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

FIRST SECTION

DECISION

Application no. 69950/14
Krystyna ZWIERZ
against Poland

The European Court of Human Rights (First Section), sitting on 3 May 2022 as a Committee composed of:

Erik Wennerström, *President,*
Krzysztof Wojtyczek,
Lorraine Schembri Orland, *judges,*

and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to the above application lodged on 20 October 2014,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Ms Krystyna Zwierz, is a Polish national who was born in 1954 and lives in Wrocław. She has been granted legal aid and was represented before the Court by Ms M. Gąsiorowska, a lawyer practising in Warsaw.

2. The Polish Government ("the Government") were represented by their Agent, Mrs J. Chrzanowska, and subsequently by Mr J. Sobczak of the Ministry of Foreign Affairs.

A. The circumstances of the case

1. Treatment and death of the applicant's husband

3. On 28 July 2008, R.Z., the applicant's fifty-six-year-old husband who had been suffering from advanced-stage leukaemia, had a medical emergency that required an urgent blood transfusion.

4. R.Z. was first taken, by an ambulance, to the emergency ward of Dolnośląski Specialist Hospital (*Oddział Ratunkowy Dolnośląskiego Szpitala Specialistycznego,* "the first hospital"). Because, that hospital did not have a dedicated internal-medicine ward, and no space was available for an internal-medicine patient on the existing toxicology ward, it was decided to have R.Z. transferred to another hospital. The applicant was transferred to Wrocław Regional Specialist Hospital (*Wojewódzki Szpital Specjalistyczny,* "the second hospital"). The vehicle in which R.Z. was driven to that hospital was operated by a private company. It had a paramedic on board, but no life-support equipment or doctor. At the second hospital, R.Z. was first treated in the admissions ward. He was then taken to the hospital's internal-medicine ward and, ultimately, transferred to the hospital's intensive care unit. He died there without receiving the blood transfusion. At the applicant's request, an autopsy was not carried out and the cause of the patient's death was not established.

5. Overall, R.Z. was in the care of public medical entities for approximately ten hours (from 5.30 a.m., the moment he was first taken to the first hospital by an ambulance, until 3.15 p.m., the time of his death).

6. A "for rescue" order for blood for the applicant was first lodged with the Regional Blood Centre at 9.40 a.m. by a doctor at the first hospital. The order was later cancelled by telephone. Around 10.00 a.m. the second hospital was notified that R.Z.'s blood-matching test had been inconclusive. When the duty doctor was given this information sometime later, she ordered a new blood sample from the patient in order to enable new blood-matching tests, and placed a new order for blood. The evidence produced during the subsequent criminal inquiry contains conflicting information about the subsequent timeline of the processing of the blood order.

2. Criminal and disciplinary proceedings against doctors

7. On 27 December 2013 the Wrocław Psie Pole district prosecutor discontinued the criminal investigation into the actions of the doctors of the second hospital's internal-medicine ward on the grounds that no criminal offence had been committed (no. 2 Ds 23/13).

8. The investigation lasted five years. The prosecutor obtained witness testimony from all doctors involved in R.Z.'s treatment on the day of his death and from other persons, such as an employee of the Regional Blood Centre. He also obtained all records concerning the processing of the blood order and reports from: an expert in transfusions, as well as independent medical experts, including from the Warsaw Forensic Medicine Institute, and the Regional Consultant in Emergency Medicine. The prosecutor also relied on the material produced during disciplinary proceedings against the two doctors of the second hospital's internal-medicine ward. The applicant participated in the questioning of the witnesses and of the independent experts and was informed about the progress of the investigation. On 23 March 2010 the

Wrocław Regional Court dismissed a complaint by the applicant regarding the length of the investigation.

9. The applicant lodged an interlocutory appeal, challenging, among other things, the evidentiary value of one piece of evidence, namely, the second hospital's "reports notebook" featuring blood orders, which had been discovered five years into the criminal inquiry. In particular, she submitted that no experts had been asked to verify whether the notebook in question had not been fraudulent, and that she had not been allowed to see the notebook during the criminal inquiry.

10. On 7 May 2014 the Wrocław District Court (*Sąd Rejonowy*) upheld the prosecutor's decision on the discontinuation of the criminal inquiry.

11. On 6 July 2011 the Chief Agent for Disciplinary Matters (*Naczelny Rzecznik Odpowiedzialności Zawodowej*) discontinued the disciplinary proceedings that it had begun against a doctor from the first hospital and a resident-doctor from the second hospital. On 4 November 2011 the Supreme Medical Court (*Naczelny Sąd Lekarski*) upheld that decision.

3. Civil proceedings against the hospitals

12. On an unspecified date the applicant brought an action, alleging medical negligence, against the State Treasury (the Governor of Lower Silesia) and the two hospitals. She sought 990,000 Polish zlotys (PLN – approximately, 247,000 euros (EUR)) in compensation for the suffering caused by her husband's death; PLN 1,010,000 (EUR 252,000) in respect of pecuniary damage; PLN 990,000, to be awarded to three emergency hospitals of the applicant's choice; and a payment of PLN 1,500 (EUR 375) per month by way of a monthly benefit.

13. In respect of the first hospital, the applicant alleged a series of structural shortcomings within its organisational arrangements. In particular, she complained that the hospital did not have an internal-medicine ward and that the emergency ward was inadequately organised. The applicant argued that if the hospital had been better organised, it would not have been necessary to transport her husband to another hospital. Moreover, in respect of both hospitals, the applicant alleged that the doctors who had been involved in her husband's treatment on 28 July 2008 had committed gross negligence in not securing a blood transfusion for him.

14. On 23 November 2017 the Wrocław Regional Court (*Sąd Okręgowy*) partly granted the applicant's action. The court found that the hospitals were culpable of medical malpractice of both a personal and institutional character. It awarded the applicant PLN 210,000 (EUR 52,500) as compensation for non-pecuniary damage (PLN 150,000) and for pecuniary damage (PLN 60,000).

15. The court established the facts of the case on the basis of: R.Z.'s medical records; various hospital and ambulance records; audio recording from the ambulance despatch centre; a report by the European Institute of

Medical Expertise; testimony given by the applicant, medical staff involved in her husband's treatment, persons involved in his transportation, hospital directors; decisions issued in the course of other proceedings concerning R.Z.'s death; and various documents concerning the organisation of the hospitals concerned, medical transportation and the organisation of doctors' work.

16. As regards the responsibility of the local authorities for the alleged structural shortcomings at the first hospital, the court observed that the hospital had not, at the material time, complied with the applicable regulations. In particular, it had not had an internal-medicine ward, as required by law, but only a number of beds on the toxicology ward that had been designated for patients suffering internal ailments. Moreover, it had not signed the necessary contract with the National Health Fund in respect of services aimed at treating internal ailments. As a result, R.Z. had not received timely emergency treatment. Against those observations, the court found, however, that the applicable law was not specific as to the obligations of local authorities in respect of ensuring that hospitals were adequately organised. It followed that that the Governor of Lower Silesia could not be held liable for the above-mentioned shortcomings in so far as they affected the treatment of R.Z.

17. In that regard, the court established that since 2010 an internal-medicine ward (with forty-nine beds) had been operating at the first hospital. It followed that, from that time on, the institution had complied with the relevant regulations.

18. For the above-mentioned reasons, the court dismissed the applicant's action against the State Treasury.

19. As for the allegations made against the hospitals as such, the court concluded that their staff had indeed committed a series of medical errors in respect of R.Z. Those errors constituted breaches of the law regulating the provision of medical care.

20. In summary, the patient should have received a blood transfusion while he had still been on the emergency ward of the first hospital.

21. The failure to ensure a timely blood transfusion had been both the personal fault of the two doctors, involved in R.Z.'s treatment, and the institutional or organisational fault of the first hospital. In that regard, the court observed that the obligation to admit an emergency patient to a hospital had been absolute. It had therefore constituted a breach of the law for the hospital to turn R.Z. away, even if there had been a lack of spare beds.

22. The court also found that certain staff at both hospitals had been negligent. The first hospital's doctor had ordered the wrong type of blood for R.Z., had not secured a blood-matching test from the Regional Blood Centre, and had not secured a timely blood transfusion. Moreover, the blood order should not have been cancelled. At the second hospital, the doctors should

have – with the utmost urgency – taken a decision to administer to R.Z. an immediate transfusion of "universal" blood type.

23. Regarding the issue of compensation, the court explained that a lump sum of PLN 210,000 was awarded in respect of the premature break-up of the applicant's family life with her husband, including her feelings of loneliness and of financial insecurity (R.Z. having been the family breadwinner). As regards compensation sought for material damage, the court essentially found that the applicant's standard of living had fallen only to a certain extent as a direct result of her husband's death. Most of the pecuniary damage suffered, however, had rather been as a consequence of a loan that the applicant had had to pay off and the fact that she had not managed to carry on her late husband's small business. Lastly, the court did not award the applicant any monthly benefits, reasoning that she had not proved that her husband's income, prior to his death, had been higher than the widow's pension that she had been granted by the State.

24. On 9 May 2018 the Wrocław Court of Appeal (*Sąd Apelacyjny*) upheld the first-instance judgment. On 22 August 2019 the Supreme Court (*Sąd Najwyższy*) decided not to entertain the applicant's cassation appeal against that judgment (VCSK 462/18).

4. Audits of Dolnośląski Specialist Hospital and Wroclaw Regional Specialist Hospital

25. The Government submitted that between 2009 and 2020, Dolnośląski Specialist Hospital and Wroclaw Regional Specialist Hospital had been subjected to audits aimed at pre-empting any medical errors. The first audit, in 2009, had been ordered in response to R.Z.'s case. The remaining audits had been mainly carried out at the request of the Governor of Lower Silesia.

26. Audits of the Dolnośląski Specialist Hospital emergency ward were carried out in 2010, 2016, 2017 and in 2019. Those audits confirmed that a contract with the National Health Fund was in place. However, certain shortcomings were uncovered in 2019 and recommendations were made for improvement. In particular patients' medical history and diagnoses should be properly recorded and the reasons for any refusal to admit a patient should be clearly stated. Moreover, an emergency medical specialist should always be present in the hospital.

27. The Government noted that audits of Wrocław Regional Specialist Hospital's emergency and transportation service had been carried out in 2009, 2017 (twice) and 2018 (twice). Each audit had revealed some shortcomings. The recommendations following the audit in 2017 were, in particular, that a certain number of spare beds should be kept free for emergencies and that thorough records should be kept. The 2018 audits recommended that the inter-hospital transportation of patients should be carried out in a manner that was in compliance with the applicable regulations and contracts and that any outsourcing of transportation services should be undertaken only in the

interest of effectiveness. Moreover, there should be increased supervision of the quality of medical records.

B. Relevant domestic law and practice regarding provision of blood transfusions

28. The provision of blood transfusions in healthcare establishments is regulated and further organised by the following legal instruments, guidelines and programmes.

29. The main piece of legislation concerning the provision of blood treatment is the Public Blood Services Act of 22 August 1997 (*Ustawa o publicznej służbie krwi*), which came into force on 1 January 1999, and which, since then, has been the subject of twelve amendments.

30. Additional provisions were set out in an Ordinance dated 19 September 2005 issued by the Minister of on the manner and organisation of treatment with blood in healthcare facilities ... (*Rozporządzenie w sprawie określenia sposobu i organizacji leczenia krwią w zakładach opieki zdrowotnejm w ktorych przebywają pacjencji ze wskazaniami do leczenia krwią i jej składnikami* – "the 2005 Ordinance"). The 2005 Ordinance remained in force until 2 July 2012.

31. The 2005 Ordinance standardised: the organisation of blood therapy in hospitals; the operation of blood banks and serological laboratories; the rules for ordering blood and for blood testing; the documenting of blood treatment; and the supervision of blood therapy.

32. The 2005 Ordinance was ultimately replaced by the Minister of Health's Ordinance of 16 October 2017 on treatment with blood and its components in medical entities carrying out medical activities, such as and round-the-clock health services (*Rozporządzenie w sprawie leczenia krwią i jej składnikami w podmiotach leczniczych wykonujących działalność leczniczą w rodzaju stacjonarne i całodobowe świadczenia zdrowotne* – "the 2017 Ordinance"). This ordinance is currently in force.

33. Other issues related to the provision of blood treatment are currently regulated by the following ordinances issued by the Minister of Health: the Ordinance of 16 April 2004 on audits of the public blood service (*Rozporządzenie w sprawie trybu przeprowadzania kontroli w niektórych jednostkach publicznej służby krwi*); the Ordinance of 23 March 2006 on quality standards for medical diagnostic and microbiological laboratories (*Rozporządzenie w sprawie standardów jakości dla medycznych laboratoriów diagnostycznych i mikrobiologicznych*); the Ordinance of 7 March 2017 on minimum requirements to ensure the quality ... of blood ... (*Rozporządzenie w sprawie minimalnych wymagań dotyczących systemu zapewnienia jakości oraz dopuszczalnych wyników pomiaru jakości, w zakresie krwi i jej składników*); and the Ordinance of 8 September 2017 on the qualifications and length of service required of persons employed in ...

the public blood service ... (*Rozporządzenie w sprawie określenia kwalifikacji oraz stażu pracy wymaganych od osób zatrudnionych w jednostkach organizacyjnych publicznej służby krwi oraz wykazu stanowisk w poszczególnych działach i pracowniach tych jednostek).*

34. In addition, the Minister of Health has made a series of official announcements (*obwieszczenie*) concerning various requirements in respect of blood provision, including the transportation of blood (announcements of 6 March 2019 and 18 March 2020). In 2012 "Guidelines on the treatment in medical entities of blood and its components and of blood products" (*Wytyczne w zakresie leczenia krwią i jej składnikami oraz produktami krwiopochodnymi w podmiotach leczniczych*) were issued; these contained various recommendations concerning the use of blood in medicine.

COMPLAINTS

35. The applicant complained under the substantive and procedural limbs of Article 2 of the Convention.

36. Firstly, she complained that flaws in the organisation of public hospitals and errors made by the doctors, resulting in a failure to provide her husband with a blood transfusion, had been the direct cause of his death.

37. Secondly, she complained that the criminal inquiry into her husband's death had not complied with the minimum standards of an effective investigation in that the proceedings had lasted five and a half years, that the circumstances surrounding the patient's treatment had not been fully established, and that the decision to discontinue the proceedings had been based on evidence (namely, the hospital's reports notebook) which should not have been admitted without the necessary verification of its authenticity and credibility.

THE LAW

Alleged violation of Article 2 of the Convention

38. The applicant complained that both the substantial and procedural limbs of Article 2 of the Convention had been violated. This provision, in so far as relevant, reads as follows:

> "1. Everyone's right to life shall be protected by law."

1. Parties' submissions

(a) The Government

39. The Government submitted that the applicant had lost her victim status on account of the outcome of the civil proceedings for damages. They also submitted that the criminal investigation had been effective.

40. In particular, the Government argued that the judgment of 22 August 2019 constituted an official acknowledgement of a substantive violation of Article 2 of the Convention and afforded the applicant sufficient redress for that violation.

41. They submitted that the first-instance civil court had examined all aspects of the applicant's case. It had held that organisational mistakes had been made by Dolnośląski Specialist Hospital, and all the doctors involved in R.Z.'s treatment on 28 July 2008 had been culpable of personal medical negligence.

42. As regards structural issues, the Government stated that the State authorities had started monitoring the general situation in the two hospitals in question in order to ensure that similar violations did not occur in the future. The two hospitals had been subjected to numerous audits; any organisational shortcomings had been reported and remedied.

43. Moreover, the Government submitted that the legal framework regulating the provision of medical emergency care had been improved. In particular, the provision of blood for transfusions was now regulated by the 2017 Ordinance (see paragraphs 32 above). In addition, "Guidelines on the treatment of blood and its components and blood products in medical entities" had come into force in 2012 (see paragraph 34 above).

(b) The applicant

44. The applicant argued that, despite the favourable outcome of the impugned civil proceedings, she could still claim to be a victim of the violation alleged.

45. She essentially submitted that the doctors who had been culpable of medical negligence had not been convicted. The civil court had not acknowledged that a violation of the applicant's rights had occurred. The amount of compensation awarded to her had been only a fraction of the amount that she had been entitled to, given the circumstances of the case. The structural shortcomings had not been corrected, as medical procedures had not improved in the two hospitals in question.

2. The Court's assessment

(a) Preliminary issue

46. The Court notes at the outset that it was not disputed that the applicant, who is R.Z.'s widow, could, at the time of the introduction of the present application, have been considered to be a victim of the alleged violation, within the meaning of Article 34 of the Convention (see *Lopes de Sousa Fernandes v. Portugal*, no. 56080/13, § 90, 15 December 2015, and *Micallef v. Malta* [GC], no. 17056/06, § 49, ECHR 2009).

(b) General principles

47. The general principles concerning the substantive and procedural positive obligations of States under Article 2 within the context of healthcare are set out in the judgment of *Lopes de Sousa Fernandes*, cited above, §§ 164-96 and 214-21).

48. In summary, the aforementioned positive obligations require States to issue regulations compelling hospitals, whether public or private, to adopt appropriate measures for the protection of their patients' lives. They also require an effective independent judicial system to be set up so that the cause of the death of a patient under the care of the medical profession, whether in the public or the private sector, can be determined and those responsible held accountable (see *Kamińska and Others v. Poland*, no. 4006/17, § 56, 3 September 2020).

49. In addition, the Court reiterates that it falls first to the national authorities to redress any violation of the Convention and that in assessing whether an applicant can claim to be a genuine victim of an alleged violation, account should be taken not only of the formal position at the time when the application was lodged with the Court but of all the circumstances of the case in question, including any developments prior to the date of the examination of the case by the Court (see *Rooman v. Belgium* [GC], no. 18052/11, § 128, 31 January, and *Kekelashvili v. Georgia*, no. 35861/11, § 42, 17 November 2020).

50. A decision or measure favourable to an applicant is not in principle sufficient to deprive him or her of the status of "victim" unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention (see *Murray v. the Netherlands* [GC], no. 10511/10, § 83, 26 April 2016; *Gäfgen v. Germany* [GC], no. 22978/05, § 115, ECHR 2010; and *Kekelashvili,* cited above, § 43).

51. The question of whether the applicant has received reparation for the damage caused – comparable to just satisfaction, as provided for under Article 41 of the Convention – is an important issue. It is the Court's settled case-law that where the national authorities have found a violation and their decision constitutes appropriate and sufficient redress, the party concerned can no longer claim to be a victim within the meaning of Article 34 of the Convention (see, among other authorities, *Scordino v. Italy* (no. 1) [GC], no. 36813/97, §§ 179-81, ECHR 2006-V; *Kołaczyk and Kwiatkowski v. Poland* (dec.), no. 34215/11, § 40, 22 October 2013; and *Kekelashvili*, cited above § 44).

(c) Application of these principles to the present case

52. The Court observes that the applicant essentially submitted that the successful outcome of the civil proceedings could not have affected her victim status – firstly, because the structural shortcomings had allegedly persisted, and secondly, the criminal investigation in respect of her husband's death had allegedly been ineffective.

53. The Court notes that given the circumstances of the case there is no doubt that the death of the applicant's husband was not inflicted intentionally. The Court therefore considers that the respondent State's duty under Article 2 of the Convention to ensure the effective implementation of the domestic laws that protect the right to life could in principle be discharged through civil liability and redress (see, *mutatis mutandis*, *Kekelashvili*, cited above, § 45).

54. In this regard, the Court observes that the Polish legal system provides, in principle, two avenues of recourse for victims alleging illegal acts attributable to the State or its agents – namely a civil procedure and a request that a prosecutor open a criminal investigation. The Court has already held that, in such circumstances, the aims of fact-finding and accountability may be met by or shared between several authorities, as long as the various procedures provide for the necessary safeguards in an accessible and effective manner (see, *mutatis mutandis*, *Kekelashvili*, cited above, § 46). It follows that the Polish legal system offers litigants remedies that, in theory, meet the requirements of the procedural obligations under Article 2.

55. In the instant case, the applicant made use of both procedures mentioned above. The question is therefore whether, under the concrete circumstances of the case, and given the fundamental importance of the right to life guaranteed under Article 2 of the Convention and the particular weight the Court has attached to the procedural requirement under that provision, the legal system as a whole dealt adequately with the case at hand (see *Lopes de Sousa Fernandes,* cited above, § 225).

56. The Court must first assess whether the civil remedy enabled any responsibility to be established and any appropriate redress to be obtained in the circumstances of the present case (see, *mutatis mutandis*, *Kekelashvili*, cited above, § 46).

57. In this regard, the Court observes that the applicant brought an action against the two hospitals that had been called on to provide emergency care to the applicant's husband on 28 April 2008 and against the State Treasury (the Governor of Lower Silesia), who had overseen the general organisation of the healthcare system in the region.

58. On 23 November 2017 the Wroclaw Regional Court partly granted the applicant's action. The court found that the defendant hospitals had been culpable of medical malpractice of both a personal and institutional nature (see paragraph 14 above). That judgment was later upheld by an appellate court (see paragraph 24 above).

59. The Court observes that the Regional Court established all the relevant factual circumstances of the case and based its conclusions on ample evidence, which included a report submitted by a qualified and independent expert (see paragraph 15 above). The court's ruling was delivered after a fully adversarial set of proceedings, during which the court gave due consideration to all the applicant's arguments (see paragraphs 13, 16, 19 and 21 above).

60. In the Court's view, the domestic court's reasoning as to the liability of each of the three defendants was thorough and based on relevant and sufficient grounds.

61. The domestic court did not commit any manifest error of judgment in finding that the regional authorities could not be held liable for the organisational shortcomings of the hospitals (see paragraph 16 above).

62. As to the two hospitals, the domestic court concluded that the staff had indeed committed a series of medical errors in respect of R.Z., as a consequence of which he had not been provided with a timely blood transfusion (see paragraph 19 above). The court ascribed the blame for that failure both to several individual staff members (see paragraphs 21 and 22 above) and to the first hospital as an organisation, given the latter's refusal to admit R.Z. for treatment and its decision to transfer him to another hospital (see paragraph 21 *in fine* above).

63. The Court therefore accepts that the domestic courts had regard to all the circumstances surrounding the applicant's husband's death, and that they acknowledged, in substance, the breach of Article 2 of the Convention (compare, *mutatis mutandis*, *Kekelashvili*, cited above, § 49).

64. In order to assess the adequacy of the redress obtained by the applicant, the Court will firstly turn to the question of monetary compensation.

65. The approach that the Court has followed in determining the "reasonableness" of compensation paid by a State for a breach of the Convention has been that of equity, which requires that the amount awarded be assessed in the light of all the circumstances of each individual case. Those considerations include the domestic legal system and legal traditions in the respondent State, the standard of living and the general level of incomes in the State concerned, and the fact that a remedy in the national system is closer and more accessible than one sought through an application to the Court. In determining whether domestic redress could be considered to be "equitable", the Court has assessed, in particular, whether the applicant received reparation for the damage caused comparable to just satisfaction, as provided for under Article 41 of the Convention. At the same time, the Court has also held that a wider margin of appreciation should be left to the domestic courts when assessing the level of compensation. Even compensation that is lower than the amount that the Court would itself award could be considered reasonable, provided that the relevant decision of the domestic courts was consistent with the legal tradition and standard of living in the country concerned and was speedy, reasoned and executed quickly (*Kekelashvili*, cited above, §§ 51 and 52).

66. In the present case, in making the award the domestic court relied on its own practice in similar matters and awarded the applicant the equivalent of EUR 52,500 as compensation for non-pecuniary and pecuniary damage (see paragraphs 14 and 23 above). While it is true that this amount represents

only a small fraction of the applicant's claim (see paragraph 12 above), the Court notes, in particular, that in calculating the non-pecuniary damage suffered by the applicant, the domestic court took account of her emotional bond with and her financial reliance on her husband. As to the pecuniary damage suffered, the domestic court made a detailed analysis of the profits generated by R.Z.'s business, the couple's outstanding debt, and the applicant's overall financial situation since her husband's death (see paragraph 23 above).

67. In the light of the case material, the Court finds that the sums awarded to the applicant under the heads of pecuniary and non-pecuniary damage, cannot be considered unreasonable (compare, *mutatis mutandis*, *Kekelashvili*, cited above, § 53).

68. To complete its assessment of the adequacy of the redress ensured by the State, the Court will turn to the question of the structural shortcomings that negatively affected R.Z.'s medical treatment.

69. Firstly, the Court takes note of the audits that have taken place in the two hospitals since 2009 (see paragraphs 25-27 above). The extracts of the post-audit reports that have been submitted to the Court by the Government clearly show that the provision of emergency healthcare in the hospitals has been closely monitored and that any organisational shortcomings – of which there were not many – were duly reported. Moreover, specific recommendations have been made in the course of the audits in order to avoid similar shortcomings in the future (see paragraphs 26 and 27 above).

70. Secondly, the Court accepts the finding of the civil court that the first hospital complies with the applicable regulations, in so far as it now has an internal medicine ward operating there (see paragraph 17 above).

71. Thirdly, the Court observes that the legal framework regulating the provision of medical emergency care has indeed been improved. In particular, the provision of blood for transfusions is now regulated by a more detailed ordinance that expressly addresses the issues that had led to the failures in the case of R.Z. (see paragraphs 29-33 above). Lastly, the relevant medical entities must now act in accordance with official announcements issued by the Minister of Health, as well as with practical guidelines on blood treatment (see paragraph 34 above).

72. In the light of the above observations, the Court concludes that the organisational failures that affected the quality of R.Z.'s treatment on 28 July 2008 have been duly addressed and remedied by the State.

73. The foregoing considerations are sufficient for the Court to find that, notwithstanding what appears to be the failure of the criminal investigation to comply with the requirement of promptness and reasonable expedition, the civil remedy has been sufficient and effective, given the particular circumstances of the present case, in addressing all aspects of the applicant's complaint under Article 2 of the Convention and in rectifying matters through the domestic legal system (compare and contrast with *Makharadze and*

Sikharulidze v. Georgia, no. 35254/07, §§ 87-89, 22 November 2011, where deficiencies in the provision of healthcare were not elucidated either through civil proceedings or through any other independent, impartial and comprehensive inquiry; see also, *mutatis mutandis*, *Kekelashvili*, cited above, § 54). The Court therefore upholds the Government's objection regarding the loss of the applicant's victim status.

74. Accordingly, the complaints under Article 2 of the Convention are incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected, in accordance with Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 2 June 2022.

Liv Tigerstedt Deputy Registrar	Erik Wennerström President