



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

FIRST SECTION

Application no. 49626/07
Tatyana Vladimirovna TIKHOMIROVA
against Russia
lodged on 3 October 2007

STATEMENT OF FACTS

The applicant, Ms Tatyana Vladimirovna Tikhomirova, is a Russian national, who was born in 1954 and lives in the town of Serpukhov, the Moscow Region. She is represented before the Court by Mr V. Veselov, a lawyer practising in Serpukhov.

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

On 4 December 2006 Mr Tikhomirov, the applicant's son, became involved in a traffic accident and died from the resulting injuries several days later. Mr B. and Mr P., who were in the same car at that moment, were gravely injured.

On 14 December 2006 an investigative officer of the Serpukhov District police, having examined the circumstances of the case and questioned the applicant, established that Mr Tikhomirov drove a car, violated traffic rules and crashed into a tree. The officer decided not to open criminal proceedings regarding the accident.

On 16 January 2007 the Deputy Serpukhov Town Prosecutor (the prosecutor) quashed the decision and ordered a new inquiry, stating that:

“The decision not to institute criminal proceedings was taken prematurely and concerned circumstances which were not [duly] examined ...

In the course of this [new] inquiry it is necessary to consider the results of forensic examination of Mr Tikhomirov's corpse.”

It appears that no further steps were taken by the investigator.

On 4 June 2007 the applicant's representative lodged a motion with the investigator. He challenged the conclusion that the applicant had driven the car at the moment of the accident and requested the investigator to perform the following actions:

“1. To question the witnesses: the [applicant’s] mother Mrs Tikhomirova..., the [persons] present in the car at the moment of the accident Mr B. and Mr P.

2. To question the paramedics who arrived at the crash scene ...

3. To examine the car ...

...

5. To request the results of forensic examination of Mr Tikhomirov’s corpse ...”.

On 13 July 2007, the prosecutor, acting on the applicant’s complaint, found that:

“It has been established in the course of an inspection that the applicant’s allegations about the failure of the investigator to perform a proper inquiry proved to be true. Therefore, this part of the complaint should be allowed and the prosecutor’s office will demand that... the responsible official be subjected to disciplinary measures and that the inquest... be resumed without delay.”

On 23 July 2007 the prosecutor sent a letter to the head of the local police’s investigations department, noting that:

“I draw your attention to the investigator’s procrastination and to violation of the Code of Criminal Procedure of Russia.

In the course of the ensuing inquest it is necessary, without delay, to obtain... the results of forensic examination of Mr Tikhomirov’s corpse, to question Mr S., Mr B., Mr Be. And Mr P. ...”

On 27 August 2007 the Serpukhov Town Court examined the applicant’s complaint concerning the continued inaction of the investigation and found that:

“On 16 January 2007 the deputy prosecutor quashed the investigator’s decision [not to institute criminal proceedings] and remitted the case file to the investigations department [of the local police] for a new inquiry.

Later, having checked the same case file and drawn the attention of the head of the investigations department to the procrastination and violation of the Code of Criminal Procedure, the deputy prosecutor for the second time remitted it to the investigations department, instructing [the investigator] to make an additional inquiry. Her orders, although being obligatory for the investigator, are not complied with up to the present moment.

Considering the above, the applicant’s complaint is well-founded and should be allowed.”

It appears that the investigator did not take any steps ordered by the prosecutor and the court. The applicant’s subsequent request to prosecute him for inaction was rejected by the Moscow Regional Court on 21 April 2008.

However, the same day the Regional Court rendered a special ruling (*частное определение*), stating that:

“Despite the numerous interferences of the prosecutor’s office once the decision [of 14 December 2006] was quashed, the case has not been resolved up to the present moment.

Irresponsible attitude of the investigator to the fulfilment of his duties and the continued procrastination justifiably gave birth to the applicant’s complaints ...

All of the above happened because of undue prosecutorial supervision ...

...

[Thus, the court has decided] To bring to the attention of the Serpukhov Town Prosecutor the [facts of] procrastination and violation of legislation in the case concerning the accident of 4 December 2006, which caused Mr Tikhomirov's death."

It appears that the investigation is still pending.

COMPLAINT

Generally referring to the Convention, the applicant complains that the investigation into her son's death was ineffective.

QUESTION TO THE PARTIES

Was the investigation into Mr Tikhomirov's death carried out in compliance with the requirements of the procedural aspect of Article 2 of the Convention?