



Failure by Italian authorities to effectively investigate the death of a soldier in barracks

The case of [Intranuovo v. Italy](#) (application no. 46569/19) concerned the death, on 6 July 2014, of the applicant's son, A.D., who had been serving in the Italian army, following an alleged fall from a window in the army barracks in which he had been stationed. During the investigation that followed, Ms Intranuovo argued there were a number of factors that cast serious doubt on the initial conclusion that A.D.'s death was a result of suicide by jumping and that, rather, they indicated foul play.

In today's **Chamber** judgment¹ in the case the European Court of Human Rights held, unanimously, that there had been a **violation of both aspects of Article 2 (right to life/lack of effective investigation)** of the European Convention on Human Rights.

The Court found that the investigation into A.D.'s death had been ineffective and that the Italian authorities had not sufficiently satisfied the burden of proof resting on it to provide a satisfactory and convincing explanation as regards the circumstances of A.D.'s death. In particular, the investigative authorities had not taken reasonable and sufficient steps to secure the relevant evidence, nor had they made a proper attempt to establish the facts.

Principal facts

The applicant, Rosaria Intranuovo, is an Italian national who was born in 1963 and lives in Syracuse (Italy).

At 6.30 a.m. on 6 July 2014 A.D.'s body was discovered in the courtyard in front of the accommodation building of the barracks.

The next day, the public prosecutor's office opened an investigation against unknown persons for the offence of inciting suicide and ordered an autopsy and a forensic medical report. The initial autopsy concluded that A.D.'s death was attributable to multiple severe traumas and that those injuries could be consistent with a fall, possibly suicide by jumping.

On 24 April 2015 the public prosecutor asked the preliminary investigations judge to discontinue the case, as he considered that the acts for which the case had been opened had not taken place and that the cause of A.D.'s death was suicide by jumping.

On 16 June 2015 Ms Intranuovo lodged an objection against the prosecutor's request to discontinue the proceedings. She argued that the investigative acts carried out up to that point had been defective and inadequate. In particular, she complained that the autopsy had been superficial and incomplete. It had not addressed, among other things, the presence of some obvious abrasions on A.D.'s back and had failed to explain the origins of fractures found on his body and whether and to what extent they could have been consistent with a fall.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

On 15 April 2016 the preliminary investigations judge rejected the request to discontinue proceedings, finding that a more adequate and complete investigation was essential. She ordered a fresh forensic medical examination, requiring the exhumation of A.D.'s body and a new autopsy.

On 16 June 2016 Ms Intranuovo lodged a criminal complaint arguing that A.D.'s death could be attributed to "hazing" episodes to which he had been subjected.

On 2 August 2016 the preliminary investigations judge appointed two independent experts; a forensic pathologist and a physicist, who was an expert in crime scene reconstruction. The experts concluded that while the serious injuries found on A.D. could be consistent with a fall, they also left open the possibility of an alternative hypothesis: "an attack on the ground", involving an impact with a large, flat surface with significant force.

On 22 July 2017 the public prosecutor submitted a new request to discontinue the case. On 28 March 2019 the preliminary investigations judge issued a decision discontinuing the proceedings, concluding that the evidence collected up to that point was insufficient to substantiate any charges in a potential trial, as the precise sequence of events remained unestablished.

Complaints, procedure and composition of the Court

Relying in particular on Article 2, the applicant complained that the national authorities had failed to protect the life of her son or to adequately account for his death, or to conduct an effective investigation.

The application was lodged with the European Court of Human Rights on 26 August 2019.

Judgment was given by a Chamber of seven judges, composed as follows:

Ivana Jelić (Montenegro), *President*,
Erik Wennerström (Sweden),
Raffaele Sabato (Italy),
Davor Derenčinović (Croatia),
Alain Chablaïs (Liechtenstein),
Artūrs Kučs (Latvia),
Anna Adamska-Gallant (Poland),

and also Ilse Freiwirth, *Section Registrar*.

Decision of the Court

At the outset, the Court noted that while an official investigation into the circumstances of A.D.'s death had been initiated promptly, important questions had been left unanswered.

Firstly, there had been a failure to obtain footage from video surveillance cameras from the barracks and there was no indication that the initial investigators had sought to obtain those recordings. Secondly, A.D.'s complete telephone and email records relating to the days preceding his death had not been taken into evidence in the first phase of the investigation and there had also been an unexplained failure to investigate the documented incidences of access to and use of A.D.'s email account after his death and before the authorities had seized his computer. Thirdly, the second-floor bathroom from which A.D. had purportedly jumped had not been sealed off, and a cigarette stub found there had not been tested. Lastly, none of the officials with supervisory roles in the barracks had been questioned; statements had only been taken from A.D.'s former girlfriend and five fellow soldiers, all but one of whom had been on ordinary leave on the night of the incident. The Court observed that on 15 April 2016 the preliminary investigations judge had rejected the prosecutor's request to discontinue the proceedings, finding, among other things, that the investigation was

incomplete. By the time that decision was issued, nearly two years had passed since A.D.'s death. Although the second phase of the investigation appeared to have been more thorough, by that time certain essential failings from the first part of the investigation could no longer be remedied, largely owing to the passage of time. The Court referred to the preliminary investigation judge's conclusion to the effect that further investigative measures had not revealed any new leads.

There had therefore been a violation of Article 2 as concerned the investigation into A.D.'s death.

A.D. had been found dead in army barracks and therefore the incident in question could be viewed as lying wholly, or in large part, within the exclusive knowledge of the authorities. It followed that the State bore the burden of providing a plausible explanation for his death. The Court found that the applicant had put forward elements that, at the very least, were capable of casting doubt on the official conclusion for A.D.'s death.

In support of the suicide explanation, the Government relied on the findings of the initial forensic medical report. However, the Court observed that the conclusion of that report was expressed in terms of probability rather than certainty and in any event, and most significantly, the preliminary investigations judge had asked for a fresh forensic medical examination, considering the initial report to be insufficient.

As to the argument that A.D. may have been motivated by, emotional distress arising from the end of a romantic relationship, a failure to pass several competitive examinations, the exacerbation of his psoriasis and a disturbed sleep cycle, the Court noted that the preliminary investigations judge had not addressed or relied on that argument in any way when closing the investigation.

The experts instructed during the second phase of the investigation had not been persuaded by the explanation of a jump from the bathroom window, because of several inconsistencies and anomalies and they had explored alternatives, on the basis of the evidence available to them. Those experts had been unambiguous in their conclusion that, while the injuries could in principle have been consistent with a suspected jump, that had not been supported by the overall circumstances of A.D.'s death.

All possible explanations for A.D.'s death presented incongruities and anomalies, and in the absence of other factual evidence, the conclusion remained that the manner of A.D.'s death could not be ascertained with certainty.

Bearing in mind the shortcomings in the investigation, the explanation that A.D.'s death had been the result of suicide by jumping from the window of the accommodation building could not be regarded as sufficiently persuasive. That finding did not mean that the Court itself was taking a position on the cause of A.D.'s death, nor did it imply any form of agreement with Ms Intranuovo's allegations that her son had been murdered in the context of hazing practices. Rather, the Court concluded that the respondent State had not sufficiently satisfied the burden of proof resting on it to provide a satisfactory and convincing explanation as regards the circumstances of A.D.'s death.

There had therefore been a violation of Article 2 as concerned the State's duty to protect the life of the applicant's son.

Just satisfaction (Article 41)

The Court held that Italy was to pay the applicant 42,000 euros (EUR) in respect of non-pecuniary damage.

The judgment is available only in English.

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