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

THIRD SECTION

DECISION

Application no. 60246/11
Marina Rudolfovna RADCHENKO
against Russia

The European Court of Human Rights (Third Section), sitting on 7 December 2021 as a Committee composed of:

Peeter Roosma, *President,*
Dmitry Dedov,
Andreas Zünd, *judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 60246/11) against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 21 September 2011 by a Russian national, Ms Marina Rudolfovna Radchenko, who lives in Chelyabinsk ("the applicant") who was represented by Ms Yermolayeva and Ms Latypova, lawyers practising in Moscow and Chelyabinsk;

the decision to give notice of the application to the Russian Government ("the Government"), initially represented by Mr M. Galperin, former Representative of the Russian Federation to the European Court of Human Rights, and lately by his successor in that office, Mr M. Vinogradov;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT-MATTER OF THE CASE

1. The case concerns alleged ill-treatment and death of the applicant's husband in a prison hospital, and lack of an effective investigation thereof.

2. On 22 December 2009 Mr A., the applicant's husband, died in prison hospital no. 3 in Chelyabinsk. Ten days prior to his death Mr A. was admitted to that hospital because of a brain tumour. According to the records of the post-mortem examination, he had numerous chronical illnesses, among which were thrombosis and cirrhosis, and his death was caused by pulmonary

embolism. When the applicant received Mr A.'s body from the hospital, she alleged that she discovered bruises, abrasions on the knees and on the elbow crease, which were not indicated in the post-mortem examination report. She made photographs of these injuries.

3. On 26 December 2009 the applicant complained to the Investigation Department of Zlatoust about her husband's death in the facility and requested a forensic medical examination of his body. On 28 December 2009 an investigator refused to institute criminal proceedings. He questioned expert An., who had conducted the post-mortem examination, and assessed the medical documents in this respect. On 30 December 2009 Mr A. was buried.

4. Following several rounds of pre-investigation inquiry and the investigators' decisions to refuse institution of criminal proceedings which were annulled by supervising authorities and the Metallurgicheskiy District Court of Chelyabinsk, on 21 April 2011 the investigator issued a refusal to open criminal investigation. The investigator interviewed all the staff of the prison hospital, expert An. and a paramedic that had been present during the examination of Mr A.'s body, as well as an independent forensic medical expert. Expert An. submitted that the "bruises" on the applicant's body were cadaveric spots, not included in the report, since these were not injuries. An independent expert also confirmed the submissions of expert An. and stated that the abrasions on the knees may have formed during the transportation of the body. In this latter respect, the paramedic in charge of transportation of corpses in the hospital confirmed the occurrence of some post-mortem marks during transportation.

5. The applicant, referring to Articles 2 and 3 alone and in conjunction with Article 13 of the Convention, complained that her husband had been ill-treated and killed in custody, and that no effective investigation had been conducted in this respect.

THE COURT'S ASSESSMENT

6. The Court observes that Mr A., suffering of a severe medical condition accompanied by other serious chronical diseases, was admitted to the prison hospital where he later passed away. The post-mortem examination report and the forensic medical experts unanimously concluded that Mr A.'s cause of death was of non-violent nature and had a direct connection to his condition.

7. As regards the allegations of ill-treatment, the Court notes that there was no indication in the case file that Mr A. had been subjected to ill-treatment in the past or had ever complained about being ill-treated either in hospital no. 3, or in any other facility. There were no witness reports or any other evidence to support such probability. To the contrary, the experts in the domestic proceedings provided plausible explanations about the marks on the

body which the applicant found suspicious. In the light of the above, the Court finds unfounded the allegations of ill-treatment or violent death.

8. The Court is also satisfied that the pre-investigation inquiry carried out in the present case was in compliance with the requirements of the procedural aspect of Articles 2 and 3 of the Convention (compare with *Geppa v. Russia*, no. 8532/06, §§ 87-99, 3 February 2011).

9. The Court therefore finds that the applicant's complaints about the allegedly suspicious death of her husband in custody, his alleged ill-treatment, and lack of effective investigation in this respect manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 13 January 2022.

Olga Chernishova Deputy Registrar	Peeter Roosma President