C. Default interest**

57. 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 substantive limb;
3. *Holds* that there is no need to examine the complaint under Article 3 of the Convention;
4. *Holds* that there has been a violation of Article 13 of the Convention in conjunction with Article 2 of the Convention;
5. *Holds*
  - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final, in accordance with Article 44 § 2 of the Convention, EUR 26,000 (twenty-six thousand 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.

Done in English, and notified in writing on 18 January 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško  
Registrar

Georges Ravarani  
President