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

THIRD SECTION

DECISION

Application no. 34165/14
Tatyana Fedorovna RAKHIMOVA
against Russia

The European Court of Human Rights (Third Section), sitting on 26 April 2022 as a Committee composed of:

Darian Pavli, *President,*
Andreas Zünd,
Mikhail Lobov, *judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 34165/14) 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 April 2014 by a Russian national, Ms Tatyana Fedorovna Rakhimova, who was born in 1956 and lives in Engels, the Saratov Region ("the applicant");

the decision to give notice of the complaints under Article 2 of the Convention to the Russian Government ("the Government"), represented initially by Mr M. Galperin, the Representative of the Russian Federation to the European Court of Human Rights, and lately by Mr M. Vinogradov, his successor in that office, and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT-MATTER OF THE CASE

1. On 27 February 2010 the applicant's daughter gave birth to T. Several days later in the context of routine screening for phenylketonuria ("PKU") his blood sample was collected. Owing to the lack of reagent kits, the laboratory responsible for the testing delayed it until May 2010. The test results suggested that T. had PKU. The diagnosis was confirmed in June 2010. In December 2011 T. developed intestinal infection. His condition was

later aggravated by sepsis and pneumonia. The medical treatment given to him was unsuccessful. He died on 11 February 2012.

2. After the death of her grandson, the applicant lodged a civil claim for damages against the hospitals which had treated him and the Saratov Regional Ministry of Health. The Engels District Court of the Saratov Region ordered independent experts to assess the quality of medical care which had been provided to T. The experts identified several shortcomings in his treatment. According to them, those shortcomings had not caused the child's death. The primary factor in the fatal outcome had been the severity of PKU. The experts concluded that the belated testing had been among the significant causes that had undermined T.'s health. The court found that the testing delay could not be attributed to the respondent parties, as it had resulted from the failure of the Russian Ministry of Health to purchase reagent kits for the laboratory. The applicant's claim was dismissed on 16 January 2013.

3. The Saratov Regional Court upheld the above decision on appeal on 16 April 2013. The cassation appeals lodged by the applicant were dismissed on 4 July 2013 by the Saratov Regional Court and on 17 October 2013 by the Supreme Court of Russia. The final judgment was served on her on 30 October 2013.

4. The applicant did not lodge a civil claim against the Russian Ministry of Health, which according to the domestic court's finding was responsible for the lack of testing kits.

5. On 6 May 2015 at the applicant's request a criminal case into T.'s death was opened. The investigators obtained a new expert report. It was essentially similar to the one prepared in the context of the civil proceedings. The report confirmed the absence of a direct causal link between the defects in medical services and the child's death, the investigators closed the case on 6 April 2016.

6. Referring to Article 2 of the Convention the applicant claimed that her grandson's right to life had been violated and that the authorities had failed to comply with their procedural obligations under that Article.

THE COURT'S ASSESSMENT

7. The relevant general principles are summarised in *Lopes de Sousa Fernandes v. Portugal* ([GC], no. 56080/13, §§ 164-96 and 214-21, 19 December 2017).

8. It is not necessary to decide whether the applicant could claim to be a victim of the alleged violation or to address the Government's argument about her failure to comply with the six-months' rule, because her complaints are manifestly ill-founded for the following reasons.

9. The deficiencies in T.'s medical treatment do not engage the responsibility of the Russian authorities under the substantive aspect of Article 2 of the Convention. Firstly, the applicant failed to show convincingly

that the shortcomings in treatment had led to her grandson's death. The Court gives credence to the conclusions by the domestic authorities supported by expert opinions that there had been no causal link between the doctors' omissions and the death of the patient. In any event, the deficiencies in question, particularly the delayed PKU testing, did not amount to "denial of access to life-saving emergency treatment", a condition which in exceptional circumstances may trigger the responsibility of the State (see *Lopes de Sousa Fernandes*, cited above, §§ 191-92).

10. The procedural obligations were discharged by civil courts which in an expeditious manner examined the case, identified flaws in T.'s medical care, established who had been responsible for them and, having regard to an independent expert report, reasonably concluded that the respondent parties should not be blamed for the death of the child. They attributed the most serious treatment defect – the delay in PKU testing - to the Russian Ministry of Health. The courts did not have an opportunity to decide on its accountability, because the applicant did not submit a claim against that authority even when the domestic courts explicitly held that it was responsible for the testing delay. She therefore failed to take all the steps required for obtaining compensation at the domestic level. No explanation for that failure was provided by her. From the case file-materials it does not appear that anything prevented the applicant from lodging a claim against the right defendant. As regards the applicant's disagreement with the assessment of evidence and accuracy of the expert report, it is not the Court's role to question those aspects of the case, particularly when no strong arguments in support of the applicant's criticism were submitted.

11. It follows that the complaints at hands 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 28 July 2022.

Olga Chernishova Deputy Registrar	Darian Pavli President