



Russian Federation responsible for the death of a Moldovan citizen at peacekeeping checkpoint

In today's **Chamber** judgment¹ in the case of [Pisari v. the Republic of Moldova and Russia](#) (application no. 42139/12) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 2 (right to life and investigation) of the European Convention on Human Rights against the Russian Federation as concerned both the killing of the Pisis' son and the ensuing investigation.

The case addressed the question of State responsibility for the actions of a Russian soldier at a peacekeeping checkpoint in Moldova which resulted in the death of a young man, Vadim Pisari. The checkpoint in question was situated in the security zone put in place following an agreement to end the military conflict in the Transdnestrian region of Moldova in 1992 and was under the command of Russian soldiers. The case also concerned the manner in which the subsequent investigation into his death was run.

The Court held that the Russian Federation should be held responsible for consequences arising from a Russian soldier's actions even though they had not occurred in Russia. Indeed, the Russian Government had not objected to the allegation that Vadim Pisari had been under their jurisdiction or that his death had been their responsibility. The Court further found that the Russian soldier's decision to shoot at the passing vehicle had not been justified and identified procedural problems with the Russian investigation into the case.

On the other hand, Vadim Pisari's parents considered that the Moldovan authorities had not been responsible for their son's death and had done everything they reasonably could to investigate his death; they therefore no longer wished to continue their application against the Republic of Moldova. The Court accepted that wish and **decided to strike out of its list of cases the part of the application directed against the Republic of Moldova.**

Principal facts

The applicants, Simion Pisari and Oxana Pisari, are Moldovan nationals who were born in 1970 and 1973 respectively and live in Pirița in the Republic of Moldova. Their case concerns the death of their son at one of the peacekeeping checkpoints located on the Dniestr River in Moldova.

Early in the morning on New Year's Day 2012, the Pisis' 18-year-old son, Vadim, and a friend decided to cross the Dniestr River from their village Pirița to the town of Vadul lui Vodă to refuel another friend's car. To reach the petrol station they needed to cross a bridge which had peacekeeping checkpoints at either end. Although both towns are under the control of the Moldovan Constitutional authorities, these checkpoints form part of the security zone which was put in place following an agreement to end the military conflict in the Transdnestrian region of Moldova in 1992. Each checkpoint was manned by eight soldiers, four from Russia, two from Moldova and two from

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.

the self-proclaimed territory of Transdniestria. A Russian sergeant known as V.K was in command of the check point on the east bank, he was the only soldier with a loaded machine gun at the time of the incident. Vadim Pisari failed to stop at the checkpoint and hit a stop sign and barrier as he went through it. The other passenger later explained that the windscreen was partly covered by ice giving the driver limited visibility. The car continued through the next checkpoint to the petrol station. Twenty minutes later they drove back through the first checkpoint where no effort was made to stop the car. As the car approached the check point of the east bank, which had been partially obstructed with spikes, V.K ordered Vadim Pisari to stop, but instead the car accelerated through the checkpoint, avoiding the obstruction. V.K shouted at the driver to stop or he would shoot. He shot once in the air and then several times at the car. One bullet hit the car, which continued a short distance before it stopped, the door opened and Mr Pisari fell out, injured. He died from his wound several hours later.

The shooting was investigated by the Moldovan police, a joint commission of the peacekeeping forces and the Russian military. The Moldovan authorities instituted a criminal investigation but in 2013 decided to discontinue it as they had completed the investigations and V.K, who had been transferred to another military unit in Russia, had effectively absconded from their jurisdiction. The joint commission produced a report accusing Mr Pisari of breaching the rules of conduct at checkpoints, although the Moldovan members of the commission did not sign the report, meaning it had no legal effect. The Russian military issued an initial report stating that V.K had acted in accordance with the applicable rules for checkpoints. Although the Russian Military Prosecutor's Office opened an investigation for manslaughter, it also informed Mr and Ms Pisari that Russia would not extradite V.K., a Russian citizen. In December 2012 the Moldovan Prosecutor General informed the Pisaris that he had learnt that V.K had been cleared by the military prosecutor and proceedings terminated. Mr and Ms Pisari twice requested a copy of the decision from the Russian prosecutors but were refused on the grounds that they were not a party to the proceedings, their earlier requests to be recognised as victims in the proceedings conducted by the Russian authorities having been rejected.

Complaints, procedure and composition of the Court

Relying on Article 2 (right to life), the Pisaris complained that their son had been killed by State servicemen and that the authorities had failed to carry out an effective investigation into his death. The application was lodged with the European Court of Human Rights on 1 July 2012.

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

Josep **Casadevall** (Andorra), *President*,
Luis **López Guerra** (Spain),
Kristina **Pardalos** (San Marino),
Johannes **Silvis** (the Netherlands),
Valeriu **Grițco** (the Republic of Moldova),
Dmitry **Dedov** (Russia),
Iulia Antoanella **Motoc** (Romania),

and also Stephen **Phillips**, *Section Registrar*.

Decision of the Court

[Article 2 \(right to life and investigation\)](#)

The Court first examined the question of jurisdiction. Neither the Russian Federation nor the Republic of Moldova had disputed their jurisdiction in this case. The Court noted that when State

servicemen are deployed in another State's territory, the extra territorial force they use may extend a State's jurisdiction to cover those affected by their servicemen's actions. In this case the Court noted that it was a Russian soldier who had shot Vadim Pisari at a checkpoint which was situated in a security zone manned and commanded by Russian soldiers in accordance with the agreement putting an end to the military conflict in the Transdnestrian region of Moldova. Therefore the Court found that Vadim Pisari was under the jurisdiction of the Russian Federation when he was shot.

On the other hand, Vadim Pisari's parents considered that the Moldovan authorities had not been responsible for their son's death and had done everything they reasonably could to investigate his death; they therefore no longer wished to continue their application against the Republic of Moldova. The Court, which was satisfied that respect for human rights as defined in the European Convention and its Protocols did not require it to continue examination of this part of the applicants' complaints, therefore accepted that wish and decided to strike out of its list of cases the part of the application directed against the Republic of Moldova.

Next, the Court found that the danger posed by Vadim Pisari – who had effectively failed to stop at three checkpoints – to the soldiers manning the checkpoints had not warranted the use of a machine gun and that the use of force had not been absolutely necessary in this case. The Court stressed that the lack of appropriate equipment to stop vehicles at the checkpoints did not justify soldiers resorting to firing at vehicles unless there were very serious or compelling reasons to do so.

Lastly, the Court noted that an effective official investigation was necessary when State servicemen kill someone. In particular, it had stressed on many occasions that the involvement of the next of kin in an investigation was important as it served to ensure public accountability and to safeguard the victim's interests. However the Russian Federation had not explained why Mr and Ms Pisari had been refused victim status in the criminal proceeding opened following their son's death or why they had not been informed about or involved in the Russian investigation into their son's death.

The Court therefore held that there had been a violation of Article 2 against the Russian Federation as concerned both the killing of the Pisaris' son and the ensuing investigation.

Article 41 (just satisfaction)

The Court held that the Russian Federation was to pay Mr and Ms Pisari EUR 35,000 in respect of non-pecuniary damage and EUR 5,580 in respect of costs and expenses.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.