



The Court finds a lack of independence in the conduct of an investigation into the death of the applicant's son

In today's **Chamber judgment**¹ in the case of [Khodyukevich v. Russia](#) (application no. 74282/11) the European Court of Human Rights held, unanimously, that there had been:

no violation of the substantive aspect of Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, and

a violation of the procedural aspect of Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment).

The case concerned the circumstances surrounding the death of the applicant's son (Mr Alchin) and the subsequent investigation. The applicant alleged that her son had died as a result of ill-treatment by officers at a police station. She also cast doubt on the independence of the person in charge of the investigation, on the grounds that the investigator was attached to the same police station as the officers likely to be implicated.

The Court found in particular that the evidence submitted by the parties did not enable it to conclude that the police officers had subjected Mr Alchin to ill-treatment resulting in his death or that the national authorities had failed in their obligation to safeguard his life.

The Court also found that it had been essential to entrust the investigation to a body or to officials not belonging to the same police unit as the officers likely to be implicated, and that this should have been done as soon as the investigating authority became aware that Mr Alchin had been taken to the police station. The Court stressed that the initial stage of an investigation, namely the point at which the evidence was gathered and preserved, was crucial and that a lack of independence at this stage was liable to compromise the investigation's findings.

Principal facts

The applicant is a Russian national who was born in 1955 and lives in Orenburg (Russia).

In September 2008 the applicant's son, Alexey Alchin, was arrested and taken to the police station after a fight with his wife, who had hit him with a rolling pin. The police officers stated that they had interviewed Mr Alchin while he was drunk but had not used any force against him and had not noticed any injuries to his body. They further alleged that after signing the requisite papers Mr Alchin had left the police station. The applicant maintained that her son had insisted on being released and had had an altercation with some police officers, who had struck him on the head. According to the applicant, his body had then been dragged outside onto the pavement. Mr Alchin was found unconscious by passers-by and was taken to hospital, where he died 10 days later from an intracranial injury.

The day after the arrest an investigator from the same police station ordered the opening of a criminal investigation. In the course of the investigation Mr Alchin's wife confessed to having beaten

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.

her husband while they were both under the influence of alcohol; however, she retracted her statement a month later. An autopsy carried out in October 2008 showed that the victim's death had been caused by a blow from a hard object. In March 2014 Mrs Alchin reiterated her confession of her own accord and was charged. After an investigation during which various witnesses were questioned and the forensic medical evidence was examined, the investigator classified Mrs Alchin's actions as use of excessive force in self-defence and discontinued the proceedings as being time-barred. He also decided that the police officers in question had no case to answer, after finding that the offence had been committed by the victim's wife, who had struck him a few times with a rolling pin. In October 2014 the Orenburg Regional Court ordered the sum of 100,000 Russian roubles to be paid to the applicant in compensation for the excessive length of the criminal investigation into her son's death.

Complaints, procedure and composition of the Court

Relying, in particular, on Article 2 (right to life) and Article 3 (prohibition of inhuman or degrading treatment), the applicant alleged that her son had been the victim of ill-treatment by the police officers, that the assault in question had caused his death and that no effective investigation had been carried out into the matter. Under Article 13 (right to an effective remedy), Mrs Khodyukevich complained that the domestic investigation had been ineffective. Relying on Article 5 (right to liberty and security), she complained of her son's arrest.

The application was lodged with the European Court of Human Rights on 15 November 2011.

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

Helena Jäderblom (Sweden), *President*,
Branko Lubarda (Serbia),
Helen Keller (Switzerland),
Dmitry Dedov (Russia),
Pere Pastor Vilanova (Andorra),
Alena Poláčková (Slovakia),
Georgios A. Serghides (Cyprus),

and also Stephen Phillips, *Section Registrar*.

Decision of the Court

[Articles 2 \(right to life\) and 3 \(prohibition of inhuman or degrading treatment\)](#)

Substantive aspect (ill-treatment and death)

The applicant maintained that her son's fatal injuries had been inflicted by the police officers from the police station. According to the Government, the fatal blow had been struck by the victim's wife. The Court noted that, throughout the events, from the time of his arrest until he left the police station, Mr Alchin had been seen by several witnesses who stated that he had been capable of speaking and of moving around without assistance, that he had not been beaten by the police officers and that he had no visible injuries. This version of events was supported by medical evidence. The applicant also alleged that police officers had dragged her son's body onto the pavement outside the police station, while the Government maintained that Mr Alchin had walked out of the station unaided. The Court observed that the applicant had merely stated her personal belief without presenting any evidence to support her claims. Accordingly, the Court considered that the evidence submitted by the parties did not enable it to establish beyond reasonable doubt that Mr Alchin had been beaten by police officers at any point during the events (from the time of his arrest until he left the police station). The Court also found that the national authorities had not

failed in their positive obligation to safeguard Mr Alchin's life. **There had therefore been no violation of the substantive aspect of Articles 2 and 3 of the Convention.**

Procedural aspect (investigation)

The applicant cast doubt on the investigator's independence, on the grounds that the investigator was attached to the same police station as the officers implicated in Mr Alchin's ill-treatment. The Court found it established that the authorities had known from the outset of the investigation that Mr Alchin had been taken to the police station. The day following the incident, the investigator had interviewed Mr Alchin, gone to the apartment where the fight had taken place and questioned the witnesses there. It was therefore reasonable to assume that after hearing evidence from the witnesses the investigator had established the timing of the events and in particular the victim's arrest by the police, his transfer to the police station and his subsequent release.

The applicant also complained that the investigator, who she claimed had had direct access to the CCTV footage, had not preserved that evidence and had even hidden or destroyed it. The Court stressed that the initial stage of the investigation, namely the point at which the evidence was gathered and preserved, was crucial and that a lack of independence at this stage was liable to compromise the investigation's findings. Furthermore, the subsequent intervention of an independent authority was not capable of remedying this defect, which had affected the investigation from the beginning. In the present case the first steps in the investigation had been taken by an immediate colleague of the persons likely to come under suspicion. In order to maintain public confidence in the transparency of investigations and rule out any suspicion of collusion, it had been essential for the investigation to be entrusted to a body or to officials not belonging to the same police unit. That should have been done as soon as the investigating authority became aware that Mr Alchin had been taken to the police station. Moreover, the subsequent intervention of the investigating committee in the investigation had not been capable of remedying this defect, which had affected the investigation from the outset. **There had therefore been a violation of the procedural aspect of Articles 2 and 3 of the Convention on account of the lack of independence of the police investigation.**

Other articles

The Court considered it unnecessary to examine the complaint under Article 13 (right to an effective remedy) and declared inadmissible the complaint under Article 5 (right to liberty and security).

Just satisfaction (Article 41)

The Court held that Russia was to pay the applicant 10,000 euros (EUR) in respect of non-pecuniary damage.

The judgment is available only in French.

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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.