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

FIRST SECTION

DECISION

Application no. 25866/21
Sonja PICIG and Others
against Croatia

The European Court of Human Rights (First Section), sitting on 13 November 2025 as a Committee composed of:

Erik Wennerström, *President,*
Davor Derenčinović,
Alain Chablais, *judges,*
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 25866/21) against the Republic of Croatia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 12 May 2021 by three Croatian nationals, whose relevant details are listed in the appended table ("the applicants") and who were represented by Ms N. Panjkret, a lawyer practising in Garešnica;

the decision to give notice of the application to the Croatian Government ("the Government"), represented by their Agent, Ms Š. Stažnik;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the killing of a member of the applicants' family by an off-duty Croatian army soldier with his illegally-owned private rifle. It raises an issue under Article 2 of the Convention.

A. Background to the case

2. M.J., a member of the applicants' family, was shot and killed on 7 June 1999 by T.B., a professional Croatian army soldier at the time, in a shop in the village of Borova.

3. In the criminal proceedings which ensued, it was established that T.B. had killed M.J. with his private automatic rifle. He had done so out of revenge, after learning that M.J. had been responsible for the death of one of his friends. At the time of the killing, T.B. had been suffering from a serious personality disorder characterised by a tendency towards aggressive and impulsive behaviour.

4. By a judgment of the Bjelovar County Court delivered on 27 September 2000, T.B. was convicted of murder and sentenced to ten years' imprisonment; the automatic rifle used to kill M.J. was confiscated from him. The court deemed that his prior conviction in 1998 for inflicting grievous bodily harm constituted an aggravating circumstance. By a judgment of 27 February 2001, the Supreme Court upheld T.B.'s conviction and increased his sentence to 12 years' imprisonment.

5. In concurrent disciplinary proceedings before the Zagreb Military Disciplinary Court, T.B.'s military service was terminated on account of his having gravely breached military discipline by his off-duty conduct. The decision was upheld by the Zagreb Higher Military Disciplinary Court on 24 August 2000.

B. The civil proceedings at issue

6. In 2008 the applicants brought a civil action in damages against the State. They argued that the State had been responsible for M.J.'s death (i) because it had been the owner of the dangerous object (that is, the automatic rifle) used to kill him, and (ii) on the basis of the provisions of the Act on Service in the Armed Forces, because it had allowed T.B. – a person diagnosed with a serious personality disorder – to engage in military duties without subjecting him to regular medical examinations.

7. At a court hearing held on 24 September 2008, T.B. submitted that at the time of committing the offence he had been on a week's leave and had left in his barracks both of the rifles issued to him by the army. He had killed M.J. with his private automatic rifle, which he had taken from a battlefield during his participation in the war in Croatia, which had ended in 1995. T.B. did not wish to specify the battlefield in question and said that he could not remember whether he had reported the matter to his superiors.

8. On 19 July 2013 the Virovitica Municipal Court dismissed the applicants' action. It established that T.B. had killed M.J. with his private automatic rifle, which he had owned illegally. Since that rifle had never belonged to the State, it could not be held liable as the owner of the dangerous object in question. Moreover, since T.B. had not been on duty at the material time and had not killed M.J. in the course of carrying out his military duties, the State could not be held liable under the Act on Service in the Armed Forces.

9. The first-instance judgment was upheld by the Bjelovar County Court on 4 December 2014. In particular, the second-instance court noted that, even assuming that Croatian army soldiers had been required to surrender to their military units the weapons which they had acquired during the war – a requirement which had not been established – it could not be held that the State had become the owner of such weapons merely because the soldiers had come into possession of them. In that connection, it was not even possible to establish when and on which battlefield T.B. had acquired the automatic rifle in question, nor whether he had done so in the course of an organised military action (no evidence having been submitted in that regard). Moreover, it was widely known that soldiers had personally acquired weapons as war trophies and that, provided that the conditions set out in the Weapons Act (*Zakon o oružju* – in force from 30 October 1992 until 31 August 2007) had been met, they had been permitted to keep such weapons as memorabilia. In any event, the second-instance court deemed that the causal link between (on the one hand) the failure of the State to supervise compliance with the soldiers' alleged obligation to surrender weapons acquired during the war and (on the other hand) the killing of the applicants' relative in 1999 was too remote to engage the State's liability.

10. The Supreme Court dismissed an appeal on points of law by the applicants by its judgment of 3 April 2019.

11. By a decision of 12 November 2020 (which was received by the applicants' representative on 25 November 2020) the Constitutional Court dismissed a constitutional complaint by the applicants. In particular, it noted that M.J.'s killing had been an individual act which had been in no way connected to T.B.'s military duties. It further noted that the lack of regulations during and after the war in Croatia concerning the handling of weapons taken from the battlefield could not engage the State's responsibility in the present case.

C. Complaints

12. The applicants complained to the Court that the State had failed to comply with its positive obligation under Article 2 of the Convention because it had not taken any measures aimed at preventing the unlawful possession of firearms which its soldiers had acquired during the war. They also complained, under Article 6 § 1 of the Convention, that the domestic courts had failed to recognise the State's responsibility for their relative's killing.

THE COURT'S ASSESSMENT

13. Being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 114 and 126, 20 March 2018), the Court considers that the

applicants' submissions raise an issue only under Article 2 of the Convention (compare also *Sašo Gorgiev v. the former Yugoslav Republic of Macedonia*, no. 49382/06, § 28, ECHR 2012 (extracts)).

14. The general principles concerning the States' positive obligations under Article 2 of the Convention have been summarised in *Svrtan v. Croatia* (no. 57507/19, §§ 77-85, 3 December 2024). In particular, the Court reiterated that given the high level of inherent risk that it presented to the right to life, the use of firearms was a form of dangerous activity which had to engage the States' positive obligation to adopt and implement measures designed to ensure public safety (ibid., § 84). For a positive obligation to arise, it had in any event to be established that the authorities had failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk (ibid., § 85).

15. The Court firstly notes that T.B. killed M.J. when he was off duty, with his illegally-owned private rifle (see paragraph 8 above). The present case should therefore be distinguished from cases concerning acts of violence committed by State agents in the performance of their duties (compare *Sašo Gorgiev*, cited above, § 47). It should also be distinguished from cases concerning harmful actions taken by State agents outside their duties but with a service weapon, where a State's responsibility was engaged on the basis of its duty to ensure the careful selection and supervision of the agents allowed to carry firearms (see *Gorovenky and Bugara v. Ukraine*, nos. 36146/05 and 42418/05, §§ 38-39, 12 January 2012; *Sašo Gorgiev*, cited above, §§ 48-52; and *Gerasimenko and Others v. Russia*, nos. 5821/10 and 65523/12, § 103, 1 December 2016). Rather, given the circumstances of the present case, the Court accepts that T.B. acted as an ordinary private individual who was not vested with any official powers (see paragraph 11 above, and compare *Fergec v. Croatia*, no. 68516/14, § 36, 9 May 2017). In that connection, the Court cannot accept the applicants' argument that the respondent State's responsibility was engaged in respect of M.J.'s killing owing to its failure to assess T.B.'s fitness to perform military duties following his conviction in 1998 (see paragraph 4 above).

16. As to the State's regulatory framework at the relevant time, the Court has already found it satisfactory (see *Svrtan*, cited above, § 87) and sees no reason to hold otherwise in the present case. In addition to prohibiting the possession of automatic weapons (ibid.), the Weapons Act also provided, under section 79, that citizens who nevertheless held such weapons were to surrender them to the competent authority. According to the Government's submissions, they could have done so voluntarily – that is, without the threat of sanctions – during several periods between 1992 and 2002, and in 1996 and 1997 such citizens had even been entitled to receive monetary compensation. Moreover, citizens who, as members of the Croatian army, had acquired automatic weapons as war trophies could have, exceptionally, been issued a firearms licence to keep such weapons as memorabilia.

17. With regard to the applicants' further argument that active military personnel had not been ordered to surrender the weapons they had taken from the battlefield, the Court notes that the domestic courts indeed did not establish that such an order had ever been issued (see paragraph 9 above). Nevertheless, the Government submitted that in 1995 the General Staff of the Croatian army had issued two orders concerning the handling of war trophies, arguing that it could be inferred therefrom that members of the Croatian army had been forbidden to take and retain weapons from the battlefield. Be that as it may, the Court firstly observes that on account of the lack of evidence, the domestic courts could not establish how T.B. had come into possession of the automatic rifle he had used to kill M.J. (see paragraph 9 above). Secondly, even assuming that he had indeed taken it from the battlefield, pursuant to the Weapons Act, he should still have surrendered it to the competent authority and would have been allowed to keep it as a piece of memorabilia only under certain conditions (see paragraph 16 above). However, he failed to do so, and instead kept the rifle for himself illegally – that is to say, not as a piece of memorabilia.

18. At this juncture, the Court reiterates that there are different avenues for ensuring Convention rights, and that the choice of means for ensuring the positive obligations under Article 2 is in principle a matter that falls within the State's margin of appreciation (see *Ciechońska v. Poland*, no. 19776/04, § 65, 14 June 2011). Given the specific circumstances of the present case (see paragraphs 16 and 17 above), the Court is of the view that the adequacy of the respondent State's regulatory framework cannot be called into question on the basis of its alleged failure to order those of its soldiers who had taken part in the war to surrender the weapons they had taken from the battlefield.

19. Turning to the State's positive obligation to adopt preventive operational measures relating to the control of dangerous activities, the Court needs to examine whether the authorities of the respondent State have complied with their duty of diligence in respect of the protection of public safety within the specific context of the use of firearms (see *Svrtan*, cited above, § 91).

20. In that regard, the Court firstly notes that the domestic authorities were in no way alerted prior to the tragic incident to the fact that T.B. illegally possessed any weapons (contrast *Svrtan*, cited above, § 89). Furthermore, there is nothing to suggest that there was a real and immediate risk to life emanating from T.B. of which the domestic authorities knew or ought to have known in advance of M.J.'s killing (contrast *Bljakaj and Others v. Croatia*, no. 74448/12, § 121, 18 September 2014, where the perpetrator was an apparently mentally disturbed and dangerous person whom the police had interviewed the morning of the relevant incident). There is equally no basis to conclude that T.B.'s behaviour could have given the domestic authorities an indication of potential danger engaging a risk to life (contrast *Kotilainen and Others v. Finland*, no. 62439/12, §§ 85-87, 17 September 2020). While

it is true that in 1998 T.B. was found guilty of inflicting grievous bodily harm, that fact alone does not suffice to reach a different conclusion – especially since no additional information concerning the offence in question, such as when it was committed, appears in the case file.

21. The Court is mindful of the post-war situation in Croatia at the material time, when large numbers of undeclared weapons were illegally in the possession of individuals (see *Svrtan*, cited above, § 92). Nevertheless, analysing the situation in the light of what was known to the competent authorities at the relevant time, and remaining cautious about revisiting events with the wisdom of hindsight (see *Kurt v. Austria* [GC], no. 62903/15, § 160, 15 June 2021), the Court is unable to discern any reasonable measure that the domestic authorities failed to take which could have had a real prospect of altering the outcome or of mitigating the harm in the present case (see *Kotilainen and Others*, cited above, § 87).

22. Consequently, it cannot be said that the domestic authorities failed to fulfil their duty to protect public safety – and, ultimately, the life of the applicants' relative – as set out in the Court's case-law (see paragraph 14 above).

23. It follows that the application is inadmissible under Article 35 § 3 (a) of the Convention for being manifestly ill-founded and must be rejected, pursuant to Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 4 December 2025.

Liv Tigerstedt Deputy Registrar	Erik Wennerström President

APPENDIX

List of applicants:

No.	Applicant's name	Year of birth	Place of residence
1.	Sonja PICIG	1967	Virovitica
2.	Sanja JOVETIĆ	1999	Virovitica
3.	Ljiljana ŠUPRNA	1989	Virovitica