

EUROPEAN HUMAN RIGHTS ADVOCACY CENTRE

**EHRAC****BULLETIN**In partnership with  
Memorial Human Rights Centre (MHRC) and Georgian Young Lawyers' Association (GYLA)**Human Rights Cases**

This section features selected decisions in recent human rights cases which have wider significance beyond the particular case or are cases in which EHRAC/Memorial is representing the applicants.

**The death of a military conscript—the case of *Perevedentsev v Russia***

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As is well known, military service in the Russian Federation is organised on an extraterritorial principle, and the military unit is a type of closed institution. If a crime takes place on the unit's territory, the criminal investigation is conducted by the garrison prosecutor for the unit's location. Examining the circumstances of the crime, the investigator is required to solve the usual problems arising when looking for evidence in a closed institution: overcoming attempts by the leadership of the institution to conceal events, dependence of potential witnesses on the military hierarchy, etc. In the case of the death of a conscripted soldier, it is often extremely difficult for the relatives of the dead soldier to monitor the progress of criminal proceedings. Significant distance and low income do not allow relatives to visit the military prosecutor regularly with appeals or petitions, or to have adequate access to case materials. Unscrupulous investigators willingly use this to alienate relatives completely from involvement in the criminal proceedings, and to protect themselves from appeals against their decisions and actions.

Meanwhile, Articles 2 and 13 of the European Convention on Human Rights require that there is an effective investigation into such an incident. In accordance with the case law of the Court, the state must provide "a sufficient element of publicity of the investigation or of its results in order to provide accountability in practice as well as in theory. The level of publicity of the investigation may vary in different cases. However, in all cases the closest relative of the victim must be involved in the proceedings to a level that is necessary to protect his or her legitimate interests" (see *Güleç v. Turkey* 27/07/98, in which the victim's father was not informed of the decision to refuse to initiate proceedings; *Ogur v. Turkey*, No. 21954/93, ECHR 1999-III, in which the victim's family did not have access to the investigation and to judicial documents; *Gül v. Turkey*, No. 22676/93, 14/12/00 and *Jordan v. United Kingdom*, No. 24746/94, 4/05/01, paragraph 109).

On 25 October 2005, residents of Riazan *oblast*, Vera Ivanovna and Sergei Ivanovich Perevedentsev, appealed to

the European Court of Human Rights (assisted by lawyers from *Memorial* and EHRAC). The applicants' son, Mikhail Perevedentsev, was called up for military service in May 2003. He did his service in military unit 52157 (Nizhegorodskaya *oblast*, Volodarskii district, Mulino-1 village). Mikhail wrote regularly to the members of the household about extortion and violence in the military unit. The bewildered parents did not know how to approach such a situation properly and therefore preferred to remain silent. In the middle of February 2004 they were sent a letter from the military unit saying that on 16 February their son Mikhail was discovered with a noose around his neck, with no sign of life. The Perevedentsevs received no more information from the Nizhegorodskii military authorities and they appealed for help to the Riazan Committee of Soldiers' Mothers. When correspondence began with the unit and garrison prosecutor's office, it appeared that the military prosecutor's office of Mulino garrison had initiated criminal proceedings into Mikhail's death, in accordance with Article 110 of the Russian Criminal Code – incitement to suicide. This is the usual practice for military prosecutors. If the corpse of an ordinary person is found, i.e. not wearing military uniform, the prosecutor's office suspects murder. But if it is the body of a conscripted soldier, the investigator is sure, more often than not, that it is a case of suicide. Insofar as "no persons involved in the death of the serviceman have been identified", the prosecutor concluded that the fact of the commission of a crime was absent. On 16 April 2004 the criminal case was halted. The investigator for the military prosecutor's office refused to give to the parents of the deceased soldier the status of victims. Without this status they were not able to demand case materials or take part in the criminal proceedings. Before March 2005, the question of the Perevedentsevs' right to be acknowledged as victims had been decided in military courts. On 22 March the military court of Moskovskii military region left the decision in the hands of the garrison military court, which acknowledged the parents' right to take part in the proceedings as victims. Here, information from law-enforcement agencies on further progress in the case ended. The Perevedentsevs renewed their correspondence with Mulino military prosecutor's office and court. Referring to the court's decision, the applicants' lawyer filed a petition with the military prosecutor concerning access to the materials of the criminal case. The applicants requested that a decision be taken, in connection with the court's judgment, to acknowledge them as victims. On 16 June 2005, the assistant garrison prosecutor informed them that he was not able to execute the decision of the military court. However, a month later the Perevedentsevs did in fact receive in the post the long-awaited decision acknowledging them as victims, and those concerning initiation and halting of the criminal case. The long-awaited letter from the garrison prosecutor's office was dated 6 July 2005. In accordance with Art. 42 Russian Criminal Procedure Code, the parents should have received all these documents soon after the initiation of criminal proceedings, i.e. in February 2004. In reality they had been issued 17 months after their son's death. From the decision to halt criminal proceedings Mikhail's parents finally learned the surnames of the witnesses questioned in the case and the brief conclusions of the two

court experts. Nevertheless, for an effective appeal against the decision it was necessary to access the witness testimonies, the full text of the experts' conclusions, and the report of the scene of the incident. The applicants doubted that these people had actually been questioned about the case or that they had been asked all the necessary questions. They also had doubts about the forensic medical and psychiatric examination certificates.

In the same letter of 6 July, the assistant military prosecutor also stated that the materials in the criminal case file until then had been held by the garrison court and that he was not able to grant access to them to interested persons.

The victims again renewed their correspondence with the garrison military court and prosecutor's office, but they were not allowed access to the case materials. They prepared their appeal against the decision of 16 April 2004 concerning the halting of criminal proceedings, making do with the inadequate information contained in the decision itself.

The parents believed that Mikhail Perevedentsev had been murdered, and that his body had been placed in a noose to create the appearance of suicide. To date, the state has not presented to the applicants the information that led them to conclude that he had committed suicide. In the appeal, the lawyer described the shortcomings of the forensic psychiatric examination certificate, made a critical assessment of the questioning of the witnesses, and expressed doubts about the fullness of the inquiry. On 31 January 2006, the Mulino garrison court quashed the investigator's decision to halt criminal proceedings, albeit on formal grounds, in view of the fact that the rights of the victims had been violated. In the court's decision, the lawyer's arguments about the poor quality of expert examination, questioning and investigation were ignored. As before, Mikhail's parents were not shown the materials in the criminal proceedings. There was another lull in the correspondence with the military prosecutor's office.

Over 2 years have passed since the death of Mikhail Perevedentsev. The great amount of time that has passed has, of course, negatively affected the quantity and quality of testimonies accessed. The flagrant alienation of interested persons from involvement in the case engenders mistrust in the state, creates doubt as to the quality of investigation, and lengthens the period of time in which family members experience suffering.