



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

FIRST SECTION

Application no. 32128/08
Natalya Ivanovna SHUMILINA
against Russia
lodged on 16 June 2008

STATEMENT OF FACTS

The applicant, Ms Natalya Ivanovna Shumilina, is a Russian national, who was born in 1953 and lives in St Petersburg.

The facts of the case, as submitted by the applicant, may be summarised as follows.

The applicant is the mother of Mr Vitaliy Vitalyevich Shumilin, who was killed by a policeman in 2001.

A. The death of the applicant's son and the criminal proceedings against Mr N.

Early in the morning of 9 July 2001 the applicant's son, Vitaliy Shumilin, together with his friend, Mr M., became involved in a street fight with a group of young people.

At around 4.30 a.m. their quarrel attracted attention of Mr N., a policeman on duty who has been patrolling the district. He attempted to arrest Mr Shumilin and Mr M., but they did not obey the orders and started walking away. Officer N. drew his service gun and, after making a warning shot, fired at the pair, severely wounding both of them.

In a short while Valeriy Shumilin was brought to a hospital. Although he was in coma, several policemen were dispatched to stand guard near his room, allegedly denying the applicant to see her son and thus making her suffer.

On 18 July 2008 Mr Shumilin died.

In the ensuing criminal proceedings on 22 October 2004 the Moskovskiy District Court of St Petersburg, composed of one professional and two lay

judges, found officer N. guilty of abuse of authority and of homicide committed in excess of the measures needed for an arrest. The court sentenced officer N. to five years' imprisonment and ordered to pay the applicant 100,000 Russian roubles (RUB) (around 2,750 euros (EUR) at the time) in non-pecuniary damages. Both Mr N. and the applicant appealed against the judgment.

On 15 March 2005 the St Petersburg City Court found that the two lay judges participated in the first-instance proceedings illegally and quashed the judgment, remitting the case for a new examination.

On 4 October 2007 the Moskovskiy District Court of St Petersburg found Mr N. guilty of abuse of authority and sentenced him to four years' imprisonment, ordering to compensate the applicant RUB 100,000 in non-pecuniary and RUB 37,203 in pecuniary damages (around EUR 2,800 and EUR 1,050 at the time, respectively).

On 5 February 2008 the St Petersburg City Court upheld the conviction on appeal.

On 11 June 2008 the St Petersburg City Court examined Mr N.'s supervisory review complaint against the earlier judgments. Establishing that the courts had misapplied the material law, it decided to reopen the case.

On 15 October 2008 the Presidium of the St Petersburg City Court quashed the earlier judgments, finding that the charges against Mr N. had been time-barred, and ruled to release him from prison. It is unclear whether any separate decision was taken in regard of the compensation.

B. The criminal proceedings against Mr Shumilin

On 17 July 2001 a criminal case against the applicant's son was opened. He was charged with disorderly behaviour with reference to the conflict with the group of young people on the night of the shooting.

On 28 August 2001 the investigation in respect of Mr Shumilin was discontinued due to his death. The applicant's representative later challenged that decision by way of judicial review.

On 12 October 2007 the Moskovskiy District Court of St Petersburg rejected the above complaint.

On 17 December 2007 the St Petersburg City Court upheld the judgment on appeal.

COMPLAINTS

1. The applicant complains under Article 2 of the Convention about violation of her son's right to life by a State agent.

2. With reference to the same Article, she alleges that the Russian criminal justice system failed to effectively respond to Mr Shumilin's death.

3. The applicant claims that the criminal proceedings against Mr N. were unreasonably long.

4. She also alleges that the quashing of the final judgment against Mr N. by way of supervisory review infringed the principle of legal certainty.

QUESTIONS TO THE PARTIES

1. Was there a breach of the applicant's son's right to life, guaranteed by Article 2 of the Convention, by the respondent State?
2. Did the applicant receive the compensation awarded to her by the final judgment of the St Petersburg City Court of 5 February 2008? Was she obliged to reimburse it after the said judgment was quashed by way of supervisory review on 11 June 2008?
3. In the light of the outcome of the criminal proceedings against Mr N., did the Russian judicial authorities operate in response to the killing of the applicant's son so as to secure the full accountability of State officials or authorities for their role in it and effectively implement the provisions of domestic law guaranteeing respect for the right to life, in particular the deterrent function of the criminal law (see, *mutatis mutandis*, *Öneriyıldız v. Turkey* [GC], no. 48939/99, §§ 111-118, ECHR 2004-XII)?
4. Taking into account that the total length of the criminal proceedings against Mr N. exceeded seven years, was the "reasonable time" requirement of Article 6 § 1 complied with?
5. Was the quashing of the final judgment in supervisory review proceedings compatible with the principles of legal certainty and peaceful enjoyment of possessions guaranteed by Article 6 of the Convention and Article 1 of Protocol 1?

The Government are requested to submit a copy of the judgment of the Presidium of the St Petersburg City Court of 15 October 2008 and of any further decisions taken in Mr N.'s criminal case if they exist.